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Period of Review (POR):

5/20/15-6/30/16

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July 31, 2017

MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

FROM: James Maeder
Senior Director
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results of Antidumping
Duty Administrative Review: Certain Steel Nails from Taiwan;
2015-2016

Summary

The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order¹ on certain steel nails (nails) from Taiwan. The review covers Bonuts Logistics Co., LLC (Bonuts); Hor Liang Industrial Corp.; Romp Coil Nails Industries Inc.; PT Enterprise, Inc. (PT Enterprise) and its affiliated producer Pro-Team Coil Nail Enterprise, Inc. (Pro-Team) (collectively, PT); and Unicatch Industrial Co. Ltd. and its affiliated U.S. reseller, TC International, Inc. (collectively, Unicatch). The period of review (POR) is May 20, 2015, through June 30, 2016. For Unicatch, we preliminarily find that sales of the subject merchandise were made at prices below normal value. The estimated weight-average dumping margins are shown in the "Preliminary Determination" section of the accompanying *Federal Register* notice.

Background

Pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR § 351.213(b), PT Enterprise, Unicatch, and Mid Continent Steel & Wire, Inc. (Mid Continent), a domestic producer and interested party, requested an administrative review of the antidumping

¹ See *Certain Steel Nails from the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, and the Socialist Republic of Vietnam: Antidumping Duty Orders*, 80 FR 39994 (July 13, 2015) (the Order).

duty order on nails from Taiwan.² On September 12, 2016, in accordance with 19 CFR § 351.221(c)(1)(i), we published a notice of initiation of administrative review of the antidumping duty order on certain nails from Taiwan.³

On September 27, 2016, we invited interested parties to comment on the U.S. Customs and Border Protection (CBP) data query placed on record for this administrative review.⁴ Between October 6, 2016 and October 17, 2016, we received comments and rebuttal comments from PT, Unicatch, and Mid Continent on the CBP Data.

Between August 18, 2016 through October 12, 2016, we received letters certifying no shipments during the POR from Jinhai Hardware Co., Ltd.,⁵ Tag Fasteners Sdn Ind,⁶ Dahnay Logistics Private Ltd.,⁷ Region System Sdn Bhd.,⁸ Quick Advance, Inc. and Ko's Nails, Inc.,⁹ Ray Fu Enterprise Co., Ltd.,¹⁰ and Maytrans International Corporation.¹¹ On October 5, 2016 and October 8, 2016, respectively, we received one page submissions by Pacific Concord International Limited and Yusen Logistics (Taiwan) Ltd. stating that each company is a freight forwarder and that they do not manufacture, sell, or trade nails.¹² On October 6, 2016, Inmax Industries Sdn. Bhd. (Inmax),¹³ an exporter of steel nails to the United States requested the review request for Inmax be withdrawn and for Inmax to be rescinded in this administrative review. As explained below, all review requests for these companies were timely withdrawn.

On November 29, 2016, we issued our Respondent Selection Memorandum¹⁴ for this administrative review, in which we selected Bonuts and PT Enterprise, Inc. as mandatory respondents. We issued the Department's antidumping questionnaire to PT and Bonuts on November 29, 2016.¹⁵ On December 12, 2016, we received a letter from Bonuts requesting to be deselected as a mandatory respondent because it claimed that the CBP Data overstated the quantity of nails Bonuts exported to the United States during the POR, and stating that its December 12, 2016, letter constituted Bonuts' complete response to the Department's November

² See PT August 1, 2016 Request for Administrative Review (PT Request for Review); Unicatch August 1, 2016 Request for Administrative Review (Unicatch Request for Review); Mid Continent August 1, 2016 Request for Administrative Reviews. (Mid Continent's Request for Reviews).

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 62720 (September 12, 2016) (*Initiation Notice*).

⁴ See Memorandum, "Certain Steel Nails from Taiwan: U.S. Customs and Border Protection Information for 5/2011-5/30/2016 Review Period," dated September 27, 2016 (CBP Data).

⁵ See Jinhai Hardware Co. Ltd. August 18 2016 No Shipment Letter.

⁶ See Tag Fasteners Sdn Bhd, August 18, 2016 No Shipment Letter.

⁷ See Dahnay Logistics Private Ltd. August 18, 2016 No Shipment Letter.

⁸ See Region System Sdn Bhd. September 14, 2016, No Shipment Letter.

⁹ See Quick Advance, Inc and Ko's Nails, Inc., September 14, 2016 No Shipment Letter.

¹⁰ See Ray Fu Enterprise Co. Ltd.'s October 6, 2016 No Shipment Letter.

¹¹ See Maytrans International Corporation's October 7, 2016, No Shipment Letter.

¹² See Pacific Concord International Limited's October 5, 2016, letter and *see also* Yusen Logistics (Taiwan) Ltd's October 8, 2016, letter.

¹³ See Inmax Industries Sdn. Bhd. October 6, 2016 Request for Partial Rescission of Review.

¹⁴ See Memorandum, "Selection of Respondents for the 2015-2016 Administrative Review of the Antidumping Duty Order on Certain Steel Nails from Taiwan," dated November 29, 2016 (Respondent Selection Memorandum).

¹⁵ See the Department's November 29, 2016, letters to PT and Bonuts. (Initial Questionnaires).

29, 2016, questionnaire.¹⁶ On December 1, 2016, Unicatch filed a request to be treated as a voluntary respondent.¹⁷ On February 9, 2017, the Department selected Unicatch for individual examination as an additional mandatory respondent in this administrative review.¹⁸

Between January 4, 2017, and July 7, 2017, PT timely submitted responses to the Department's original and supplemental questionnaires.¹⁹ Between January 4, 2017, and July 7, 2017, Unicatch submitted timely responses to the Department's original and supplemental sections A, C, and D questionnaires.²⁰ On April 3, 2017, we extended the deadline for the preliminary results to June 30, 2017.²¹ On June 27, 2017, we extended the deadline for the preliminary results to July 31, 2017.²²

On December 12, 2016, Mid Continent withdrew its request for administrative review with respect to all companies in the *Initiation Notice* except Bonuts, Hor Liang Industrial Corp., Romp Coil Nails Industries Inc., PT Enterprise, Pro-Team, Unicatch, and TC.²³

Scope of the Order

The merchandise covered by this order is certain steel nails having a nominal shaft length not exceeding 12 inches.²⁴ Certain steel nails include, but are not limited to, nails made from round wire and nails that are cut from flat-rolled steel. Certain steel nails may be of one piece construction or constructed of two or more pieces. Certain steel nails may be produced from any type of steel, and may have any type of surface finish, head type, shank, point type and shaft diameter. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, including but not limited to electroplating or hot dipping one or more times), phosphate, cement, and paint. Certain steel nails may have one or more surface finishes. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank

¹⁶ See Bonuts' December 12, 2016, letter to the Department, ACCESS Barcode 3530075-01 (December 12th Submission).

¹⁷ See Unicatch December 1, 2016, Request for Voluntary Respondent Treatment.

¹⁸ See Memorandum, "Antidumping Duty Administrative Review of Nails from Taiwan: Selection of Additional Mandatory Respondent," dated February 9, 2017.

¹⁹ See PT's January 4, 2017, Section A Response (PT's Section A Response); PT's January 20, 2017, Section C Response (PT's Section C Response); PT's January 20, 2017, Section D Response (PT's Section D Response); PT's April 21, 2017, supplemental response (PT's first supplemental response); see also PT's May 26, 2017, Channel 3 supplemental response (PT's channel 3 supplemental response); see also PT's June 7, 2017, supplemental response (PT's second supplemental response).

²⁰ See Unicatch's January 4, 2017, Section A Response (Unicatch's Section A Response); Unicatch's January 19, 2017, Section C Response (Unicatch's Section C Response); Unicatch's January 19, 2017, Section D Response (Unicatch's Section D Response); Unicatch's April 25, 2017, supplemental response (Unicatch's first supplemental response); Unicatch's June 7, 2017, supplemental response (Unicatch's second supplemental response); see also Unicatch's July 7, 2017, supplemental response (Unicatch's third supplemental response).

²¹ See Memorandum, "Certain Steel Nails from Taiwan: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review," dated April 3, 2017 (First Prelim Extension).

²² See Memorandum, "Certain Steel Nails from Taiwan: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review," dated June 27, 2017 (Second Prelim Extension).

²³ See Mid Continent December 12, 2016, Withdrawal of Request for Administrative Reviews.

²⁴ The shaft length of certain steel nails with flat heads or parallel shoulders under the head shall be measured from under the head or shoulder to the tip of the point. The shaft length of all other certain steel nails shall be measured overall.

styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted. Screw-threaded nails subject to this proceeding are driven using direct force and not by turning the nail using a tool that engages with the head. Point styles include, but are not limited to, diamond, needle, chisel and blunt or no point. Certain steel nails may be sold in bulk, or they may be collated in any manner using any material.

Excluded from the scope of these orders are certain steel nails packaged in combination with one or more non-subject articles, if the total number of nails of all types, in aggregate regardless of size, is less than 25. If packaged in combination with one or more non-subject articles, certain steel nails remain subject merchandise if the total number of nails of all types, in aggregate regardless of size, is equal to or greater than 25, unless otherwise excluded based on the other exclusions below.

Also, excluded from the scope are certain steel nails with a nominal shaft length of one inch or less that are (a) a component of an unassembled article, (b) the total number of nails is sixty (60) or less, and (c) the imported unassembled article falls into one of the following eight groupings: 1) builders' joinery and carpentry of wood that are classifiable as windows, French windows and their frames; 2) builders' joinery and carpentry of wood that are classifiable as doors and their frames and thresholds; 3) swivel seats with variable height adjustment; 4) seats that are convertible into beds (with the exception of those classifiable as garden seats or camping equipment); 5) seats of cane, osier, bamboo or similar materials; 6) other seats with wooden frames (with the exception of seats of a kind used for aircraft or motor vehicles); 7) furniture (other than seats) of wood (with the exception of i) medical, surgical, dental or veterinary furniture; and ii) barbers' chairs and similar chairs, having rotating as well as both reclining and elevating movements); or 8) furniture (other than seats) of materials other than wood, metal, or plastics (e.g., furniture of cane, osier, bamboo or similar materials). The aforementioned imported unassembled articles are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4418.10, 4418.20, 9401.30, 9401.40, 9401.51, 9401.59, 9401.61, 9401.69, 9403.30, 9403.40, 9403.50, 9403.60, 9403.81 or 9403.89.

Also, excluded from the scope of these orders are steel nails that meet the specifications of Type I, Style 20 nails as identified in Tables 29 through 33 of ASTM Standard F1667 (2013 revision).

Also, excluded from the scope of these orders are nails suitable for use in powder-actuated hand tools, whether or not threaded, which are currently classified under HTSUS subheadings 7317.00.20.00 and 7317.00.30.00.

Also, excluded from the scope of these orders are nails having a case hardness greater than or equal to 50 on the Rockwell Hardness C scale (HRC), a carbon content greater than or equal to 0.5 percent, a round head, a secondary reduced-diameter raised head section, a centered shank, and a smooth symmetrical point, suitable for use in gas-actuated hand tools.

Also, excluded from the scope of these orders are corrugated nails. A corrugated nail is made up of a small strip of corrugated steel with sharp points on one side.

Also, excluded from the scope of these orders are thumb tacks, which are currently classified under HTSUS subheading 7317.00.10.00.

Certain steel nails subject to these orders are currently classified under HTSUS subheadings 7317.00.55.02, 7317.00.55.03, 7317.00.55.05, 7317.00.55.07, 7317.00.55.08, 7317.00.55.11, 7317.00.55.18, 7317.00.55.19, 7317.00.55.20, 7317.00.55.30, 7317.00.55.40, 7317.00.55.50, 7317.00.55.60, 7317.00.55.70, 7317.00.55.80, 7317.00.55.90, 7317.00.65.30, 7317.00.65.60 and 7317.00.75.00. Certain steel nails subject to these orders also may be classified under HTSUS subheadings 7907.00.60.00, 8206.00.00.00 or other HTSUS subheadings.

While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these orders is dispositive.

Partial Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the party that requested the review withdraws its request within 90 days of the date of publication of the *Initiation Notice* of the requested review. On August 1, 2016, Mid Continent requested administrative reviews²⁵ of certain companies,²⁶ including Bonuts, Hor Liang Industrial Corp., Romp Coil Nails Industries Inc., PT Enterprise, Pro-Team, Unicatch, and TC. The Department subsequently initiated a review with respect to all such companies.²⁷

On December 12, 2016, Mid Continent withdrew its request for administrative review with respect to all companies in the *Initiation Notice* except Bonuts, Hor Liang Industrial Corp.,

²⁵ See Mid Continent's Request for Administrative Reviews.

²⁶ ABF Freight International Private Ltd., Astrotech Steels Private Ltd., Air Sea Transport, Inc., Basso Industry Corporation, Apex Maritime (Fuzhou) Co., Ltd., Blue Moon Logistics Private Ltd., Apex Maritime (Shenzhen) Co., Ltd., Aplus Pneumatic Corp., Bolllore Logistics (Taiwan) Ltd., Bolllore Logistics (Vietnam) Co. Ltd., Dahmay Logistics Private Ltd., C.H. Robinson Freight Services., DIFS Logistics Co. Ltd., Certified Products Taiwan Inc., Eagre International Trade Co., Ltd., Challenge Industrial Co., Ltd., Easylink Industrial Co., Ltd., Chia Pao Metal Co. Ltd., Encore Green Co., Ltd., China Staple Enterprise Corporation., Everise Global Logistics Co., Ltd., Chite Enterprises Co., Ltd., Faithful Engineering Products Co. Ltd., Crown Run Industrial Corp., Fastenal Asia Pacific Ltd., Freight Links International Ltd., Honour Lane Logistics Co., Ltd., General Merchandise Consolidators, Ginfa World Co. Ltd., HWA Hsing Screw Industry Co. Ltd., Gloex Company, Inmax Industries Sdn Bhd, Hariharan Logistics, Integral Building Products Inc., Hecny Group, Interactive Corporation, Hi-Sharp Industrial Corp. Ltd., Jade Shuttle Enterprise Co., Ltd., Home Value Co., Ltd., Jau Yeou Industry Co. Ltd., Jinhai Hardware Co., Ltd., Nora Freight Services Sdn Bhd, K Win Fasteners Inc., Orient Express Container Co., Ltd., King Freight International Corporation, Orient Star Transport International Ltd., Kuan Hsin Screw Industry Co., Ltd., Pacific Concord International Ltd., Liang Chyuan Industrial Co., Ltd., Patek Tool Co., Ltd., Linkwell Industry Co. Ltd., Pneumax Corp., ML Global Ltd., President Industrial Inc., Maytrans International Corp., Newrex Screw Corporation, Qi Ding Enterprise Co. Ltd., T.H.I. Logistics Co. Ltd., Quick Advance Inc., Tag Fasteners Sdn Bhd, Ray Fu Enterprise Co., Ltd., Taiwan Wakisangyo Co. Ltd., Region System Sdn Bhd, Tianjin Jinchi Metal Products Co. Ltd., TK Logistics International Co. Ltd., Schenker (H.K.) Ltd. Taiwan Branch, Topocean Consolidation Service Ltd., Shang Jeng Nail Co., Ltd., Transworld Transportation Co. Ltd., Suntex Industries Co., Ltd., Unicom International Tower, Trim International Inc., Tsi-Translink (Taiwan) Co. Ltd., WTA International Co. Ltd., U-Can-Do Hardware Corp., Yeun Chang Hardware Tool Co. Ltd., United Nail Products Co. Ltd., Yu Tai World Co., Ltd., UPS Supply Chain Solutions, and Zon Mon Co. Ltd.

²⁷ See *Initiation Notice*, 81 FR 62720.

Romp Coil Nails Industries Inc., PT Enterprise, Pro-Team, Unicatch, and TC.²⁸ Because Mid Continent timely withdrew its request for administrative reviews of these companies within 90 days of the date of publication of the *Initiation Notice*, and no other interested party requested a review of these companies, the Department is rescinding this review with respect to these companies, in accordance with 19 CFR 351.213(d)(1). The review will continue with respect to the remaining companies: Bonuts, Hor Liang Industrial Corp., Romp Coil Nails Industries Inc., PT Enterprise, Pro-Team, Unicatch, and TC.

Affiliation and Collapsing of PT and Pro-Team

Due to the business proprietary nature of information relating to this analysis, a more detailed discussion of this matter can be found in the Affiliation and Collapsing Memorandum.²⁹ In the Less-Than-Fair-Value Investigation, we determined that PT Enterprise shares a common shareholder with producer Pro-Team, and that common shareholder owns a sufficient percentage of PT Enterprise and Pro-Team to establish control over both companies. As a result, we determined that PT Enterprise and Pro-Team are affiliated pursuant to section 771(33)(F) of the Act.³⁰ Evidence provided by PT Enterprise in this administrative review does not call into question our earlier finding, and so we continue to find that PT Enterprise is affiliated with Pro-Team, within the meaning of section 771(33)(F) of the Act.³¹ Furthermore, based on record evidence, we have preliminarily collapsed PT Enterprise, an exporter, with Pro-Team, its affiliated producer and exporter, pursuant to the guidance provided in 19 CFR 351.401(f). With respect to whether there exists the potential for the manipulation of price and production, record evidence establishes that common ownership exists, that board members of one firm sit on the board of directors of an affiliated firm, and that the operations of the companies are “intertwined” through the sharing of facilities and significant transactions between PT Enterprise and Pro-Team. While PT Enterprise is not a producer, the Department collapses exporters with affiliated producers on the basis of a relationship which presents a significant potential for manipulation.³² Thus, we preliminarily find the existence of a significant potential for the manipulation of price and/or production and have determined to treat PT Enterprise and Pro-Team as a single entity.³³

Adverse Facts Available

For the reasons discussed below, we determine that the use of total adverse facts available (AFA) is appropriate for these preliminary results with respect to PT and Bonuts.

²⁸ See Mid Continent December 12, 2016, Withdrawal of Request for Administrative Reviews.

²⁹ See Memorandum, “Administrative Review Certain Steel Nails from Taiwan: PT Enterprise Inc. Affiliation and Collapsing Memorandum,” dated July 31, 2017 (Affiliation and Collapsing Memorandum).

³⁰ See *Certain Steel Nails from Taiwan: Negative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 79 FR 78053 (December 29, 2014), and accompanying decision memorandum, at 6-7 unchanged in *Certain Steel Nails from Taiwan: Final Determination of Sales at Less Than Fair Value*, 80 FR 28959 (May 20, 2015).

³¹ See Affiliation and Collapsing Memorandum, at 1-2.

³² *Id.*, at 7-8; see also *United States Steel Corp.*, 179 F. Supp. 3d at 1135.

³³ *Id.*

Section 776(a) of the Act provides that, subject to section 782(d) of the Act, the Department shall apply “facts otherwise available” if: (1) necessary information is not on the record; or (2) an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party an opportunity to remedy or explain the deficiency. If the party fails to remedy or satisfactorily explain the deficiency within the applicable time limits, subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate.

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 antidumping and countervailing duty law, including amendments to section 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act.³⁴ The amendments to the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this review.³⁵

Section 776(b) of the Act provides that the Department may use an adverse inference in applying the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. In doing so, and under the TPEA, the Department is not required to determine, or make any adjustments to, a weighted-average dumping margin based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information.³⁶ Further, section 776(b)(2) states that an adverse inference may include reliance on information derived from the petition, the final determination from the less than fair value (LTFV) investigation, a previous administrative review, or other information placed on the record.³⁷

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal.³⁸ Secondary information is defined as information derived from the petition that gave

³⁴ 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*).

³⁵ *Id.*, 80 FR at 46794-95. The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

³⁶ See section 776(b)(1)(B) of the Act; TPEA, section 502(1)(B).

³⁷ See also 19 CFR 351.308(c).

³⁸ See also 19 CFR 351.308(d).

rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.³⁹ Further, and under the TPEA, the Department is not required to corroborate any dumping margin applied in a separate segment of the same proceeding.⁴⁰

Finally, under the new section 776(d) of the Act, the Department may use any dumping margin from any segment of a proceeding under an antidumping order when applying an adverse inference, including the highest of such margins.⁴¹ The TPEA also makes clear that when selecting an AFA margin, the Department is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party.⁴²

A. Application of Facts Available With an Adverse Inference

PT

On November 29, 2016, the Department issued the antidumping duty questionnaire to PT.⁴³ After the Department granted multiple requests from PT for extensions of time to respond to the questionnaire,⁴⁴ PT filed its section A response on January 4, 2017. Specifically, in total and beginning with the issuance of our antidumping duty questionnaire to PT on November 29, 2016, PT had a total of 36 days to respond to section A of the Department’s antidumping duty questionnaire. On January 20, 2017, PT filed its section C response to the Department’s antidumping duty questionnaire. PT had a total of 52 days to respond to section C of the Department’s antidumping duty questionnaire.

The Department issued the first supplemental questionnaire covering sections A-D to PT on March 24, 2017.⁴⁵ PT requested three extensions to respond to this supplemental, which the Department granted, in part.⁴⁶ The Department received PT’s response to the first supplemental questionnaire on April 21, 2017.⁴⁷ On May 16, 2017, we issued the second supplemental questionnaire covering sections A-D and its supplemental response to PT.⁴⁸ PT submitted two extension requests, each of which the Department granted in full or in part.⁴⁹ PT submitted its

³⁹ See SAA at 870.

⁴⁰ See section 776(c)(2) of the Act; TPEA, section 502(2).

⁴¹ See section 776(d)(1)-(2) of the Act; TPEA, section 502(3).

⁴² See section 776(d)(3) of the Act; TPEA, section 502(3).

⁴³ See Department’s November 29, 2016 Antidumping Duty Questionnaire (AD Questionnaire).

⁴⁴ See PT’s December 14, 2016, Section A Extension Request; PT’s December 24, 2016, Section A-D Extension Request; PT’s January 10, 2017, Section C-D Extension Request; PT’s January 17, 2017, Section C-D Extension Request.

⁴⁵ See Department’s March 24, 2017 First Supplemental Questionnaire (First Supplemental Questionnaire).

⁴⁶ See Department Letter, dated April 4, 2017; Department Letter, dated April 12, 2017; and Department Letter, dated April 14, 2017.

⁴⁷ See PT’s first supplemental response.

⁴⁸ See Department’s May 16, 2017 Second Supplemental Questionnaire (Second Supplemental Questionnaire).

⁴⁹ See PT’s May 18, 2017, Extension Request; see also Department Letter, dated May 22, 2017; see also PT’s May 23, 2017, Extension Request, see also Department Letter, dated May 26, 2017.

response to the second supplemental questionnaire on June 7, 2017.⁵⁰ Therefore, PT was granted a total of 102 days to respond to our questionnaires.

Section A of the Department's antidumping duty questionnaire issued to PT requested that PT "[s]tate the total quantity and value of the merchandise under review that you sold during the period of review in (or to): (i.) the United States, (ii.) the home market, and (iii.) each of the three largest third-country markets."⁵¹ The Department also provided a chart, with a format provided for PT to report the quantity and value data.⁵² The Department further stated in its instructions that if home market sales were less than five percent of U.S. sales, the Department, except in unusual situations, will not use the respondent's home market as the basis for calculating normal value, and thus, parties would not need to include a home market sales database.⁵³

In its section A response, PT stated that PT does not sell the merchandise under consideration for domestic consumption.⁵⁴ Additionally, in its chart summarizing PT's quantity and value of sales, included as an exhibit with its section A response, PT did not report any sales in the home market.⁵⁵ However, in PT's section C response, its sales reconciliation database indicated that Pro-Team did in fact have sales of subject merchandise in the home market. In the Department's first supplemental questionnaire, we asked PT if either PT Enterprise or Pro-Team "sell the merchandise under review in the domestic market," and to "[p]lease identify all products Pro-team/PT, and each individually, sell in the domestic market."⁵⁶

As part of its response to the Department's first supplemental questionnaire, PT stated that Pro-Team, its affiliated producer, did have home market sales during the POR.⁵⁷ However, despite correcting its initial statement from its section A response (in which it reported that neither PT Enterprise nor Pro-Team had any home market sales during the POR),⁵⁸ PT did not provide certain previously requested information that was required of parties that did have home market sales. For instance, PT did not provide a revised quantity and value chart as requested in the initial questionnaire.⁵⁹

In the second supplemental questionnaire, the Department specifically requested, for products PT listed as sold in the domestic market in Exhibit SA-7 of its first supplemental response, that PT: (1) provide a detailed description of each of the products listed; (2) explain for each product why the product is not subject merchandise; and (3) revise its quantity and value figures for the home market if any products in Exhibit SA-7 are subject merchandise.⁶⁰ In its response, PT provided a

⁵⁰ See PT's second supplemental response.

⁵¹ See AD Questionnaire, at A-1.

⁵² *Id.*, at A-1 and A-15.

⁵³ *Id.*

⁵⁴ See PT Section A Response, at 13.

⁵⁵ *Id.*, at Exhibit A-1.

⁵⁶ See First Supplemental Questionnaire, at 6 question 13.

⁵⁷ See PT's first supplemental response, at 8-9.

⁵⁸ See PT Section A Response, at 13.

⁵⁹ See AD Questionnaire, at A-1.

⁶⁰ See Second Supplemental Questionnaire, at 4 question 4.

description of the products sold in the domestic market and stated that all products sold by Pro-Team in the domestic market consisted of subject merchandise.⁶¹ PT, however, did not respond to the Department's request for revised quantity and value data and did not provide an explanation.⁶²

In its June 14, 2017, rebuttal comments, PT argued that it provided all relevant home market sales information in its original section C sales reconciliation. PT resubmitted the relevant portion of the sales reconciliation with quantities converted to kilograms, and total quantities and values summed.⁶³ However, this totaled home market sales quantity and value information was submitted seven days after the deadline for PT's second supplemental response, and approximately six months after the Department originally requested PT's home market sales quantity and value. Moreover, it was still not provided in the form or manner requested for submitting quantity and value data.⁶⁴

In light of the above, the record lacks the necessary information to determine the viability of PT's home market for purposes of section 773 of the Act. Furthermore, PT significantly impeded the proceeding by requiring multiple questionnaires to address the issue of whether PT had home market sales, and, if so, whether the home market was viable. PT's failure to respond to the Department's repeated requests for accurate quantity and value data pertaining to its home market sales further demonstrates that it did not submit information in a timely manner and in the form or manner requested. Thus, PT significantly impeded the Department's ability to accurately determine which method to use for calculation of normal value under section 773 of the Act. Additionally, we find the application of total facts available, is appropriate because "the missing information is core to the antidumping analysis and leaves little room for the substitution of partial facts without undue difficulty."⁶⁵ Therefore, we preliminarily determine that application of total facts available, pursuant to section 776(a)(1), (2)(A), (B), and (C) of the Act, is warranted for PT.

Additionally, we find that a company, such as PT, which participated in the original investigation and requested this review of itself, is knowledgeable of the process and understands what is required to be prepared to participate and provide complete and reliable responses in an antidumping duty administrative review. The Department provided PT with multiple opportunities to remedy and explain the deficiencies in its reporting. In response, PT has submitted conflicting and incomplete information regarding its home market sales. This, coupled with the fact that PT did not respond to the Department's multiple requests to revise its quantity and value data and never submitted such data in the form requested, significantly impeded the Department's ability to determine if there is a viable comparison market until well into the proceeding and 16 days before the first extended deadline for the preliminary results.⁶⁶ Furthermore, PT's questionnaire responses and home market sales reporting resulted in the

⁶¹ See PT's second supplemental response, at 3 and Exhibit SS-5.

⁶² *Id.*

⁶³ See PT's June 14, 2017 Rebuttal Comments (PT Rebuttal Comments).

⁶⁴ See AD Questionnaire, at A-1 question 1a, *see also* Second Supplemental Questionnaire, at 4 question 4c.

⁶⁵ See *Mukand Ltd. v. United States*, 767 F.3d 1300, 1308 (Fed. Cir. 2014) (*Mukand*) (citing *Shanghai Taoen Int'l Co. v. United States*, 360 F.Supp.2d 1339, 1348 n. 13 (Ct. Int'l Trade 2005)).

⁶⁶ See PT's First Rebuttal Comments; *see also* First Prelim Extension.

Department having to fully extend the deadline for the preliminary results.⁶⁷ Therefore, we find that PT failed to participate to the best of its ability and, as a result, preliminarily determine that an adverse inference, pursuant to section 776(b), is warranted in selecting from the facts otherwise available.⁶⁸

Bonuts

On November 29, 2016, we selected Bonuts⁶⁹ as a mandatory respondent and issued to it the Department's antidumping questionnaire.⁷⁰ On December 12, 2016, Bonuts submitted a letter asking the Department to deselect it as a mandatory respondent.⁷¹ Bonuts stated that the CBP data grossly overstated the quantity of nails it exported to the United States; that Bonuts is a Taiwan trading company that resells, and does not produce, nails to customers in the United States; and finally, that Bonuts does not have access to the production and cost information requested from its suppliers. Therefore, Bonuts stated that its December 12, 2016, letter constituted Bonuts' complete response to the Department's November 29, 2016, questionnaire.⁷² On December 21, 2016, the Department instructed Bonuts to properly file all items through ACCESS with proper certifications and service to all interested parties.⁷³ On December 27, 2016, Bonuts refiled its December 12 Submission with proper certifications and service to all interested parties.⁷⁴ Apart from its letter, Bonuts has not submitted any additional responses to the Department's questionnaires, which were due January 19, 2016.

The Department determines that Bonuts has failed to cooperate to the best of its ability because it withheld information that was requested and significantly impeded the proceeding. Moreover, because Bonuts did not provide any information in response to the Department's questionnaire, the information necessary to calculate a dumping margin for Bonuts is not available on the record. Accordingly, pursuant to section 776(a)(1) and 776(a)(2)(A) and (C), the Department preliminarily determines that it must rely on facts otherwise available to assign a dumping margin for Bonuts. Further, the Department finds that Bonuts' failure to provide the requested information constitutes less than full cooperation. Bonuts stated in its December 12, 2016, submission that its letter constituted Bonuts' complete response to the Department's November 29, 2016, questionnaire, and requested the Department deselect Bonuts as a mandatory respondent.⁷⁵ Hence, pursuant to section 776(b) of the Act, the Department has preliminarily determined that Bonuts has failed to cooperate by not acting to the best of its ability to comply with a request for information.

For the reasons mentioned above, we preliminarily determine that Bonuts and PT have failed to cooperate by not acting to the best of their ability to provide, in a timely manner, the information

⁶⁷ See Second Prelim Extension.

⁶⁸ See *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003).

⁶⁹ See Respondent Selection Memorandum.

⁷⁰ See Initial Questionnaires.

⁷¹ See Bonuts' December 12, 2016, letter to the Department, ACCESS Barcode 3530075-01 (December 12th Submission).

⁷² *Id.*

⁷³ See Memorandum, "Certain Steel Nails from Taiwan: First Administrative Review," dated December 21, 2016.

⁷⁴ See Bonuts' December 27, 2016, letter refiling its December 12th Submission.

⁷⁵ *Id.*

necessary in the requested form for the Department to calculate a weighted-average dumping margin for exports of subject merchandise by Bonuts and PT to the United States for this POR. Accordingly, we preliminarily find that the application of facts available with an adverse inference, pursuant to section 776(b) of the Act, is warranted for the weighted-average dumping margin for Bonuts and PT for the preliminary results of this administrative review.

B. Selection and Corroboration of Information Used as Facts Available

Where the Department uses AFA because a respondent failed to cooperate by not acting to the best of its ability to timely comply with a request for information, section 776(b) of the Act authorizes the Department to rely on information derived from the petition, a final determination, a previous administrative review, or other information placed on the record.⁷⁶ Under section 776(d) of the Act, the Department may use any dumping margin from any segment of a proceeding under an antidumping duty order when applying an adverse inference, including the highest of such margins.⁷⁷ The TPEA also makes clear that when selecting an AFA margin, the Department is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party.⁷⁸

Further, section 776(c) of the Act requires that, to the extent practicable, the Department corroborate secondary information from independent sources that are reasonably at its disposal, except that the Department is not required to corroborate any dumping margin applied in a separate segment of the same proceeding.⁷⁹

As AFA, and pursuant to section 776(d) of the Act, we preliminarily assign to PT and Bonuts a weighted-average dumping margin of 78.17 percent, the petition rate assigned in the LTFV investigation. The petition rate is reasonable and appropriate for use as the AFA margin, as it is one of the sources specifically authorized under section 776(c) of the Act. Furthermore, we find assigning the same rate of 34.20 percent as Unicatch would not be appropriate, as it is not sufficiently adverse, given that it represents the actual rate of dumping calculated for a participating respondent during the POR and would not deter non-cooperation.⁸⁰

In order to corroborate the petition rate, and thus determine its probative value, we examined the information on the record: Unicatch’s margin program, specifically, the transaction-specific margins.⁸¹ This approach is reasonably at the Department’s disposal and has been sustained by

⁷⁶ See SAA at 868-870; 19 CFR 351.308(c)(1) & (2).

⁷⁷ See section 776(d)(1)-(2) of the Act; TPEA, section 502(3).

⁷⁸ See section 776(d)(3) of the Act; TPEA, section 502(3).

⁷⁹ See section 776(c)(2) of the Act; TPEA, section 502(2).

⁸⁰ See *Narrow Woven Ribbons with Woven Selvedge from Taiwan; Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 19635 (April 13, 2015), and accompanying Issues and Decisions Memorandum at Comment 12.

⁸¹ See Memorandum: “Antidumping Duty Administrative Review of Certain Steel Nails from Taiwan: Corroboration,” dated July 31, 2017 (Corroboration Memorandum).

the Court of Appeals for Federal Circuit as a sufficient basis for corroboration.⁸² As a result of this examination, which is based on business proprietary information, we found the petition rate is corroborated to the extent practicable.⁸³ Therefore, we find that the rate alleged in the petition is both reliable and relevant and sufficiently adverse within the meaning of section 776(c) of the Act. Thus, we assigned this AFA rate to PT and Bonuts.

Comparisons to Normal Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1), to determine whether Unicatch's sales of nails from Taiwan were made in the United States at less than normal value, we compared the constructed export price (CEP) or export price (EP) to the normal value (NV) as described in the "Export Price and Constructed Export Price" and "Normal Value" sections of this notice.

A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average export prices (EPs) (or constructed export prices (CEPs)) (the average-to-average or A-to-A method) unless the Department determines that another method is appropriate in a particular situation. In antidumping duty investigations, the Department examines whether to compare weighted-average NVs with transaction-specific EPs (or CEPs) (the average-to-transaction or A-to-T method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in antidumping duty investigations.⁸⁴

In recent investigations, the Department applied a "differential pricing" analysis for determining whether application of A-to-T comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.⁸⁵ 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 administrative review. 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

⁸² See *KYD, Inc. v. United States*, 607 F.3d 760, 766 (Fed. Cir. 2010) (finding Commerce's choice of AFA rate well grounded because it was supported by evidence submitted with the petition and by Commerce's calculation of high-volume transaction-specific margins for cooperative companies . . .).

⁸³ See Corroboration Memorandum.

⁸⁴ See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum at comment 1.

⁸⁵ 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); *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

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

The differential pricing analysis used in these preliminary results 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 A-to-A 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. Purchasers are based on the reported or consolidated customer codes. Regions are defined using the reported destination code (i.e., zip) 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 POR being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is considered using the product control number (nail form, product form, steel type, surface finish, diameter, shank length, collation material, head style, shank style, head treatment) and any characteristics of the sales, other than purchaser, region and time period, that the Department uses in making comparisons between EPs or CEPs and NVs 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* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s *d* coefficient is used to evaluate the extent to which the net prices to a particular purchaser, region or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen’s *d* test: small, medium or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant, and the sales in the test groups pass the Cohen’s *d* test, if the calculated Cohen’s *d* coefficient is equal to or exceeds the large threshold (i.e., 0.8).

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 A-to-T method to all sales as an alternative to the A-to-A method. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an A-to-T method to those sales identified as passing the Cohen’s *d* test as an alternative to the A-to-A method, and application of the A-to-A method to those sales

identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the A-to-A method.

If both tests in the first stage (*i.e.*, the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether using only the A-to-A method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the A-to-A method only. If the difference between the two calculations is meaningful, then this demonstrates that the A-to-A method cannot account for differences such as those observed in this analysis, and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if 1) there is a 25 percent relative change in the weighted-average dumping margin between the A-to-A method and the appropriate alternative 6 method where both rates are above the *de minimis* threshold, or 2) the resulting weighted-average dumping margin moves across the *de minimis* threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.⁸⁶

B. Results of the Differential Pricing Analysis

For Unicatch, based on the results of the differential pricing analysis, the Department finds that 55.46 percent of the value of U.S. sales pass the Cohen's *d* test,⁸⁷ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. However, the Department preliminarily determines that the average-to-average method can account for such differences because the relative change in the weighted-average dumping margin between the average-to-average method and the appropriate alternative method (*i.e.*, the average-to-transaction mixed alternative method) is not 25 percent or greater. Thus, for these preliminary results, the Department is applying the average-to-average method to all U.S. sales to calculate the weighted-average dumping margin for Unicatch.

C. Product Comparisons

For Unicatch, we based NV on CV because Unicatch did not have a viable home market or third-country market during the POR. Therefore, for Unicatch, no comparisons are made of EPs or CEPs with NVs based on home market or third-country market sales where it would be necessary to identify identical or similar merchandise. CV is based on Unicatch's reported COP, which is reported on the basis of product control numbers (CONNUM)s. CONNUMs are

⁸⁶ The Court of Appeals for the Federal Circuit (CAFC) in *Apex Frozen Foods v. United States*, 16-1789 (Fed. Cir. July 12, 2017) recently affirmed much of the Department's differential pricing methodology. We ask that interested parties present only arguments on issues which have not already been decided by the CAFC.

⁸⁷ See Unicatch's Preliminary Analysis Memorandum.

defined by the reported physical characteristics established by the Department for nails, which are listed above.

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 business. Additionally, under that regulation, 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.⁸⁸ Furthermore, consistent with the Department's practice, we use the shipment date as the date of sale where the shipment date occurs before the invoice date because the price and quantity are fixed at the time of shipment.⁸⁹

For U.S. sales, Unicatch reported the date of invoice as its date of sale for CEP sales.⁹⁰ For its EP sales, Unicatch reported the date of sale as the date when its sales are recorded in its financial accounting system (*i.e.*, internal sales order date). Specifically, for Unicatch's EP sales, Unicatch's internal sales order date is the invoice date, and if not the date of invoice, it is normally several days before or after the invoice date. The internal sales order date is preferable to date of invoice, since this internal date is used by Unicatch for accounting purposes, and, accordingly, is the date on which Unicatch's sales have been finalized. Relying on the internal sales order date as date of sale will also facilitate reconciliation and better reflects the date on which Unicatch establishes the material terms of sale.⁹¹

Export Price and Constructed Export Price

In accordance with section 772(a) of the Act, "the term 'export price' means 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, as adjusted under subsection (c)." Section 772(b) of the Act defines CEP as "the price at which

⁸⁸ 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.").

⁸⁹ See *Stainless Steel Sheet and Strip in Coils from the Republic of Korea: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 18074, 18079-80 (April 10, 2006), unchanged in *Stainless Steel Sheet and Strip in Coils from the Republic of Korea: Final Results and Rescission of Antidumping Duty Administrative Review in Part*, 72 FR 4486 (January 31, 2007), and the accompanying Issues and Decision Memorandum at Comments 4 and 5; see also *Seamless Refined Copper Pipe and Tube from Mexico: Preliminary Results of Antidumping Duty Administrative Review; 2010-2011*, 77 FR 73422 (December 10, 2012), and accompanying Preliminary Issues and Decision Memorandum at 7, unchanged in *Seamless Refined Copper Pipe and Tube from Mexico: Final Results of Antidumping Duty Administrative Review; 2010-2011*, 78 FR 35244 (June 12, 2013).

⁹⁰ See Unicatch's Section C Response, at 16.

⁹¹ See Unicatch's Section A Response, at 13; see also Unicatch's January 19, 2017, Section C Response (Unicatch's Section C Response), at 16.

the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d).” As explained below, we based the U.S. price on EP and CEP for Unicatch.

For Unicatch’s EP sales, we based U.S. price on the price at which merchandise under consideration was sold to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions, consistent with section 772(c)(2)(A) of the Act, for the following movement expenses: domestic inland freight, domestic brokerage and handling, U.S. brokerage and handling, international freight, marine insurance, U.S. duty, and other international movement expenses.

For Unicatch’s CEP sales, we based the price as defined in section 772(b) of the Act, for the subject merchandise sold, before importation, by a U.S.-based seller affiliated with the producer to unaffiliated purchasers in the United States. We made deductions from the starting price for movement expenses (*e.g.*, inland freight, warehousing, international freight, marine insurance, brokerage and handling, and U.S. duties), in accordance with section 772(c)(2) of the Act and 19 CFR 351.401(e).

In accordance with section 772(d)(1) of the Act, we calculated the CEP by deducting selling expenses associated with economic activities occurring in the United States, which includes direct selling expenses and those indirect selling expenses associated with economic activities occurring in the United States. We also deducted the profit allocated to expenses deducted under section 772(d)(1) of the Act, in accordance with section 772(d)(3) of the Act.

Normal Value

A. Home Market Viability and Comparison Market

To determine whether a sufficient volume of sales of nails exists in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared Unicatch’s volume of home market sales of the foreign like product to their volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. When sales in the home market are not viable, section 773(a)(1)(B)(ii) of the Act provides that sales to a third-country market may be utilized if: (1) the prices in such market are representative; (2) the aggregate quantity of the foreign like product sold by the producer or exporter in the third-country market is five percent or more of the aggregate quantity of the subject merchandise sold in or to the United States; and (3) the Department does not determine that a particular market situation in the third-country market prevents a proper comparison with the U.S. price.

Based on this comparison for Unicatch, we preliminarily determine that Unicatch did not have a viable home market during the POR. We find that the aggregate volume of home market sales of the foreign like product is less than five percent of the aggregate volume of U.S. sales, and, thus,

Unicatch's sales in the home market were not viable.⁹² We also preliminarily find that the aggregate quantity of the foreign like product sold by Unicatch in any third-country market was less than five percent of the aggregate volume of U.S. sales, and, therefore, Unicatch did not have a viable third-country market.⁹³ As a result, for Unicatch, we used CV as the basis for calculating NV, in accordance with section 773(a)(4) of the Act.

B. Normal Value Based on Constructed Value

In accordance with section 773(e) of the Act, we calculated CV based on the sum of Unicatch's cost of materials and fabrication employed in producing the subject merchandise, plus amounts for general and administrative (G&A) expenses, interest, profit, selling expenses, and U.S. packing costs. We calculated the cost of materials and fabrication, G&A expenses, and interest based on information submitted by Unicatch in its original and supplemental questionnaire responses, except in instances where we determined that the information was not valued correctly, as described below.

During the POR, Unicatch did not have a viable home market or third-country market to serve as a basis for NV; thus, NV must be based on CV, in accordance with section 773(a)(4) of the Act. Likewise, in the absence of a comparison market, we are unable to calculate CV profit using the preferred method and must instead rely on one of the three alternatives outlined in sections 773(e)(2)(B)(i) through (iii) of the Act. Those alternatives are: (i) the use of the actual amounts incurred and realized by the specific exporter or producer in connection with the production and sale in the foreign country of merchandise that is in the same general category of products as the subject merchandise; (ii) the use of the weighted average of the actual amounts incurred and realized by exporters or producers (other than the respondent) in connection with the production and sale of the foreign like product, in the ordinary course of trade country, for consumption in the foreign country; or (iii) based on any other reasonable method, except that the amount for profit may not exceed the amount realized by exporters or producers (other than the respondent) in connection with the sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise (*i.e.*, the "profit cap").

Because Unicatch did not sell any non-subject comparable merchandise in the home market during the POR, we are unable to calculate profit under section 773(e)(2)(B)(i), *i.e.*, based on sales of the same general category of product. We also cannot calculate CV profit or selling expenses under 773(e)(2)(B)(ii), amounts incurred and realized by other producers subject to the review. Thus, we are calculating profit under 773(e)(2)(B)(iii), *i.e.*, any other reasonable method for these preliminary results.

On March 31, 2017, we sent a request to all parties for constructed value profit and selling expense comments and information. Parties provided their responses on April 13, 2017 and we received rebuttal submissions on April 20, 2017. Based on the information on the record of this

⁹² See 19 CFR 351.404(b)(2); *see also* Unicatch's Section A Response, at 2-3 and Exhibit A-1.

⁹³ *Id.*

administrative review⁹⁴ and LTFV investigation, we have considered CV profit under section 773(e)(2)(B)(iii) of the Act: the profit reflected in the audited financial statements for three Taiwanese manufacturers of screws, bolts and fasteners (*i.e.*, Chun Yu Work and Co., Ltd., OFCO Industrial Corp., and Sheh Fung Screws Co. Ltd.).⁹⁵

The Taiwanese companies (*i.e.*, Chun Yu Work and Co., Ltd., OFCO Industrial Corp. and Sheh Fung Screws Co. Ltd.) produce screws, bolts and other fasteners, which are comparable to nails (*i.e.*, the merchandise under consideration). OFCO Industrial Corp., Chun Yu Work and Co., Ltd., and Sheh Fung Screw Co. Ltd.'s financial statements are fully translated and contemporaneous with the POR. Thus, in having to choose a reasonable source for CV profit data amongst the available options before us, we have preliminarily determined to use the simple-average profit earned by OFCO Industrial Corp. and Chun Yu Work and Co., Ltd., Taiwanese producers of comparable merchandise, in accordance with section 773(e)(2)(B)(iii) of the Act.

We further note that we have been unable to calculate the amount normally realized by exporters or producers in connection with the sale, for consumption in the foreign country, of the merchandise in the same general category, because the record does not contain public information for making such a calculation.

Section 776(a)(1) of the Act provides that, if necessary information is not available on the record, the Department shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. Section 782(e) of the Act states further that the Department shall not decline to consider submitted information if all of the following requirements are met: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties. Therefore, because there is no other information available on the record, as facts available, we are not quantifying a profit cap in applying option (iii) of section 773(e)(2)(B) of the Act.

With respect to selling expenses, because Unicatch does not have a viable home market or third-country market, the Department does not have comparison market selling expenses to use in its calculations, as directed by section 773(e) of the Act. As an alternative, to calculate selling expenses the Department has used the same financial statements that it used to calculate CV profit, in accordance with section 773(e)(2)(B)(iii) of the Act. We have calculated Unicatch's CEP profit ratio under section 773(e)(2)(B)(ii).

C. Cost of Production Analysis

⁹⁴ See Mid Continent's April 13, 2017, Submissions of Factual Information for CV Profit and Selling Expenses; Mid Continent's April 20, 2017, Submission of CV Profit Rebuttal Comments; *see also* PT and Unicatch's April 13, 2017, Submission of Factual Information for CV Profit and Selling Expenses, dated April 13, 2017, at Exhibits 13-15.

⁹⁵ See PT and Unicatch's April 13, 2017, Submission of Factual Information for CV Profit and Selling Expenses, dated April 13, 2017, at Exhibits 13-15.

The TPEA made numerous amendments to the AD and countervailing duty (CVD) law, including amendments to section 773(b)(2) of the Act.⁹⁶ 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, 2015.⁹⁷ It requires the Department to request CV and COP information from respondent companies in all AD proceedings.⁹⁸

Accordingly, the Department requested this information from Unicatch. We examined Unicatch's cost data and determined that our quarterly cost methodology is not warranted, and, therefore, we have applied our standard methodology of using annual costs based on Unicatch's reported data.

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of Unicatch's cost of materials and fabrication for the foreign like product, plus amounts for selling, general, and administrative (SG&A) expenses, interest expenses, and home market packing costs.

Based on our analysis of Unicatch's questionnaire responses, we have made no adjustments to Unicatch's reported COP.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act and 19 CFR 351.415, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. The exchange rates are available on the Enforcement and Compliance web site at <http://enforcement.trade.gov/exchange/index.html>.

⁹⁶ See *Trade Preferences Extension Act of 2015*, Pub. L. No. 114-27, 129 Stat. 362 (2015) (TPEA).

⁹⁷ 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).

⁹⁸ *Id.*, 80 FR at 46794-95.

Recommendation

We recommend applying the above methodology for these preliminary results.



Agree

Disagree

7/31/2017

X



Signed by: GARY TAVERMAN

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance