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Administrative Review
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September 5, 2019

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
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;
2017-2018

I. SUMMARY

In response to requests from interested parties, the Department of Commerce (Commerce) is conducting this administrative review of the antidumping duty (AD) order¹ on certain steel nails from Taiwan in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). The period of review (POR) is July 1, 2017 through June 30, 2018. This review covers three mandatory respondents, Liang Chyuan Industrial Co., Ltd. (LC);² PT Enterprise, Inc. (PT Enterprise) and its affiliated producer Pro-Team Coil Nail Enterprise, Inc. (Pro-Team) (collectively, PT)³; and Unicatch Industrial Co. Ltd. (Unicatch), and two additional companies not selected for individual examination. Commerce preliminarily determines that sales of the subject merchandise by LC, PT, and Unicatch were made at prices below normal value (NV).

The estimated weighted-average dumping margins are shown in the “Preliminary Results” section of the accompanying *Federal Register* notice.

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).

² As discussed below, we preliminarily determine that LC and Integral Building Products Inc. (Integral) are affiliated and should be collapsed into a single entity.

³ Commerce collapsed Pro-Team and PT Enterprise in a prior segment of the proceeding, and we find no new information in this segment that contradicts that finding. See *Certain Steel Nails from Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Administrative Review; 2015-2016*, 82 FR 36744 (August 7, 2017), and accompanying Preliminary Decision Memorandum (PDM), unchanged in *Certain Steel Nails from Taiwan: Final Results of Antidumping Duty Administrative Review and Partial Rescission of Administrative Review; 2015-2016*, 83 FR 6163 (February 13, 2018). Accordingly, we have preliminarily continued to treat PT Enterprise and Pro-Team as a single entity.



II. BACKGROUND

On September 10, 2018, based on timely requests for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review on certain steel nails from Taiwan.⁴ On September 27, 2018, we invited interested parties to comment on the U.S. Customs and Border Protection (CBP) data query placed on the record of this administrative review for respondent selection purposes.⁵ Mid Continent Steel & Wire, Inc. (the petitioner), was the only interested party to submit comments on respondent selection.⁶ Further, on October 5, 2018, Mid Continent timely withdrew its review request for 80 of the 86 companies that the petitioner originally requested for review.⁷

Pursuant to section 777A(c)(2) of the Act, we limited our examination of exporters or producers accounting for the largest volume of the subject merchandise, based on the CBP data we placed on the record.⁸ Commerce determined to limit the number of respondents selected for individual examination to the three largest companies by U.S. import entry volume for which a review was requested and which remained under active review.⁹ Commerce selected LC, PT, and Unicatch for individual examination in this administrative review and issued the AD questionnaire to all three companies.

Pursuant to 19 CFR 351.213(d)(1), Commerce 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. As stated above, on July 31, 2018, the petitioner requested an administrative review covering 86 companies upon which Commerce subsequently initiated a review. Further, on October 5, 2018, the petitioner withdrew its request for administrative review with respect to all companies in the *Initiation Notice* except LC, PT (individually, PT Enterprise and Pro-Team), Unicatch, Hor Liang Industrial Corp. (Hor Liang), and Romp Coil Nail Industries Inc. (Romp).¹⁰ Because the petitioner timely withdrew its request for administrative review of all companies except for the companies noted above within 90 days of the date of publication of the *Initiation Notice*, and no other interested party requested a review of these companies, Commerce rescinded this review with respect to 80 of the 86 companies for which the petitioner initially requested its review, in accordance with 19 CFR

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 45596 (September 10, 2018) (*Initiation Notice*).

⁵ See Memorandum, “Certain Steel Nails from Taiwan: U.S. Customs and Border Protection Information for 7/01/17-6/30/2018 Review Period,” dated September 27, 2018.

⁶ See Petitioner’s Letter, “Comments on Respondent Selection,” dated October 9, 2018.

⁷ See Petitioner’s Letter, “Withdrawal of Request for Administrative Reviews,” dated October 5, 2018 (Petitioner Withdrawal Letter); see also Petitioner’s Letter, “Request for Administrative Review,” dated July 31, 2018.

⁸ See Memorandum, “Administrative Review of Certain Nails from Taiwan: Respondent Selection,” dated November 7, 2018.

⁹ *Id.* The petitioner’s withdrawal of its review request for 80 companies left only 6 companies, two of which have been previously found to be a single entity, under active review from which to select as mandatory respondents based on the CBP data.

¹⁰ See Petitioner Withdrawal Letter.

351.213(d)(1).¹¹ The review remains active with respect to LC, the PT single entity (which includes PT Enterprise and Pro-Team), Unicatch, Hor Liang, and Romp.

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.¹² If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. Accordingly, the revised deadline for the preliminary results of this review fell on May 13, 2019. On March 4, 2018, we extended the deadline for the preliminary results to September 6, 2019.¹³ Between December 2018, and August 2019, LC, PT, and Unicatch timely submitted responses to Commerce's original and supplemental questionnaires.

On May 3, 2019, Commerce solicited from interested parties comments regarding constructed value (CV) profit and selling expenses, in the event that such information would be necessary in this segment of the proceeding pursuant to 773(e)(2)(B)(iii) of the Act.¹⁴ On May 31, 2019, the petitioner and PT filed comments regarding CV profit and selling expenses.¹⁵ On June 12, 2019, the petitioner filed comments rebutting the CV profit and selling expense information that PT placed on the record.¹⁶ However, as discussed below, because we have determined to calculate CV profit and selling expenses pursuant to section 773(e)(2)(B)(ii) of the Act, and need not resort to the option under section 773(e)(2)(B)(iii) of the Act, we are not relying on the "surrogate" CV profit or selling expense data submitted by interested parties on May 31 and June 12, 2019.

On August 21, 2019, the petitioner filed pre-preliminary comments with regard to LC.¹⁷ On August 22, 2019, the petitioner filed pre-preliminary comments with regard to PT and Unicatch.¹⁸ On August 26, 2019, and August 27, 2019, Unicatch and PT filed rebuttal comments to the petitioner's pre-preliminary comments, respectively. To the extent that the petitioner's suggested calculation adjustments coincided with Commerce's calculation adjustments, the full discussion of those adjustments is below in section E.4.A. However, where the petitioner has suggested calculation adjustments based on information that is not on this record, because it would require additional supplemental questionnaires, we determine that those suggested

¹¹ See *Certain Steel Nails from Taiwan: Partial Rescission of Antidumping Duty Administrative Review; 2017-2018*, 84 FR 6361 (February 27, 2019).

¹² See Memorandum, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

¹³ See Memorandum, "Certain Steel Nails from Taiwan: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated March 4, 2019.

¹⁴ See Commerce's Letter, "Request for Constructed Value Profit and Selling Expense Comments and Information," dated May 3, 2019.

¹⁵ See Petitioner's Submission, "Factual Information Related to Constructed Value Profit and Selling Expenses," dated May 31, 2019 (Petitioner CV Comments); see also PT's Submission, "Factual Information for CV Profit and Selling Expenses," dated May 31, 2019 (PT CV Comments).

¹⁶ See Petitioner's Submission, "Rebuttal Factual Information Related to Constructed Value Profit and Selling Expenses," dated June 12, 2019 (Petitioner Rebuttal CV Comments).

¹⁷ See Petitioner's Submission, "Pre-Preliminary Comments on Liang Chyuan Industrial Co., Ltd.," dated August 21, 2019.

¹⁸ See Petitioner's Submission, "Pre-Preliminary Comments on PT and Unicatch," dated August 22, 2019.

adjustments are inappropriate at this time. Further, we find it is not practicable to have issued any further supplemental questionnaires to the respondents to cover the additional information requested by the petitioner within the two-week time frame between the submission of the pre-preliminary comments and the statutory deadline for the preliminary results, which is insufficient timing for any meaningful consideration for the preliminary results. Thus, our preliminary results are based on the respondents' respective questionnaire responses and data, which already incorporate the petitioner's extensive questions raised in deficiency comments submitted throughout the course of the review.¹⁹

III. SCOPE OF THE ORDER

The merchandise covered by this order is certain steel nails having a nominal shaft length not exceeding 12 inches.²⁰ 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 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 this order 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

¹⁹ See, e.g., Petitioner's Deficiency Comments, dated February 25, 2019, February 26, 2019, March 4, 2019, March 11, 2019, March 29, 2019, May 30, 2019, July 2, 2019, August 1, 2019, and August 9, 2019.

²⁰ 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.

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 this order 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 this order 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 this order 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 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 this order 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 this order are thumb tacks, which are currently classified under HTSUS subheading 7317.00.10.00.

Certain steel nails subject to this order 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 this order 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 this order is dispositive.

IV. AFFILIATION/SINGLE ENTITY

Section 771(33) of the Act, in pertinent parts, identifies persons that shall be considered "affiliated" or "affiliated persons," as: (1) members of a family, including brothers and sisters (whether by whole or half-blood), spouses, ancestors, and lineal descendants, (2) any person directly or indirectly owning, controlling, or holding with power to vote, five percent or more of the outstanding voting stock or shares of any organization and such organization; (3) two or more persons directly or indirectly controlling, controlled by, or under common control with, any

person.²¹ Section 771(33) of the Act further stipulates that “a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person,” and the SAA²² notes that control may be found to exist within corporate groupings.²³ In determining whether control over another person exists within the meaning of section 771(33) of the Act, Commerce will not find that control exists unless the relationship has the potential to impact decisions concerning the production, pricing, or cost of the subject merchandise or foreign like product.²⁴

We next examine whether any of the affiliated companies should be considered a single entity for purposes of this review. Generally, Commerce will treat affiliated producers as a single entity if they have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities, and Commerce concludes that there is a significant potential for the manipulation of price or production.²⁵ In identifying a significant potential for manipulation, Commerce may consider factors including the level of common ownership;²⁶ “{t}he extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm;”²⁷ and “{w}hether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers.”²⁸ Commerce considers these criteria in light of the totality of the circumstances; no one factor is dispositive in determining whether to collapse the producers.²⁹

As provided in more detail in the Affiliation and Single Entity Memo,³⁰ we preliminarily determine that LC and Integral Building Products Inc. (Integral) are affiliated pursuant to section 771(33) of the Act. Further, we find that these companies should be treated as a single entity pursuant to 19 CFR 351.401(f).³¹ LC and Integral are affiliated pursuant to section 771(33) of the Act because they are under common control through the ownership of each of these companies by various family members.³² Furthermore, as directed in 19 CFR 351.401(f), we find that LC and Integral comprise a single entity and are, thus, subject to a single cash deposit rate. Specifically, the information on the record indicates that LC and Integral used the same

²¹ See Sections 771(33)(A), (E)-(G) of the Act.

²² See, generally, SAA.

²³ See SAA at 838 (stating that control may exist within the meaning of section 771(33) of the Act in the following types of relationships: (1) corporate or family groupings, (2) franchises or joint ventures, (3) debt financing, and (4) close supplier relationships in which either party becomes reliant upon the other).

²⁴ See 19 CFR 351.102(b)(3).

²⁵ See 19 CFR 351.401(f)(1).

²⁶ See 19 CFR 351.401(f)(2)(i).

²⁷ See 19 CFR 351.401(f)(2)(ii).

²⁸ See 19 CFR 351.401(f)(2)(iii).

²⁹ See *Koyo Seiko Co., Ltd. v. United States*, 516 F. Supp. 2d 1323, 1346 (CIT 2007), citing *Light Walled Rectangular Pipe and Tube from Turkey; Notice of Final Determination of Sales at Less Than Fair Value*, 69 FR 53675 (September 2, 2004), and accompanying Issues and Decision Memorandum (IDM) at Comment 10.

³⁰ See Memorandum, “Preliminary Affiliation and Single Entity Determination,” dated concurrently with this memorandum (Affiliation and Single Entity Memo), for a full discussion of the business proprietary details of Commerce’s analysis.

³¹ See Affiliation and Single Entity Memo.

³² *Id.*

production facility to manufacture merchandise subject to this review.³³ Therefore, we find that no substantial retooling of the production facility would be required to restructure manufacturing priorities. We have also determined that there is significant potential for the manipulation of price or production between these companies, as evidenced by the level of common ownership, the degree of management overlap, and the intertwined nature of the operations between these companies.³⁴ Thus, we have determined to treat LC and Integral as a single entity (hereinafter referred to as the LC single entity) which is subject to a single cash deposit rate.

V. DISCUSSION OF THE METHODOLOGY

A. Comparisons to Normal Value

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

1. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce 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, Commerce 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. Although section 777A(d)(1)(B) of the Act does not directly apply to Commerce's examination of this question in the context of administrative reviews, Commerce 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.³⁵

Commerce applies 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 in its investigations.³⁶ Commerce finds that the differential pricing analysis used in its investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. Commerce will continue to develop its approach in this area based on comments received in this

³³ *Id.*; see also 19 CFR 351.401(f)(1).

³⁴ *Id.*

³⁵ 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).

³⁶ See, e.g., *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015); *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 *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair*, 78 FR 33351 (June 4, 2013).

and other proceedings, and on Commerce's additional experience with addressing the potential masking of dumping that can occur when Commerce uses the average-to-average method in calculating a respondent's weighted-average dumping margin.

The differential pricing analysis used in these preliminary results was affirmed by the Court of Appeals for the Federal Circuit (CAFC) as in accordance with law in *Apex Frozen Foods Private Ltd. v. United States*.³⁷ That analysis 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 customer codes (CUSCODU). Regions are defined using the reported destination code (*i.e.*, zip code (DESTU)) 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 defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region and time period, that Commerce 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 net prices to the 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 (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

³⁷ See *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286, 1322 (CIT 2014), *aff'd*, 862 F. 3d 1322 (Fed. Cir. 2017) (*Apex*).

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, Commerce examines whether using only the average-to-average method can appropriately account for such differences. In considering this question, Commerce tests whether using an alternative comparison method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two calculations is meaningful, then this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative comparison method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if: (1) there is a 25 percent relative change in the weighted-average dumping margins between the average-to-average method and the appropriate alternative method where both rates are above the *de minimis* threshold, or (2) the resulting weighted-average dumping margins between the average-to-average method and the appropriate alternative method move across the *de minimis* threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.³⁸

2. Results of the Differential Pricing Analysis

The LC single entity

For the LC single entity, based on the results of the differential pricing analysis, Commerce preliminarily finds that 51.87 percent of the value of U.S. sales pass the Cohen's *d* test,³⁹ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines that the average-to-average method cannot account for such differences because there is a 25 percent relative change between the weighted-average dumping margin calculated using the average-to-average method

³⁸ As noted above, the CAFC in *Apex* affirmed much of Commerce's differential pricing methodology. We ask that interested parties present only arguments on issues which have not already been decided by the CAFC.

³⁹ See Memorandum, "Analysis for the Preliminary Results of the Administrative Review of Certain Steel Nails from Taiwan: the LC single entity," dated concurrently with this memorandum (LC Preliminary Calculation Memorandum).

and the weighted-average dumping calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test. Thus, for these preliminary results, Commerce is applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test to calculate the weighted-average dumping margin for the LC single entity.

PT

For PT, based on the results of the differential pricing analysis, Commerce preliminarily finds that 55.27 percent of the value of U.S. sales pass the Cohen's *d* test,⁴⁰ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test. Thus, for these preliminary results, Commerce is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for PT.

Unicatch

For Unicatch, based on the results of the differential pricing analysis, Commerce preliminarily finds that 67.69 percent of the value of U.S. sales pass the Cohen's *d* test,⁴¹ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test. Thus, for these preliminary results, Commerce is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Unicatch.

B. Date of Sale

Section 351.401(i) of Commerce's regulations states that we normally will use, as the date of sale, the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business. The regulation provides further that we may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the

⁴⁰ See Memorandum, "Analysis for the Preliminary Results of the Administrative Review of Certain Steel Nails from Taiwan: PT," dated concurrently with this memorandum (PT Preliminary Calculation Memorandum).

⁴¹ See Memorandum, "Analysis for the Preliminary Results of the Administrative Review of Certain Steel Nails from Taiwan: Unicatch," dated concurrently with this memorandum (Unicatch Preliminary Calculation Memorandum).

material terms of sale are established.⁴² Consistent with our long-standing practice, where shipment date precedes invoice date, we find that shipment date better reflects the date on which the material terms of sale are established.⁴³

For both its third-country and U.S. sales, the LC single entity reported the invoice date as the date of sale.⁴⁴ Therefore, in accordance with our normal practice, in the absence of information indicating a different date of sale better reflects the date on which the material terms of sale are established, we used invoice date as date of sale. However, in our analysis, we found that some shipment dates actually preceded the invoice date. As stated above, Commerce's practice is to use the shipment date when the shipment date precedes the invoice date. Therefore, if the shipment date preceded the invoice date, we used the shipment date as the date of sale, because it better reflects the date on which the material terms of sale were established.

For both its home and U.S. sales, Unicatch reported the date of invoice as the date of sale.⁴⁵ Therefore, in accordance with our normal practice, in the absence of information indicating a different date of sale better reflects the date on which the material terms of sale are established, we used invoice date as date of sale. However, in our analysis, we found that some shipment dates actually preceded the invoice date. As stated above, Commerce's practice is to use the shipment date when the shipment date precedes the invoice date. Therefore, if the shipment date preceded the invoice date, we used the shipment date as the date of sale, because it better reflects the date on which the material terms of sale are established.

For its U.S. sales, PT stated that the essential terms of sale are set with the issuance of the commercial invoice.⁴⁶ Thus, because the material terms of sale are not established until the invoice date for PT, we are relying on the date of invoice as the date of sale for U.S. sales.

C. Product Comparisons

For the purposes of determining an appropriate product comparison to the U.S. sale, in accordance with section 771(16) of the Act, we considered all products sold in the home market

⁴² 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.”).

⁴³ 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 accompanying IDM 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 PDM 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).

⁴⁴ See LC's Revised Section A Questionnaire Response, dated February 13, 2019 (LC SAQR), at 9.

⁴⁵ See Unicatch's Section A Questionnaire Response, dated December 12, 2018 (Unicatch SAQR), at 13.

⁴⁶ See PT's Section A Questionnaire Response, dated December 12, 2018 (PT SAQR), at 12 (“For sales to the United States, the date of sale is the date of the invoice. This is the date on which the essential terms of sale, in particular quantity and price, are set.”).

as described in the “Scope of the Order” section of this notice, above, that were in the ordinary course of trade. In making the product comparisons, we matched foreign like products to the products sold in the United States based on the physical characteristics. In order of importance, these physical characteristics are type of nail form, product form, steel type, surface finish, shank diameter, shank length, collation material, head style, shank style, and heat treatment.

Unicatch and the LC Single Entity

Pursuant to 19 CFR 351.414(f), we compared Unicatch’s U.S. sales to Unicatch’s home market sales within the contemporaneous window period, which extends from three months prior to the month of the first U.S. sale until two months after the month of the last U.S. sale. 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, according to section 771(16)(B) of the Act, we compared U.S. sales of steel nails to sales of the most similar foreign like product in the ordinary course of trade. Where there were no sales of identical or similar merchandise, we made product comparisons using CV, as discussed in the “Normal Value Based on Constructed Value” section below.

Pursuant to 19 CFR 351.414(f), we compared the LC single entity’s U.S. sales to the LC single entity’s third-country sales to Pakistan within the contemporaneous window period, which extends from three months prior to the month of the first U.S. sale until two months after the month of the last U.S. sale. Where there were no sales of identical merchandise in Pakistan made in the ordinary course of trade to compare to U.S. sales, according to section 771(16)(B) of the Act, we compared U.S. sales of steel nails to sales of the most similar foreign like product in the ordinary course of trade. Where there were no sales of identical or similar merchandise, we made product comparisons using CV, as discussed in the “Normal Value Based on Constructed Value” section below.

D. 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 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 only for PT and the LC single entity, and EP and CEP for Unicatch.

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

For Unicatch's CEP sales, we based U.S. price on the price at which the subject merchandise was 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, where applicable (*e.g.*, inland freight, warehousing, international freight, marine insurance, brokerage and handling, and U.S. duties, offset by freight revenue⁴⁷), 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 include 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.

E. Normal Value

1. Home Market Viability and Selection of Comparison Market

Section 773(a)(1) of the Act directs that NV be based on the price at which the foreign like product is sold in the comparison market, provided that the merchandise is sold in sufficient quantities (or value, if quantity is inappropriate) and that there is no particular market situation that prevents a proper comparison with the EP. Section 773(a)(1)(C) of the Act contemplates that quantities (or values) will normally be considered insufficient if they are less than five percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States.

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 the LC single entity's, PT's and Unicatch's volume of home market sales of the foreign like product to their respective 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) Commerce does not determine that a particular market situation in the third-country market prevents a proper comparison with the U.S. price.

⁴⁷ See, *e.g.*, *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 IDM at Comment 2.

In applying the above methodology for the LC single entity and PT, we preliminarily determine that the LC single entity⁴⁸ and PT⁴⁹ did not have a viable home market during the POR. Specifically, 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 for both the LC single entity and PT, and, thus, the LC single entity's and PT's sales in the home market were not viable.

We also preliminarily find that the aggregate quantity of the foreign like product sold by PT in any third-country market was less than five percent of the aggregate volume of U.S. sales, and, therefore, PT did not have a viable third-country market.⁵⁰ Consequently, as discussed below, we used CV as the basis for calculating NV for PT, in accordance with section 773(a)(4) of the Act.

With regard to the LC single entity, we preliminary determine that the LC single entity's home market, Taiwan, is not a viable comparison market. Accordingly, we used the LC single entity's sales to its largest third-country market, Pakistan, as the basis for NV, in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404(c)(1)(ii). Additionally, Pakistan is the appropriate comparison market because the LC single entity's sales of foreign-like product to Pakistan were the most similar to its U.S. sales of the subject merchandise.⁵¹ Consequently, pursuant to 19 CFR 351.404(b)(2)(1), we based NV on the LC single entity's sales to Pakistan.

With regard to Unicatch, we preliminary determine that, pursuant to 19 CFR 351.404(b), Unicatch had a viable home market during the POR, given the aggregate volume of its home market sales of the foreign like product was greater than five percent of the aggregate volume of its U.S. sales of the subject merchandise.⁵² Consequently, pursuant to section 773(a)(1)(B)(i) of the Act and 19 CFR 351.404(c)(1)(i), we based NV on home market sales made by Unicatch.

2. Level of Trade (LOT)/CEP Offset

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, Commerce will calculate NV based on sales of the foreign like product at the same LOT as U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).⁵³ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.⁵⁴ To determine whether the comparison-market sales were at different stages in the marketing process than the U.S. sales, we review the

⁴⁸ See LC SAQR at Section A-1; see also LC's Supplemental Section A and B Response, dated May 16, 2019 (LC SSABQR), at 1-2 and Exhibit 1.

⁴⁹ See PT SAQR at 3 ("Because there is no viable foreign market {Home Market and Third-Country Market Sales are less than 5% by volume of sales to the U.S.}, as virtually all PT Enterprise's and Pro-Team's sales of subject merchandise are made to the U.S., Pro-Team will be reporting constructed value information in Section D and will not be providing a Section B questionnaire response.").

⁵⁰ *Id.*

⁵¹ See LC SSABQR at Exhibit 3.

⁵² See Unicatch SAQR at 2.

⁵³ See 19 CFR 351.412(c)(2).

⁵⁴ *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 IDM at Comment 7.

distribution system in each market (*i.e.*, the chain of distribution), including selling functions, class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (*i.e.*, where NV is based on either home market or third-country prices),⁵⁵ we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.⁵⁶

The LC Single Entity

During the POR, the LC single entity reported that it made sales in the U.S. market through two channels of distribution: 1) sales to unaffiliated distributors/trading companies, and 2) sales to unaffiliated and affiliated agents (US Channel 2).⁵⁷ The LC single entity reported that it performed the following selling functions for all sales to the United States through the two channels of distribution: packing, order input/processing, warranty service, and freight and delivery.⁵⁸ The LC single entity reported that for output input/processing, warranty service, and freight and delivery, the same level of intensity was performed for both distribution channels, while only a minor difference in the level of intensity was performed for packing.⁵⁹ Additionally, the LC single entity also reported commissions and only performed this service for sales made through U.S. Channel 2.⁶⁰ Although the LC single entity performed payment of commissions for only one channel of distribution in the U.S. market, we preliminarily determine that this activity alone is not sufficient to warrant a separate LOT in the U.S. market. As the difference in selling functions performed by the LC single entity between its two U.S. distribution channels is not significant, we determine that there is only one LOT in the U.S. market.

With respect to the third-country market, the LC single entity reported that it made sales through a single channel of distribution (*i.e.*, direct sales to unaffiliated companies).⁶¹ The LC single entity reported that it performed the following selling functions for all sales to its third-country customers: packing, order input/processing, warranty service, and freight and delivery.⁶² Because all third-country sales are made through a single distribution channel and the selling activities performed for the LC single entity's customers did not vary within this channel, we preliminarily determine that there is one LOT in the third-country market for the LC single entity.

⁵⁵ 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 (SG&A) expenses, and profit for CV, where possible. *See* 19 CFR 351.412(c)(1).

⁵⁶ *See Micron Tech., Inc. v. United States*, 243 F. 3d 1301, 1314-16 (Fed. Cir. 2001).

⁵⁷ *See* LC's Section A Supplemental Response, dated March 11, 2019 (LC SSAQR), at 5-6 and Exhibit 5.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*; *see also* LC SSABQR at 2.

⁶² *See* LC SSAQR at 5-6 and Exhibit 5.

Finally, we compared the U.S. LOT to the third-country LOT and found that the selling functions performed for U.S. and third-country customers do not differ, as the LC single entity performed the same selling functions at the same relative level of intensity in both markets. Therefore, we determine that sales to the U.S. and third-country markets during the POR were made at the same LOT, and as a result, no LOT adjustment is warranted.

Unicatch

In this review, we obtained information from Unicatch regarding the marketing stages involved in making its reported home market and U.S. sales, including a description of the selling activities performed for each channel of distribution. Unicatch reported that it made EP sales in the U.S. market through two channels of distribution, *i.e.*, direct sales to U.S. distributors and sales to Taiwanese trading companies, for which Unicatch knows that nails that are destined for export to the United States. Unicatch reported that it made CEP sales in the U.S. market through two channels of distribution, *i.e.*, direct shipments from Taiwan to the customers of its U.S. affiliated reseller, TC International, Inc. (TC), or through shipments of nails to TC's warehouse, where product is then resold from its inventory.⁶³ We examined the selling activities performed for U.S. sales and found that Unicatch performed the following functions (not including those activities corresponding to economic activities performed by TC in the United States): packing, order input/processing, freight and delivery, and payment of commissions.⁶⁴ Although Unicatch performed payment of commissions for only one channel of distribution in the U.S. market, we preliminarily determine that this activity alone is not sufficient to warrant a separate LOT in the U.S. market. Therefore, we preliminarily find that there is only one LOT in the U.S. market.

For Unicatch's home market, Unicatch reported that all its sales during the POR were through one channel of distribution, *i.e.*, direct to Taiwanese distributors.⁶⁵ We examined the following selling activities performed for home market sales and found that Unicatch performed the following functions: packing, order input/processing, and freight and delivery.⁶⁶ Therefore, we preliminarily find that there is only one LOT in the home market.

Finally, we compared the U.S. LOT to the home market LOT, and found that the selling functions Unicatch performed for its U.S. and home market customs do not differ significantly. Specifically, Unicatch performed the same selling functions (*i.e.*, packing and freight and delivery) in the home market as it performed in the U.S. market, and there are no differences in intensity with respect to performing these functions in the two markets.⁶⁷ 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 or CEP offset is warranted for Unicatch.

⁶³ See Unicatch SAQR at 10.

⁶⁴ *Id.* at Exhibit A-7.

⁶⁵ *Id.* at 10.

⁶⁶ *Id.* at Exhibit A-7.

⁶⁷ See Unicatch SAQR at 10 and Exhibit A-7; and Unicatch's Section C Questionnaire Response, dated February 13, 2019, at 16.

PT

Because PT has no viable comparison market, and because we based CV selling expenses and profit on the LC single entity's and Unicatch's information, as discussed below, it is not possible to conduct a LOT analysis for PT. Accordingly, we made no LOT adjustment for PT.

3. Cost of Production Analysis

In accordance with section 773(b)(2)(A)(ii) of the Act, Commerce requested CV and COP information from the LC single entity and Unicatch to determine if there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that are less than the COP of the product. We examined the cost data and determined that our quarterly cost methodology is not warranted, and therefore, we are applying our standard methodology of using annual costs based on the respondents' reported data.

Accordingly, Commerce requested this information from the LC single entity and Unicatch. We examined the LC single entity's and 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 the respondents' reported data.

a. Calculation of Cost of Production (COP)

In accordance with section 773(b)(3) of the Act, we calculated the respondent's COP based on the sum of the LC single entity's and Unicatch's cost of materials and fabrication for the foreign like product, plus amounts for SG&A expenses, interest expenses, and home market packing costs. However, based on our analysis of the respondents' questionnaire responses and data, we have made the following COP adjustments:

The LC Single Entity

- We adjusted the LC single entity's COM for the amount of reported unreconciled difference between reported POR COM of merchandise under consideration and the reported total COM.⁶⁸

Unicatch

- We revised the general and administrative expense and interest expense rate calculations to subtract both packing and scrap sales from the reported cost of sales.⁶⁹
- We adjusted the cost of inputs purchased by Unicatch from affiliated suppliers to reflect the market price of the inputs in accordance with section 773(f)(2) of the Act.⁷⁰

⁶⁸ See LC Preliminary Calculation Memorandum; see also Memorandum, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results – Liang Chyuan Industrial Co., Ltd.," dated concurrently with this memorandum.

⁶⁹ See Unicatch Preliminary Calculation Memorandum.

⁷⁰ *Id.*

b. 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 comparison-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.

c. 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 POR, 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.

For Unicatch, we found that, for certain products, more than 20 percent of Unicatch's home market sales during the POR 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 as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

For the LC single entity, we found that for certain products, more than 20 percent of the LC single entity's third-country market sales during the POR 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 as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

4. *Calculation of NV Based on Comparison Market Prices*

We based NV for Unicatch on packed prices to unaffiliated customers in the home market, and we based NV for the LC single entity on packed prices to unaffiliated customers in the third-country market (*i.e.*, Pakistan). We adjusted, where appropriate, the starting price for billing adjustments in accordance with 19 CFR 351.401(c). We made deductions, where appropriate, from the starting price for movement expenses (*i.e.*, inland freight and marine insurance) under section 773(a)(6)(B)(ii) of the Act.

For comparisons to Unicatch's and the LC single entity's EP sales, pursuant to section 773(a)(6)(C) of the Act and 19 CFR 351.410, we made circumstance-of-sale adjustments by deducting direct selling expenses (*i.e.*, warranties, imputed credit, and bank charges), and adding U.S. direct selling expenses (*i.e.*, imputed credit expenses, bank charges, and other direct selling expenses), where appropriate. With regard to the LC single entity's reported imputed credit calculation, we adjusted the average U.S. short-term interest rate reported.⁷¹ We also made adjustments, where appropriate, in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred in the comparison market or the United States where commissions were granted in one market but not in the other, also known as the "commission offset."

For comparisons to Unicatch's CEP sales, in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410, we deducted from NV direct selling expenses (*i.e.*, imputed credit, bank charges, and commissions).

When comparing U.S. sales with comparison market sales of similar, but not identical 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 (COM) for the foreign like product and subject merchandise. We also deducted the third-country and home market packing costs and added U.S. packing costs, in accordance with sections 773(a)(6)(A) and (B) of the Act, where appropriate.

5. Normal Value Based on Constructed Value

PT

As noted above, for PT, in accordance with section 773(a)(4) of the Act, we used CV as the basis for NV because PT did not have a viable comparison market. We calculated CV in accordance with section 773(e) of the Act. We included the cost of materials and fabrication, general and administrative (G&A) expenses, interest expenses, U.S. packing expenses, and profit in the calculation of CV. However, based on our analysis of PT's questionnaire responses and data, we revised PT's G&A expense ratio to adjust certain investment-related income and expenses.⁷²

Commerce's practice is to calculate an annual weighted-average cost for the POR. However, we recognize that possible distortions may result if we use our normal annual-average cost method during a time of significant cost changes. In determining whether to deviate from our normal methodology of calculating an annual weighted-average cost, we evaluate the case-specific record evidence by examining two primary criteria: (1) the change in the COM recognized by the respondent during the POR must be deemed significant; (2) the record evidence must indicate that sales during the shorter cost-averaging periods could be reasonably linked with the COP or

⁷¹ See LC Preliminary Calculation Memorandum.

⁷² See PT Preliminary Calculation Memorandum at 3 and Attachment 3; *see also* PT's Supplemental Section D Questionnaire Response at Exhibit SD-24.

CV during the same shorter cost-averaging periods.⁷³ We examined the cost data for PT and preliminarily determined that our quarterly cost methodology is not warranted because PT did not appear to experience significant changes in the COM during the POR. Therefore, we applied our standard methodology of using annual costs based on the reported data.

Because PT did not have a viable home or third-country market to serve as a basis for NV, we are unable to calculate a CV profit ratio using the preferred method under section 773(e)(2)(A) of the Act, *i.e.*, based on the respondent's own home-market or third-country sales made in the ordinary course of trade. When the preferred method is unavailable, we 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 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) that are subject to the investigation or review; 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").

While we solicited comments and information from interested parties for CV profit and selling expenses,⁷⁴ Commerce did so in an abundance of caution to ensure that the record contained sufficient data in the event that we could not rely on 773(e)(2)(B)(ii) for CV profit and selling expenses for PT. However, as we are relying on subsection (ii) (discussed further below), we are not, presently, using any financial statements submitted in the Petitioner CV Comments, PT CV Comments, or Petitioner Rebuttal CV Comments on the record to calculate CV profit or selling expenses for PT.

Because we are unable to calculate profit for PT under section 773(e)(2)(B)(i), *i.e.*, based on sales of the same general category of product, we must rely an alternative method, as discussed above. In this review, we are able to calculate CV profit under 773(e)(2)(B)(ii), which refers to amounts incurred and realized by other producers subject to the review because Commerce is reviewing two other mandatory respondents in this segment of the proceeding: the LC single entity and Unicatch. Thus, we are calculating profit under 773(e)(2)(B)(ii) for these preliminary results, using the calculated profit for Unicatch and the LC single entity in PT's margin calculation. Finally, with respect to selling expenses, because PT does not have a viable home market or third-country market, Commerce 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, Commerce has also relied on the LC single entity's and Unicatch's calculated selling expenses in PT's margin calculation, in accordance with section 773(e)(2)(B)(ii) of the

⁷³ See *Stainless Steel Sheet and Strip in Coils from Mexico: Final Results of Antidumping Duty Administrative Review*, 75 FR 6627 (February 10, 2010), and accompanying IDM at Comment 6; and *Stainless Steel Plate in Coils from Belgium: Final Results of Antidumping Duty Administrative Review*, 73 FR 75398 (December 11, 2008), and accompanying IDM at Comment 4.

⁷⁴ Parties provided responses on June 15, 2018 and June 29, 2018, and rebuttal submissions on July 10, 2018.

Act. We made adjustments to CV for differences in circumstances of sale, in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410.

Unicatch and the LC Single Entity

With regard to the LC single entity and Unicatch, in accordance with section 773(e) of the Act, and where applicable, we calculated CV based on the sum of the LC single entity's and Unicatch's respective material and fabrication costs, SG&A expenses, profit and U.S. packing costs. Each company's reported COP was adjusted as noted above. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by the LC single entity and Unicatch in the connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the comparison market. We made adjustments to CV for differences in circumstances of sale, in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410.

VI. 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>.

VII. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.



Agree



Disagree

9/5/2019

X



Signed by: JEFFREY KESSLER
Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance