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Investigation  
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October 6, 2020

**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 the Preliminary Affirmative  
Determination in the Less-Than-Fair-Value Investigation of  
Common Alloy Aluminum Sheet from Taiwan

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## I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that common alloy aluminum sheet (aluminum sheet) from Taiwan is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated weighted-average dumping margins are shown in the “Preliminary Determination” section of the accompanying *Federal Register* notice.

## II. BACKGROUND

On March 9, 2020, Commerce received an antidumping duty (AD) petition concerning imports of aluminum sheet from Taiwan, filed in proper form by the Aluminum Association Common Alloy Aluminum Sheet Trade Enforcement Working Group and its individual members: Aleris Rolled Products, Inc.; Arconic, Inc.; Constellium Rolled Products Ravenswood, LLC; JW Aluminum Company; Novelis Corporation; and Texarkana Aluminum, Inc. (collectively, the petitioners), domestic producers of aluminum sheet.<sup>1</sup> On March 30, 2020, Commerce initiated the LTFV investigation on aluminum sheet from Taiwan.<sup>2</sup>

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<sup>1</sup> See Petitioners’ Letter, “Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey – Petition for the Imposition of Antidumping and Countervailing Duties,” dated March 9, 2020 (Petition).

<sup>2</sup> See *Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia,*



In the *Initiation Notice*, Commerce notified the public that, where appropriate, it intended to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States numbers listed in the “Scope of the Investigations,” in the appendix.<sup>3</sup>

On March 24, 2020, Commerce released CBP data on imports of aluminum sheet from Taiwan under an Administrative Protection Order (APO) and invited interested parties to submit comments on this data for purposes of respondent selection.<sup>4</sup> We received no comments regarding the CBP data, and no party requested to be considered as a voluntary respondent in this investigation. On April 21, 2020, Commerce selected C.S. Aluminium Corporation (CSAC) for individual examination as the mandatory respondent in this investigation, as it accounted for substantially all of the volume of subject exports during the period of investigation (POI).<sup>5</sup> Accordingly, we issued the standard AD questionnaire to CSAC on April 23, 2020.<sup>6</sup>

On April 29, 2020, the U.S. International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of aluminum sheet from Taiwan.<sup>7</sup>

In the *Initiation Notice*, Commerce notified parties of an opportunity to comment on the scope of the investigation, as well as on the appropriate physical characteristics of aluminum sheet to be reported in response to Commerce’s AD questionnaire.<sup>8</sup> From May 4, 2020 through May 6, 2020, we received timely-filed comments concerning the scope of the investigation from interested parties. On May 21, 2020, we received timely-filed rebuttal scope comments from interested parties. On May 27, 2020, Commerce officials spoke with counsel for the petitioners via telephone regarding the petitioners’ scope comments and rebuttal comments.<sup>9</sup> We issued the Preliminary Scope Decision Memorandum on October 6, 2020, concurrently with this memorandum.<sup>10</sup>

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*Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan and the Republic of Turkey: Initiation of Less-Than-Fair-Value Investigations*, 85 FR 19444 (April 7, 2020) (*Initiation Notice*).

<sup>3</sup> *Id.*, 85 FR at 19448.

<sup>4</sup> See Memorandum, “Antidumping Duty Petition on Common Alloy Aluminum Sheet from Taiwan: Release of U.S. Customs and Border Protection Data,” dated March 24, 2020 (CBP Data); and *Initiation Notice*, 85 FR at 19448.

<sup>5</sup> See Memorandum, “Less-Than-Fair-Value Investigation of Common Alloy Aluminum Sheet from Taiwan: Selection of Respondent for Individual Examination,” dated April 21, 2020.

<sup>6</sup> See Commerce’s Letter, Antidumping Duty Questionnaire, dated April 23, 2020 (Initial Questionnaire)

<sup>7</sup> See *Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey*, 85 FR 23842 (April 29, 2020).

<sup>8</sup> See *Initiation Notice*, 85 FR at 19445.

<sup>9</sup> See Memorandum, “Common Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey: Deadline for Scope Comments: *Ex Parte* Telephone Call with Counsel for the Aluminum Association Trade Enforcement Working Group,” dated May 29, 2020.

<sup>10</sup> See Memorandum, “Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey: Scope Comments Decision Memorandum for the Preliminary Determinations,” dated concurrently with this memorandum (Preliminary Scope Decision Memorandum).

On April 27, 2020, we received timely-filed product characteristics comments from interested parties. On May 11, 2020, we received timely-filed rebuttal product characteristics comments from interested parties. On May 18, 2020, Commerce officials spoke *via* telephone with counsel for the petitioners regarding the petitioners' product characteristics comments and rebuttal comments.<sup>11</sup> On May 19, 2020, Commerce determined the product characteristics applicable to this investigation.<sup>12</sup>

On June 4, 2020, Commerce issued revised descriptions for certain product characteristics.<sup>13</sup> On June 11, 2020, the petitioners submitted comments in response to requests from respondents in certain aluminum sheet investigations to rescind the revisions made in Commerce's Revised Product Characteristics Memorandum.<sup>14</sup> On June 12, 2020, Commerce officials spoke *via* telephone with counsel for the petitioners, counsel for CSAC, and counsel for respondents in certain aluminum sheet investigations regarding Commerce's Revised Product Characteristics Memorandum.<sup>15</sup> On June 16, 2020, we issued the final product characteristics in this investigation.<sup>16</sup>

As noted above, we issued the standard AD questionnaire to CSAC on April 23, 2020.<sup>17</sup> From May through June, 2020, CSAC submitted timely responses to Section A of the Initial Questionnaire, *i.e.*, the section relating to general information.<sup>18</sup> On June 22, 2020, CSAC submitted timely responses to sections B, C, and D of the Initial Questionnaire, *i.e.*, the sections relating to home market sales, U.S. sales, and cost of production (COP)/CV, respectively.<sup>19</sup>

From June 18, 2020 through September 4, 2020, we issued supplemental questionnaires to CSAC regarding their questionnaire responses.<sup>20</sup> We received timely-filed responses to these

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<sup>11</sup> See Memorandum, "Phone Call with Outside Counsel," dated May 19, 2020.

<sup>12</sup> See Commerce's Letter, "Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey: Product Characteristics," dated May 19, 2020 (Product Characteristics Letter).

<sup>13</sup> See Memorandum, "Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey: Product Characteristics Correction," dated June 4, 2020 (Revised Product Characteristics Memorandum).

<sup>14</sup> See Petitioners' Letter, "Antidumping Investigations Concerning Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey – Petitioners' Response to Respondents' Requests to Rescind Product Characteristics Clarification and for Extensions of Time to Submit Section B – D Questionnaire Responses," dated June 11, 2020.

<sup>15</sup> See Memorandum, "Meeting with Outside Counsel," dated June 16, 2020.

<sup>16</sup> See Memorandum, "Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey: Revised Product Characteristics Guidance," dated June 16, 2020 (Final Product Characteristics Memo).

<sup>17</sup> See Initial Questionnaire.

<sup>18</sup> See CSAC's May 28, 2020 Section A Questionnaire Response (AQR); and CSAC's June 15, 2020 Submission of Affiliate Financial Statements (AQR Affiliate Financial Statements).

<sup>19</sup> See CSAC's June 22, 2020 Sections B-D Questionnaire Responses (BQR; CQR; and DQR, respectively).

<sup>20</sup> See Commerce's June 18, 2020 Section A Supplemental Questionnaire (ASQ); Commerce's July 21, 2020 Section D Supplemental Questionnaires (DSQ); Commerce's August 5, 2020 Section A-C Supplemental Questionnaire (ABCSQ); Commerce's September 2, 2020 Public Version Deficiency Letter; and Commerce's September 4, 2020 Second Section D Supplemental Questionnaire (Second DSQ).

questionnaires from July 9, 2020 through September 14, 2020.<sup>21</sup> The petitioners submitted comments to CSAC's questionnaire responses from June 11, 2020 through September 1, 2020.<sup>22</sup> CSAC also submitted a response to the petitioners' September 1, 2020 comments.<sup>23</sup>

On July 29, 2020, Commerce postponed the preliminary determination of this investigation by 50 days, to October 6, 2020, pursuant to section 733(c)(1) of the Act and 19 CFR 351.205(b) and (e).<sup>24</sup>

On September 4, 2020, the petitioners submitted an allegation of critical circumstances.<sup>25</sup> Accordingly, we issued a request to CSAC for shipment data.<sup>26</sup> CSAC responded to this request from September 15, 2020.<sup>27</sup>

On September 14, 2020, the petitioners submitted comments with respect to CSAC for consideration in the preliminary determination.<sup>28</sup> On September 18, 2020, CSAC submitted rebuttal pre-preliminary comments.<sup>29</sup>

On September 14, 2020, CSAC requested that, in the event of an affirmative preliminary determination in this investigation, Commerce postpone its final determination in accordance

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<sup>21</sup> See CSAC's July 9, 2020 Section A Supplemental Questionnaire Response (SQR) (ASQR); CSAC's August 18, 2020 Section D SQR (DSQR); CSAC's August 24, 2020 Sections A-C SQR (First ABCSQR); CSAC's August 28, 2020 Second Sections A-C SQR (Second ABCSQR); CSAC's September 4, 2020 Updated Public Version Submission; and CSAC's September 14, 2020 Second Section D SQR (Second DSQR).

<sup>22</sup> See Petitioners' Letters, "Common Alloy Aluminum Sheet From Taiwan – Petitioners' Deficiency Comments Concerning C.S. Aluminium Corporation's Section A Questionnaire Response," dated June 11, 2020; "Less Than Fair Value Investigation of Common Alloy Aluminum Sheet from Taiwan – Petitioners' Deficiency Comments Concerning C.S. Aluminium Corporation's Section D Questionnaire Response," dated July 7, 2020; "Common Alloy Aluminum Sheet From Taiwan – Petitioners' Deficiency Comments Concerning C.S. Aluminium Corporation's Section B and C Questionnaire Responses," dated July 9, 2020; "Common Alloy Aluminum Sheet From Taiwan – Petitioners' Deficiency Comments Concerning C.S. Aluminium Corporation's Supplemental Section A Questionnaire Response," dated July 24, 2020; and "Common Alloy Aluminum Sheet From Taiwan – Petitioners' Comments Regarding CSAC's Failure To Provide A Complete or Adequate Public Summary of Business Proprietary Information Contained Within Its Questionnaire Responses," dated September 1, 2020.

<sup>23</sup> See CSAC's Letter, "LTFV Investigation of Common Alloy Aluminum Sheet from Taiwan – Request for Termination of Investigation," dated September 2, 2020.

<sup>24</sup> See *Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and the Republic of Turkey: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 85 FR 45576 (July 29, 2020); and Petitioners' Letter, "Petitioners' Request for Postponement of Preliminary Antidumping Determinations," dated July 16, 2020.

<sup>25</sup> See Petitioners' Letter, "Antidumping Investigations of Common Alloy Aluminum Sheet from Indonesia, Oman, Taiwan, and the Republic of Turkey – Petitioners' Allegation of Critical Circumstances," dated September 4, 2020 (Critical Circumstances Allegation).

<sup>26</sup> See Commerce's Letter, "Antidumping Duty Investigation of Aluminum Sheet from Taiwan: Request for Monthly Quantity and Value Shipment Data," dated September 4, 2020.

<sup>27</sup> See CSAC's September 15, 2020 Submission of Monthly Q&V Shipment Data.

<sup>28</sup> See Petitioners' Letter, "Common Alloy Aluminum Sheet from Taiwan – Petitioners' Pre-Preliminary Determination Comments Regarding C.S. Aluminum Corporation," dated September 14, 2020.

<sup>29</sup> See CSAC's Letter, "LTFV Investigation of Common Alloy Aluminum Sheet from Taiwan – Response to Petitioners' Pre-Preliminary Comments.

with 19 CFR 351.210(b)(2)(ii) and extend the provisional measures period in the LTFV investigation from four to not more than six months in accord with 19 CFR 351.210(e)(2).<sup>30</sup>

### III. PERIOD OF INVESTIGATION

The POI is January 1, 2019 through December 31, 2019. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the Petition, which was March 9, 2020.<sup>31</sup>

### IV. SCOPE OF INVESTIGATION

The products covered by this investigation are common alloy aluminum sheet from Taiwan. For a full description of the scope of the investigation, *see* the accompanying preliminary determination *Federal Register* notice at Appendix I.

### V. SCOPE COMMENTS

In accordance with the *Preamble* to Commerce's regulations,<sup>32</sup> in the *Initiation Notice* Commerce set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).<sup>33</sup> As noted above, certain interested parties commented on the scope of this investigation, as published in the *Initiation Notice*. For a summary of the product coverage comments and rebuttals and our accompanying analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.

### VI. AFFILIATION

As set forth below, we preliminarily determine that CSAC and a Taiwanese reseller (Customer X) are unaffiliated, pursuant to section 771(33) of the Act.<sup>34</sup>

#### A. Legal Framework

Section 771(33) of the Act provides that the following persons shall be considered to be "affiliated" or "affiliated persons":

- A. Members of a family, including brothers and sisters (whether by whole or by half-blood), spouse, ancestors, and lineal descendants.
- B. Any officer or director of an organization and such organization.

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<sup>30</sup> See Petitioners' Letter, "Common Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and the Republic of Turkey – Petitioners' Request for Postponement of Final Antidumping Determinations," dated September 14, 2020.

<sup>31</sup> See 19 CFR 351.204(b)(1).

<sup>32</sup> See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

<sup>33</sup> See *Initiation Notice*, 85 FR at 19444.

<sup>34</sup> The name of "Customer X" is business proprietary information. For a complete discussion of this issue, *see* Memorandum, "CSAC Preliminary Determination Analysis," dated concurrently with this memorandum (CSAC Analysis Memo).

- C. Partners.
- D. Employer and employee.
- E. Any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and such organization.
- F. Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.
- G. Any person who controls any other person and such person.

Section 771(33) of the Act also provides that one 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.” A “person” is defined to include “any interested party as well as any other individual, enterprise, or entity, as appropriate.”<sup>35</sup> The Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreement Act states the following:

The traditional focus on control through stock ownership fails to address adequately modern business arrangements, which often find one firm ‘operationally in a position to exercise restraint or direction’ over another even in the absence of an equity relationship. A company may be in a position to exercise restraint or direction, for example through corporate or family groupings, franchises or joint venture agreements, debt financing, or close supplier relationships in which the supplier or buyer becomes reliant upon the other.<sup>36</sup>

Section 351.102(b)(3) of Commerce’s regulations defines affiliated persons and affiliated parties as having the same meaning as in section 771(33) of the Act. Further, in determining whether control over another person exists, within the meaning of section 771(33) of the Act, Commerce considers the following factors, among others: corporate or family groupings; franchise or joint venture agreements; debt financing; and close supplier relationships. The regulation also directs Commerce not to find that control exists on the basis of these factors unless the relationship has “the potential to impact decisions concerning the production, pricing, or cost of the subject merchandise or foreign like product.” The regulation also directs Commerce to consider the temporal aspect of a relationship in determining whether control exists; normally, temporary circumstances will not suffice as evidence of control.

## B. Analysis

CSAC identified an unaffiliated Taiwanese reseller of aluminum sheet products, *i.e.*, Customer X, as a customer in its U.S. sales data during the POI.<sup>37</sup> In CSAC’s normal sales and accounting records, sales made to Customer X are classified as home market sales; however, because CSAC was aware that the ultimate destination of the aluminum sheet was to the United States, CSAC reported its sales to Customer X that were destined for the United States as U.S. sales.<sup>38</sup> Specifically, after Customer X receives an order from its U.S. customers, Customer X places an

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<sup>35</sup> See 19 CFR 351.102(b)(37).

<sup>36</sup> See SAA, H.R. Doc. 103-316, vol 1 (1994) at 838.

<sup>37</sup> See, *e.g.*, CSAC’s AQR at 19; and CSAC’s ASQR at 16-21.

<sup>38</sup> See, *e.g.*, CSAC’s ASQR at 16-17.

order with CSAC to deliver the aluminum sheet to the port.<sup>39</sup> The price at which CSAC invoices Customer X is based on a contract between CSAC and Customer X; however, CSAC has no interaction with Customer X's U.S. customers.<sup>40</sup>

We received comments from the petitioners contending that Commerce should determine that CSAC and Customer X are affiliated due to a close supplier relationship, based on the proportion of CSAC's U.S. sales that involve Customer X.<sup>41</sup> We intend to issue a letter requesting additional information and comment from all interested parties after the publication of this notice in the *Federal Register* to further examine the relationship between CSAC and Customer X and whether this relationship amounts to a close supplier relationship where control exists (*i.e.*, whether "the relationship has the potential to impact decisions concerning the production, pricing, or cost of the subject merchandise or foreign like product.")<sup>42</sup> Furthermore, for this preliminary determination, the record only contains information regarding the sales from CSAC to Customer X. As a result, we are including the sales from CSAC to Customer X in our dumping analysis for CSAC for the preliminary determination.

## **VII. PRELIMINARY NEGATIVE DETERMINATION OF CRITICAL CIRCUMSTANCES**

As stated above, the petitioners submitted information alleging that, pursuant to section 733(e) of the Act and 19 CFR 351.206, critical circumstances exist with respect to imports of aluminum sheet from Taiwan.<sup>43</sup>

### **A. Background**

Section 733(e)(1) of the Act provides that Commerce will preliminarily determine that critical circumstances exist in AD investigations if there is a reasonable basis to believe or suspect: (A)(i) that there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) that the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and (B) that there have been massive imports of the subject merchandise over a relatively short period. 19 CFR 351.206 provides that imports must increase by at least 15 percent during the "relatively short period," compared to imports during an immediately preceding period of comparable duration, to be considered "massive" and defines a "relatively short period" as a period that normally begins on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later.<sup>44</sup> The regulations also provide, however, that, if Commerce finds that importers, or exporters or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, Commerce may consider a period of not less than three months from that earlier time.<sup>45</sup>

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<sup>39</sup> *Id.*

<sup>40</sup> *Id.*; and CSAC's ASQR at Appendix SA-3-B and Appendix SA-5-A.

<sup>41</sup> See Petitioners' Pre-Prelim Comments at 15-19.

<sup>42</sup> See 19 CFR 351.102(b)(3).

<sup>43</sup> See Critical Circumstances Allegation.

<sup>44</sup> See 19 CFR 351.206(i).

<sup>45</sup> *Id.*

B. History of Dumping and Material Injury/Knowledge of Sales below Fair Value and Material Injury

In order to determine whether there is a history of dumping pursuant to section 733(e)(1)(A)(i) of the Act, Commerce generally considers current or previous AD orders on subject merchandise from the country in question in the United States and current AD orders imposed by another country with regard to imports of the same merchandise. Commerce has not previously issued an AD order on aluminum sheet from Taiwan. Moreover, Commerce is not aware of other active AD orders imposed on aluminum sheet from Taiwan, and the petitioners cite to no such orders in their allegation. Therefore, there is no history of dumping of the subject merchandise.

To determine whether importers knew or should have known that exporters were selling subject merchandise at less than fair value, pursuant to section 733(e)(1)(A)(ii) of the Act, we typically consider the magnitude of the estimated weighted-average dumping margins, or alternatively the dumping margins alleged in the petition.<sup>46</sup> Commerce has found that a rate of 15 percent or more and 25 percent or more, depending on whether U.S. sale prices are defined as constructed export price and export price, respectively, to be sufficient for this purpose.<sup>47</sup> The estimated weighted-average dumping margin preliminarily determined for CSAC, whose U.S. sale prices are defined as export prices, is not above the 25 percent or more threshold for an estimated weighted-average dumping margin based on export prices (*i.e.*, 18.02 percent). Further, we apply this same finding for all other producers and exporters to whom we have applied the same estimated weighted-average dumping margin.

To determine whether importers knew or should have known that there was likely to be material injury, we typically consider the preliminary injury determinations of the International Trade Commission (ITC).<sup>48</sup> If the ITC finds material injury (as opposed to the threat of injury), we normally find that the ITC's determination provided importers with sufficient knowledge of injury. Here, the Commission's finding that "there is a reasonable indication that an industry in the United States is materially injured by reason of imports of common alloy aluminum sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey" is sufficient to impute

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<sup>46</sup> See, e.g., *Notice of Preliminary Determinations of Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products from Australia, the People's Republic of China, India, the Republic of Korea, the Netherlands, and the Russian Federation*, 67 FR 19157, 19158 (April 18, 2002), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Australia*, 67 FR 47509 (July 19, 2002).

<sup>47</sup> See, e.g., *Preliminary Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China*, 62 FR 31972, 31978 (June 11, 1997), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China*, 62 FR 61964 (November 20, 1997); and *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 42672 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004).

<sup>48</sup> See, e.g., *Certain Potassium Phosphate Salts from the People's Republic of China: Preliminary Affirmative Determination of Critical Circumstances in the Antidumping Duty Investigation*, 75 FR 24572, 24573 (May 5, 2010), unchanged in *Certain Potassium Phosphate Salts from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Termination of Critical Circumstances Inquiry*, 75 FR 30377 (June 1, 2010).



knowledge of the likelihood of material injury.<sup>49</sup>

### C. Massive Imports

In determining whether there are “massive imports” over a “relatively short period,” pursuant to section 733(e)(1)(B) of the Act, Commerce normally compares the import volumes of the subject merchandise for at least three months immediately preceding the filing of the petition (*i.e.*, the “base period”) to a comparable period of at least three months following the filing of the petition (*i.e.*, the “comparison period”). Imports normally will be considered massive when imports during the comparison period have increased by 15 percent or more compared to imports during the base period.

For CSAC, we based our analysis on shipment information provided by the respondent. We compared its shipment data for the periods of September 2019 through February 2020 and March 2020 through August 2020. Based on this comparison, we preliminarily determine that there was no massive surge in imports attributed to CSAC.<sup>50</sup>

For “all other producers and exporters,” Commerce started with U.S. import data sourced from Global Trade Atlas (GTA) for the HTSUS subheadings identified in the scope of the investigation for the periods March 2020 through July 2020 (the last month for which U.S. import data is currently publicly available) and the proceeding five-month period of October 2019 through February 2020.<sup>51</sup> We then subtracted shipments reported by CSAC for these same periods from the U.S. import data. Based on a comparison of the adjusted U.S. import data for the base and comparison periods, we preliminarily determine that there was no massive surge in imports attributable to all other producers and exporters.<sup>52</sup>

### D. Conclusion

We preliminarily determine that critical circumstances do not exist for CSAC or all other producers and exporters because there is no evidence for each party of: (1) a history of dumping of the subject merchandise; (2) knowledge of sales of subject merchandise at LFTV; and (3) a massive surge in imports of subject merchandise.

## VIII. DISCUSSION OF THE METHODOLOGY

### A. Comparisons to Normal Value

To determine whether sales of aluminum sheet from Taiwan to the United States were made at LFTV, we compared the export prices (EPs) and/or constructed export prices (CEPs) to the

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<sup>49</sup> See *Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey*, Investigations 701-TA-639-642 and 731-TA-1475-1492 (Prelim.), USITC Pub. 5049 (April 2020) at 1.

<sup>50</sup> See CSAC Analysis Memo for the calculations used in our critical circumstances analysis.

<sup>51</sup> Commerce gathered U.S. import data under the following harmonized tariff schedule subheadings: 7606.11.3060, 7606.11.6000, 7606.12.3096, 7606.12.6000, 7606.91.3095, 7606.91.6095, 7606.92.3035, and 7606.92.6095.

<sup>52</sup> See CSAC Analysis Memo for the calculations used in our critical circumstances analysis.

normal value (NV), as described in the “U.S. Price” and “Normal Value” sections of this memorandum, below.

## 1. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates the weighted-average dumping margin 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 a LTFV investigation, 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.

In numerous investigations, Commerce has applied a “differential pricing” analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.<sup>53</sup> Commerce finds that the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this investigation. Commerce will continue to develop its approach in this area based on comments received in this 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 this preliminary determination examines whether there exists a pattern of prices for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all U.S. sales by purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination code, *i.e.*, zip code, and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POI based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region, and time period, that 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.*,

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<sup>53</sup> See, e.g., *Xanthan Gum from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); and *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

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

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

If both tests in the first stage, *i.e.*, the Cohen's *d* test and the ratio test, demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, 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 this preliminary determination, including arguments for modifying the group definitions used in this proceeding.<sup>54</sup>

## 2. Results of the Differential Pricing Analysis

For CSAC, based on the results of the differential pricing analysis, Commerce preliminarily finds that 77.76 percent of the value of U.S. sales pass the Cohen's *d* test and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods.<sup>55</sup> Further, we preliminarily determine there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, for this preliminary determination, we are applying the average-to-average method to all U.S. sales to calculate the weighted-average dumping margin for CSAC.

### B. Product Comparisons

As stated above, Commerce gave parties an opportunity to comment on the appropriate hierarchy of physical characteristics used to define each product, including for model matching purposes, within a certain deadline.<sup>56</sup> We considered the comments that were submitted and established the appropriate product characteristics to use as a basis for defining the product control numbers of aluminum sheet in this LTFV investigation. Commerce identified nine criteria for the physical characteristics of the subject merchandise: (1) alloy, (2) clad, (3) casting method, (4) non-mechanical surface treatment, (5) coil, (6) nominal width, (7) gauge (nominal thickness), (8) mechanical surface finish, and (9) temper.<sup>57</sup> We instructed CSAC to use these product characteristics in its response to the AD questionnaire issued in this investigation.<sup>58</sup>

In accordance with section 771(16) of the Act, we considered all products produced and sold by CSAC in Taiwan during the POI that fit the description in the "Scope of Investigation" section of the accompanying *Federal Register* notice to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market, where appropriate. Where there were no sales of identical or similar merchandise sold in the home market in the ordinary course of trade to compare to U.S. sales, we made comparisons based on CV.

### C. Date of Sale

Section 351.401(i) of Commerce's regulations states that, in identifying the date of sale of the subject merchandise or foreign like product, Commerce normally will use the date of invoice, as

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<sup>54</sup> The Court of Appeals for the Federal Circuit (CAFC) in *Apex Frozen Foods v. United States*, 862 F.3d 1337 (Fed. Cir. 2017) 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.

<sup>55</sup> See CSAC Analysis Memo.

<sup>56</sup> See *Initiation Notice*, 85 FR at 19445.

<sup>57</sup> See Product Characteristics Letter.

<sup>58</sup> *Id.*

recorded in the exporter or producer's records kept in the ordinary course of business. Additionally, Commerce may use a date other than the date of invoice if it is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.<sup>59</sup> Finally, Commerce has a long-standing practice of finding that, where the shipment date precedes the invoice date, the shipment date better reflects the date on which the material terms of sale are established.<sup>60</sup>

CSAC reported the invoice date as the date of sale for its home market and U.S. sales, and there were no instances in which the shipment date preceded the invoice date.<sup>61</sup> Therefore, consistent with 19 CFR 351.401(i) and Commerce's practice, we used the CSAC's invoice date as the date of sale.

#### D. Export Price

Section 772(a) of the Act defines EP as "the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States," as adjusted under section 772(c) of the Act. CSAC reported that it made only EP sales during the POI. In accordance with section 772(a) of the Act, we calculated EP for all CSAC's U.S. sales because all of the subject merchandise was first sold to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States.

We calculated EP based on the packed prices that CSAC charged to the first unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States. We made deductions, where appropriate, from the starting price for movement expenses, *e.g.*, foreign inland freight, foreign brokerage and handling, international freight, and marine insurance, in accordance with section 772(c)(2)(A) of the Act.

#### E. Normal Value

##### 1. Comparison Market Viability

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

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<sup>59</sup> See 19 CFR 351.401(i); and *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)).

<sup>60</sup> See, *e.g.*, *Certain Polyester Staple Fiber from the Republic of Korea: Preliminary Results of the 2007/2008 Antidumping Duty Administrative Review*, 74 FR 27281, 27283 (June 9, 2009), unchanged in *Certain Polyester Staple Fiber from the Republic of Korea: Final Results of the 2007-2008 Antidumping Duty Administrative Review*, 74 FR 65517 (December 10, 2009).

<sup>61</sup> See CSAC's BQR at 16; and CSAC's CQR at 16-17.

comparison market sales, in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404.

In this investigation, we preliminarily determine that the aggregate volume of home market sales of the foreign like product for CSAC was more than five percent of the aggregate volume of its U.S. sales of the subject merchandise. Based on our analysis of information on the record, we preliminarily determine that CSAC's home market of Taiwan is viable. Therefore, we are preliminarily using home market sale prices in Taiwan as the basis for NV for CSAC in accordance with section 773(a)(1)(A) and (B) of the Act.

## 2. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, Commerce will calculate NV based on sales at the same level of trade (LOT) as the U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).<sup>62</sup> Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.<sup>63</sup> In order to determine whether the comparison market sales are at different stages in the marketing process than the U.S. sales, we examine the distribution system in each market, *i.e.*, the chain of distribution, including selling functions and class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales, *i.e.*, NV based on either home market or third country prices,<sup>64</sup> 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.<sup>65</sup>

When Commerce is unable to match sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, Commerce may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales to sales at a different LOT in the comparison market, where available data make it possible, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability, *i.e.*, no LOT adjustment is possible, Commerce will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.<sup>66</sup>

In this investigation, we obtained information from CSAC regarding the marketing stages involved in making the reported home market and U.S. sales, including a description of the

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<sup>62</sup> See 19 CFR 351.412(c)(2).

<sup>63</sup> *Id.*; and *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) (*OJ from Brazil*), and accompanying Issues and Decision Memorandum (IDM) at Comment 7.

<sup>64</sup> Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling, general and administrative expenses, and profit for CV, where possible. See 19 CFR 351.412(c)(1).

<sup>65</sup> See *Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

<sup>66</sup> See, *e.g.*, *OJ from Brazil* IDM at Comment 7.

selling activities performed for each channel of distribution.<sup>67</sup> Our LOT findings are summarized below.

In the home market, CSAC reported that it made sales through one channel of distribution, *i.e.*, direct sales to unaffiliated customers.<sup>68</sup> Selling activities can be generally grouped into five selling function categories for analysis, specifically, provision of: (1) sales support; (2) training services; (3) technical support; (4) logistical services; and (5) performance of sales-related administrative activities. Based on CSAC's selling functions chart, we find that CSAC performed the majority of selling functions at the same level of intensity for all home market sales.<sup>69</sup> Accordingly, we determine that CSAC's sales in the home market during the POI were made at the same LOT.

With respect to the U.S. market, CSAC reported that it made EP sales through three channels of distribution: (1) sales to unaffiliated customers located in Taiwan who then sold and exported the products to the United States (Channel 1); (2) sales arranged by an affiliated company to unaffiliated U.S. customers and subsequently exported to the U.S. customer (Channel 2); and (3) sales to an affiliated company that were further processed in Taiwan and sold to an unaffiliated customer located in Taiwan who then sold and exported the products to the United States (Channel 3).<sup>70</sup> Based on CSAC's selling functions chart, we find that CSAC performed the majority of selling functions at the same level of intensity for all U.S. sales.<sup>71</sup>

According to 19 CFR 351.412(c)(2), Commerce will determine that sales are made at different LOTs if they are made at different marketing stages (or their equivalent). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stage of marketing. Although CSAC reports minor differences in one selling function between the U.S. channels as noted above, we do not find that these differences are significant enough to warrant finding that the U.S. sales channels constitute different LOTs. Because we determine that substantial differences in CSAC's selling activities do not exist between the U.S. sales channels, we determine that CSAC's sales in the U.S. market during the POI were made at the same LOT.

Finally, we compared the U.S. LOT to the home market LOT, and found that the majority of selling functions CSAC performed for its U.S. and home market customers are at the same level of intensity.<sup>72</sup> Therefore, we preliminarily determine that sales to the U.S. and home markets during the POI were made at the same LOT and, as a result, no LOT adjustment is warranted.

#### F. Cost of Production Analysis

In accordance with section 773(b)(2)(A)(ii) of the Act, Commerce requested CV and COP information from CSAC. We examined the cost data and determined that our quarterly cost

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<sup>67</sup> See CSAC's AQR at Appendix A-7.

<sup>68</sup> *Id.* at 19.

<sup>69</sup> *Id.* at Appendix A-7.

<sup>70</sup> *Id.* at 19.

<sup>71</sup> *Id.* at Appendix A-7.

<sup>72</sup> *Id.*

methodology is not warranted, and therefore we are applying our standard methodology of using annual costs based on CSAC's reported data.

### 1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the costs of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses and financial expenses. We relied on the COP data submitted by CSAC, except as follows:

- We adjusted the reported scrap offset field by the excess scrap recovery reflected in the cost database.

### 2. Test of Comparison Market Sales Prices

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

### 3. Results of the COP Test

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

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



#### G. Calculation of NV Based on Comparison Market Prices

We calculated NV for CSAC based on prices to unaffiliated customers. In accordance with 19 CFR 351.401(c), we adjusted the starting prices for billing adjustments, discounts, and rebates, where appropriate. We made deductions for movement expenses in accordance with section 773(a)(6)(B)(ii) of the Act, which included, where appropriate, foreign inland freight. We made adjustments for differences in circumstances of sale pursuant to section 773(a)(6)(C)(iii) of the Act by deducting home market direct selling expenses (*i.e.*, commissions and imputed credit expenses) and adding U.S. direct selling expenses (*i.e.*, imputed credit expenses), where appropriate. We also made adjustments, in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred in the home market or the United States where commissions were granted on sales in one market but not in the other, also known as the “commission offset.” Specifically, where commissions were incurred in only one market, we limited the amount of such allowance to the amount of either the indirect selling expenses incurred in the one market or the commissions allowed in the other market, whichever is less.

In this investigation, CSAC reported that it grants an on-schedule discount and billing adjustments for certain home market sales during the POI.<sup>73</sup> However, for this preliminary determination, we find that CSAC did not establish entitlement to these adjustments and, as a result, we are disregarding the on-schedule discounts and billing adjustments in our margin calculation.<sup>74</sup>

When comparing U.S. sale prices with home market sale prices of similar merchandise, we also made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise.<sup>75</sup> We also deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act.

#### H. Calculation of NV Based on CV

In accordance with section 773(e) of the Act, and where applicable, we will calculate CV based on the sum of CSAC’s material and fabrication costs, general and administrative, and financial expenses, as detailed above in Calculation of COP, selling expenses, profit and U.S. packing costs. In accordance with section 773(e)(2)(A) of the Act, we will base selling expenses and profit on the amounts incurred and realized by CSAC in connection with the production and sale of the foreign like product at the same LOT as the U.S. sale, in the ordinary course of trade, for consumption in the comparison market. We will make adjustments to CV for differences in circumstances of sale and commission offsets.

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<sup>73</sup> See CSAC’s AQR at 23-25.

<sup>74</sup> See CSAC Analysis Memo.

<sup>75</sup> See *Stainless Steel Bar from France: Final Results of Antidumping Duty Administrative Review*, 70 FR 46482 (August 10, 2005), and accompanying IDM at Comment 8.

## **IX. CURRENCY CONVERSION**

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

## **X. RECOMMENDATION**

We recommend applying the above methodology for this preliminary determination.



\_\_\_\_\_  
Agree



\_\_\_\_\_  
Disagree

10/6/2020

**X** 

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