



A-583-863
Administrative Review
POR: 09/01/2019 – 08/31/2020
Public Document
E&C/OVIII: SG/GA

August 24, 2021

MEMORANDUM TO: Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results of
Antidumping Duty Administrative Review: Forged Steel Fittings
from Taiwan; 2019-2020

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on forged steel fittings from Taiwan for the period of review (POR) September 1, 2019, through August 31, 2020. The review covers one producer/exporter of the subject merchandise, Both-Well Steel Fittings Co., Ltd (Bothwell). Commerce preliminarily finds that Bothwell made sales of the subject merchandise at prices below normal value (NV) during the POR.

II. BACKGROUND

On September 24, 2018, Commerce published in the *Federal Register* the AD order on forged steel fittings from Taiwan.¹ On September 1, 2020, Commerce published a notice of opportunity to request an administrative review of the *Order* for the POR.² On September 30, 2020, Bothwell requested an administrative review of its sales during the POR.³ On October 30, 2020, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of Bothwell.⁴

¹ See *Forged Steel Fittings from Taiwan: Antidumping Duty Order*, 83 FR 48280 (September 24, 2018) (*Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 85 FR 54349 (September 1, 2020).

³ See Bothwell's Letter, "Request for an Administrative Review," dated September 30, 2020.

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 68840 (October 30, 2020).



On November 24, 2020, Commerce issued the AD questionnaire to Bothwell.⁵ In December 2020 and January 2021, Bothwell submitted timely responses to the AD questionnaire.⁶ From March through July 2021, we issued supplemental questionnaires to Bothwell.⁷ We received responses to these supplemental questionnaires between March and August 2021.⁸ Bonney Forge Corporation (the petitioner) submitted comments on Bothwell's questionnaire responses and supplemental questionnaire responses between January and June 2021.⁹ On May 5, 2021, Commerce met with counsel for the petitioner regarding the petitioner's comments on Bothwell's questionnaire responses.¹⁰

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), Commerce determined that it was not practicable to complete the preliminary results of this review within 245 days and extended the preliminary results by 86 additional days.¹¹ The deadline for the preliminary results of this review is now August 27, 2021.

III. SCOPE OF THE *ORDER*

The products covered by the scope of this *Order* are carbon and alloy forged steel fittings, whether unfinished (commonly known as blanks or rough forgings) or finished. Such fittings are made in a variety of shapes including, but not limited to, elbows, tees, crosses, laterals, couplings, reducers, caps, plugs, bushings, unions, and outlets. Forged steel fittings are covered regardless of end finish, whether threaded, socket-weld or other end connections.

While these fittings are generally manufactured to specifications ASME B16.11, MSS SP-79, MSS SP-83, MSS SP-97, ASTM A105, ASTM A350, and ASTM A182, the scope is not limited to fittings made to these specifications.

The term forged is an industry term used to describe a class of products included in applicable standards, and does not reference an exclusive manufacturing process. Forged steel fittings are

⁵ See Commerce's Letter, "Initial AD Questionnaire," dated November 24, 2020 (Initial AD Questionnaire).

⁶ See Bothwell's Letters, "Section A Questionnaire Response," dated December 23, 2020 (Bothwell AQR); and "Sections B-D Questionnaire Response," dated January 19, 2021.

⁷ See Commerce's Letters, "Bothwell Section A Supplemental Questionnaire," dated March 11, 2021; "Bothwell Sections B-C Supplemental Questionnaire," dated April 2, 2021; "Bothwell Sections A-D May 2021 Supplemental Questionnaire," dated May 24, 2021; "Bothwell Sections A-D July 2021 Supplemental Questionnaire," dated July 8, 2021; and "Bothwell Section D Third Supplemental Questionnaire," dated July 23, 2021.

⁸ See Bothwell's Letters, "Bothwell Section A Supplemental Questionnaire Response," dated March 25, 2021 (Bothwell ASQR); "Bothwell Sections B-C Supplemental Questionnaire Response," dated April 21, 2021; "Bothwell Sections B-C Supplemental Question 27 Response," dated April 26, 2021; "Bothwell Sections A-D June 2021 Supplemental Questionnaire Response," dated June 17, 2021; and "Bothwell Sections A-D July 2021 Supplemental Questionnaire Response," dated July 15, 2021; and "Bothwell Section D Third Supplemental Questionnaire Response," dated August 10, 2021.

⁹ See Petitioner's Letters, "Comments on Both-Well A-D Responses," dated January 27, 2021; "Additional Comments on Both-Well A-D Responses," dated March 31, 2021, and "Comments on Both-Well Supplemental Responses," dated June 30, 2021.

¹⁰ See Memorandum, "Meeting with Counsel for the Petitioner," dated May 5, 2021.

¹¹ See Memorandum, "Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated April 22, 2021.

not manufactured from casting. Pursuant to the applicable specifications, subject fittings may also be machined from bar stock or machined from seamless pipe and tube.

All types of fittings are included in the scope regardless of nominal pipe size (which may or may not be expressed in inches of nominal pipe size), pressure rating (usually, but not necessarily expressed in pounds of pressure/PSI, *e.g.*, 2,000 or 2M; 3,000 or 3M; 6,000 or 6M; 9,000 or 9M), wall thickness, and whether or not heat treated.

Excluded from this scope are all fittings entirely made of stainless steel. Also excluded are flanges, butt weld fittings, butt weld outlets, nipples, and all fittings that have a maximum pressure rating of 300 pounds of pressure/PSI or less.

Also excluded are fittings certified or made to the following standards, so long as the fittings are not also manufactured to the specifications of ASME B16.11, MSS SP-79, MSS SP-83, MSS SP-97, ASTM A105, ASTM A350, and ASTM A182:

- American Petroleum Institute (API) API 5CT, API 5L, or API 11B
- Society of Automotive Engineering (SAE) SAE J476, SAE J514, SAE J516, SAE J517, SAE J518, SAE J1026, SAE J1231, SAE J1453, SAE J1926, J2044 or SAE AS 35411
- Underwriter's Laboratories (UL) certified electrical conduit fittings
- ASTM A153, A536, A576, or A865
- Casing Conductor Connectors 16-42 inches in diameter made to proprietary specifications
- Military Specification (MIL) MIL-C-4109F and MIL-F-3541
- International Organization for Standardization (ISO) ISO6150-B

To be excluded from the scope, products must have the appropriate standard or pressure markings and/or accompanied by documentation showing product compliance to the applicable standard or pressure, *e.g.*, "API 5CT" mark and/or a mill certification report.

Subject carbon and alloy forged steel fittings are normally entered under Harmonized Tariff Schedule of the United States (HTSUS) 7307.99.1000, 7307.99.3000, 7307.99.5045, and 7307.99.5060. They also may be entered under HTSUS 7307.92.3010, 7307.92.3030, 7307.92.9000, and 7326.19.0010. The HTSUS subheadings and specifications are provided for convenience and customs purposes; the written description of the scope is dispositive.

IV. DISCUSSION OF THE METHODOLOGY

We are conducting this administrative review of the *Order* in accordance with section 751(a) of the Act, and 19 CFR 351.213.

A. Comparisons to Normal Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), in order to determine whether Bothwell's sales of subject merchandise from Taiwan to the United States were made at

less than NV, we compared the export price (EP) to the NV as described in the “Export Price” and “Normal Value” sections of this memorandum.

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 constructed export prices (CEPs) (*i.e.*, the average-to-average method) unless Commerce determines that another method is appropriate in a particular situation. In less-than-fair-value (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 strictly govern Commerce’s examination of this question in the context of administrative reviews, Commerce nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in LTFV investigations.¹²

In numerous AD investigations and reviews, 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.¹³ Commerce finds that the differential pricing analysis is instructive for purposes of examining whether to apply an alternative comparison method in this administrative review.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of export prices (or CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all U.S. sales by purchaser, region, and time period 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 codes) 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 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,

¹² See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum (IDM) at Comment 1; see also *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (CIT 2014), *aff’d* 862 F. 3d 1322 (Fed. Cir. 2017); and *JBF RAK LLC v. United States*, 790 F.3d 1358, 1363-65 (Fed. Cir. 2015) (“{t}he fact that the statute is silent with regard to administrative reviews does not preclude Commerce from filling gaps in the statute to properly calculate and assign antidumping duties”) (citations omitted).

¹³ 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).

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 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 accounts 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 the 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 under the “mixed method.” 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.¹⁴

2. Results of the Differential Pricing Analysis

Based on the results of the differential pricing analysis, we preliminarily find that 19.16 percent of Bothwell's U.S. sales pass the Cohen's *d* test, which does not confirm the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods.¹⁵ Thus, the results of the Cohen's *d* and ratio tests do not support consideration of an alternative to the average-to-average method. Accordingly, Commerce preliminarily determines to apply the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Bothwell.

B. Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by Bothwell in Taiwan during the POR, as described in the "Scope of the *Order*" section of this notice, above, that were made in the ordinary course of trade, to be foreign like products. Commerce compared U.S. sales to sales made in the home market, where appropriate. In making product comparisons, Commerce matched foreign like products to products sold in the United States based on the physical characteristics reported by Bothwell in the following order of importance: finished or unfinished, surface treatment, fitting grade, pressure rating, type of fitting, nominal pipe size 1, nominal pipe size 2, end finish 1, and end finish 2.

Pursuant to 19 CFR 351.414(f), we compared U.S. sales of forged steel fittings to home market sales of forged steel fittings 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 forged steel fittings to sales of the most similar foreign like product made in the ordinary course of trade.

¹⁴ The Court of Appeals for the Federal Circuit (CAFC) has affirmed much of Commerce's differential pricing methodology. See, e.g., *Dillinger France S.A. v. United States*, 981 F.3d 1318 (Fed. Cir. 2020); *Apex Frozen Foods v. United States*, 862 F.3d 1322 (Fed. Cir. 2017). We ask that interested parties present only arguments on issues which have not already been decided by the CAFC.

¹⁵ See Memorandum, "Preliminary Results Margin Calculation for Both-Well Steel Fittings Co., Ltd.," dated concurrently with this memorandum (Preliminary Calculation Memo).

C. Date of Sale

Section 351.401(i) of Commerce's regulations states that, "{i}n identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business." The regulation provides further that Commerce may use a date other than the date of invoice if Commerce is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.¹⁶ Commerce has a long-standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established.¹⁷

For both its home market and U.S. sales, Bothwell reported the invoice date as the date of sale.¹⁸ Accordingly, we preliminarily used the invoice date for the date of sale for Bothwell's sales in both the home and U.S. markets.

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 subsection (c)." For all sales made by Bothwell, we used EP methodology, in accordance with section 772(a) of the Act, because the subject merchandise was first sold in the country of manufacture (*i.e.*, Taiwan) to an unaffiliated reseller in Taiwan prior to importation into the United States, and CEP methodology was not otherwise warranted based on the facts on the record.

We calculated EP based on packed prices to the unaffiliated reseller in Taiwan for all sales destined for the United States. We made no deductions from the starting price, as Bothwell did not incur any movement expenses for its EP sales.¹⁹ Bothwell also reported that it was not responsible for any freight expenses for these sales as they were made on an ex-works basis.²⁰

E. Normal Value

1. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign

¹⁶ See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)).

¹⁷ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (December 23, 2004), and accompanying IDM at Comment 10; see also *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002), and accompanying IDM at Comment 2.

¹⁸ See Bothwell AQR at A-13.

¹⁹ See Bothwell ASQR at 4 and 6.

²⁰ *Id.*

like product is equal to or greater than five percent of the aggregate volume of U.S. sales), Commerce normally compares 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 Commerce determines that no viable home market exists, Commerce may, if appropriate, use a respondent's sales of the foreign like product to a third country market as the basis for comparison market sales in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404.

In this review, Commerce preliminarily determines that the aggregate volume of Bothwell's 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. Therefore, Commerce used Bothwell's home market sales as the basis for NV, in accordance with section 773(a)(1)(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 of foreign like products 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).²¹ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.²² In order to determine whether the comparison market sales were 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, 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),²³ 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.²⁴

When Commerce is unable to compare the NV based on the prices of the foreign like product in the comparison market with EP or CEP at the same LOT, Commerce may compare the U.S. sale prices to sale prices at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it possible, we make an 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 sale and there is no basis for determining whether the difference in LOTs between NV and CEP affects price

²¹ See 19 CFR 351.412(c)(2).

²² *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) (*OJ from Brazil*), and accompanying IDM at Comment 7.

²³ Where NV is based on constructed value (CV), we determine the NV LOT based on the LOT of the sales from which we derive selling, general, and administrative expenses, and profit for CV, where possible. See 19 CFR 351.412(c)(1).

²⁴ See *Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

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.²⁵

In this review, we obtained information from Bothwell regarding the marketing stages involved in making its reported home market and U.S. (EP) sales, including a description of the selling activities performed for each channel of distribution and supporting documentation.²⁶ Our LOT findings are summarized below.

In the home market, Bothwell reported that it sold forged steel fittings through two channels of distribution, *i.e.*, to Taiwanese distributors and end users.²⁷ Selling activities can be generally grouped into five selling function categories for analysis, specifically: (1) provision of sales support; (2) provision of training services; (3) provision of technical support; (4) provision of logistical services; and (5) performance of sales related administrative activities.²⁸ Bothwell reported having provided only logistical services and sales related administrative activities in both home market channels, at the same level of intensity.²⁹

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. As Bothwell did not claim any differences in level of intensity in its reported selling function categories across its two channels of distribution for home market sales, we preliminarily find that there is one LOT in the home market.

With respect to the U.S. market, Bothwell reported that it sold forged steel fittings through one channel of distribution, to an unaffiliated Taiwanese reseller.³⁰ For this channel of distribution, Bothwell reported that it only performed sales related administrative activities, which were performed at the same level of intensity as in its home market channels.³¹ As there is only one channel of distribution for the U.S. sales, we preliminarily determine that there is one LOT in the U.S. market.

Finally, we compared the U.S. LOT to the home market LOT, and found that the selling functions Bothwell performed for its EP sales and home market sales were similar. The only difference is that Bothwell performed freight and delivery services for certain home market sales, and it did not perform these services for any U.S. sales.³² Therefore, we find that any minor differences across markets are not substantial enough to warrant a finding that the sales are made at different marketing stages. Accordingly, we preliminarily determine that sales to the U.S. and home market during the POR were made at the same LOT, and, as a result, no LOT adjustment is warranted.

²⁵ See *OJ from Brazil* IDM at Comment 7.

²⁶ See Bothwell AQR at A-11-A-12 and Exhibits A-4 and A-5; see also Bothwell ASQR at 3-6 and Exhibit SA-4.

²⁷ *Id.*

²⁸ See Initial AD Questionnaire at A-15.

²⁹ See Bothwell AQR at A-11-A-12 and Exhibit A-4; see also Bothwell ASQR at 3-4.

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

F. Cost of Production Analysis

In accordance with section 773(b)(2)(A)(ii) of the Act, Commerce requested cost of production (COP) and CV information from Bothwell in this review.³³ We examined Bothwell's cost data and determined that our quarterly cost methodology was not warranted; therefore, we applied our standard methodology of using annual costs based on the reported data.

1. Calculation of COP

We calculated the COP for Bothwell based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for general and administrative and financial expenses, in accordance with section 773(b)(3) of the Act. We relied on the COP data submitted by Bothwell without adjustment.

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 per-unit price of the home market sales of the foreign like product, in order to determine whether the sales had been made at prices below the COP. In particular, in determining whether to disregard home market sales made at prices below the COP, we examined whether such sales were made within an extended period of time in substantial quantities and at prices which permitted the recovery of all costs within a reasonable period of time, in accordance with sections 773(b)(2)(B), (C), and (D) of the Act. For the purpose of this comparison, we used COPs exclusive of selling and packing expenses. The prices were exclusive of any applicable billing adjustments, discounts, movement expenses, direct and indirect selling expenses, and packing expenses, where appropriate.

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 a respondent's home market sales of a given product are at prices less than the COP, we do not disregard any of the 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) the sales were made within an extended period of time 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, the sales 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.

³³ See Initial AD Questionnaire.

We found that, for certain products, more than 20 percent of Bothwell's home market sales were sold at prices below the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. Thus, in accordance with section 771(15)(A) of the Act, we disregarded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

G. Calculation of NV Based on Comparison Market Prices

We calculated NV based on packed, ex-factory, or delivered prices to unaffiliated customers in Taiwan. We made deductions, where appropriate, from the starting price for movement expenses, including inland freight, under section 773(a)(6)(B)(ii) of the Act. We made adjustments pursuant to section 773(a)(6)(C) of the Act and 19 CFR 351.410 for differences in circumstances of sale. Specifically, we deducted direct selling expenses incurred for home market sales, *i.e.*, imputed credit expenses, and added U.S. direct selling expenses, *i.e.*, imputed credit expenses.

Finally, we deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act. When comparing U.S. sales with home market sales of similar merchandise, we also made adjustments for physical differences in 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 the subject merchandise.³⁴

V. CURRENCY CONVERSION

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

³⁴ See 19 CFR 351.411(b).

VI. RECOMMENDATION

Based on our analysis, we recommend adopting the above positions in these preliminary results. If this recommendation is accepted, we will publish the preliminary results of the review and the preliminary dumping margin in the *Federal Register*.


☒

Agree

☐

Disagree

X



Signed by: CHRISTIAN MARSH

Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance