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

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

SUBJECT: Decision Memorandum for the Preliminary Results of the 2016-2017 Administrative Review of the Antidumping Duty Order on Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on circular welded carbon-quality steel pipe (CWP) from the United Arab Emirates (UAE). The period of review (POR) is June 8, 2016, through November 30, 2017. The review covers nine producers and/or exporters of the subject merchandise. Commerce selected two respondents for individual examination, Ajmal Steel Tubes & Pipes Ind. L.L.C. (Ajmal)/Noble Steel Industries L.L.C. (Noble Steel) (collectively, Ajmal Steel)¹ and Universal Tube and Plastic Industries, Ltd. (UTP)/THL Tube and Pipe Industries LLC (TTP)/KHK Scaffolding and Formwork LLC (KHK) (collectively, Universal).² We

¹ As noted in the “Affiliation and Collapsing” section, below, we preliminarily collapsed Ajmal and Noble Steel. See Memorandum, “Whether to Collapse Ajmal Steel Tubes and Pipes Ind. L.L.C. and Noble Steel Industries L.L.C. in the 2016-2017 Antidumping Duty Administrative Review of Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates,” dated December 11, 2018 (Ajmal Steel Collapsing Memo).

² Commerce previously determined that Universal is a collapsed entity consisting of the following three producers/exporters of subject merchandise: Universal Tube and Plastic Industries, Ltd. (UTP), KHK Scaffolding and Formwork LLC (KHK), and Universal Tube and Pipe Industries LLC (DIP). See *Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 81 FR 36882 (June 8, 2016) and accompanying Preliminary Decision Memorandum, unchanged in *Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Final Determination of Sales at Less Than Fair Value*, 81 FR 75030 (October 28, 2016) and accompanying Issues and Decision Memorandum. Because there is no information on the record of this administrative review that would

preliminarily determine that sales of the subject merchandise have been made at prices below normal value (NV).

II. BACKGROUND

In December 2016, Commerce published in the *Federal Register* an AD order on CWP from the UAE.³ Subsequently, on December 4, 2017, Commerce published in the *Federal Register* a notice of opportunity to request an administrative review of the AD order on CWP from the UAE for the period June 8, 2016, through November 30, 2017.⁴

Pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b)(1), in December 2017, Commerce received requests to conduct an administrative review of the AD order on CWP from the UAE from Bull Moose Tube Company and Wheatland Tube Company (collectively, the petitioners) for nine producers/exporters. Commerce also received requests to conduct an administrative review from one of Ajmal Steel's affiliated producers/exporters (*i.e.*, Ajmal) and two of Universal's affiliated producers/exporters (*i.e.*, KHK and TTP). On February 23, 2018, based on these timely requests, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the AD order on CWP from the UAE.⁵

In the *Initiation Notice*, Commerce indicated that, in the event that we limited the respondents selected for individual examination in accordance with section 777A(c)(2) of the Act, we would select mandatory respondents for individual examination based upon U.S. Customs and Border Protection (CBP) entry data.⁶ In April 2018, after considering the large number of potential producers/exporters involved in this administrative review, and the resources available to Commerce, we determined that it was not practicable to examine all exporters/producers of subject merchandise for which a review was requested.⁷ As a result, pursuant to section 777A(c)(2)(B) of the Act, we determined that we could reasonably individually examine the two largest producers/exporters accounting for the largest volume of CWP from the UAE during the

lead us to revisit this determination, we are continuing to treat these companies as part of a single entity for purposes of this administrative review. Additionally, as noted in the "Successor-In-Interest" Memorandum, we preliminarily find that TTP is the successor-in-interest to Universal Tube and Pipe Industries Limited (DIP). *See* Memorandum, "Successor-In-Interest Determination in the 2016-2017 Antidumping Duty Administrative Review on Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates," dated January 31, 2019 (SII Memo).

³ *See Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman, Pakistan, and the United Arab Emirates: Amended Final Affirmative Antidumping Duty Determination and Antidumping Duty Orders*, 81 FR 91906 (December 19, 2016).

⁴ *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 82 FR 57219 (December 4, 2017).

⁵ *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 8058 (February 23, 2018) (*Initiation Notice*).

⁶ *See Initiation Notice*, 83 FR at 8058.

⁷ *See* Memorandum, "Respondent Selection for the Antidumping Duty Review of Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates," dated April 11, 2018.

POR (*i.e.*, Ajmal Steel and Universal). Accordingly, we issued the AD questionnaire to these companies.

In May 2018, we received timely responses from Ajmal Steel and Universal to section A (*i.e.*, the section relating to general information) of the questionnaire, and in June 2018, we received responses from these companies to the remaining sections of the questionnaire (*i.e.*, sections B, C, D, and E, the sections covering comparison market sales, U.S. sales, cost of production (COP)/constructed value (CV), and further manufacturing, respectively).

On August 23, 2018, Commerce extended the deadline for the preliminary results of this administrative review until January 3, 2019.⁸

From August through December 2018, we issued supplemental questionnaires to Ajmal Steel and Universal. We received responses to these supplemental questionnaires from September through December 2018. In December 2018, we preliminarily collapsed Ajmal with Noble Steel; as a result, we intend to treat these companies as a single entity in this administrative review.

Also in December 2018, the petitioners submitted a cost-based particular market situation (PMS) allegation requesting that Commerce use an alternative calculation methodology to calculate COP and CV.⁹ In this same month, Universal and Ajmal Steel and Universal submitted comments in opposition to initiating a PMS inquiry.¹⁰

On January 28, 2019, Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from December 22, 2018 through January 29, 2019.¹¹ Accordingly, the revised deadline for these preliminary results is February 12, 2019.

In February 2019, we found the petitioners' allegation sufficient to warrant further analysis and set a deadline for interested parties to submit factual information to rebut, clarify, or correct the information in the petitioners' allegation, pursuant to 19 CFR 351.301(c)(2)(v).¹² However, because of the timing of the filing of this allegation, we have not made a determination of whether a particular market situation exists at this time. We intend to examine the PMS allegation in a post-preliminary analysis.

⁸ See Memorandum, "Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated August 23, 2018.

⁹ See Petitioners' Letter, "Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Particular Market Situation Allegation," dated December 4, 2018.

¹⁰ See Universal's Letter, "Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Response to Particular Market Situation Allegation," dated December 14, 2018, and Ajmal Steel's Letter, "Antidumping Duty Review of Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Response to Allegation of Particular Market Situation," dated December 21, 2018.

¹¹ See Memorandum, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

¹² See Memorandum, "Allegation of a Particular Market Situation in Antidumping Administrative Review of Circular Welded Pipe from the United Arab Emirates," dated February 8, 2019.

Finally, also in February 2019, we issued an additional supplemental questionnaire to Universal regarding indirect selling expenses. Because the response to this supplemental questionnaire will not be received until after these preliminary results, we will consider this information in the final results.

III. SCOPE OF THE ORDER

The merchandise subject to this review is welded carbon-quality steel pipes and tube, of circular cross-section, with an outside diameter (O.D.) not more than nominal 16 inches (406.4 mm), regardless of wall thickness, surface finish (*e.g.*, black, galvanized, or painted), end finish (plain end, beveled end, grooved, threaded, or threaded and coupled), or industry specification (*e.g.*, American Society for Testing and Materials International (ASTM), proprietary, or other), generally known as standard pipe, fence pipe and tube, sprinkler pipe, and structural pipe (although subject product may also be referred to as mechanical tubing). Specifically, the term “carbon quality” includes products in which:

- (a) iron predominates, by weight, over each of the other contained elements;
- (b) the carbon content is 2 percent or less, by weight; and
- (c) none of the other elements listed below exceeds the quantity, by weight, as indicated:
 - i. 1.80 percent of manganese;
 - ii. 2.25 percent of silicon;
 - iii. 1.00 percent of copper;
 - iv. 0.50 percent of aluminum;
 - v. 1.25 percent of chromium;
 - vi. 0.30 percent of cobalt;
 - vii. 0.40 percent of lead;
 - viii. 1.25 percent of nickel;
 - ix. 0.30 percent of tungsten;
 - x. 0.15 percent of molybdenum;
 - xi. 0.10 percent of niobium;
 - xii. 0.41 percent of titanium;
 - xiii. 0.15 percent of vanadium; or
 - xiv. 0.15 percent of zirconium.

Covered products are generally made to standard O.D. and wall thickness combinations. Pipe multi-stenciled to a standard and/or structural specification and to other specifications, such as American Petroleum Institute (API) API-5L specification, may also be covered by the scope of this order. In particular, such multi-stenciled merchandise is covered when it meets the physical description set forth above, and also has one or more of the following characteristics: is 32 feet in length or less; is less than 2.0 inches (50 mm) in outside diameter; has a galvanized and/or painted (*e.g.*, polyester coated) surface finish; or has a threaded and/or coupled end finish.

Standard pipe is ordinarily made to ASTM specifications A53, A135, and A795, but can also be made to other specifications. Structural pipe is made primarily to ASTM specification A252 and

A500. Standard and structural pipe may also be produced to proprietary specifications rather than to industry specifications.

Sprinkler pipe is designed for sprinkler fire suppression systems and may be made to industry specification such as ASTM A53 or to proprietary specifications.

Fence tubing is included in the scope regardless of certification to a specification listed in the exclusions below, and can also be made to the ASTM A513 specification. Products that meet the physical description set forth above but are made to the following nominal outside diameter and wall thickness combinations, which are recognized by the industry as typical for fence tubing, are included despite being certified to ASTM mechanical tubing specifications:

O.D. in inches (nominal)	Wall thickness in inches (nominal)	Gauge
1.315	0.035	20
1.315	0.047	18
1.315	0.055	17
1.315	0.065	16
1.315	0.072	15
1.315	0.083	14
1.315	0.095	13
1.660	0.055	17
1.660	0.065	16
1.660	0.083	14
1.660	0.095	13
1.660	0.109	12
1.900	0.047	18
1.900	0.055	17
1.900	0.065	16
1.900	0.072	15
1.900	0.095	13
1.900	0.109	12
2.375	0.047	18
2.375	0.055	17
2.375	0.065	16
2.375	0.072	15
2.375	0.095	13
2.375	0.109	12
2.375	0.120	11
2.875	0.109	12
2.875	0.165	8
3.500	0.109	12
3.500	0.165	8
4.000	0.148	9

4.000	0.165	8
4.500	0.203	7

The scope of this order does not include:

- (a) pipe suitable for use in boilers, superheaters, heat exchangers, refining furnaces and feedwater heaters, whether or not cold drawn, which are defined by standards such as ASTM A178 or ASTM A192;
- (b) finished electrical conduit, *i.e.*, Electrical Rigid Steel Conduit (also known as Electrical Rigid Metal Conduit and Electrical Rigid Metal Steel Conduit), Finished Electrical Metallic Tubing, and Electrical Intermediate Metal Conduit, which are defined by specifications such as American National Standard (ANSI) C80.1–2005, ANSI C80.3–2005, or ANSI C80.6–2005, and Underwriters Laboratories Inc. (UL) UL–6, UL–797, or U–1242;
- (c) finished scaffolding, *i.e.*, component parts of final, finished scaffolding that enter the United States unassembled as a “kit.” A kit is understood to mean a packaged combination of component parts that contains, at the time of importation, all of the necessary component parts to fully assemble final, finished scaffolding;
- (d) tube and pipe hollows for redrawing;
- (e) oil country tubular goods produced to API specifications;
- (f) line pipe produced to only API specifications, such as API 5L, and not multi-stenciled; and
- (g) mechanical tubing, whether or not cold-drawn, other than what is included in the above paragraphs.

The merchandise subject to this order is currently classifiable in Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting numbers 7306.19.1010, 7306.19.1050, 7306.19.5110, 7306.19.5150, 7306.30.1000, 7306.30.5015, 7306.30.5020, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, 7306.30.5090, 7306.50.1000, 7306.50.5030, 7306.50.5050, and 7306.5070. The HTSUS subheadings above are provided for convenience and U.S. Customs purposes only. The written description of the scope of the order remains dispositive.

IV. AFFILIATION AND COLLAPSING

Legal Framework

Section 771(33) of the Act, in pertinent part, identifies persons that shall be considered “affiliated” or “affiliated persons” as: two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.¹³ Section 771(33) of the Act further stipulates that a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person, and the Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA)

¹³ See section 771(33)(F) of the Act.

notes that control may be found to exist within corporate groupings.¹⁴ Commerce's regulations at 19 CFR 351.102(b)(3) state that in determining whether control over another person exists within the meaning of section 771(33) of the Act, Commerce will not find that control exists unless the relationship has the potential to impact decisions concerning the production, pricing, or cost of the subject merchandise or foreign like product.¹⁵

Section 351.401(f)(1) of Commerce's regulations states that Commerce will treat affiliated producers as a single entity where they have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities and Commerce concludes that there is a significant potential for the manipulation of price or production. Section 351.401(f)(2) of Commerce's regulations further states that, in identifying a significant potential for manipulation, Commerce may consider factors including: (1) the level of common ownership; (2) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and (3) whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers.

While 19 CFR 351.401(f) refers to producers, Commerce has found it to be instructive in determining whether non-producers should be collapsed and has applied these criteria in determining whether non-producers likewise should be collapsed.¹⁶

Affiliation and Single Entity Analysis

As noted in the "Background" section above, in May 2018, Ajmal submitted a response to section A of the questionnaire. In its response, Ajmal notified Commerce that, during the POR, it was affiliated with another producer of subject merchandise, Noble Steel.¹⁷

We analyzed the information on the record and determined that Ajmal is affiliated with Noble Steel, pursuant to section 771(33)(F) of the Act.¹⁸ In addition, based on the evidence provided in

¹⁴ See SAA, H.R. Doc. No. 316, 103d Cong., 2d Sess. at 838 (1994) (stating that control may exist within the meaning of section 771(33) of the Act in the following types of relationships: (1) corporate or family groupings, (2) franchises or joint ventures, (3) debt financing, and (4) close supplier relationships in which either party becomes reliant upon the other).

¹⁵ See also *Preamble*, 62 FR at 27298.

¹⁶ See, e.g., *Honey from Argentina: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review*, 77 FR 1458, 1461-62 (January 10, 2012), unchanged in *Honey from Argentina: Final Results of Antidumping Duty Administrative Review*, 77 FR 36253 (June 18, 2012); and *Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from Brazil*, 69 FR 76910 (December 23, 2004), and accompanying Issues and Decision Memorandum (IDM) at Comment 5. The U.S. Court of International Trade (CIT) has found that collapsing exporters is consistent with a "reasonable interpretation of the antidumping duty statute." See *Hontex Enterprises, Inc. v. United States*, 248 F. Supp. 2d 1323, 1338 (CIT 2003).

¹⁷ See Ajmal Steel's May 21, 2018 Section A Questionnaire Response (Ajmal Steel May 21, 2018 AQR) at 1.

¹⁸ See Ajmal Steel Collapsing Memo at 3.

Ajmal's questionnaire response, we also preliminarily determined that Noble Steel should be collapsed with Ajmal and treated as a single entity in this review. This finding is based on the determination that Ajmal and Noble Steel have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure their manufacturing priorities, and that the level of common ownership, degree of overlapping management, and extent to which their operations are intertwined present a significant potential for manipulation of price or production of subject merchandise, pursuant to 19 CFR 351.401(f).¹⁹

V. SUCCESSOR-IN-INTEREST

Also as noted in the "Background" section above, in May 2018, Universal submitted a response to section A of the questionnaire. In its response, Universal notified Commerce that, on January 26, 2017, its affiliated producer, DIP, changed its name to TTP.²⁰ Therefore, in order to determine whether TTP is the successor-in-interest to DIP, we requested that Universal address the following four factors with respect to this change in corporate structure: management, production facilities for the subject merchandise, supplier relationships, and customer base.

Universal responded to Commerce's request in November 2018.²¹ In this submission, Universal maintained that DIP's name change had no effect on the core activity of the company, which is to produce pipe and tube. Specifically, Universal stated that TTP's management and production facilities for the subject merchandise, as well as the company's ultimate owners, remained the same, and there were only limited changes to its suppliers and customer base. Therefore, Universal requested that Commerce find that TTP is the successor-in-interest to DIP.

Based on our analysis of Universal's responses, we find that TTP's organizational structure, management, production facilities, supplier relationships, and customers have remained essentially unchanged, and that TTP operates as the same business entity as DIP with respect to the production and sale of CWP. Thus, we preliminarily find that TTP is the successor-in-interest to DIP, and, as a consequence, it remains part of the Universal collapsed entity.²²

VI. COMPANIES NOT SELECTED FOR INDIVIDUAL EXAMINATION

Commerce did not select the following companies for individual examination: Abu Dhabi Metal Pipes and Profiles Industries Complex, Ferrolab LLC, Global Steel Industries, Lamprell, Link Middle East Ltd., PSL FZE, and Three Star Metal Ind LLC. None of these companies: (1) were selected as a mandatory respondent; (2) were the subject of a withdrawal of request for review; (3) requested to participate as a voluntary respondent; or (4) submitted a claim of no shipments. As such, these companies remain non-selected respondents.

¹⁹ For a discussion of the facts on which these conclusions are based, *see* Ajmal Steel Collapsing Memo.

²⁰ *See* Universal's May 18, 2018 Section A Questionnaire Response (Universal May 18, 2018 AQR) at A-1.

²¹ *See* Universal's November 21, 2018 Supplemental Section A Questionnaire Response (Universal November 21, 2018 SQR).

²² For further discussion, *see* the SII Memo.

The statute and Commerce’s regulations do not address the establishment of a rate to be applied to companies not selected for examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when calculating the rate for companies which were not selected for individual review in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally “an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}.”

It has been Commerce’s practice, in cases where we cannot use our normal methodology of calculating a weighted-average margin due to requests to protect business proprietary information, to use either a simple-average margin or a weighted-average margin using the publicly-ranged data calculated for those companies selected for individual review, based on whichever is closer to the actual weighted average margin.²³ In this review, because we cannot use a weighted-average margin due to requests to protect business proprietary information, we have preliminarily calculated a simple-average dumping margin using the publicly-ranged data for these companies using the calculated rates of the mandatory respondents, Ajmal Steel and Universal, which are not zero, *de minimis*, or determined entirely on the basis of facts available.²⁴

VII. DISCUSSION OF THE METHODOLOGY

A. 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 the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.²⁵ 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.²⁶

²³ See *Ball Bearings and Parts Thereof from France, et al.: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (September 1, 2010).

²⁴ See section 735(c)(5)(A) of the Act.

²⁵ See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT2001) (quoting 19 CFR 351.401(i)).

²⁶ 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) (*Shrimp from Thailand*), 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) (*Steel Beams from Germany*), and accompanying IDM at Comment 2.

Ajmal Steel reported that it issued its accounting invoices in the home market on the date of shipment. Therefore, Ajmal reported the date of sale for all home market sales as the date of its accounting invoice to the unaffiliated customer.²⁷ Universal reported that its dates of shipment and invoicing in the home market could differ, and, therefore, Universal reported the date of sale for all home market sales as the earlier of the date of factory delivery note, or the date of invoice to the unaffiliated customer.²⁸

With respect to the U.S. market, Ajmal also reported the date of its accounting invoice to the first unaffiliated customer as the date of sale for its U.S. sales,²⁹ while Universal reported the earlier of the date of invoice to the unaffiliated customer or either the bill of lading date (for back-to-back constructed export price (CEP) sales) or shipment from the U.S. affiliate (for CEP sales made from inventory).³⁰ Commerce has 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. Therefore, we preliminarily followed Commerce's long-standing practice of basing the date of sale for all of Ajmal Steel's and Universal's home market and U.S. sales on the earlier of the invoice date or the shipment date.³¹

B. Normal Value Comparisons

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), in order to determine whether Ajmal Steel's and Universal's sales of CWP from the UAE to the United States were made at less than NV, Commerce compared the export price (EP) or CEP to the NV, as described in the "Export Price/Constructed Export Price" and "Normal Value" sections of this memorandum.

C. Determination of the Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EP or CEP (*i.e.*, the average-to-average method) unless the Secretary 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

²⁷ See Ajmal Steel May 21, 2018 AQR at 19 and Ajmal Steel's June 18, 2018 Section B Questionnaire Response (Ajmal Steel June 18, 2018 BQR) at 22.

²⁸ See Universal's June 11, 2018 Sections B-E response (Universal June 11, 2018 B-EQR) at B-15.

²⁹ See Ajmal Steel May 21, 2018 AQR at 19. See also Ajmal Steel's June 18, 2018 Section C Questionnaire Response (Ajmal Steel June 18, 2018 CQR) at 16.

³⁰ See Universal June 11, 2018 B-EQR at C-13 and Universal's December 12, 2018, Supplemental Questionnaire Response (Universal December 12, 2018 SQR) at Supp BC-22. In this latter submission, Universal demonstrated that it did not document the U.S. shipment date from its factories in all cases; therefore, we have accepted bill of lading date as the U.S. date of shipment in this administrative review.

³¹ See *e.g.*, *Shrimp from Thailand* IDM at Comment 10, and *Steel Beams from Germany* IDM at Comment 2.

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.³²

In recent investigations, Commerce has applied a “differential pricing” analysis for determining whether application of the average-to-average method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.³³ 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 administrative review. 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 these preliminary results 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 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 consolidated customer codes reported by the respondent. 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 POR based upon the U.S. date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region, and time period, that Commerce uses in making comparisons between EP or CEP and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* coefficient is a generally recognized statistical measure of the extent of the difference between the mean (*i.e.*, weighted-average price) of a test group and the mean (*i.e.*, weighted-average price) of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser,

³² 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 IDM at Comment 1; see also *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).

³³ 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).

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 these preliminary results, including arguments for modifying the group definitions used in this proceeding.

Results of the Differential Pricing Analysis

Ajmal Steel

For Ajmal Steel, based on the results of the differential pricing analysis, Commerce preliminarily finds that 66.77 percent of the value of U.S. sales pass the Cohen's *d* test,³⁴ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines that the average-to-average method cannot account for such differences because there is a 25 percent relative change between the weighted-average dumping margin calculated using the average-to-average method 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.³⁵ Thus, for these preliminary results, Commerce is applying the average-to-transaction method to all U.S. sales to calculate the weighted-average dumping margin for Ajmal Steel.

Universal

For Universal, based on the results of the differential pricing analysis, Commerce preliminarily finds that 59.38 percent of the value of U.S. sales pass the Cohen's *d* test,³⁶ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines that the average-to-average method cannot account for such differences because the weighted-average dumping margin crosses the *de minimis* threshold when calculated using the average-to-average method and when calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test. Thus, for these preliminary results, Commerce is applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test to calculate the weighted-average dumping margin for Universal.

D. Product Comparisons

In accordance with section 771(16)(A) of the Act, we considered all products produced by the respondents covered by the description in the "Scope of the Order" section, above, and sold in the home market during the POR to be foreign like products for purposes of determining NV for the merchandise sold in the United States. Pursuant to 19 CFR 351.414(f), we compared the respondents' U.S. sales of CWP to their sales of CWP made in the home market within the POR (for Ajmal Steel) or the contemporaneous window period, which extends from three months

³⁴ See Memorandum, "Calculations for Ajmal Steel Tubes & Pipes Ind. L.L.C. for the Preliminary Results," dated February 8, 2019 (Ajmal Steel Preliminary Calculation Memo) at 4.

³⁵ *Id.*

³⁶ See Memorandum, "Calculations for Universal for the Preliminary Results" dated February 8, 2019 (Universal Preliminary Calculation Memo) at 2.

prior to the month of the first U.S. sale until two months after the month of the last U.S. sale (for Universal).

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 to sales of the most similar foreign-like product. In making the product comparisons, we matched foreign like products based on the physical characteristics to the product sold in the United States. In the order of importance, these physical characteristics are as follows: pipe specification, nominal outside pipe diameter, nominal pipe wall thickness, coating, and end finish.

E. Export Price/Constructed Export Price

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

We used CEP methodology for Universal's sales, in accordance with section 772(b) of the Act, because the subject merchandise was sold in the United States by a U.S. seller affiliated with the producer and EP methodology was not otherwise indicated.

Ajmal Steel

We based EP on packed prices to unaffiliated purchasers in the United States. We made deductions from the starting price for movement expenses (*e.g.*, foreign inland freight, foreign brokerage and handling expenses, U.S. brokerage and handling expenses, international freight, marine insurance, and U.S. customs duties (including harbor maintenance fees), offset by duty revenue, in accordance with section 772(c)(2)(A) of the Act. We capped reimbursements for U.S. duties by the amount of U.S. duty expenses incurred on the subject merchandise, in accordance with our practice.³⁷

Universal

We calculated CEP based on packed prices to the first unaffiliated purchaser in the United States. We made deductions from the starting price for billing adjustments and discounts, where appropriate, in accordance with 19 CFR 351.401(c). We also made deductions from the starting price, where appropriate, for foreign inland freight, foreign brokerage and handling expenses, other export-related charges, international freight, marine insurance, U.S. brokerage and handling expenses, U.S. customs duties (including harbor maintenance fees), U.S. inland freight from port to Universal's facilities, and U.S. inland freight from Universal's facilities to the customer (offset by freight revenue), in accordance with section 772(c)(2)(A) of the Act. We

³⁷ See *Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review*, 74 FR 40167 (August 11, 2009), and accompanying IDM at Comment 3.

capped reimbursements for freight by the amount of freight expenses incurred on the subject merchandise, in accordance with our practice.³⁸

In accordance with section 772(d)(1) of the Act, we calculated CEP by deducting selling expenses associated with economic activities occurring in the United States, which include direct selling expenses (bank charges and imputed credit expenses) and indirect selling expenses (inventory carrying costs and other indirect selling expenses). We also deducted further manufacturing costs in accordance with 772(d)(2) of the Act. Finally, we made an adjustment for profit allocated to these expenses, in accordance with section 772(d)(3) of the Act. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Universal and its U.S. affiliates on their sales of the subject merchandise in the United States and the profit associated with those sales.

F. Normal Value

Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), we compared the volume of Ajmal Steel's and Universal's respective home market sales of the foreign like product to the volume of their U.S. sales of subject merchandise, in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404.

Based on this comparison, we determined that, pursuant to 19 CFR 351.404(b), the aggregate volume of home market sales of the foreign like product for each of the respondents was sufficient to permit a proper comparison with U.S. sales of the subject merchandise. Therefore, we used home market sales as the basis for NV for Ajmal Steel and Universal, in accordance with section 773(a)(1)(B)(i) of the Act.

Affiliated-Party Transactions and Arm's-Length Test

During the POR, Ajmal Steel and Universal made sales of the foreign like product in the home market to affiliated parties, as defined in section 771(33) of the Act. Consequently, we tested these sales to ensure that they were made at arm's-length prices, in accordance with 19 CFR 351.403(c). To test whether the sales to affiliates were made at arm's-length prices, where appropriate, we compared the unit prices of sales to affiliated and unaffiliated customers net of all billing adjustments, discounts, movement charges, direct selling expenses, and packing expenses. Pursuant to 19 CFR 351.403(c), and in accordance with Commerce's practice, where the price to that affiliated party was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise sold to the unaffiliated parties at the same level of trade

³⁸ *Id.*

(LOT), we determined that the sales made to the affiliated party were at arm's length.³⁹ Sales to affiliated customers in the home market that were not made at arm's-length prices were excluded from our analysis because we considered these sales to be outside the ordinary course of trade.⁴⁰

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 LOT as the U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).⁴¹ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.⁴² In order to determine whether the comparison market sales were at different stages in the marketing process than the U.S. sales, we reviewed 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),⁴³ 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.⁴⁴

When Commerce is unable to match U.S. 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 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 and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.*, no LOT adjustment was possible), Commerce will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.⁴⁵

³⁹ See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002) (establishing that the overall ratio calculated for an affiliate must be between 98 and 102 percent in order for sales to be considered in the ordinary course of trade and used in the NV calculation).

⁴⁰ See section 771(15) of the Act and 19 CFR 351.102(b)(35).

⁴¹ See 19 CFR 351.412(c)(2).

⁴² *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.

⁴³ 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 (SG&A), and profit for CV, where possible. See 19 CFR 351.412(c)(1).

⁴⁴ See *Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

⁴⁵ See, e.g., *OJ from Brazil* IDM at Comment 7.

In this administrative review, we obtained information from Ajmal Steel and Universal regarding the marketing stages involved in making reported home market and U.S. sales, including a description of the selling activities performed by the respondents for each channel of distribution.⁴⁶ Our LOT findings are summarized below.

Ajmal Steel

In the home market, Ajmal Steel reported that it made sales through one channel of distribution (*i.e.*, direct sales to distributors and end users).⁴⁷ According to Ajmal Steel, it performed the following selling functions for sales to its distributors and end user customers in the home market: advertising, packing, inventory maintenance, order input/processing, provision of technical service, provision of cash discounts and rebates, provision of sales/marketing support, employment of direct sale personnel, payment of commissions, provision of warranty services, and arranging for freight and delivery.⁴⁸ However, despite our request that Ajmal Steel document each of its selling function claims, there is no evidence on the record demonstrating that Ajmal Steel conducted any sales/marketing promotion activities or reported any advertising expenses during the POR. Therefore, because we specifically asked Ajmal Steel to document each of its selling function claims and for some of these claims Ajmal Steel did not provide such documents, we find that the evidence on the record does not support Ajmal Steel's claims that it performed these selling functions. Accordingly, we have not considered the selling functions, which Ajmal Steel failed to substantiate, in our analysis.

Selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Based on these selling function categories, we find that Ajmal Steel performed sales and marketing, freight and delivery services, inventory maintenance and warehousing, and warranty and technical support for its home market sales. Because all sales in the home market are made through a single distribution channel and the selling activities to Ajmal Steel's customers did not vary within this channel, we preliminarily determine that there is one LOT in the home market.

With respect to the U.S. market, Ajmal Steel reported that it made sales through one channel of distribution (*i.e.*, direct sales to its U.S. customers).⁴⁹ Ajmal Steel reported that it performed the following selling functions in the UAE for its EP sales: packing, order input/processing, employment of direct sales personnel, provision of technical service, inventory maintenance, and arranging for freight and delivery.⁵⁰ Based on these selling function categories, we find that

⁴⁶ See Ajmal Steel May 21, 2018 AQR at A-15 – A-18 and Exhibit A-5; Ajmal Steel's October 17, 2018 Supplemental Sections A Questionnaire Response (Ajmal Steel October 17, 2018 SAQR) at 8 and Revised Exhibit A-5; and Universal May 18, 2018 AQR at 16-25 and Appendix A-6.

⁴⁷ See Ajmal Steel May 21, 2018 AQR at 22 and Ajmal Steel June 18, 2018 BQR at 21.

⁴⁸ See Ajmal Steel May 21, 2018 AQR at Exhibit A-5.

⁴⁹ *Id.* at 22 and Ajmal Steel June 18, 2018 CQR at 14-15 and Ajmal Steel June 18, 2018 CQR at 44.

⁵⁰ See Ajmal Steel May 21, 2018 AQR at Exhibit A-5.

Ajmal Steel performed sales and marketing, freight and delivery services, inventory maintenance and warehousing, and warranty and technical support for its U.S. sales. Because we find that there were no substantial differences in selling activities performed by Ajmal Steel to sell to its U.S. customers, we 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 Ajmal Steel performed for its U.S. and home market customers do not differ significantly. Specifically, we found differences were limited to the following activities: 1) routine provision of discounts and rebates; 2) occasional provision of warranty services; and 3) infrequent payment of commissions.⁵¹ As noted above, Commerce finds that sales are made at different LOTs only if they are made at different marketing stages (or their equivalent). Because the cited differences are not substantial, we preliminarily determine that Ajmal Steel's sales to the United States and home market during the POR were made at the same LOT and, as a result, no LOT adjustment is warranted.

Universal

In the home market, Universal reported that it made sales through two channels of distribution (*i.e.*, direct sales to unaffiliated customers from the factory (channel 1) and sales by affiliated resellers (channel 2)).⁵² According to Universal, it performed the following selling functions to sell to all home market customers: sales forecasting; employment of direct sales personnel; market research/economic planning; price negotiation and order input/processing; arranging for freight and delivery; inventory maintenance; provision of technical advice; provision of warranty services; and payment collection.⁵³ Universal also claimed that it performs the following selling functions for sales made through channel 2: sales promotion/advertising; sales/marketing support; sales-related training; provision after-sales service; post-sale warehousing; and repacking.⁵⁴ However, despite our request that Universal document each of its selling function claims, there is no evidence on the record demonstrating that two of Universal's three home market resellers (*i.e.*, Al Zaher Building Materials LLC (Al Zaher) and DSS Steel LLC – Dubai Branch (DSL)), performed any of the additional selling activities during the POR. Therefore, because the evidence on the record does not support Universal's claims with respect to Al Zaher and DSL, we find that Universal's claim that it performed such functions is unsubstantiated and, thus, have not considered these selling functions in our analysis.

As noted above, selling activities can be generally grouped into four selling function categories. Based on these selling function categories, we find that Universal and its affiliates performed sales and marketing, inventory maintenance and warehousing, freight and delivery, and warranty and technical support for their home market sales made through both sales channels. However, we preliminarily find that the selling functions performed by Universal's home market reseller Dayal Steel Suppliers LLC (DSS) were substantially different in three of these categories (*i.e.*,

⁵¹ *Id.*

⁵² See Universal May 18, 2018 AQR at A-16.

⁵³ See Universal November 21, 2018 SQR at Exhibit SA-15.

⁵⁴ *Id.*

sales and marketing; inventory maintenance and warehousing; and warranty and technical support), from both a qualitative and quantitative perspective, than the selling functions performed by the manufacturers and other resellers, such that sales made by DSS constitute a different marketing stage within in the meaning of 19 CFR 351.412(c)(2) than the market stage of home market sales made by Universal and its other affiliates. Therefore, we find two LOTs in the home market during the POR, one for sales by DSS and another for all remaining home market sales.

With respect to the U.S. market, Universal reported that it made sales through one channel of distribution (*i.e.*, to its U.S. affiliates, UTP Pipe USA and Prime Metal Corp USA).⁵⁵ Universal reported that it performed the following selling functions in the UAE for its CEP sales: employment of direct sales personnel; price negotiation and order input/processing; arranging for freight and delivery; inventory maintenance; provision of warranty services; and payment collection.⁵⁶ Based on the selling function categories noted above we find that Universal performed sales and marketing, freight and delivery, and inventory maintenance for its U.S. sales. Because all sales in the United States are made through a single distribution channel, we preliminarily determine that there is one LOT in the U.S. market.

Finally, we compared the U.S. LOT to the home market LOTs, and found that the selling functions Universal performed for its U.S. and home market direct customers do not differ significantly. Specifically, we found differences were limited to the following activities: 1) limited sales forecasting; 2) occasional market research/economic planning; and 3) provision of routine technical advice.⁵⁷ Therefore, we preliminarily determine that Universal's sales to the United States and home market direct/non-DSS customers during the POR were made at the same LOT. As a result, we made an LOT adjustment only where we were unable to make price-to-price comparisons at the same LOT (*i.e.*, comparisons involving DSS).

Cost of Production Analysis

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of costs of materials and fabrication for the foreign like product, plus amounts for general and administrative (G&A) and interest expenses.⁵⁸

⁵⁵ See Universal November 21, 2018 SQR at Exhibit SA-15.

⁵⁶ See Universal November 21, 2018 SQR at Exhibit SA-15 and Universal June 11, 2018 B-EQR at C-37 to C-38.

⁵⁷ See Universal November 21, 2018 SQR at Exhibit SA-15.

⁵⁸ See "Test of Comparison Market Sales Prices" section for treatment of home market selling expenses.

1. Cost Averaging Methodology

Commerce's normal practice is to calculate an annual weighted-average cost for the POR. However, we recognize that possible distortions may result if we use our normal annual-average cost method during a time of significant cost changes. Based on the record evidence, we have used an alternative quarterly cost methodology for Ajmal Steel's preliminary results. In determining whether to deviate from our normal methodology of calculating an annual weighted-average cost, we evaluate the case-specific record evidence by examining two primary criteria: (1) the change in the cost of manufacturing (COM) recognized by the respondent during the POR must be deemed significant, and (2) the record evidence must indicate that sales during the shorter cost-averaging periods could reasonably be linked with the COP or CV during the same shorter cost-averaging periods.⁵⁹

a. Significance of Cost Changes

In prior cases, we established 25 percent as the threshold (between the high- and low-quarter COM) during a period of 12 months for determining that the changes in COM are significant enough to warrant a departure from our standard annual-average cost approach.⁶⁰ In the instant case, record evidence shows that Ajmal Steel experienced significant cost changes (*i.e.*, changes that exceeded 37.5 percent over the 18 month period (25 percent/12 * 18)) between the high and low quarterly COM during the POR.⁶¹ This change in COM is attributable primarily to the price volatility for the primary input used in the production of CWP.⁶²

b. Linkage Between Sales and Cost Information

Consistent with past precedent, because we found the changes in costs to be significant, we evaluated whether there is evidence of a linkage between the cost changes and the sales prices during the POR.⁶³ Absent a surcharge or other pricing mechanism, Commerce may alternatively look for evidence of a pattern showing that changes in selling prices reasonably correlate to changes in unit costs.⁶⁴ To determine whether a reasonable correlation existed between the sales prices and underlying costs during the POR, we compared weighted-average quarterly prices to the corresponding quarterly COM for the control numbers with the highest volume of sales in the

⁵⁹ See *Stainless Steel Sheet and Strip in Coils from Mexico: Final Results of Antidumping Duty Administrative Review*, 75 FR 6627 (February 10, 2010) (*SSSSC Mexico Final*) and accompanying IDM at Comment 6 and *Stainless-Steel Plate in Coils from Belgium: Final Results of Antidumping Duty Administrative Review*, 73 FR 75398 (December 11, 2008) (*SSPC Belgium Final*) and accompanying IDM at Comment 4.

⁶⁰ See *SSPC Belgium Final* IDM at Comment 4.

⁶¹ See Memorandum "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results - Ajmal Steel Tubes & Pipes Industries LLC (Ajmal) and Noble Steel Industries LLC's (Noble)," dated January 3, 2019 (Ajmal Steel Cost Calculation Memo).

⁶² *Id.*

⁶³ See *SSSSC Mexico Final* IDM at Comment 6 and *SSPC Belgium Final* IDM at Comment 4.

⁶⁴ See *SSPC Belgium Final* IDM at Comment 4.

comparison market. Our comparison revealed that sales and costs for Ajmal Steel showed reasonable correlation.⁶⁵

After reviewing this information and determining that changes in selling prices correlate reasonably to changes in unit costs, we preliminarily determine that there is linkage between Ajmal Steel's changing sales prices and costs during the POR.⁶⁶ Thus, we preliminarily determine that a shorter cost period approach, based on a quarterly-average COP, is appropriate for Ajmal Steel because we found significant cost changes in COM as well as reasonable linkage between costs and sales prices.

2. 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 G&A and interest expenses.⁶⁷ As explained above, we examined the cost data and preliminarily determined that our quarterly cost methodology is warranted for Ajmal Steel but not for Universal. Therefore, Ajmal Steel's COP is based on a quarterly average COP rather than an annual average COP. *See* the "Cost Averaging Methodology" section, above.

We relied on the quarterly COP data submitted by Ajmal Steel, and the annual COP data submitted by Universal, in their most recently-submitted cost databases, without adjustment.

3. Test of Comparison Market Sales Prices

On a product-specific basis, pursuant to section 773(b) of the Act, we compared the adjusted weighted-average COPs to the home market sales prices of the foreign like product to determine whether the sale 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 and discounts, where applicable, movement charges, actual direct and indirect selling expenses, and packing expenses.

4. 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

⁶⁵ *See* Ajmal Steel Cost Calculation Memo.

⁶⁶ *Id.*; *see also* SSSC Mexico Final IDM at Comment 6 and SSPC Belgium Final IDM at Comment 4.

⁶⁷ *See* "Test of Comparison Market Sales Prices" section, below, for treatment of home market selling expenses.

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 section 773(b)(2)(B) 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.

We found that, for certain products, more than 20 percent of Ajmal Steel's and Universal's home market sales 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 disregarded these sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

Calculation of Normal Value Based on Comparison Market Prices

Ajmal Steel

We calculated NV based on packed prices to unaffiliated customers. We made deductions from the starting price, where appropriate, for billing adjustments, in accordance with 19 CFR 351.401(c). We also made deductions for inland freight expenses, under section 773(a)(6)(B)(ii) of the Act. Although Ajmal Steel reported home market discounts and rebates,⁶⁸ we made no adjustment to the starting price for these items because Ajmal Steel did not demonstrate that their terms and conditions were known to the customer at the time of sale, as required by 19 CFR 351.401(c).

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. In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for imputed credit expenses, warranties, bank charges, and commissions. Where commissions were granted in the home market but not in the U.S. market, we made an upward adjustment to NV for the lesser of: (1) the amount of commission paid in the home market; or (2) the amount of indirect selling expenses (including inventory carrying costs) incurred for sales to the U.S. market.⁶⁹

When comparing U.S. sales with home market sales of similar merchandise, we also made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable COM for the foreign like product and subject merchandise.⁷⁰

⁶⁸ See *Modifications of Regulations Regarding Price Adjustments in Antidumping Duty Proceedings*, 81 FR 15641, 15645 (March 24, 2016); see also Ajmal Steel Preliminary Calculation Memo at 2.

⁶⁹ See 19 CFR 351.410(e).

⁷⁰ See 19 CFR 351.411(b).

Universal

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

We deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act. For comparisons to CEP sales, we made deductions for home market credit expenses and direct selling expenses, pursuant to 773(a)(6)(C) of the Act.

When comparing U.S. sales with home market sales of similar merchandise, we also made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable COM for the foreign like product and subject merchandise.⁷¹

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.

VI. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

Agree

Disagree

2/8/2019

X 

Signed by: CHRISTIAN MARSH
Christian Marsh
Deputy Assistant Secretary
for Enforcement and Compliance

⁷¹ *Id.*