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Investigation  
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November 12, 2020

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

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

**SUBJECT:** Decision Memorandum for the Preliminary Determination in the  
Less-Than-Fair-Value Investigation of Prestressed Concrete Steel  
Wire Strand from Ukraine

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## I. SUMMARY

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

## II. BACKGROUND

On April 16, 2020, Commerce received an antidumping duty (AD) petition covering imports of PC strand from Ukraine filed in proper form by Insteel Wire Products, Sumiden Wire Products Corporation, and Wire Mesh Corp. (collectively, the petitioners).<sup>1</sup> On May 4, 2020, we released U.S. Customs and Border Protection (CBP) data to all interested parties under an administrative protective order and requested comments regarding the data and respondent selection.<sup>2</sup>

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<sup>1</sup> See Petitioners’ Letter, “Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, the Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, Turkey, Ukraine, and the United Arab Emirates – Petition for the Imposition of Antidumping and Countervailing Duties,” dated April 16, 2020 (Petition).

<sup>2</sup> See Memorandum, “Antidumping Duty Investigation of PC strand: Release of Customs Data from U.S. Customs and Border Protection,” dated May 4, 2020.



Commerce initiated this investigation on May 6, 2020.<sup>3</sup> In the *Initiation Notice*, we stated that, where appropriate, we intended to select respondents based on CBP data for U.S. imports of PC strand from Ukraine under the appropriate Harmonized Tariff Schedule of the United States subheadings.<sup>4</sup> In the Petition, the petitioners identified one company in Ukraine as the sole producer/exporter of PC strand (*i.e.*, PJSC PA Stalkanat-Silur (Stalkanat)), and provided independent third-party information as support.<sup>5</sup> On May 20, 2020, we issued the AD questionnaire to Stalkanat.<sup>6</sup>

In the *Initiation Notice*, Commerce also notified parties of an opportunity to comment on the scope of the investigation, as well as the appropriate physical characteristics of PC strand to be reported in response to Commerce's AD questionnaire.<sup>7</sup> In June 2020, Stalkanat and the petitioners submitted comments regarding the physical characteristics of the merchandise under consideration to be used for reporting purposes;<sup>8</sup> Global Special Steel Products S.A.U. (dba, TYCSA) (TYCSA) and the petitioners submitted rebuttal comments.<sup>9</sup>

On June 5, 2020, the U.S. International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of PC strand from Ukraine.<sup>10</sup>

From June 22 through July 16, 2020, Stalkanat submitted timely responses to sections A through D of Commerce's AD Questionnaire, *i.e.*, the sections relating to general information, comparison market sales, U.S. sales, and cost of production (COP)/constructed value (CV).<sup>11</sup>

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<sup>3</sup> See *Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, the Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, the Republic of Turkey, Ukraine, and the United Arab Emirates: Initiation of Less-Than-Fair-Value Investigations*, 85 FR 28605 (May 13, 2020) (*Initiation Notice*).

<sup>4</sup> See *Initiation Notice*, 85 FR at 28608-28609.

<sup>5</sup> *Id.*; see also Volume I of the Petition at Exhibit GEN-8; General Issues Supplement at 3 and Exhibit GEN-SUPP-1.

<sup>6</sup> See Commerce's Letter, "Antidumping Duty Questionnaire," dated May 20, 2020 (AD Questionnaire).

<sup>7</sup> See *Initiation Notice*, 85 FR 28606-28607.

<sup>8</sup> See Stalkanat's Letter, "Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, Turkey, Ukraine, and United Arab Emirates, Comments on Product Characteristics and Product Matching Hierarchy," dated June 2, 2020; see also Petitioners' Letter, "Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, Turkey, Ukraine, and United Arab Emirates – Petitioners' Comments on the Important Product Characteristics and Product Matching Hierarchy," dated June 2, 2020.

<sup>9</sup> See TYCSA's Letter, "Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, Turkey, Ukraine, and United Arab Emirates: Rebuttal Comments on Product Characteristics and Product-Matching Hierarchy," dated June 12, 2020; see also Petitioners' Letter, "Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, Turkey, Ukraine, and United Arab Emirates – Petitioners' Rebuttal Comments on the Important Product Characteristics and Product Matching Hierarchy," dated June 12, 2020.

<sup>10</sup> See *Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, Turkey, Ukraine, and United Arab Emirates*, 85 FR 34648 (June 5, 2020).

<sup>11</sup> See Stalkanat's Letters, "Prestressed Concrete Steel Wire Strand from Ukraine; Section A Response," dated June 22, 2020 (Stalkanat's AQR); "Prestressed Concrete Steel Wire Strand from Ukraine; Sections B and C Response,"

On July 6, July 28, and August 4, 2020, the petitioners submitted comments on sections A, B, C, and D of Stalkanat's initial questionnaire responses.<sup>12</sup> From July 17, 2020 through October 7, 2020, we issued supplemental questionnaires to Stalkanat and received responses to these supplemental questionnaires from August 3, 2020 through October 23, 2020.<sup>13</sup>

On August 19, 2020, the petitioners requested that the date for the issuance of the preliminary determination in this investigation be extended until 190 days after the date of initiation.<sup>14</sup> Based on the request, and pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e), on September 8, 2020, Commerce published in the *Federal Register* a postponement of the preliminary determination until no later than November 12, 2020.<sup>15</sup> On October 19, 2020, the petitioners filed a critical circumstances allegation.<sup>16</sup> On November 2 and 3, 2020, the petitioners and Stalkanat requested, respectively, that Commerce postpone the final determination and provisional measures period.<sup>17</sup>

We are conducting this investigation in accordance with section 733(b) of the Act.

### III. PERIOD OF INVESTIGATION

The POI is April 1, 2019 through March 31, 2020. This period corresponds to the four most

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dated July 9, 2020 (Stalkanat's BCQR); and "Prestressed Concrete Steel Wire Strand from Ukraine; Section D Response," dated July 16, 2020.

<sup>12</sup> See Petitioners' Letters, "Prestressed Concrete Steel Wire Strand from Ukraine – Petitioners' Comments Concerning the Section A Response of PJSC PA Stalkanat – Silur," dated July 6, 2020; "Prestressed Concrete Steel Wire Strand from Ukraine – Petitioners' Comments on Deficiencies in PJSC PA Stalkanat – Silur's Sections B and C Responses," dated July 28, 2020; "Prestressed Concrete Steel Wire Strand from Ukraine – Petitioners' Comments on Deficiencies in PJSC PA Stalkanat – Silur's Section D Response," dated August 4, 2020; "Prestressed Concrete Steel Wire Strand from Ukraine – Petitioners' Comments on Deficiencies in PJSC PA Stalkanat – Silur's Supp. 1st AQR," dated August 13, 2020; "Prestressed Concrete Steel Wire Strand from Ukraine – Petitioners' Comments on Deficiencies in PJSC PA Stalkanat – Silur's First Suppl. Section B and C Response," dated September 8, 2020.

<sup>13</sup> See Stalkanat's Letters, "Prestressed Concrete Steel Wire Strand from Ukraine; First Supplemental Section A Response {to Commerce's July 17, 2020 letter}," dated August 3, 2020 (Stalkanat's SAQR); "Prestressed Concrete Steel Wire Strand from Ukraine; First Supplemental Sections B and C Response {to Commerce's August 6, 2020 letter}," dated August 27, 2020 (Stalkanat's SBCQR1); "Prestressed Concrete Steel Wire Strand from Ukraine; First Section D Supplemental Response {to Commerce's September 15, 2020 letter}," dated October 6, 2020 (SDQR1); "Prestressed Concrete Steel Wire Strand from Ukraine; Second Supplemental Section A Response {to Commerce's August 31, 2020 letter}," dated September 17, 2020; and "Prestressed Concrete Steel Wire Strand from Ukraine; Second Supplemental Sections B and C Response {to Commerce's October 7, 2020 letter}," dated October 23, 2020 (Stalkanat's SBCQR2).

<sup>14</sup> See Petitioners' Letter, "Prestressed Concrete Steel Wire Strand from Indonesia, Italy, Malaysia, South Africa, Spain, Taiwan, Tunisia, Turkey, and Ukraine – Petitioners' Request to Postpone Preliminary Determinations," dated August 19, 2020.

<sup>15</sup> See *Prestressed Concrete Steel Wire Strand from Indonesia, Italy, Malaysia, South Africa, Spain, Tunisia, and Ukraine: Postponement of Preliminary Determinations in the Less-Than-Fair- Value Investigations*, 85 FR 55413 (September 8, 2020).

<sup>16</sup> See Petitioners' Letter, "Prestressed Concrete Steel Wire Strand from Indonesia, Italy, Spain, and Ukraine – Petitioners' Allegations of Critical Circumstances," dated October 19, 2020 (Critical Circumstances Allegation).

<sup>17</sup> See Petitioners' Letter, "Prestressed Concrete Steel Wire Strand from Indonesia, Italy, Malaysia, South Africa, Spain, Tunisia, and Ukraine – Petitioners' Request for Postponement of Final Antidumping Determinations," dated November 2, 2020; see also Stalkanat's Letter, "Pre-Stressed Concrete Steel Wire Strand from the Ukraine: Request to Extend Final Determination," dated November 3, 2020.

recent fiscal quarters prior to the month of the filing of the petition, which was April 16, 2020.<sup>18</sup>

#### **IV. SCOPE COMMENTS**

In accordance with the *Preamble* to Commerce's regulations,<sup>19</sup> the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage *i.e.*, scope.<sup>20</sup> During this period, no interested party commented on the scope of this investigation.

#### **V. SCOPE OF THE INVESTIGATION**

The product covered by this investigation is PC strand. For a full description of the scope of this investigation, *see* this memorandum's accompanying *Federal Register* notice at Appendix I.

#### **VI. PRELIMINARY CRITICAL CIRCUMSTANCES FINDING**

On October 19, 2020, the petitioner submitted information alleging that, pursuant to section 733(e)(1) of the Act, and 19 CFR 351.206, critical circumstances exist with respect to imports of PC strand from Ukraine.<sup>21</sup> On October 20, 2020, Commerce issued a letter to Stalkanat requesting that Stalkanat file quantity and value shipment data for Stalkanat's subject merchandise shipped to the United States for October 2019 through September 2020.<sup>22</sup> On October 23, 2020, Stalkanat submitted the requested shipment data.<sup>23</sup>

In accordance with 19 CFR 351.206(c)(2)(i), when a critical circumstances allegation is submitted more than 20 days before the scheduled date of the preliminary determination, Commerce must issue a preliminary finding of whether there is a reasonable basis to believe or suspect that critical circumstances exist by no later than the date of the preliminary determination.

##### **A. Legal Framework**

Section 733(e)(1) of the Act provides that Commerce, upon receipt of a timely allegation of critical circumstances, will preliminarily determine that critical circumstances exist in AD investigations if there is a reasonable basis to believe or suspect that: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at LTFV and that there was likely to be material injury by reason of such sales; and (B) there have been "massive imports" of the subject merchandise over a relatively short period.

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<sup>18</sup> See 19 CFR 351.204(b)(1).

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

<sup>20</sup> See *Initiation Notice* at 3-4, 84 FR at 37993

<sup>21</sup> See Critical Circumstances Allegation.

<sup>22</sup> See Commerce's Letter, "Antidumping Duty Investigation: Prestressed Concrete Steel Wire Strand from Ukraine: Request for Monthly Quantity and Value Shipment Data," dated October 20, 2020.

<sup>23</sup> See Stalkanat's SBCQR2 at 10 and Exhibit 8.

Section 351.206(h)(2) of Commerce's regulations provides that, generally, imports must increase by at least 15 percent during the "relatively short period" to be considered "massive," and section 351.206(i) defines a "relatively short period" as normally being the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed)<sup>24</sup> and ending at least three months later.<sup>25</sup> Commerce's regulations also provide, however, that, if Commerce finds that importers, or exporters or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, Commerce may consider a period of not less than three months from that earlier time.<sup>26</sup>

#### B. Critical Circumstances Allegation

In their allegation, the petitioners contend that, based on the history of dumping and material injury by reason of dumped imports of PC strand in the United States, importers knew, or should have known, that the merchandise under consideration was being sold at LTFV.<sup>27</sup> The petitioners also contend that, based on the preliminary determination of injury by the ITC, there is a reasonable basis to impute importers' knowledge that material injury is likely by reason of such imports.<sup>28</sup> Finally, the petitioners contend that, based on publicly-available import data, imports of PC strand from Ukraine were massive during the relevant time period.<sup>29</sup>

#### C. Critical Circumstances Analysis

We consider the statutory criteria for finding critical circumstances below.

##### *History of Dumping and Material Injury*

To determine whether there is a history of dumping pursuant to section 733(e)(1)(A)(i) of the Act, Commerce generally considers current or previous AD orders on the subject merchandise from the country in question in the United States and current orders imposed by other countries with regard to imports of the same merchandise.<sup>30</sup> In this case, the current investigation marks the first instance that Commerce has examined whether sales of the subject merchandise from Ukraine have been made at LTFV in the United States. Accordingly, Commerce previously has not imposed an AD order on the subject merchandise from Ukraine. Moreover, Commerce is not aware of any AD order on PC strand from Ukraine in another country. Therefore, Commerce finds no history of injurious dumping of the subject merchandise pursuant to section 733(e)(1)(A)(i) of the Act.

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<sup>24</sup> See 19 CFR 351.102(b)(40) (providing that a proceeding begins on the date of the filing of a petition).

<sup>25</sup> See 19 CFR 351.206(h)(2) and (i).

<sup>26</sup> See 19 CFR 351.206(i).

<sup>27</sup> See Critical Circumstances Allegation at 3-5.

<sup>28</sup> *Id.* at 6.

<sup>29</sup> *Id.* at 8.

<sup>30</sup> See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China*, 73 FR 31970, 31972 (June 5, 2008); and *Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances: Small Diameter Graphite Electrodes from the People's Republic of China*, 74 FR 2049, 2052 (January 14, 2009).

*Knowledge that Exporters Were Dumping and that There Was Likely to Be Material Injury by Reason of Such Sales*

Commerce normally considers margins of 25 percent or more for export price sales and 15 percent or more for constructed export price sales sufficient to impute importer knowledge of sales at LTFV.<sup>31</sup> Stalkanat's margin, which is based on EP prices, is 19.32 percent, which does not meet the 25 percent threshold necessary to impute importer knowledge of dumping for EP sales. Therefore, we find that the importer knowledge criterion, as set forth in section 733(e)(1)(A)(ii) of the Act, has not been met for Stalkanat and the companies included in the all-others rate.

Because the criteria of a history of dumping and material injury has not been satisfied pursuant to section of 733(e)(1)(A)(i) and (ii) of the Act, Commerce is not required to examine the additional criteria enumerated under section 733(e)(1)(B) of the Act.

For the reasons discussed above, we preliminarily determine that critical circumstances do not exist for Stalkanat and the companies included in the all-others rate.

## **VII. DISCUSSION OF THE METHODOLOGY**

### **A. Comparisons to Fair Value**

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), in order to determine whether Stalkanat's sales of subject merchandise from Ukraine to the United States were made at LTFV, Commerce compared the export price (EP) to the normal value (NV), as described in the "Export Price," and "Normal Value" sections of this memorandum.

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<sup>31</sup> See, e.g., *Antidumping and Countervailing Duty Investigations of Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Preliminary Determinations of Critical Circumstances*, 80 FR 68504 (November 5, 2015); see also *Certain Corrosion-Resistant Steel Products from India: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances*, 81 FR 35329 (June 2, 2016); *Certain Corrosion-Resistant Steel Products from Italy: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*, 81 FR 35320 (June 2, 2016); *Certain Corrosion-Resistant Steel Products from the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*, 81 FR 35303 (June 2, 2016); *Certain Corrosion-Resistant Steel Products from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 35316 (June 2, 2016); *Certain Corrosion-Resistant Steel Products from Taiwan: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*, 81 FR 35313 (June 2, 2016); *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the People's Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 35308 (June 2, 2016); *Countervailing Duty Investigation of Certain Corrosion Resistant Steel Products from Taiwan: Final Negative Countervailing Duty Determination*, 81 FR 35299 (June 2, 2016); *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from Italy: Final Affirmative Determination and Final Affirmative Critical Circumstances, in Part*, 81 FR 35326 (June 2, 2016); and *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the Republic of Korea: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 35310 (June 2, 2016).

## 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 the Secretary determines that another method is appropriate in a particular situation. In LTFV investigations, Commerce examines whether to compare weighted-average NVs with the EPs (or constructed export prices (CEPs)) of individual sales, *i.e.*, the average-to – transaction method, as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act.

In numerous investigations, Commerce has applied a “differential pricing” analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.<sup>32</sup> Commerce finds that the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this investigation. Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and on Commerce’s additional experience with addressing the potential masking of dumping that can occur when Commerce uses the average – to-average method in calculating a respondent’s weighted-average dumping margin.

The differential pricing analysis used in this preliminary determination examines whether there exists a pattern of export prices for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination code, *i.e.*, state, and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POI based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is defined using the product control number (CONNUM) 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

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<sup>32</sup> See, *e.g.*, *Xanthan Gum from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); see also *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).

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

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

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

Interested parties may present arguments and justifications in relation to the above-described



differential pricing approach used in this preliminary determination, including arguments for modifying the group definitions used in this proceeding.<sup>33</sup>

## 2. Results of the Differential Pricing Analysis

Based on the results of the differential pricing analysis, Commerce preliminarily finds that 100 percent of Stalkanat's U.S. sales, by value, pass the Cohen's *d* test,<sup>34</sup> which confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test. Thus, for these preliminary results, Commerce is applying the A-to-A method to all U.S. sales to calculate the weighted-average dumping margin for Stalkanat.

### B. Product Comparisons

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

In making product comparisons, we matched foreign like products based on the physical characteristics reported by the respondents in the following order of importance: covering/coating, diameter, grade, number of wires, and type. For Stalkanat's sales of PC strand in the United States, the reported CONNUM identifies the characteristics of PC strand as exported by Stalkanat.

### C. Date of Sale

Under 19 CFR 351.401(i), it states that, in identifying the date of sale of the merchandise under consideration or foreign like product, Commerce normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business. Additionally, Commerce may use a date other than the date of invoice if it is satisfied that a different date better reflects the date on which the exporter or producer establishes the material

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<sup>33</sup> The Court of Appeals for the Federal Circuit (CAFC) in *Apex Frozen Foods v. United States*, 862 F. 3d 1337 (Fed. Cir. 2017) affirmed much of Commerce's differential pricing methodology. We ask that interested parties present only arguments on issues which have not already been decided by the CAFC.

<sup>34</sup> See Memorandum, "Sales Analysis for the Preliminary Determination – PJSC PA Stalkanat-Silur (Stalkanat)," dated concurrently with this memorandum (Stalkanat's Preliminary Sales Calculation Memo) at 2.

terms of sale.<sup>35</sup>

For domestic market sales, Stalkanat reported the issuance date of the delivery note as the date of sale because the delivery note contains sales documentation, known as a “waybill.” Stalkanat explained that the date of delivery note is also the date of shipment from the factory, and it is deemed under Ukrainian accounting principles to be the date of sale.<sup>36</sup> For its U.S. sales, Stalkanat reported the invoice date, which is also the shipment date, as the date of sale.<sup>37</sup>

We reviewed the sales and shipment documentation submitted by Stalkanat and confirmed that the material terms for Stalkanat’s home market sales were set on the issuance date of its delivery note, and the material terms for Stalkanat’s U.S. market sales were set on the invoice date.<sup>38</sup> Therefore, we preliminarily based the date of sale for Stalkanat’s home market on the issuance date of its delivery note, and based the date of sale for Stalkanat’s U.S. market sales on the invoice date.<sup>39</sup>

#### D. Export Price

For all sales made by Stalkanat, 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.

We calculated EP based on packed prices to unaffiliated purchasers in the United States. We made deductions from the starting price, where appropriate, for movement expenses, *i.e.*, foreign inland freight expenses, foreign brokerage and handling expenses, international freight expenses, and marine insurance expenses,<sup>40</sup> in accordance with section 772(c)(2)(A) of the Act. We also made certain adjustments to Stalkanat’s reported packing costs so that they reflect its actual packing costs, inclusive of conversion costs, and we made an upward adjustment to Stalkanat’s indirect selling expenses (ISE) to account for additional sales related expenses as presented in Stalkanat’s 2019 Trial Balance that the firm should have included in ISE.<sup>41</sup>

#### E. Normal Value

##### 1. Home Market Viability

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<sup>35</sup> 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)).

<sup>36</sup> See Stalkanat’s AQR at A3-A4.

<sup>37</sup> *Id.* at A4.

<sup>38</sup> *Id.*; see also Stalkanat’s AQR at Exhibit 5; Stalkanat’s SAQR at Exhibit 4; and Stalkanat’s SBCQR1 at Exhibit 14.

<sup>39</sup> See Stalkanat’s Preliminary Sales Calculation Memo and Stalkanat’s Prelim SAS Programs.

<sup>40</sup> Stalkanat indicated that it usually receives one invoice from a freight-forwarding company including all transport, handling services and marine insurance concerning a shipment from the plant in Ukraine to the port of destination in the United States. These expenses are reported in the Field 29.0 (*i.e.*, International Freight) in UAH on a per MT basis. See Stalkanat’s BCQR at 47-49 and Exhibit C-4.

<sup>41</sup> Because the nature of the adjustment is BPI, see Stalkanat Preliminary Sales Calculation Memorandum for details.

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, *i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales, we normally compare the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with sections 773(a)(1)(A) and (B) of the Act. If we determine that no viable home market exists, we may, if appropriate, use a respondent's sales of the foreign like product to a third country market as the basis for comparison market sales, in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404.

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 Stalkanat's home market sales of the foreign like product to the volume of its 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 Stalkanat's home market sales of the foreign like product was greater than five percent of the aggregate volume of U.S. sales of the subject merchandise.<sup>42</sup> Therefore, we used home market sales as the basis for NV for Stalkanat, 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 at the same level of trade (LOT) as the U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).<sup>43</sup> Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.<sup>44</sup> In order to determine whether the comparison market sales are at different stages in the marketing process than the U.S. sales, we examine the distribution system in each market, *i.e.*, the chain of distribution, including selling functions and class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales, *i.e.*, NV based on either home market or third country prices,<sup>45</sup> we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the

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<sup>42</sup> See Stalkanat's AQR at Exhibit 1.

<sup>43</sup> See 19 CFR 351.412(c)(2).

<sup>44</sup> *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.

<sup>45</sup> Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling, general, and administrative expenses, and profit for CV, where possible. See 19 CFR 351.412(c)(1).

Act.<sup>46</sup>

When Commerce is unable to match sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, Commerce may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales to sales at a different LOT in the comparison market, where available data make it possible, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability, *i.e.*, no LOT adjustment is possible, Commerce will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.<sup>47</sup>

Stalkanat stated in its AQR that the level of trade at which it made its home-market and U.S. sales was not substantially different and would not affect price comparability.<sup>48</sup> Stalkanat further indicated that it does not have different pricing practices based on each LOT, and that it sells PC strand based on the market price applicable on the market at each point in time.<sup>49</sup> In its BCQR, Stalkanat stated that in the home market, it sold only to end users in one channel of distribution and in one LOT during the POI. Similarly, Stalkanat indicated that it sold the subject merchandise in the United States to only one trading company in one channel of distribution, and one LOT.<sup>50</sup>

Based on Stalkanat's reported selling functions chart in AQR at Exhibit 4, where the level of intensity of activities is measured in a scale of zero to ten, we find that of the five listed selling functions/activities ( *i.e.*, Provision of Sales Support, Provision of Training Services, Provision of Technical Support, Provision of Logistical Services, and Performance of Sales Related Administrative Activities), only one of the functions differs slightly between home market and U.S. market. Specifically, we find that the only difference in the selling functions provided by Stalkanat between its home market and U.S. market is "Provision of Technical Support," where Stalkanat claims that it provided this service to its Ukraine customers at an intensity level of 2, but it did not provide technical support to its U.S. customer.<sup>51</sup>

Accordingly, we preliminarily find that the selling functions performed by Stalkanat for the U.S. and home market customers do not differ significantly, and that sales to the home market during the POI were made at the same LOT as sales to the United States, and, thus, a LOT adjustment is not warranted. Therefore, we have not granted a LOT adjustment, pursuant to section 773(a)(7)(A) of the Act.

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<sup>46</sup> See *Micron Tech., Inc. v. United States*, 243 F. 3d 1301, 1314-16 (Fed. Cir. 2001).

<sup>47</sup> See, *e.g.*, *OJ from Brazil* IDM at Comment 7.

<sup>48</sup> See Stalkanat's AQR at 10-12 and Exhibit 4.

<sup>49</sup> *Id.* at 12.

<sup>50</sup> See Stalkanat's BCQR at 11 and 18 for the home market sales information; *see also* Stalkanat's BCQR at 38-39 and 45 for the U.S. market sales information.

<sup>51</sup> See Stalkanat's AQR at 10-12 and Exhibit 4.

### 3. Cost of Production Analysis

In accordance with section 773(b)(2)(A)(ii) of the Act,<sup>52</sup> Commerce requested COP information from Stalkanat. We examined Stalkanat's cost data and determined that a quarterly cost methodology is not warranted and, therefore, we applied our standard methodology of using annual costs based on the reported data.

#### 1. Calculation of COP

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) expenses and interest expenses.

We relied on the COP data submitted by Stalkanat, except as follows:<sup>53</sup>

- We revised Stalkanat's reported G&A expense rate to include certain "other operating expenses" recorded on the income statement.
- We revised Stalkanat's reported financial expense rate to include certain expenses related to foreign currency transactions.

#### 2. Test of Comparison Market Sales Prices

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

#### 3. Results of the COP Test

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

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<sup>52</sup> The TPEA amended section 773(b)(2)(A) of the Act. See TPEA found at <https://www.congress.gov/bill/114thcongress/>.

<sup>53</sup> See Memorandum, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – PJSC PA Stalkanat Silur," dated concurrently with this memorandum.

were made within an extended period of time in “substantial quantities,” in accordance with sections 773(b)(2)(B) and (C) of the Act; and (2) based on our comparison of prices to the weighted – average COPs for the POI, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

In this investigation, we found that more than 20 percent of Stalkanat’s home market sales of certain products were sold at prices below the cost of production within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time.<sup>54</sup> Thus, in accordance with sections 773(b)(1) and 773(b)(2) of the Act, we disregarded the below-cost home market sales for Stalkanat to determine NV.

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

For those comparison products for which there were sales at prices above the COP for Stalkanat, we based NV on comparison market prices, which were based on delivered prices to Stalkanat’s customers in the home market. We made deductions, where appropriate, from the starting price for billing adjustments in accordance with 19 CFR 351.401(c). We also made a deduction from the starting price for movement expenses, including inland freight under section 773(a)(6)(B)(ii) of the Act. We made adjustments for differences in packing, in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act, and in circumstances of sale (imputed credit expenses), in accordance with section 773(a)(6)(c)(iii) of the Act and 19 CFR 351.410. In addition, we have made certain adjustments to Stalkanat’s reported packing costs and indirect selling expenses.<sup>55</sup>

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 cost of manufacturing for the foreign like product and subject merchandise.

### **VIII. CURRENCY CONVERSION**

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

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<sup>54</sup> See Stalkanat’s Prelim Comparison Market SAS Program for details.

<sup>55</sup> See Stalkanat Preliminary Sales Calculation Memorandum.

## IX. RECOMMENDATION

We recommend applying the above methodology for this preliminary determination.



Agree

Disagree

11/12/2020

X



Signed by: JEFFREY KESSLER