



UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

A-351-856
Investigation
Public Document
AD/CVD OVI: GM

April 27, 2021

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

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

SUBJECT: Decision Memorandum for the Preliminary Affirmative
Determination in the Less-Than-Fair-Value Investigation of
Certain Aluminum Foil from Brazil

I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that certain aluminum foil (aluminum foil) from Brazil 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 of sales at LTFV are shown in the accompanying *Federal Register* notice.

II. BACKGROUND

On September 29, 2020, Commerce received an antidumping duty (AD) petition concerning imports of aluminum foil from Brazil, filed in proper form on behalf of the Aluminum Association Trade Enforcement Working Group and its individual members, Granges Americas Inc., JW Aluminum Company, and Novelis Corporation (collectively, the petitioners).¹ On October 19, 2020, Commerce initiated the AD investigation on aluminum foil.²

In the *Initiation Notice*, Commerce notified the public that, where appropriate, it intended to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States subheadings listed in the

¹ See Petitioners' Letter, "Certain Aluminum Foil from Armenia, Brazil, Oman, Russia, and Turkey – Petition for the Imposition of Antidumping and Countervailing Duties," dated September 29, 2020 (Petition).

² See *Certain Aluminum Foil from the Republic of Armenia, Brazil, the Sultanate of Oman, the Russian Federation, and the Republic of Turkey: Initiation of Less-Than-Fair-Value Investigations*, 85 FR 67711 (October 26, 2020) (*Initiation Notice*).



“Scope of the Investigations,” in the appendix.³ Accordingly, on October 15, 2020, Commerce released the CBP entry data to all interested parties under an administrative protective order, and requested comments regarding the data and respondent selection.⁴

On October 29, 2020, we received comments on behalf of the petitioners and Companhia Brasileira de Alumínio⁵ (CBA) regarding the CBP data and the respondent selection methodology.⁶ In their submission, the petitioners indicated that the largest producer/exporter accounts for the vast majority of the total imports of aluminum foil from Brazil, and asserted that Commerce may reasonably select this company as the sole mandatory respondent in this investigation.⁷ CBA indicated in its submission that it should be selected as a mandatory respondent because it is one of the largest producers and exporters of aluminum foil from Brazil.⁸

On November 12, 2020, Commerce selected Arconic Ind. E Com de Metias LTDA (Arconic) and CBA for individual examination as mandatory respondents in this investigation.⁹ Arconic and CBA are the two producers/exporters with the largest volume of subject exports during the period of investigation (POI) based on the CBP data we obtained.¹⁰ Accordingly, we issued the AD questionnaire to Arconic and CBA.¹¹

On November 19, 2020, the U.S. International Trade Commission preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of aluminum foil from Brazil.¹²

In the *Initiation Notice*, Commerce notified parties of an opportunity to comment on the scope of the investigation, as well as on the appropriate physical characteristics of aluminum foil to be

³ *Id.*, 85 FR at 67714.

⁴ See Memorandum, “Antidumping Duty Petition on Certain Aluminum Foil from Brazil: Release of Customs Data from U.S. Customs and Border Protection,” dated October 15, 2020 (CBP Entry Data).

⁵ In this investigation, Commerce selected Companhia Brasileira de Alumínio as one of the mandatory respondents. Based on the information submitted during this investigation, we preliminarily find that Companhia Brasileira de Alumínio and CBA Itapissuma Ltda. are affiliated within the meaning of section 771(33)(E) and (G) of the Act, and we are preliminarily treating these companies as a single entity in accordance with 19 CFR 351.401(f). Thus, we refer to these two entities collectively as “CBA.” See Memorandum, “Certain Aluminum Foil from Brazil: Companhia Brasileira de Alumínio and CBA Itapissuma Ltda. Affiliation and Collapsing Memorandum,” dated concurrently with this memorandum.

⁶ See Petitioners’ Letter, “Certain Aluminum Foil from Brazil – Petitioners’ Comments on U.S. Customs and Border Protection Entry Data and Selection of Mandatory Respondents,” dated October 29, 2020 (Petitioners’ Respondent Selection Comments); see also CBA’s Letter, “Antidumping Duty Investigation of Aluminum Foil from Brazil: Comments on US Customs and Border Protection Data and Respondent Selection,” dated October 29, 2020 (CBA’s Respondent Selection Comments).

⁷ See Petitioners’ Respondent Selection Comments at 4.

⁸ See CBA’s Respondent Selection Comments at 2.

⁹ See Memorandum, “Less-Than-Fair-Value Investigation of Certain Aluminum Foil from Brazil: Respondent Selection,” dated November 12, 2020.

¹⁰ *Id.* at Attachment.

¹¹ See Commerce’s Letters to CBA Antidumping Duty Sections A-E Questionnaire, dated November 16, 2020; see also Commerce’s Letter to Arconic, Antidumping Duty Sections A-E Questionnaire, dated November 16, 2020 and December 9, 2020.

¹² See *Aluminum Foil from Armenia, Brazil, Oman, Russia, and Turkey*, Investigation Nos. 701–TA–658–659 and 731–TA–1538–1542 (Preliminary), 85 FR 73748 (November 19, 2020).

reported in response to Commerce's AD questionnaire.¹³ On November 13, 2020, we received timely filed product characteristics comments from interested parties.¹⁴ On November 23, 2020, we received timely filed product characteristics rebuttal comments from interested parties.¹⁵ On December 3, 2020, Commerce determined the product characteristics applicable to this investigation.¹⁶

On November 9, 2020, we received timely filed comments concerning the scope of the investigation from interested parties.¹⁷ On November 19, 2020, we received timely filed rebuttal scope comments from interested parties.¹⁸ We issued the Preliminary Scope Decision Memorandum concurrently with this memorandum.¹⁹

On February 4, 2021, the petitioners timely requested that Commerce fully postpone the deadline for the preliminary determination.²⁰ Accordingly, on February 17, 2021, Commerce fully postponed the preliminary determination by 50 days (*i.e.*, 190 days after the date on which the investigation was initiated) to April 27, 2021.²¹

¹³ See *Initiation Notice*, 85 FR at 67712-13.

¹⁴ See Petitioners' Letter, "Less Than Fair Value Investigations of Certain Aluminum Foil from Armenia, Brazil, Oman, Russia, and Turkey-Petitioners' Comments on Product Matching Characteristics," dated November 13, 2020; see also Rusal's Letter, "Certain Aluminum Foil from Armenia, Brazil, Oman, Russia, and the Republic of Turkey: Comments on Product Characteristics," dated November 13, 2020; Assan Aluminyum Sanayi ve Ticaret A.S., Kibar Americas, Inc., Kibar Dis Ticaret A.S., and Ispak Esnek Ambalaj Sanayi A.S.'s Letter, "Comments on Product Characteristics," dated November 13, 2020; and Companhia Brasileira de Aluminum and CBA Itapissuma Ltda.'s Letter, "Aluminum Foil from Armenia, Brazil, Oman, Russia, and the Republic of Turkey Comments on Product Characteristics," dated November 13, 2020.

¹⁵ See Petitioners' Letter, "Less Than Fair Value Investigations of Certain Aluminum Foil from Armenia, Brazil, Oman, Russia, and Turkey-Petitioners' Product Characteristic Rebuttal Comments," dated November 23, 2020; Assan Aluminyum Sanayi ve Ticaret A.S., Kibar Americas, Inc., Kibar Dis Ticaret A.S., and Ispak Esnek Ambalaj Sanayi A.S.'s Letter, "Rebuttal Product Characteristic Comments," dated November 23, 2020; and Companhia Brasileira de Aluminum and CBA Itapissuma Ltda.'s Letter, "Aluminum Foil from Armenia, Brazil, Oman, Russia, and the Republic of Turkey Rebuttal Comments on Product Matching Characteristics," dated November 23, 2020.

¹⁶ See Memorandum, "Antidumping Duty Investigations of Certain Aluminum Foil from Armenia, Brazil, Oman, Russia, and the Republic of Turkey: Finalized Product Characteristics," dated December 3, 2020 (Final Product Characteristics Memorandum).

¹⁷ See Pro Ampac International Inc., Ampac Holdings LLC, and Jen-Coat Inc., DBA Prolamina's Letter, "Comments on Scope of Investigations: Certain Aluminum Foil from Armenia, Brazil, Oman, Russia, and Turkey," dated November 9, 2020; see also Assan Aluminyum Sanayi ve Ticaret A.S., Kibar Americas, Inc., Kibar Dis Ticaret A.S., and Ispak Esnek Ambalaj Sanayi A.S.'s Letter, "Scope Comments," dated November 9, 2020.

¹⁸ See Petitioners' Letter, "Less Than Fair Value Investigations of Certain Aluminum Foil from Armenia, Brazil, Oman, Russia, and Turkey-Petitioners' Scope Rebuttal Comments," dated November 19, 2020.

¹⁹ See Memorandum, "Antidumping and Countervailing Duty Investigations of Certain Aluminum Foil from the Republic of Armenia, Brazil, the Sultanate of Oman, the Russian Federation, and the Republic of Turkey: Preliminary Scope Decision Memorandum," dated concurrently with this memorandum (Preliminary Scope Decision Memorandum).

²⁰ See Petitioners' Letter, "Certain Aluminum Foil from Armenia, Brazil, the Sultanate of Oman, the Russian Federation, and the Republic of Turkey: Petitioners' Request for Postponement of Preliminary Antidumping Determinations," dated February 4, 2021.

²¹ See *Certain Aluminum Foil from the Republic of Armenia, Brazil, the Sultanate of Oman, the Russian Federation, and the Republic of Turkey: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 86 FR 9909 (February 17, 2021).

Between December 2020 and April 2021, CBA submitted timely responses to sections A through D of Commerce's initial and supplemental questionnaires.²²

On March 23, 2021 and April 15, 2021, CBA²³ and the petitioners,²⁴ respectively, filed requests to postpone the final determination until not longer than 135 days after the preliminary determination. The requests from CBA and the petitioners stated that, if Commerce grants the request to postpone the agency's final determinations, it should also extend the provisional measures period in this antidumping duty investigation from four months to not more than six months.²⁵ The petitioners also indicated that, to the extent that foreign exporters or producers accounting for a significant portion of exporters of the merchandise from countries subject to each investigation have requested that Commerce's final determination be fully extended, the petitioners also concur with those requests.²⁶

On April 16, 2021, the petitioners submitted comments with respect to CBA and for consideration in the preliminary determination.²⁷ On April 23, 2021, CBA submitted rebuttal comments in response to the petitioners' April 16, 2021, comments.²⁸

Arconic did not submit an entry of appearance or respond to Commerce's requests for information concerning its Sections A, B, C or D sections of the questionnaire in this investigation.

III. PERIOD OF INVESTIGATION

The POI is July 1, 2019, through June 30, 2020. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the Petition, which was filed on September 29, 2020.²⁹

²² See CBA's Letter, "Section A Questionnaire Response," dated December 14, 2020 (CBA's AQR); *see also* CBA's Letter, "Sections B, C, and D Questionnaire Response," dated January 25, 2021; CBA's Letter, "Supplemental Section D Questionnaire Response," dated March 9, 2021; and CBA's Letter, "Supplemental Sections A, B, and C Response," dated March 18, 2021.

²³ See CBA's Letter, "Certain Aluminum Foil from Armenia: Request for Postponement of Final Determination and Provisional Measures Period," dated March 23, 2021.

²⁴ See Petitioners' Letter, "Certain Aluminum Foil from Armenia, Brazil, the Sultanate of Oman, the Russian Federation, and the republic of Turkey – Petitioners' Request for Postponement of Final Antidumping Determinations," dated April 15, 2021.

²⁵ See 19 CFR 351.210(e)(2).

²⁶ See 19 CFR 351.210(b)(2)(ii).

²⁷ See Petitioners' Letter, "Less Than Fair Value Investigation of Certain Aluminum Foil from Brazil – Petitioners' Pre-Preliminary Comments Concerning Companhia Brasileira de Alumínio," dated April 16, 2021.

²⁸ See CBA's Letter, "Certain Aluminum Foil from Brazil: CBA's Reply to Petitioners' Pre-Preliminary Determination Comments," dated April 23, 2021.

²⁹ See 19 CFR 351.204(b)(1).

IV. SCOPE OF INVESTIGATION

The product covered by this investigation is certain aluminum foil from Brazil. For a full description of the scope of this investigation, *see* the accompanying *Federal Register* notice for the preliminary determination of this investigation at Appendix I.

V. SCOPE COMMENTS

In accordance with the *Preamble* to Commerce's regulations,³⁰ in the *Initiation Notice* Commerce set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).³¹ As noted above, certain interested parties commented on the scope of this investigation, as published in the *Initiation Notice*. For a summary of the scope comments and rebuttals and our accompanying analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum. Based on our analysis of the scope comments received, we preliminarily find no reason to amend or modify the scope of this investigation.³²

VI. APPLICATION OF FACTS AVAILABLE AND USE OF ADVERSE INFERENCES

A. Legal Framework

Application of Facts Available

Sections 776(a)(1) and 776(a)(2)(A)-(D) of the Act provide that, if necessary information is not available on the record, or if an interested party: (1) withholds information requested by Commerce; (2) fails to provide such information by the deadlines for submission of the information, or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act; (3) significantly impedes a proceeding; or (4) provides such information but the information cannot be verified as provided in section 782(i) of the Act, Commerce shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination.

Section 782(c)(1) of the Act states that Commerce shall consider the ability of an interested party to provide information in the form and manner requested upon a prompt notification by that party that it is unable to submit the information in the form and manner required, and that party also provides a full explanation for the difficulty and suggests an alternative form in which the party is able to provide the information.

Section 782(d) of the Act states that if Commerce "determines that a response to a request for information... does not comply with the request," it "shall promptly inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person with an opportunity to remedy or explain the deficiency in light of the time limits established for the completion of investigations or reviews..."

³⁰ *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

³¹ *See Initiation Notice*, 85 FR at 67712.

³² *See Preliminary Scope Decision Memorandum*.

Section 782(e) of the Act states further that Commerce shall not decline to consider submitted information if all of the following requirements are met: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Use of Adverse Inferences

Section 776(b) of the Act provides that, if Commerce finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information, Commerce may use an inference adverse to the interests of that party in selecting the facts otherwise available.³³ In so doing, Commerce is not required to determine, or make any adjustments to, estimated dumping margins based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information.³⁴ In addition, the Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA) explains that Commerce may employ an adverse inference “to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”³⁵ Furthermore, affirmative evidence of bad faith on the part of a respondent is not required before Commerce may make an adverse inference.³⁶ It is Commerce’s practice to consider, in employing adverse inferences, the extent to which a party may benefit from its own lack of cooperation.³⁷ Section 776(b)(2) of the Act states that an adverse inference may include reliance on information derived from the petition, the final determination from the investigation, a previous administrative review, or other information placed on the record.

Selection and Corroboration of AFA Rate

Section 776(b)(2) of the Act states that Commerce, when employing AFA, may rely upon information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record.³⁸ In selecting a

³³ See 19 CFR 351.308(a); see also *Common Alloy Aluminum Sheet from Romania: Preliminary Affirmative Determination of Sales at Less Than Fair Value*, 85 FR 65358 (October 15, 2020) at Appendix II, Attachments II and VI; *Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023, 54025-26 (September 13, 2005); and *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794-96 (August 30, 2002).

³⁴ See section 776(b)(1)(B) of the Act.

³⁵ See SAA, H.R. Doc. 103-316, Vol. 1 (1994) at 870; see also *Certain Polyester Staple Fiber from Korea: Final Results of the 2005-2006 Antidumping Duty Administrative Review*, 72 FR 69663, 69664 (December 10, 2007).

³⁶ See, e.g., *Nippon Steel Corp. v. United States*, 337 F. 3d 1373, 1382-83 (Fed. Cir. 2003); *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless-Steel Hollow Products from Japan*, 65 FR 42985 (July 12, 2000); and *Preamble*, 62 FR at 27340.

³⁷ See SAA at 870; see also *Steel Threaded Rod from Thailand: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances*, 78 FR 79670 (December 31, 2013), and accompanying Issues and Decision Memorandum (IDM) at 4, unchanged in *Steel Threaded Rod from Thailand: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances*, 79 FR 14476 (March 14, 2014).

³⁸ See 19 CFR 351.308(c).

rate based on AFA, Commerce selects a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.³⁹ In doing so, Commerce is not required to determine, or make any adjustments to, a weighted-average dumping margin based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information.⁴⁰ Commerce's practice is to select, as an AFA rate, the higher of: (1) the highest dumping margin alleged in the petition; or (2) the highest calculated rate of any respondent in the investigation.⁴¹

When using facts otherwise available, section 776(c) of the Act provides that, where Commerce relies on secondary information (such as the petition) rather than on information obtained in the course of an investigation, it must corroborate, to the extent practicable, information from independent sources that are reasonably at its disposal. Secondary information is defined as information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.⁴² The SAA clarifies that "corroborate" means that Commerce will satisfy itself that the secondary information to be used has probative value.⁴³ To corroborate secondary information, Commerce will, to the extent practicable, examine the reliability and relevance of the information to be used.⁴⁴ Further, Commerce is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an "alleged commercial reality" of the interested party.⁴⁵

B. Use of Facts Available

On December 9, 2020, Commerce issued an antidumping duty questionnaire to Arconic.⁴⁶ Commerce subsequently received confirmation that the questionnaire was delivered to the address from the CBP data query results used for respondent selection purposes.⁴⁷ Arconic did not file an entry of appearance or request an extension of the deadlines stated in Commerce's questionnaire. Additionally, Arconic failed to submit a Section A questionnaire response by the

³⁹ See SAA at 870.

⁴⁰ See section 776(b)(1)(B) of the Act.

⁴¹ See *Welded Stainless Pressure Pipe from Thailand: Final Determination of Sales at Less Than Fair Value*, 79 FR 31093 (May 30, 2014), and accompanying IDM at Comment 3.

⁴² See SAA at 870.

⁴³ *Id.*; see also 19 CFR 351.308(d).

⁴⁴ See, e.g., *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).

⁴⁵ See sections 776(d)(3)(A) and (B) of the Act.

⁴⁶ Commerce initially issued a questionnaire on November 16, 2020 to CBA's counsel, and subsequently issued an additional questionnaire on December 9, 2020 to Arconic based on the address information obtained from the CBP Entry Data.

⁴⁷ See Memorandum, "FedEx Delivery Confirmation of Antidumping Duty Initial Questionnaire to Arconic Ind. e Com de Metias LTDA," dated December 15, 2020.

deadline of December 30, 2020, or Sections B-D questionnaire by the stated deadline of January 15, 2021.⁴⁸

Arconic has not timely responded to Commerce's requests for information concerning its Sections A, B, C and D responses in this investigation. Accordingly, we preliminarily find that the necessary information is not available on the record of this investigation, that Arconic withheld requested information, that it failed to provide information by the specified deadlines, and that it significantly impeded the investigation by failing to respond to Commerce's requests for information. The record demonstrates that CB Alumínio purchased 100 percent of the equity of Arconic. At that time, CB Alumínio became the sole owner of the company and changed its name to CBA Itapissuma.⁴⁹ On January 25, 2021, CBA submitted certain sales and cost information regarding Arconic in its Sections B-D questionnaire response. However, counsel for CBA indicated that they do not represent any Arconic entity in Brazil.⁵⁰ CBA indicated in CBA's AQR that "{t}his response does not cover activities prior to the effective date of the acquisition, when Arconic owned and was responsible for the business."⁵¹

We find that Arconic has not timely responded to Commerce's requests for information concerning its Sections A, B, C and D responses in this investigation. Accordingly, we preliminarily find that the necessary information is not available on the record of this investigation, that Arconic withheld requested information, that it failed to provide information by the specified deadlines, and that it significantly impeded the investigation by failing to respond to Commerce's requests for information. With respect to the limited information related to Arconic that was submitted by CBA, Commerce cannot accept information and is rejecting the information CBA submitted regarding Arconic. First, CBA and its counsel do not represent Arconic. Second, we cannot accept the certification of the accuracy of the Arconic business proprietary data provided by the third party, CBA, and thus such information does not have a proper certification of factual information. Third, the information was not timely submitted by the actual mandatory respondent named in Commerce's questionnaire (*i.e.*, Arconic), and Commerce is rejecting the information CBA submitted regarding Arconic because Arconic did not submit an entry of appearance in this proceeding for Arconic, and thus, CBA's submissions containing Arconic's data and information constitute an unsolicited questionnaire response.

Due to Arconic's non-responsiveness to Commerce's questionnaire, we find that necessary information is missing from the record, and Commerce is unable to perform the necessary analysis to calculate an estimated weighted-average dumping margin based on complete and verifiable information from Arconic. Moreover, because Arconic failed to timely provide requested information, section 782(e) of the Act is not applicable. Accordingly, pursuant to

⁴⁸ See Commerce's Questionnaire.

⁴⁹ See CBA December 14, 2020 AQR at A-1.

⁵⁰ See CBA's Letter, "Aluminum Foil From Brazil: Clarification Regarding Extension Request for Response to Section A," dated December 3, 2020 at 2.

⁵¹ See CBA AQR at A-1.

sections 776(a)(1) and 776(a)(2)(A), (B), and (C) of the Act, we are relying upon facts otherwise available to determine Arconic's preliminary dumping margin.⁵²

C. Use of Adverse Inferences

We preliminarily find that Arconic has failed to cooperate to the best of its abilities by failing to comply with Commerce's requests for information, *i.e.*, providing complete responses to Sections A, B, C, and D of the questionnaire in this investigation, as Commerce requested. Failure to provide complete and timely questionnaire responses significantly impeded the proceeding by limiting our ability to understand Arconic's sales and cost of production information. In this case, Arconic failed to provide any response so necessary information is missing from the record of this proceeding as a result of Arconic's failure to cooperate in complying with Commerce's request for information.

Based on the deficiencies summarized above, we preliminarily conclude that Arconic failed to cooperate to the best of its ability, and thus, an adverse inference is warranted in selecting from among the facts otherwise available, in accordance with section 776(b) of the Act and 19 CFR 351.308.

D. Selection and Corroboration of the AFA Rate

In this investigation, we have assigned an estimated weighted-average dumping margin to Arconic of 63.05 percent, which is the estimated antidumping duty margin calculated by the petitioners in the Petition, on the basis of the comparison of U.S. price to home market price.⁵³ In order to determine the probative value of the dumping margin alleged in the petition for assigning an AFA rate, we examined the information on the record. When we compared the petition dumping margin of 63.05 percent to the transaction-specific dumping margins for the mandatory respondent, CBA, we found product-specific margins at or above the petition rate⁵⁴ and, as a consequence, we find that the rate alleged in the petition, as noted in the *Initiation Notice*, is within the range of transaction-specific margins computed for this preliminary determination.

⁵² See, e.g., *Common Alloy Aluminum Sheet from Romania: Preliminary Affirmative Determination of Sales at Less Than Fair Value*, 85 FR 65358 (October 15, 2020) at Appendix II, Attachments II and V; *Non-Oriented Electrical Steel from Germany, Japan, and Sweden: Preliminary Determinations of Sales at Less Than Fair Value, and Preliminary Affirmative Determinations of Critical Circumstances, in Part*, 79 FR 29423 (May 22, 2014), and accompanying Preliminary Decision Memorandum (PDM) at 7-11, unchanged in *Non Oriented Electrical Steel from Germany, Japan, the People's Republic of China, and Sweden: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determinations of Critical Circumstances, in Part*, 79 FR 61609 (October 14, 2014); *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR at 42985, 42986 (July 12, 2000) (where Commerce applied total AFA when the respondent failed to respond to the antidumping questionnaire); and 19 CFR 351.308(c).

⁵³ See *Initiation Notice* at 67714; see also Petitioners' Letter, "Certain Aluminum Foil from Armenia, Brazil, Oman, Russia, and Turkey – Petitioners' Supplement to Volume III Relating to a Request for the Imposition of Antidumping Duties on Imports from Brazil," dated October 6, 2020 at 8 and Exhibit AD-BR-S-3.

⁵⁴ See Memorandum, "Corroboration of Adverse Facts Available Rate for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Certain Aluminum Foil from Brazil," dated concurrently with this memorandum.

In sum, Commerce corroborated the AFA rate of 63.05 percent to the extent practicable within the meaning of section 776(c) of the Act, because the rate is relevant to the uncooperative respondent. Because the 63.05 percent rate is both reliable and relevant, we determine that it has probative value, and thus, it has been corroborated to the extent practicable, pursuant to section 776(c) of the Act. Thus, we preliminarily assigned this AFA rate to the subject merchandise from Arconic.

VII. AFFILIATION, COLLAPSING, AND PRELIMINARY SUCCESSOR-IN-INTEREST DETERMINATION

As noted above, Commerce selected Arconic Ind. E Com de Metias LTDA (Arconic) and Companhia Brasileira de Alumínio for individual examination as mandatory respondents in this investigation.⁵⁵ On December 14, 2020, CB Alumínio and CBA Itapissuma (collectively, CBA) submitted a response to Commerce’s initial questionnaire and indicated that, effective February 2020, CBA Alumínio purchased 100 percent of the equity of Arconic, whose facility was located in Itapissuma, Pernambuco, Brazil. At that time, CB Alumínio became the sole owner of the company and changed its name to CBA Itapissuma.⁵⁶ Commerce examined the relationship of CB Alumínio and CBA Itapissuma, and based on our analysis of the information submitted concerning affiliation, we find that Companhia Brasileira de Alumínio (CBA Alumínio) and CBA Itapissuma Ltda. (collectively, CBA) are affiliated pursuant to section 771(33)(E) and (G) of the Act, and further, that they should be treated as a single entity for the purposes of this investigation, pursuant to 19 CFR 351.401(f).⁵⁷ Furthermore, based on the totality of the circumstances, we preliminarily determine that CBA Itapissuma operates as a distinct and independent entity from the former Arconic company, and, thus, CBA Itapissuma is not the successor-in-interest to Arconic.⁵⁸

VIII. DISCUSSION OF THE METHODOLOGY

A. Comparisons to Normal Value

To determine whether sales of aluminum foil from Brazil to the United States were made at LTFV, we compared the export price (EP) to the NV, as described in the “U.S. Price” and “Normal Value” sections of this memorandum, below.

1. Determination of the Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average NV to weighted-average EP, *i.e.*, the average-to-average method, unless the Secretary determines that another method is appropriate in a particular situation. In

⁵⁵ See Memorandum, “Less-Than-Fair-Value Investigation of Certain Aluminum Foil from Brazil: Respondent Selection,” dated November 12, 2020.

⁵⁶ See CBA’s December 14, 2020 Section A Questionnaire Response (CBA December 14, 2020 AQR) at A-1.

⁵⁷ See Memorandum, “Antidumping Investigation of Certain Aluminum Foil from Brazil: Companhia Brasileira de Alumínio and CBA Itapissuma Ltda. Affiliation and Collapsing Memorandum, and Preliminary Successor-In-Interest Determination,” dated concurrently with this memorandum.

⁵⁸ *Id.*

LTFV investigations, Commerce examines whether to compare weighted-average NVs with the EPs 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.⁵⁹ 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 EPs 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.*, zip code, and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POI based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region, and time period, that Commerce uses in making comparisons between EP and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* coefficient is a generally recognized statistical measure of the extent of the difference between the mean, *i.e.*, weighted-average price, of a test group and the mean, *i.e.*, weighted-average price, of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region, or time period each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s *d* coefficient is used to evaluate the extent to which the prices to the particular purchaser, region, or time period differ significantly from the prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen’s *d* test: small, medium, or large (0.2, 0.5, and 0.8,

⁵⁹ 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).

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.⁶⁰

⁶⁰ The CAFC in *Apex Frozen Foods v. United States*, 16-1789 (CAFC 2017) affirmed much of Commerce's differential pricing methodology. We request that interested parties present only arguments on issues which have not already been decided by the CAFC.

2. Results of the Differential Pricing Analysis

For CBA, based on the results of the differential pricing analysis, Commerce preliminarily finds that 66.39 percent of the value of U.S. sales pass the Cohen's *d* test, confirming 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 A-A method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the A-T method to all U.S. sales. Thus, we preliminarily determine to apply average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for CBA.

B. Product Comparisons

As stated above, Commerce gave parties an opportunity to comment on the appropriate hierarchy of physical characteristics used to define each product, including for model matching purposes, within a certain deadline.⁶¹ We considered the comments that were submitted and established the appropriate product characteristics to use as a basis for defining the product control numbers of aluminum foil in this investigation. Commerce identified seven criteria for the physical characteristics of the subject merchandise: (1) gauge; (2) coating; (3) width; (4) casting method; (5) alloy; (6) temper; and (7) surface finish.⁶² We instructed CBA and Arconic to use these product characteristics in response to the AD questionnaire issued in this investigation.⁶³

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

C. Date of Sale

Section 351.401(i) of Commerce's regulations states that, in identifying the date of sale of the subject merchandise or foreign like product, Commerce normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business. Additionally, Commerce may use a date other than the date of invoice if it is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.⁶⁴ Finally, Commerce has a long-standing practice of finding that, where the shipment date precedes the invoice date, the shipment date better reflects the date on which the material terms of sale are established.⁶⁵

⁶¹ See *Initiation Notice*, 85 FR at 67712.

⁶² See Final Product Characteristics Memorandum.

⁶³ *Id.*

⁶⁴ 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)).

⁶⁵ See, e.g., *Certain Polyester Staple Fiber from the Republic of Korea: Preliminary Results of the 2007/2008*

CBA reported the “nota fiscal” (Brazilian tax invoice) date as the date of sale for both its home market and U.S. sales.⁶⁶ CBA states that, in the ordinary course of business in Brazil, a seller must issue a Brazilian tax invoice either before, or on the date of shipment of merchandise to the customer.⁶⁷ CBA reports that its key material terms of sale are not established until the purchase order is issued and are subject to further change until issuance of the Brazilian tax invoice.⁶⁸

An analysis of CBA’s home market and U.S. sales database corroborated CBA’s claim that the Brazilian tax invoice date was reported as occurring either before, or on the date of shipment. After examining the information on the record, we preliminarily find that the material terms of sale are established when the Brazilian tax invoice date is issued. Accordingly, consistent with 19 CFR 351.401(i) and Commerce’s practice, we preliminarily determine that the Brazilian tax invoice date is the most appropriate date of sale for all sales in the home market and all EP sales in the U.S market.

D. Export Price

Section 772(a) of the Act defines EP as “the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c).”

CBA stated that all of its reported U.S. sales are EP sales.⁶⁹ We calculated EP based on the price that CBA charged to the first unaffiliated purchaser in the United States. We made adjustments, where appropriate, from the starting price for billing adjustments, movement expenses, *i.e.*, foreign inland freight, foreign brokerage and handling, foreign insurance, domestic warehousing, certain delayed shipping fees incurred, international freight, marine insurance, U.S. inland freight, other U.S. transportation expenses (*i.e.*, U.S. customs processing fees, and U.S. harbor maintenance fees), and section 232 duties (as appropriate) in accordance with section 772(c)(2)(A) of the Act.

E. Normal Value

1. Comparison Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, *i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales, we normally compare the respondent’s volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with sections 773(a)(1)(A)

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

⁶⁶ See CBA’s AQR at A-20.

⁶⁷ *Id.*

⁶⁸ *Id.* at A-25 and Exhibit A-12.

⁶⁹ See CBA’s CQR at C-4.

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 this investigation, we preliminarily determined that the aggregate volume of home market sales of the foreign like product for CBA was more than five percent of the aggregate volume of its U.S. sales of the subject merchandise. Based on our analysis of information on the record, we preliminarily determine that CBA's home market of Brazil is viable.⁷⁰ Therefore, we used home market sales in Brazil as the basis for NV for CBA in accordance with section 773(a)(1)(A) and (B) of the Act.

2. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, Commerce will calculate NV based on sales at the same level of trade (LOT) as the U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).⁷¹ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.⁷² 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,⁷³ we consider the starting prices before any adjustments.

When Commerce is unable to match sales of the foreign like product in the comparison market at the same LOT as the EP, Commerce may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP 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.

In this investigation, we obtained information from CBA regarding the marketing stages involved in making the reported home market and U.S. sales, including a description of the selling activities performed for each channel of distribution.⁷⁴ Our LOT findings are summarized below.

⁷⁰ See CBA's AQR at A-3.

⁷¹ See 19 CFR 351.412(c)(2).

⁷² *Id.*; see also *Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not to Revoke Antidumping Duty Order in Part*, 75 FR 50999 (August 18, 2010), and accompanying IDM at Comment 7.

⁷³ 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).

⁷⁴ See CBA's AQR at A-17 to A-19 and Exhibit A-10; see also CBA's ABCSQR at 17-18 and Exhibit SSQ-16.

CBA

In the home market, CBA Alumínio reported that it made sales through two channels of distribution, *i.e.*, direct sales to unaffiliated end users and distributors, and sales that were shipped from the company's distribution warehouse to unaffiliated end users.⁷⁵ CBA Itapissuma made sales through one channel of distribution in the home market based on sales that were directly shipped to unaffiliated end users and distributors.⁷⁶ Selling activities can be generally grouped into five selling function categories for analysis, specifically, provision of: (1) sales support; (2) training services; (3) technical support; (4) logistical services; and (5) sales related administrative activities. Based on CBA's selling functions chart, we find that CBA performed sales support, technical support, logistical services, and sales-related administrative activities for all home market sales.

According to 19 CFR 351.412(c)(2), Commerce will determine that sales are made at different LOTs if they are made at different marketing stages (or their equivalent). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stage of marketing. Because CBA performs the same selling functions for all of its home market sales in its two channels of distribution in the home market, we preliminarily determine that there is one LOT in the home market for CBA.

With respect to the U.S. market, CBA Alumínio reported that it made EP sales through one channel of distribution to the United States, direct sales to unaffiliated end users. CBA Itapissuma reported that it made EP sales through two channels of distribution to the United States: (1) direct sales to unaffiliated end users and trading companies; and (2) sales through unaffiliated sales agents that were directly shipped to unaffiliated end users and trading companies.⁷⁷ Selling functions performed by CBA for EP sales, include sales support, logistical services, sales related administrative activities, and technical support.⁷⁸ Because CBA performs the same selling functions for all of its U.S. sales in its U.S. two channels of distribution, we preliminarily determine that there is one LOT in the United States for CBA.

Finally, we compared the U.S. LOT to the home market LOT, and found that the selling functions CBA performed for its U.S. and home market customers are essentially identical.⁷⁹ Specifically, CBA performed the same selling functions for sales in the home market, which are grouped in one LOT, as it performed for its sales in the U.S. market, which are also grouped in one LOT.⁸⁰ Therefore, we preliminarily determine that sales to the United States and home market during the POI were made at the same LOT and, as a result, no LOT adjustment is warranted.

⁷⁵ *Id.* at A-17 and Exhibit A-10; *see also* CBA's ABCSQR at 17-18 and Exhibit SSQ-16.

⁷⁶ *Id.*

⁷⁷ *Id.* at A-17 and Exhibit A-10.

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.*

3. Cost of Production Analysis

In accordance with section 773(b)(2)(A)(ii) of the Act, Commerce requested cost of production (COP) information from CBA. We examined CBA's cost data and determined that our quarterly cost methodology is not warranted, and therefore, we are applying our standard methodology of using annual costs based on CBA's reported data.

a. 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 of fabrication for the foreign like product, plus amounts for general and administrative expenses (G&A) and interest expenses. We relied on the COP data submitted by CBA except in the following instances. In accordance with 773(f)(2) of the Act, we revised CBA Alumínio's purchases of electricity from certain affiliated suppliers to reflect the higher market price.⁸¹ We denied CBA Alumínio's reported offset for accelerated depreciation expenses related to the company's smelters.⁸² We also revised the numerator of CBA Itapissuma's G&A expense rate to include certain expenses.⁸³

b. Test of Comparison Market Sales Prices

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

c. Results of the COP Test

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

⁸¹ See Memorandum to Neal Halper, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Companhia Brasileira de Alumínio and CBA Itapissuma Ltda.," dated concurrently with this memorandum.

⁸² *Id.*

⁸³ *Id.*

average COPs for the POI, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

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

F. Calculation of NV Based on Comparison-Market Prices

We calculated NV for CBA based on prices to unaffiliated customers. We made deductions for movement expenses in accordance with section 773(a)(6)(B)(ii) of the Act, which included, where appropriate, foreign inland freight, foreign warehousing, and insurance. We made adjustments for differences in circumstances of sale pursuant to section 773(a)(6)(C)(iii) of the Act by deducting home market direct selling expenses (*i.e.*, late payments, warranty payments, and imputed credit expenses) and adding U.S. direct selling expenses (*i.e.*, imputed credit expenses, warranty expenses), where appropriate.

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.⁸⁴ We also deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act.

IX. CURRENCY CONVERSION

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

⁸⁴ See *Stainless Steel Bar from France: Final Results of Antidumping Duty Administrative Review*, 70 FR 46482 (August 10, 2005), and accompanying IDM at Comment 8.

X. RECOMMENDATION

We recommend applying the above methodology for this preliminary determination.



Agree



Disagree

4/27/2021

X



Signed by: CHRISTIAN MARSH

Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance