A-475-838
Administrative Review
POR: 11/22/2017 – 05/31/2019
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October 14, 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 Results of the Administrative Review of the Antidumping Duty Order on Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from Italy; 2017-2019

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on certain cold-drawn mechanical tubing of carbon and alloy steel (cold-drawn mechanical tubing) from Italy for the period of review (POR) November 22, 2017 through May 31, 2019. The review covers one company, Dalmine S.p.A, (Dalmine). We preliminary determine that Dalmine made sales of subject merchandise at prices below normal value (NV) during the POR.

II. BACKGROUND

On June 11, 2018, Commerce published in the *Federal Register* the AD order on cold-drawn mechanical tubing from Italy.[1] On June 3, 2019, Commerce published a notice of opportunity to request an administrative review of the *Order* for the POR.[2] Pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b)(1), Commerce received timely requests to conduct an administrative review of the *Order* on cold-drawn mechanical tubing from Italy from ArcelorMittal Tubular Products LLC, Michigan Seamless Tube, LLC, PTC Alliance

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[1] *See Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China, the Federal Republic of Germany, India, Italy, the Republic of Korea, and Switzerland: Antidumping Duty Orders; and Amended Final Determinations of Sales at Less Than Fair Value for the People's Republic of China and Switzerland*, 83 FR 26962 (June 11, 2018) (*Order*).
[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 84 FR 25521 (June 3, 2019).

Corp., and Webco Industries, Inc. (collectively, the petitioners) and Dalmine.[3] On July 29, 2019, in accordance with 19 CFR 351.221(c)(i), we published a notice of initiation of administrative review covering Dalmine, Alessio Tubi S.p.A. (Alessio), Arvedi Tubi Acciaio S.p.A., (Arvedi), Italsempione S.p.A, (Italsempione), Marcegaglia Novero S.p.A. (Marcegaglia), Metalfer S.p.A (Metalfer), and Pipex Italia S.p.A. (Pipex).[4]

On September 10, 2019, Commerce selected Dalmine and Metalfer as mandatory respondents in this review.[5] On September 12, 2019, we issued the AD questionnaire to Dalmine and Metalfer. Commerce stated in the *Initiation Notice* that parties may withdraw a request for an administrative review within 90 days of publication of the *Initiation Notice*.[6] On October 8, 2019, petitioners withdrew their request for an administrative review for all respondents.[7] Dalmine, however, did not withdraw its request for an administrative review. Accordingly, on November 4, 2019, Commerce published in the *Federal Register* a partial rescission of the administrative review with respect to Alessio, Arvedi, Italsempione, Marcegaglia, Metalfer and Pipex.[8]

From October 2019 through July 2020, Dalmine submitted timely responses to Commerce's initial and supplemental questionnaires.[9]

Pursuant to section 751(a)(3)(A) of the Act, Commerce determined that it was not practicable to complete the preliminary results of this review within 245 days and extended the preliminary results by 117 days.[10] On April 24, 2020, Commerce tolled all deadlines in administrative reviews by 50 days.[11] On July 21, 2020, Commerce tolled all deadlines in administrative reviews by an additional 60 days.[12] The deadline for the preliminary results of this review is now October 14, 2020.

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[3] *See* Dalmine's Letter, "Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from Italy: Request for Administrative Review for the Period November 22, 2017 – May 31, 2019," dated June 28, 2019; *see also* Petitioners' Letter, "Cold-Drawn Mechanical Tubing from Italy – Domestic Industry's Request for First Administrative Review," dated July 1, 2019.
[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 36572 (July 29, 2019) (*Initiation Notice*).
[5] *See* Memorandum, "Administrative Review of Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel: Respondent Selection," dated September 10, 2019.
[6] *See Initiation Notice*, 84 FR at 36572.
[7] *See* Petitioners' Letter, "Cold-Drawn Mechanical Tubing from Italy – Domestic Industry's Withdrawal of Request for First Administrative Review," dated October 8, 2019.
[8] *See Certain Cold Drawn Mechanical Tubing of Carbon and Alloy Steel from Italy: Partial Rescission of Antidumping Duty Administrative Review; 2017 – 2019*, 84 FR 59357 (November 4, 2019).
[9] *See* Dalmine's October 3, 2019 Section A Questionnaire Response (Dalmine October 3, 2019 AQR); *see also* Dalmine's October 29, 2019 Section D Questionnaire Response; Dalmine's November 1, 2019 Sections B and C Questionnaire Response (Dalmine November 1, 2019 BCQR); Dalmine's January 10, 2020 Supplemental A-C Response; Dalmine's June 23, 2020 Supplemental B-D Response; and Dalmine's July 21, 2020 Supplemental D Response.
[10] *See* Memorandum, "Certain Cold Drawn Mechanical Tubing from Italy: Extension of Deadline for Preliminary Results of the Antidumping Duty Administrative Review," dated February 5, 2020.
[11] *See* Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID-19," dated April 24, 2020.
[12] *See* Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews," dated July 21, 2020.

We received comments for these preliminary results from the petitioners and Dalmine, which we have considered.[13]

III. SCOPE OF THE ORDER

The products covered by the order are cold-drawn mechanical tubing of carbon and alloy steel of circular cross-section, 304.8 mm or more in length, in actual outside diameters less than 331mm, and regardless of wall thickness, surface finish, end finish or industry specification. The subject cold-drawn mechanical tubing is a tubular product with a circular cross-sectional shape that has been cold-drawn or otherwise cold-finished after the initial tube formation in a manner that involves a change in the diameter or wall thickness of the tubing, or both. The subject cold-drawn mechanical tubing may be produced from either welded (*e.g.*, electric resistance welded, continuous welded, etc.) or seamless (*e.g.*, pierced, pilgered or extruded, etc.) carbon or alloy steel tubular products. It may also be heat treated after cold working. Such heat treatments may include, but are not limited to, annealing, normalizing, quenching and tempering, stress relieving or finish annealing. Typical cold-drawing methods for subject merchandise include, but are not limited to, drawing over mandrel, rod drawing, plug drawing, sink drawing and similar processes that involve reducing the outside diameter of the tubing with a die or similar device, whether or not controlling the inside diameter of the tubing with an internal support device such as a mandrel, rod, plug or similar device. Other cold-finishing operations that may be used to produce subject merchandise include cold-rolling and cold-sizing the tubing.

Subject cold-drawn mechanical tubing is typically certified to meet industry specifications for cold-drawn tubing including but not limited to:

> (1) American Society for Testing and Materials (ASTM) or American Society of Mechanical Engineers (ASME) specifications ASTM A-512, ASTM A-513 Type 3 (ASME SA513 Type 3), ASTM A-513 Type 4 (ASME SA513 Type 4), ASTM A-513 Type 5 (ASME SA513 Type 5), ASTM A-513 Type 6 (ASME SA513 Type 6), ASTM A-519 (cold-finished);
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> (2) SAE International (Society of Automotive Engineers) specifications SAE J524, SAE J525, SAE J2833, SAE J2614, SAE J2467, SAE J2435, SAE J2613;
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> (3) Aerospace Material Specification (AMS) AMS T-6736 (AMS 6736), AMS 6371, AMS 5050, AMS 5075, AMS 5062, AMS 6360, AMS 6361, AMS 6362, AMS 6371, AMS 6372, AMS 6374, AMS 6381, AMS 6415;
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> (4) United States Military Standards (MIL) MIL-T-5066 and MIL-T-6736;
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> (5) foreign standards equivalent to one of the previously listed ASTM, ASME, SAE, AMS or MIL specifications including but not limited to:

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[13] *See* Petitioner’s Letter, “First Administrative Review of the Antidumping Duty Order on Cold-Drawn Mechanical Tubing from Italy – Petitioners’ Pre-Preliminary Results Comments Regarding Dalmine S.p.A,” dated September 25, 2020; *see also* Dalmine’s Letter, “Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from Italy: Reply to Petitioner’s Pre-Preliminary Results Comments Regarding Dalmine S.p.A.,” dated October 2, 2020.

(a) German Institute for Standardization (DIN) specifications DIN 2391-2, DIN 2393-2, DIN 2394-2);

(b) European Standards (EN) EN 10305-1, EN 10305-2, EN 10305-4, EN 10305-6 and European national variations on those standards (*e.g.*, British Standard (BS EN), Irish Standard (IS EN) and German Standard (DIN EN) variations, etc.);

(c) Japanese Industrial Standard (JIS) JIS G 3441 and JIS G 3445; and

(6) proprietary standards that are based on one of the above-listed standards.

The subject cold-drawn mechanical tubing may also be dual or multiple certified to more than one standard. Pipe that is multiple certified as cold-drawn mechanical tubing and to other specifications not covered by this scope, is also covered by the scope of these order when it meets the physical description set forth above.

Steel products included in the scope of the order are products in which: (1) iron predominates, by weight, over each of the other contained elements; and (2) the carbon content is 2 percent or less by weight.

For purposes of this scope, the place of cold-drawing determines the country of origin of the subject merchandise. Subject merchandise that is subject to minor working in a third country that occurs after drawing in one of the subject countries including, but not limited to, heat treatment, cutting to length, straightening, nondestruction testing, deburring or chamfering, remains within the scope of the order.

All products that meet the written physical description are within the scope of the order unless specifically excluded or covered by the scope of an existing order. Merchandise that meets the physical description of cold-drawn mechanical tubing above is within the scope of the order even if it is also dual or multiple certified to an otherwise excluded specification listed below. The following products are outside of, and/or specifically excluded from, the scope of the order:

(1) cold-drawn stainless steel tubing, containing 10.5 percent or more of chromium by weight and not more than 1.2 percent of carbon by weight;

(2) products certified to one or more of the ASTM, ASME or American Petroleum Institute (API) specifications listed below:

- ASTM A-53;
- ASTM A-106;
- ASTM A-179 (ASME SA 179);
- ASTM A-192 (ASME SA 192);
- ASTM A-209 (ASME SA 209);
- ASTM A-210 (ASME SA 210);
- ASTM A-213 (ASME SA 213);

- ASTM A-334 (ASME SA 334);
- ASTM A-423 (ASME SA 423);
- ASTM A-498;
- ASTM A-496 (ASME SA 496);
- ASTM A-199;
- ASTM A-500;
- ASTM A-556;
- ASTM A-565;
- API 5L; and
- API 5CT

except that any cold-drawn tubing product certified to one of the above excluded specifications will not be excluded from the scope if it is also dual- or multiple-certified to any other specification that otherwise would fall within the scope of the order.

The products subject to this order are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.31.3000, 7304.31.6050, 7304.51.1000, 7304.51.5005, 7304.51.5060, 7306.30.5015, 7306.30.5020, 7306.50.5030. Subject merchandise may also enter under numbers 7306.30.1000 and 7306.50.1000. The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of this order is dispositive.

IV. DISCUSSION OF THE METHODOLOGY

Comparisons to Normal Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether Dalmine's sales of the subject merchandise from Italy to the United States were made at less than NV, Commerce compared the export price (EP) and constructed export price (CEP) to the NV as described in the "Export Price and Constructed Export Price" and "Normal Value" sections of this memorandum.

A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates dumping margins by comparing weighted-average NVs to weighted-average EPs (or CEPs) (the average-to-average method) unless Commerce determines that another method is appropriate in a particular situation. In less-than-fair-value (LTFV) investigations, Commerce examines whether to compare weighted-average NVs with the EPs (or CEPs) of individual sales (*i.e.*, the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(l)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern Commerce's examination of this question in the context of administrative reviews, the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is analogous to the issue in LTFV investigations.[14]

In recent investigations, Commerce applied a "differential pricing" analysis for determining whether application of average-to-transaction comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.[15] Commerce finds that the differential pricing analysis used in those recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and on Commerce's additional experience with addressing the potential masking of dumping that can occur when Commerce uses the average-to-average method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of EPs (or CEPs) 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 POR based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, 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

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[14] *See Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews*; *2010–2011*, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum (IDM) at Comment 1; *see also JBF RAK LLC v. United States*, 790 F. 3d 1358, 1363-65 (Fed. Cir. 2015) ("{t}the fact that the statute is silent with regard to administrative reviews does not preclude Commerce from filling gaps in the statute to properly calculate and assign antidumping duties") (citations omitted).

[15] *See, e.g.*, *Polyethylene Terephthalate Resin from Taiwan: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 83 FR 19696 (May 4, 2018), unchanged in *Polyethylene Terephthalate Resin from Taiwan: Final Determination of Sales at Less Than Fair Value, and Final Affirmative Determination of Critical Circumstances, in Part*, 83 FR 48287 (September 24, 2018); *Large Diameter Welded Pipe from Canada: Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 83 FR 43649 (August 27, 2018), unchanged in *Large Diameter Welded Pipe from Canada: Final Affirmative Determination of Sales at Less Than Fair Value*, 84 FR 6378 (February 27, 2019); and *Cast Iron Soil Pipe from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 83 FR 44567 (August 31, 2018), unchanged in *Cast Iron Soil Pipe from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 84 FR 6767 (February 28, 2019).

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

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

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

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.[16]

B. Results of the Differential Pricing Analysis

Based on the results of the differential pricing analysis, Commerce preliminarily finds that 62.44 percent of the value of Dalmine's U.S. sales pass the Cohen's *d* test,[17] and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines that the average-to-average method cannot account for such differences because there is a 25 percent relative change between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test. Thus, for these preliminary results, Commerce is applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test to calculate the weighted-average dumping margin for Dalmine.

V. PRODUCT COMPARISONS

In accordance with section 771(16)(A) of the Act, we considered all products produced and sold by Dalmine in Italy, as described in the "Scope of the Order" section, above, that were sold in the ordinary course of trade. Commerce 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, Commerce compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade.

In making product comparisons, Commerce matched foreign like products based on the physical characteristics reported by Dalmine in the following order of importance: tube form, type, grade, outside diameter, wall thickness, heat treatment, plating, painted, length, and surface finish.

Pursuant to 19 CFR 351.414(f), we compared U.S. sales of cold-drawn mechanical tubing to home market sales of cold-drawn mechanical tubing within the contemporaneous window period, which extends from three months prior to the month of the first U.S. sale until two months after the month of the last U.S. sale. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, according to section 771(16)(B) of the Act, we compared U.S. sales of cold-drawn mechanical tubing to sales of the most similar foreign like product made in the ordinary course of trade.

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

[17] See Memorandum, "Administrative Review of the Antidumping Duty Order on Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from Italy: Preliminary Results Analysis Memorandum for Dalmine S.p.A.," dated concurrently with this memorandum (Preliminary Analysis Memorandum).

VI. DATE OF SALE

Section 351.401(i) of Commerce's regulations states that, "{i}n identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business." The regulation provides further that Commerce may use a date other than the date of invoice if Commerce is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.[18] Commerce has a long-standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established.[19]

For both its home market and U.S. sales, Dalmine reported the earlier of shipment date or invoice date as the date of sale.[20] We determined that there were no instances where invoice date preceded shipment date in the home market or the U.S. Market.[21] Accordingly, we used the shipment date as the date of sale in both the U.S. and home markets for these preliminary results.

VII. EXPORT PRICE AND CONSTRUCTED EXPORT PRICE

For certain sales made by Dalmine, we used EP methodology, in accordance with section 772(a) of the Act, because the subject merchandise was first sold by the producer or 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. For Dalmine's remaining U.S. sales, we used CEP methodology, in accordance with section 772(b) of the Act, because the subject merchandise was sold in the United States by a U.S. seller affiliated with the producer or exporter.

A. EP

We calculated EP based on packed prices to unaffiliated purchasers in the United States. We made adjustments, where appropriate, from the starting price for billing adjustments. We also made deductions from the starting price, where appropriate, for movement expenses, *i.e.*, foreign inland freight and foreign brokerage and handling, in accordance with section 772(c)(2)(A) of the Act.

B. CEP

We calculated CEP based on packed, delivered prices to unaffiliated purchasers in the United States. We made adjustments, where appropriate, from starting price for billing adjustments.

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[18] *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)).
[19] *See, e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (December 23, 2004), and accompanying IDM at Comment 10; *see also Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002), and accompanying IDM at Comment 2.
[20] *See* Dalmine October 3, 2019 AQR at 20.
[21] *See* Dalmine November 1, 2019 BCQR at 30.

We also made deductions from the starting price, where appropriate for movement expenses, in accordance with section 772(c)(2)(A) of the Act; these expenses included, where appropriate, foreign inland freight, foreign brokerage and handling, U.S. brokerage and handling, U.S. customs duties, international freight, marine insurance, warehousing, and U.S. inland freight.

In accordance with section 772(d)(1) of the Act, we calculated CEP by deducting selling expenses associated with economic activities occurring in the United States, which include direct selling expenses (*i.e.,* credit expenses) and indirect selling expenses (*i.e.*, inventory carrying costs and other indirect selling expenses).

Finally, we made an adjustment for profit allocated to CEP selling expenses, in accordance with section 772(d)(3) of the Act. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Dalmine and its U.S. affiliate, Tenaris Global Services USA (TGS USA), on their sales of subject merchandise in the United States and the profit associated with those sales.

VIII. NORMAL VALUE

A. Home Market Viability

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

In this review, Commerce preliminarily determines that the aggregate volume of home market sales of the foreign like product for Dalmine was greater than five percent of the aggregate volume of its U.S. sales of the subject merchandise. Therefore, Commerce used the home market sales as the basis for NV for Dalmine, in accordance with section 773(a)(1)(B) of the Act.[22]

B. 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).[23] Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that

[22] *See* Dalmine October 3, 2019 AQR at 4.
[23] *See* 19 CFR 351.412(c)(2).

there is a difference in the stages of marketing.[24] 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),[25] we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.[26]

When Commerce is unable to compare the NV based on the prices of the foreign like product in the comparison market with CEP at the same LOT, Commerce may compare the U.S. sale prices to sale prices at a different LOT in the comparison market. In comparing CEP to sale prices 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 sale 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.[27]

In this review, we obtained information from Dalmine regarding the marketing stages involved in making reported home market and U.S. sales, including a description of the selling activities performed for each channel of distribution, as well as quantitative support.[28] Our LOT findings are summarized below.

In the home market, Dalmine reported that it made all of its sales through two channels of distribution, *i.e.*, to unaffiliated distributors and end users.[29] Dalmine ranked its selling functions by level of intensity on a scale of zero to ten.[30] These selling activities[31] are grouped into five selling function categories: (1) provision of sales support; (2) provision of training services; (3) provision of technical support; (4) provision of logistical services; and (5) performance of sales related administrative activities.[32] Based on those categories, we find that Dalmine performed the same selling functions related to each of these categories for its home market sales through both of its reported home market channels, albeit in varying degrees of intensity.[33]

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[24] *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.
[25] Where NV is based on constructed value (CV), we determine the NV LOT based on the LOT of the sales from which we derive selling, general, and administrative expenses and profit for CV, where possible. *See* 19 CFR 351.412(c)(1).
[26] *See Micron Tech., Inc. v. United States*, 243 F. 3d 1301, 1314-16 (Fed. Cir. 2001).
[27] *See OJ from Brazil* IDM at Comment 7.
[28] *See* Dalmine October 3, 2019 AQR at 15 and Exhibit A-4.
[29] *Id.*
[30] *Id*. at 15.
[31] *Id*. at A-4.
[32] *Id.*
[33] *Id.*

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. We find the intensity differences in Dalmine's reported selling function categories are not significant. Accordingly, based on Dalmine's entire market process, including its reported methods of distribution, and the selling functions described above, we preliminarily find that there is one LOT in the home market.

With respect to the U.S. market, Dalmine made U.S. sales during the POR through the following five channels of distribution: (1) direct to the U.S. unaffiliated customer (EP sales); (2) to the U.S. customer via an affiliate in Romania, S.C. Silcotub S.A. (Silcotub), who cut the merchandise in Romania and then invoiced the U.S. customer for it (EP sales); (3) to the U.S. customer via TGS USA, including back-to-back sales to U.S. distributors and end users (CEP sales); (4) to the U.S. customer via the affiliated Tenaris Group Services Uruguay (TGS Uruguay) and TGS USA (CEP sales); and (5) to the U.S. customer via Silcotub, TGS Uruguay, and TGS USA (CEP sales).[34]

Within these channels of distribution, Dalmine reported the same selling activities at varying levels of intensity.[35] Upon analysis, we find the intensity differences in Dalmine's reporting of its selling function categories for CEP and EP sales are not significant. Accordingly, based on Dalmine's entire marketing process, including its reported channels of distribution and selling functions described above, we preliminarily find there is one LOT in the U.S. market.

Finally, we compared the U.S. LOT to the home market LOT and found that the selling functions performed for U.S. and home market customers do not differ significantly, as Dalmine performed all of the same selling functions at essentially the same relative level of intensity in both markets. Further, although Dalmine provided a narrative response listing those selling functions which it performed in Italy and the United States, the documentation that it provided in support of the performance of these functions did not illustrate their relative intensities in either market.[36] Dalmine's examples included sales documents for home market, EP, and CEP sales, each of which provided no clarity as to the difference in intensity or function performance for the provided sales functions.[37] Finally, Dalmine did not provide sufficient quantitative support for its claimed differences between the U.S. and home market LOTs. Accordingly, based on the documentation and intensities reported, we preliminarily determine that sales to the U.S. and home markets during the POR were made at the same LOT, and, as a result no LOT adjustment is warranted.

Finally, while Dalmine claimed that its home market LOT is more advanced than the LOT of its sales in the U.S. market, as stated above, we preliminarily find that the two LOTs are the same. As a result, a CEP offset is also not warranted pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f).

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[34] *Id.* at 15-16.
[35] *Id.* at A-4.
[36] *Id.* at Exhibits A-7 through A-9.
[37] *Id.*

C. Cost of Production

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

We calculated the COP for the respondent based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses and interest expenses, in accordance with section 773(b)(3) of the Act.

We relied on the COP data submitted by Dalmine except as follows:

- We performed the arms-length test for certain inputs and adjusted the reported costs as necessary, in accordance with sections 773(f)(2) and (3) of the Act, i.e., the transactions disregarded rule and major input rule.[38]

2. Test of Comparison Market Prices

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

3. Results of COP Test

Section 773(b)(1) of the Act provides that, where sales made at less than the COP "have been made within an extended period of time in substantial quantities" and "were not at prices which permit recovery of all costs within a reasonable period of time," Commerce may disregard such sales when calculating NV. Pursuant to section 773(b)(2)(C)(i) of the Act, we did not disregard below-cost sales that were not made in "substantial quantities," *i.e.*, where less than 20 percent of sales of a given product were made at prices less than the COP. We disregarded below-cost sales when they were made in substantial quantities, *i.e.*, where 20 percent or more of a respondent's sales of a given product were at prices less than the COP and where "the weighted average per unit price of the sales . . . is less than the weighted average per unit cost of production for such sales."[39] Finally, based on our comparison of prices to the weighted-average COPs, we

[38] *See* Preliminary Analysis Memorandum.
[39] *See* section 773(b)(2)(C)(ii) of the Act.

considered whether the prices would permit the recovery of all costs within a reasonable period of time.[40]

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

D. Calculation of NV Based on Comparison Market Prices

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

For comparisons to EP sales, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale. Specifically, we deducted direct selling expenses incurred for home market sales, *i.e.*, imputed credit expenses, and added U.S. direct selling expenses, *i.e.*, imputed credit expenses. For comparisons to CEP sales, we made deductions for home market imputed credit expenses, pursuant to 773(a)(6)(C) of the Act.

For comparisons to both EP and CEP, 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.

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 the subject merchandise.[41]

IX. CURRENCY CONVERSION

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

[40] *See* section 773(b)(2)(D) of the Act.
[41] *See* section 773(a)(6)(C)(ii) of the Act; *see also* 19 CFR 351.411

X. RECOMMENDATION

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

☒ ☐

Agree Disagree

10/14/2020

X

Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance