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Investigation
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November 12, 2020

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

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

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

I. SUMMARY

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

II. BACKGROUND

On April 16, 2020, Commerce received an antidumping duty (AD) petition covering imports of PC strand from South Africa, which was filed in proper form by Insteel Wire Products, Sumiden Wire Products Corporation, and Wire Mesh Corp. (collectively, the petitioners).¹

Commerce initiated this investigation on May 6, 2020.² In the *Initiation Notice*, Commerce stated that it intended to individually examine all known producers/exporters in South Africa

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

² See *Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, the Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, the Republic of Turkey, Ukraine, and the United Arab Emirates: Initiation of Less-Than-Fair-Value Investigations*, 85 FR 28605 (May 13, 2020) (*Initiation Notice*).



because the petitioners identified only one known producer/exporter of PC strand from South Africa.³ On May 20, 2020, we issued the AD questionnaire to Scaw Metals Group (Scaw).⁴

Also in the *Initiation Notice*, Commerce notified parties of an opportunity to comment on the scope of the investigation, as well as the appropriate physical characteristics of PC strand to be reported in response to Commerce's AD questionnaire.⁵ In June 2020, PJSC PA Stalkanat-Silur (Stalkanat), CB Trafilati Acciai S.p.A. (CB Trafilati), and the petitioners submitted comments regarding the physical characteristics of the merchandise under consideration to be used for reporting purposes.⁶ Global Special Steel Products S.A.U. (TYCSA) and the petitioners submitted rebuttal comments.⁷ On June 16, 2020, Commerce released the product characteristics applicable to this investigation.⁸ On July 28, 2020, Commerce notified parties that Commerce is revising its reporting requirements for the "diameter" product characteristic, in response to a submission from Kiswire Snd. Bhd. (Kiswire), a mandatory respondent in the investigation of PC strand from Malaysia, and a comment by the petitioners agreeing with Kiswire's proposed revision.⁹

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

³ *Id.*, 85 FR at 28609

⁴ See Commerce's Letter, "Antidumping Duty Questionnaire," dated May 20, 2020 (AD Questionnaire).

⁵ See *Initiation Notice*, 85 FR at 28606-7.

⁶ See Stalkanat's Letter, "Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, Turkey, Ukraine, and United Arab Emirates, Comments on Product Characteristics and Product Matching Hierarchy," dated June 2, 2020; CB Trafilati's Letter, "Prestressed Concrete Steel Wire Strand from Italy: Scope and Product Characteristic Comments," dated June 2, 2020; and Petitioners' Letter, "Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, Turkey, Ukraine, and United Arab Emirates – Petitioners' Comments on the Important Product Characteristics and Product Matching Hierarchy," dated June 2, 2020.

⁷ See TYCSA's Letter, "Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, Turkey, Ukraine, and United Arab Emirates: Rebuttal Comments on Product Characteristics and Product-Matching Hierarchy," dated June 12, 2020 and Petitioners' Letter, "Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, Turkey, Ukraine, and United Arab Emirates – Petitioners' Rebuttal Comments on the Important Product Characteristics and Product Matching Hierarchy," dated June 12, 2020.

⁸ See Memorandum, "Less-than-Fair-Value Antidumping Duty Investigations of Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, Turkey, Ukraine, and the United Arab Emirates: Product Characteristics to be Used for Reporting Purposes," dated June 16, 2020.

⁹ See Memorandum, "Less-than-Fair-Value Investigations of Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, Turkey, Ukraine, and the United Arab Emirates: Revision to "Diameter" Product Characteristic," dated July 28, 2020.

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

In June and July 2020, Scaw submitted timely responses to sections A through D of Commerce's AD Questionnaire, *i.e.*, the sections relating to general information, comparison market sales, U.S. sales, and cost of production (COP)/constructed value (CV).¹¹ From August 2020 through October 2020, we issued supplemental questionnaires to Scaw and received responses to these supplemental questionnaires from September 2020 through November 2020.¹²

On August 19, 2020, the petitioners requested that the date for the issuance of the preliminary determination in this investigation be extended until 190 days after the date of initiation.¹³ Based on the request, and pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e), on September 8, 2020, Commerce published in the *Federal Register* a postponement of the preliminary determination until no later than November 12, 2020.¹⁴

On November 2 and 3, 2020, the petitioners and Scaw, respectively requested that Commerce postpone the final determination and that provisional measures be extended.¹⁵

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

III. PERIOD OF INVESTIGATION

The period of investigation (POI) is April 1, 2019 through March 31, 2020. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was April 2020.¹⁶

IV. SCOPE COMMENTS

In accordance with the *Preamble* to Commerce's regulations,¹⁷ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage *i.e.*, scope.¹⁸ During this period, no interested party commented on the scope of this investigation.

¹¹ See Scaw's Section A Questionnaire Response, dated June 23, 2020 (Scaw's AQR); Scaw's Sections B-C Questionnaire Response, dated July 15, 2020 (Scaw's BCQR); and Scaw's Section D Questionnaire Response, dated July 21, 2020.

¹² See Scaw's Supplemental Section A-C Response, dated August 31, 2020; Scaw's Supplemental Section D Response, dated October 9, 2020; Scaw's Second Supplemental Section D Response, dated November 4, 2020.

¹³ See Petitioner's Letter, "Prestressed Concrete Steel Wire Strand from Indonesia, Italy, Malaysia, South Africa, Spain, Taiwan, Tunisia, Turkey, and Ukraine – Petitioners' Request to Postpone Preliminary Determinations," dated August 19, 2020.

¹⁴ See *Prestressed Concrete Steel Wire Strand from Indonesia, Italy, Malaysia, South Africa, Spain, Tunisia, and Ukraine: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 85 FR 55413 (September 8, 2020).

¹⁵ See Petitioners' Letter, "Prestressed Concrete Steel Wire Strand from Indonesia, Italy, Malaysia, South Africa, Spain, Tunisia, and Ukraine – Petitioners' Request for Postponement of Final Antidumping Determinations," dated November 2, 2020; and Scaw's Letter, "Prestressed Concrete Steel Wire Strand from South Africa: Scaw's Request to Postpone the Final Determination," dated November 3, 2020.

¹⁶ See 19 CFR 351.204(b)(1).

¹⁷ See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

¹⁸ See *Initiation Notice*, 85 FR at 28606.

V. SCOPE OF THE INVESTIGATION

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

VI. DISCUSSION OF THE METHODOLOGY

A. Comparisons to Normal Value

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

(1) Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs or constructed export prices (CEPs), *i.e.*, the average-to-average method, unless the Secretary determines that another method is appropriate in a particular situation. In LTFV investigations, Commerce examines whether to compare weighted-average NVs with the EPs (or CEPs) of individual sales, *i.e.*, the average-to-transaction method, as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act.

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

The differential pricing analysis used in this preliminary determination examines whether there exists a pattern of export prices for comparable merchandise that differ significantly among

¹⁹ 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).

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 or CEP and NV for the individual dumping margins.

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

Next, the “ratio test” assesses the extent of the significant price differences for all sales as measured by the Cohen’s *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test 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.²⁰

(2) Results of the Differential Pricing Analysis

Based on the results of the differential pricing analysis, Commerce preliminarily finds that 43.76 percent of Scaw's U.S. sales, by value, pass the Cohen's *d* test,²¹ which confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. However, Commerce finds that there is not a meaningful difference in the weighted-average dumping margin calculated using the average-to-average comparison method applied to all U.S. sales and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test.²² Thus, for this preliminary determination, Commerce is applying the average-to-average method to all U.S. sales to calculate the weighted-average dumping margin for Scaw.

B. Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by Scaw in South Africa 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

²⁰ 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.

²¹ *See* Memorandum, "Preliminary Results Analysis Memorandum for Scaw Metals Group," dated November 12, 2020 (Scaw Preliminary Analysis Memorandum).

²² *Id.*

made in the home market, where appropriate. Where there were no sales of identical merchandise in the comparison 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 Scaw's U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade.

In making product comparisons, we matched foreign like products based on the physical characteristics reported by the respondent in the following order of importance: covering/coating, diameter, grade, strand, and type.

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.²³

Scaw reported the date of sale as the commercial invoice date for all comparison market and U.S. sales.²⁴ We preliminarily followed Commerce's long-standing practice of basing the date of sale for all comparison market and U.S. sales on the earlier of the invoice date or the shipment date.²⁵

D. Export Price

For all sales made by Scaw, we used EP methodology, in accordance with section 772(a) of the Act, because the subject merchandise was first sold by the producer/exporter outside of the United States directly to the first unaffiliated purchaser in the United States prior to importation, and CEP methodology was not otherwise warranted.²⁶

We calculated EP based on packed prices to unaffiliated purchasers in the United States. We made deductions from the starting price, where appropriate, for early payment discounts, in accordance with 19 CFR 351.401(c). We also made deductions from the starting price, where appropriate, for movement expenses, *i.e.*, freight expenses and marine insurance expenses, in accordance with section 772(c)(2)(A) of the Act.

Scaw reported in its Section C response that ArcelorMittal South Africa administers a Value Added Export Scheme of Steel Products along with verification support from the South African Iron and Steel Institute. Scaw contends that it received supplier rebates upon exportation of PC

²³ 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)).

²⁴ See Scaw's AQR at A-19.

²⁵ See, e.g., *Certain Frozen Warmwater Shrimp from Thailand: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 52065 (September 12, 2007), and accompanying Issues and Decision Memorandum (IDM) at Comment 11; 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.

²⁶ See Scaw's BCQR at C-10.

strand that would provide a reduction in the price invoiced to its U.S. customers, and it reported these rebates as U.S. price adjustments. For this preliminary determination, however, we have not included the supplier rebates in the margin calculation, because: (1) they appear to relate to Scaw's production costs, instead of sales prices; and (2) Scaw failed to provide adequate supporting documentation on request.²⁷

E. Normal Value

(1) Home Market Viability

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

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), we compared the volume of Scaw's home market sales of the foreign like product to the volume of its U.S. sales of subject merchandise. We preliminarily determine that the aggregate volume of home market sales of the foreign like product is greater than five percent of the aggregate volume of U.S. sales of the subject merchandise.²⁸ Therefore, for the margin analyses for Scaw, we used home market sales as the basis for NV, in accordance with section 773(a)(1)(B) of the Act.

(2) Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, Commerce will calculate NV based on sales 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).²⁹ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.³⁰ 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.

²⁷ For further discussion, *see* Scaw Preliminary Analysis Memorandum.

²⁸ *See* Scaw's AQR at A-3 and Exhibit A-1.

²⁹ *See* 19 CFR 351.412(c)(2).

³⁰ *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.

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,³¹ 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.³²

When Commerce is unable to match sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, Commerce may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales to sales at a different LOT in the comparison market, where available data make it possible, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability, *i.e.*, no LOT adjustment is possible, Commerce will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.³³

In this investigation, we obtained information from Scaw 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.³⁴ Our LOT findings are summarized below.

Scaw reported that it sold PC strand during the POI through one channel of distribution, directly to unaffiliated customers in the home market.³⁵ Scaw indicated that it performed in the home market, the following selling functions: sales negotiation; order confirmation; shipping arrangement; document preparation; and payment processing.³⁶ Based on Scaw's selling functions, we find that Scaw performed sales support, logistical services, and sales-related administrative activities for all home market sales, at the same level of intensity. Therefore, we preliminarily determine that Scaw's sales to the home market during the POI were made at one LOT.

Additionally, Scaw reported that it sold through one channel of distribution to unaffiliated customers in the U.S. market.³⁷ In the U.S. market, Scaw performed the following selling functions: sales negotiation; order confirmation; shipping arrangement; document preparation; and payment processing.³⁸ Based on Scaw's selling functions, we find that Scaw also performed sales support, logistical services, and sales-related administrative activities for all U.S. sales, at the same level of intensity. As a result, we determine that Scaw's sales to the U.S. market during the POI were made at one LOT.

³¹ 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 (SG&A) expenses, and profit for CV, where possible. See 19 CFR 351.412(c)(1).

³² See *Micron Tech., Inc. v. United States*, 243 F. 3d 1301, 1314-16 (Fed. Cir. 2001).

³³ See, *e.g.*, *OJ from Brazil* IDM at Comment 7.

³⁴ See Scaw's AQR at 16-17.

³⁵ *Id.*

³⁶ *Id.* at 20.

³⁷ *Id.* at 16-17.

³⁸ *Id.* at 20.

Finally, we compared the selling functions from the U.S. LOT to the home market LOT, and we found that these selling functions were similar. Therefore, we preliminarily determine that the sales to the United States were at the same LOT as its home market sales. As a result, we matched U.S. sales to sales at the same LOT in the comparison market and made no LOT adjustment.

(3) Cost of Production Analysis

In accordance with section 773(b)(2)(A)(ii) of the Act,³⁹ Commerce requested COP information from Scaw. We examined Scaw's cost data and determined that our quarterly cost methodology is not warranted. Therefore, we are applying our standard methodology of using annual costs based on Scaw'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 costs of materials and fabrication for the foreign like product, plus amounts for general and administrative (G&A) expenses and interest expenses. We relied on the COP data submitted by Scaw, except as follows:⁴⁰

- We revised the reported G&A expense rate to include certain "other expense" items recorded on the income statement; and
- We revised Scaw's reported scrap offset to limit it to the value of scrap that was generated during the POI.

(B) Test of Comparison Market Sales Prices

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

(C) Results of the COP Test

In determining whether to disregard comparison market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether: (1) within an extended period of time, such sales were made in substantial quantities; and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. In accordance with sections 773(b)(2)(B) and (C) of the Act, where less

³⁹ The Trade Preferences Extension Act of 2015 (TPEA) amended section 773(b)(2)(A) of the Act. See TPEA found at <https://www.congress.gov/bill/114thcongress/>.

⁴⁰ See Memorandum, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Scaw South Africa (Pty) Co. Ltd.," dated November 12, 2020.

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-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.

Our cost tests for Scaw indicated that more than 20 percent of sales of certain home market products were made at prices below the COP within an extended period of time and were made at prices which would not permit the recovery of all costs within a reasonable period of time.⁴¹ Thus, in accordance with section 773(b)(1) of the Act, we excluded these below-cost sales from our analysis for Scaw and used the remaining above-cost sales to determine NV.

(D) Calculation of NV Based on Comparison Market Prices

For those comparison products for which there were sales at prices above the COP for the respondent, we based NV on home market prices. We calculated NV based on packed, delivered or ex-factory prices to unaffiliated customers in the comparison market. We made deductions, where appropriate, from the starting price for billing adjustments, early payment discounts and rebates, in accordance with 19 CFR 351.401(c). We also adjusted the starting price for foreign inland freight pursuant to section 773(a)(6)(B)(ii) of the Act. We made adjustments for differences in circumstances of sale, in accordance with section 773(a)(6)(c)(iii) of the Act and 19 CFR 351.410.⁴² Specifically, we deducted direct selling expenses incurred for home market sales, *i.e.*, credit expenses, and added U.S. direct selling expenses, *i.e.*, credit expenses and bank charges. In addition, we deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act.

When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also adjusted for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing of the foreign like product and the subject merchandise.⁴³

VII. 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.

⁴¹ See Scaw Preliminary Analysis Memorandum

⁴² *Id.*

⁴³ *Id.*

VIII. RECOMMENDATION

We recommend applying the above methodology for this preliminary determination.



Agree



Disagree

11/12/2020

X



Signed by: JEFFREY KESSLER
Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance