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February 5, 2016

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

FROM: Christian Marsh   
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

SUBJECT: Light-Walled Rectangular Pipe and Tube from Turkey: Decision  
Memorandum for the Preliminary Results of Antidumping Duty  
Administrative Review; 2014-2015

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## SUMMARY

In response to a request from Agir Haddecilik A.S. (Haddecilik), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on light-walled rectangular pipe and tube from Turkey. The review covers exports of the subject merchandise to the United States produced by Haddecilik. The period of review (POR) is May 1, 2014, through April 30, 2015.

We preliminarily find that Haddecilik did not make sales at prices below normal value (NV) during the POR. If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection (CBP) to liquidate Haddecilik's entries subject to this administrative review without regard to antidumping duties and to set the cash deposit rate for Haddecilik to zero. We invite interested parties to comment on these preliminary results.

## BACKGROUND

The Department published the antidumping duty order on light-walled rectangular pipe and tube from Turkey on May 30, 2008.<sup>1</sup> On May 1, 2015, the Department published the notice of opportunity to request an administrative review of this order for the period May 1, 2014, through April 30, 2015.<sup>2</sup> On May 29, 2015, Haddecilik requested an administrative review for this

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<sup>1</sup> See Notice of Antidumping Duty Order: Light-Walled Rectangular Pipe and Tube from Turkey, 73 FR 31065 (May 30, 2008).

<sup>2</sup> See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review, 80 FR 24898 (May 1, 2015).



period.<sup>3</sup> On July 1, 2015, the Department published in the Federal Register a notice of initiation of this antidumping duty administrative review.<sup>4</sup>

The Department issued its antidumping questionnaire to Haddecilik on August 3, 2015. On August 3, 2015, the Department released the results of a CBP entry query for entries of subject merchandise during the POR.<sup>5</sup> Haddecilik submitted its response to section A of the antidumping questionnaire on August 21, 2015 (section A response). Haddecilik submitted its responses to sections B and C of the antidumping questionnaire on September 8, 2015 (section B response and section C response, respectively).

On November 4, 2015, the Department issued a supplemental questionnaire to Haddecilik regarding its responses to sections A, B, and C of the antidumping questionnaire. Haddecilik submitted its response to the Department's sections A, B, and C supplemental questionnaire on November 11, 2015 (Haddecilik supplemental response).

As explained in the memorandum from the Acting Assistant Secretary for Enforcement & Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government. All deadlines in this segment of the proceeding have been extended by four business days. The revised deadline for the preliminary results of this review is now February 5, 2016.<sup>6</sup>

## **SCOPE OF THE ORDER**

The merchandise subject to this order is certain welded carbon quality light-walled steel pipe and tube, of rectangular (including square) cross section, having a wall thickness of less than 4 mm. The term carbon-quality steel includes both carbon steel and alloy steel which contains only small amounts of alloying elements. Specifically, the term carbon-quality includes products in which none of the elements listed below exceeds the quantity by weight respectively indicated: 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.15 percent vanadium, or 0.15 percent of zirconium. The description of

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<sup>3</sup> See letter from Haddecilik to the Secretary of Commerce entitled, "Light-Walled Rectangular Pipe And Tube from Turkey (A-489-815): Request for Antidumping Duty Administrative Review (05/01/14-04/30/15)," dated May 29, 2015.

<sup>4</sup> See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 80 FR 37588 (July 1, 2015).

<sup>5</sup> See memorandum from Mark Flessner to the File entitled, "Light-Walled Rectangular Pipe and Tube from Turkey: Placement on the Record of Results of Inquiry to U.S. Customs and Border Protection for 2014-2015 Period of Review," dated August 3, 2015.

<sup>6</sup> See Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement & Compliance, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas," dated January 27, 2016. The calculated date for these preliminary results would be January 31, 2016, a Sunday. Therefore, the deadline for signature of these preliminary results would be Monday, February 1, 2016, in accordance with the Department's "next business day" rule. See Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended, 70 FR 24533 (May 10, 2005). Tolling is computed from the "next business day." Therefore, the four tolled days are computed from Monday, February 1, 2016, resulting in the new deadline of Friday, February 5, 2016.

carbon-quality is intended to identify carbon-quality products within the scope. The welded carbon-quality rectangular pipe and tube subject to this order is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7306.61.50.00 and 7306.61.70.60. While HTSUS subheadings are provided for convenience and CBP's customs purposes, our written description of the scope of the order is dispositive.

## **METHODOLOGY**

### Fair Value Comparisons

Pursuant to section 773(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.414(c)(1) and (d), to determine whether Haddecilik's sales of subject merchandise from Turkey were made in the United States at less than NV, we compared the export price (EP) to NV as described in the "Export Price" and "Normal Value" sections of this decision memorandum.

### Product Comparisons

In accordance with section 771(16) of the Act, we compared products produced by Haddecilik and sold in the U.S. and home markets on the basis of the comparison product which was either identical or most similar in terms of the physical characteristics to the product sold in the United States. In the order of importance, these physical characteristics are: 1) Steel Input Type; 2) Metallic Coating; 3) Painted; 4) Perimeter; 5) Wall Thickness; and 6) Shape.

When making product comparisons in accordance with section 771(16) of the Act, we considered sales of all products sold in the home market as described in the "Scope of the Order" section of this notice, above, which were made in the ordinary course of trade. We compared U.S. sales to home market sales that were contemporaneous with the U.S. sale. If contemporaneous home market sales of identical merchandise were reported, we made comparisons to the monthly weighted-average home-market prices for all such sales. If home market sales of identical merchandise were made in the same month as the U.S. sale, we compared the EP of U.S. sales to the normal value based on home market sales of identical merchandise made in the same month as the U.S. sale. If no such home market sales were reported, we compared the EP of U.S. sales to the normal value based on home market sales of identical merchandise in the most contemporaneous month in which such U.S. sales were made. We considered home market sales to be contemporaneous with U.S. sales if the home market sales were made within the period including the month of the U.S. sale, the two months after the U.S. sale, and the three months before the U.S. sale.

Where there were no contemporaneous home market sales of identical merchandise made in the ordinary course of trade, we compared the EP of U.S. sales to the normal value based on home market sales of the next most similar product on the basis of the physical characteristics listed above, that were sold in the same month as the U.S. sales or the month which was most contemporaneous with the U.S. sales, in accordance with 19 CFR 351.414(f).

## Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average EPs (or constructed export prices (CEPs)) (the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In antidumping investigations, the Department examines whether to use the average-to-transaction method as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in antidumping investigations.<sup>7</sup> In recent investigations, the Department 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.<sup>8</sup> The Department finds that the differential pricing analysis used in these and other recent proceedings may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review.<sup>9</sup> The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods. 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 differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported customer codes. Regions are defined using the reported destination code (*i.e.*, zip codes) 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 period of review being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region and time period,

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<sup>7</sup> 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).

<sup>8</sup> See, *e.g.*, Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 33350 (June 4, 2013), and the accompanying Issues and Decision Memorandum at Comment 3; and Hardwood and Decorative Plywood From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 58273 (September 23, 2013), and the accompanying Issues and Decision Memorandum at Comment 3.

<sup>9</sup> See, *e.g.*, Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 70533 (November 26, 2013), and accompanying Issues and Decision Memorandum at Comment 2.

that the Department 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* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data 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 net prices to a particular purchaser, region or time period differ significantly from the net 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. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant, and the sales are considered to have passed 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 EPs (or CEPs) 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 EPs (or CEPs) that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether using only the average-to-average method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative 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 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 margin 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 margin moves 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.

For Haddecilik, based on the results of the differential pricing analysis, the Department finds that 0.00 percent of Haddecilik's export sales pass the Cohen's *d* test, which does not confirm the existence of a pattern of EPs (or CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods. Consequently, the Department preliminarily determines that the average-to-average method is appropriate and that it will not consider an alternative method based on the average-to-transaction method to calculate the weighted-average dumping margin for Haddecilik.

#### Date of Sale

Section 351.401(i) of the Department's regulations states that, normally, the Department will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The regulation provides further that the Department may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established.

Haddecilik reported date of purchase order as the date of sale for its U.S. sales since "all material terms are set on the date of purchase order/contract, and this is the earliest date on which the material terms are set."<sup>10</sup> In the home market, Haddecilik reported the date of sale as the earlier of the invoice date or the shipment date.<sup>11</sup> Haddecilik provided sample contracts, purchase orders, and invoices for sales covered by this review.<sup>12</sup> We examined the documentation submitted and preliminarily used purchase order date as the date of sale for Haddecilik's U.S. sales. Additionally, consistent with the presumption established in the Department's regulation, and our practice in prior segments of this proceeding, we preliminarily used Haddecilik's reported date of sale as the date of sale for home market sales.

#### U.S. Price

##### Export Price

Haddecilik reported that all subject merchandise was sold prior to importation by the exporter or producer outside the United States to the first unaffiliated purchaser in the United States. Therefore, we based the U.S. price on EP, as defined in section 772(a) of the Act, for all sales. Haddecilik's EPs are based on prices to unaffiliated purchasers in the United States. We made adjustments for price or billing adjustments and discounts, where applicable. We also made

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<sup>10</sup> See section A response at the "Sales Process" section (Haddecilik did not number the pages of its section A response).

<sup>11</sup> Id.

<sup>12</sup> See section A response at Exhibits A-6 and A-7.

deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act, which included, where appropriate: foreign inland freight; international freight; marine insurance; and U.S. brokerage and handling. The Department also made adjustments for direct selling expenses (credit expenses).

## Duty Drawback

Haddecilik requested a duty drawback adjustment.<sup>13</sup> Section 772(c)(1)(B) of the Act states: “The price used to establish export price and constructed export price shall be increased by... the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the subject merchandise to the United States.” Based upon this statutory language, the Department applies a two-prong test to determine entitlement to a duty drawback adjustment. That is, the party claiming such adjustment must establish that: (1) the import duty paid and the rebate payment are directly linked to, and dependent upon, one another (or the exemption from import duties is linked to exportation); and (2) there were sufficient imports of the imported raw material to account for the drawback received upon the exports of the manufactured product.<sup>14</sup>

Haddecilik reported that it collects rebates of import duties for purchases of raw materials, based upon its exports of merchandise manufactured from those raw materials, under the Turkish Inward Processing Regime (IPR).<sup>15</sup> Haddecilik calculates its duty drawback claim by dividing the total amount of duties paid on imported coil by the total value of exports of finished products made from those imported coils.<sup>16</sup> Haddecilik did not separately report the value of subject merchandise and the value of non-subject merchandise that comprise the total value of exports used in Haddecilik’s drawback claim. Haddecilik bases its claim on the full value of the imported raw materials but, despite being requested to do so, Haddecilik could not allocate the value between subject merchandise and non-subject merchandise.<sup>17</sup> Further, we have no method of determining whether Haddecilik’s claimed amounts exceed the total amount of exports of finished products made from those imported coils. We draw no adverse inference; but because this duty drawback claim is value-based, and no allocation between subject and non-subject merchandise is made, it is not possible for the Department to evaluate whether the amount claimed is appropriate. Therefore, in accordance with section 772(c)(1)(B) of the Act, we have not made an adjustment to U.S. price for duty drawback.<sup>18</sup>

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<sup>13</sup> See section C response at 30-31 and Exhibit C-4.

<sup>14</sup> See Duty Drawback Practice in Antidumping Proceedings, 70 FR 37764 (June 30, 2005); see also Notice of Final Results of the Eleventh Administrative Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea, 71 FR 7513 (February 13, 2006), and accompanying Issues and Decision Memorandum at Comment 2; see also Saha Thai Steel Pipe (Public) Co. v. United States, 635 F.3d 1335, 1340-41 (Fed. Cir. 2011) (*Saha Thai*).

<sup>15</sup> See section C response at 30-31 and Exhibit C-4.

<sup>16</sup> See Haddecilik supplemental response at S-7.

<sup>17</sup> See section C response at 30-31 and Exhibit C-4.

<sup>18</sup> See Preliminary Analysis Memorandum at pages 6-7. See also Light-Walled Rectangular Pipe and Tube From Turkey: Notice of Preliminary Results of Antidumping Duty Administrative Review, 77 FR 33395 at 33397 (June 6, 2012), unchanged in Light-Walled Rectangular Pipe and Tube From Turkey: Notice of Final Results of Antidumping Duty Administrative Review, 77 FR 55455 (September 10, 2012).

## Normal Value

### A. Home Market Viability as Comparison Market

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 Haddecilik's home market sales of the foreign like product to the volume of its U.S. sales of subject merchandise, in accordance with section 773(a)(1)(B) of the Act.<sup>19</sup> Based on this comparison, we determined that Haddecilik had a viable home market during the POR. Consequently, we based NV on home market sales to unaffiliated purchasers made in the usual quantities in the ordinary course of trade.

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

We calculated NV based on prices to unaffiliated customers in the home market. We adjusted the starting price for billing adjustments. We further adjusted the starting price for foreign inland freight, warehousing, and inland insurance, pursuant to section 773(a)(6)(B)(ii) of the Act. We made adjustments for differences in packing, in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act. We also made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act, as well as for differences in circumstances of sale (for imputed credit expenses and warranty expenses) in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. When applicable, we also made adjustments, in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred on comparison market or U.S. market sales where commissions were granted on sales in one market but not in the other. Specifically, where commissions were granted in the U.S. market but not in the comparison market, we made a downward adjustment to NV for the lesser of (1) the amount of the commission paid in the U.S. market, and (2) the amount of indirect selling expenses incurred in the comparison market. If commissions were granted in the comparison market but not in the U.S. market, we made an upward adjustment to NV following the same method. Freight revenue is accounted for in the calculation of NV (there was no freight revenue reported in the US sales) by subtracting freight revenue in the calculation of comparison market gross unit price adjustments (which, in turn, is subtracted from the comparison market gross unit price, resulting in an addition of freight revenue). We made no adjustments to the home market database submitted by Haddecilik.

### C. Level of Trade Analysis

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we base NV on sales made in the comparison market at the same level of trade (LOT) as the export transaction. The NV LOT is based on the starting price of sales in the home market. If the home market sales are at a different LOT from that of a U.S. sale and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and home-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. To determine whether NV sales are at a different LOT than EP

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<sup>19</sup> See Preliminary Analysis Memorandum.



sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the customer.<sup>20</sup> We expect that, if the claimed LOTs are the same, the functions and activities of the seller should be similar. Conversely, if a party claims the LOTs are different for different groups of sales, the functions and activities of the seller should be dissimilar.<sup>21</sup>

Haddecilik reported that it sold light-walled rectangular pipe and tube at only one level of trade and in only one channel of distribution in the home market and at one level of trade and in one channel of distribution in the U.S. market.<sup>22</sup> Based on our analysis of the record evidence provided by Haddecilik, we preliminarily determine that a single LOT exists in the home market and that a single LOT exists in the U.S. market. We obtained information from Haddecilik regarding the marketing stages involved in making its reported home market and U.S. sales. Haddecilik described all selling activities performed, and provided a table comparing the selling functions performed in both markets.<sup>23</sup> We find Haddecilik performed virtually the same level of customer support services on its EP sales as it did on its home market sales and that the minor differences that do exist do not establish a distinct and separate level of trade. Consequently, the record evidence supports a finding that, in both markets, Haddecilik performs essentially the same level of services. While we found minor differences between the home and U.S. markets (based on our analysis of the selling functions performed on EP sales in the United States and its sales in the home market), we determine that the EP and the starting price of home market sales represent the same stage in the marketing process, and are thus at the same LOT. For this reason, we preliminarily find that a LOT adjustment is not appropriate for Haddecilik.

Additionally, “Agir Haddecilik’s U.S. sales are EP sales and Agir Haddecilik is not seeking a CEP offset.”<sup>24</sup> Therefore, there is no CEP offset.

### 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.

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<sup>20</sup> See 19 CFR 351.412(c)(2).

<sup>21</sup> See Porcelain-on-Steel Cookware from Mexico: Final Results of Antidumping Duty Administrative Review, 65 FR 30068 (May 10, 2000), and accompanying Issues and Decision Memorandum at Comment 6.

<sup>22</sup> See section A response at the “Distribution Process” section.

<sup>23</sup> Id., at Exhibit A-5.

<sup>24</sup> See section A response at the “Distribution Process” section.

## CONCLUSION

We recommend applying the above methodology for these preliminary results.

✓  
Agree

Disagree

Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

5 FEBRUARY 2016  
(Date)