



A-489-815
Administrative Review
05/01/2015 - 04/30/2016
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May 31, 2017

MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

FROM: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results of the 2015-2016
Antidumping Duty Administrative Review of Light-Walled
Rectangular Pipe and Tube from Turkey

SUMMARY

In response to requests from interested parties, the Department of Commerce (Department) is conducting an administrative review of the antidumping duty (AD) order on light-walled rectangular pipe and tube (LWRPT) from Turkey, covering the period of review (POR) May 1, 2015, through April 30, 2016. The administrative review covers nine exporters of the subject merchandise, including two mandatory respondents, CINAR Boru Profil Sanayi ve Ticaret A.S. (CINAR) and Noksel Celik Boru Sanayi A.S. (Noksel). The Department preliminarily determines that sales of subject merchandise have been made below normal value (NV) by CINAR and Noksel.

BACKGROUND

The Department published the antidumping duty order on LWRPT from Turkey on May 30, 2008.¹ On May 2, 2016, the Department notified interested parties of the opportunity to request an administrative review of orders, findings, or suspended investigations with anniversaries in February 2016, including the AD order on LWRPT from Turkey.² On May 31, 2016, Bull Moose Tube Company, California Steel and Tube, Hannibal Industries, Wheatland Tube, Maruichi American Corporation, Searing Industries, Southland Tube, and Western Tube and Conduit, domestic producers and interested parties under section 771(9)(C) of the Tariff Act of 1930, as amended (the Act), requested that the Department conduct an administrative review of

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

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 81 FR 26206 (May 2, 2016).



certain exporters covering the POR.³ On July 7, 2016, the Department published a notice initiating an AD administrative review of LWRPT from Turkey covering nine companies for the POR.⁴ On August 9, 2016, Agir Haddecilik A.S. (Agir) filed a letter stating that it did not make any shipments or sales of subject merchandise to the U.S. during the POR.⁵

In the *Initiation Notice*, the Department stated that if it limited the number of respondents for individual examination, it intended to select respondents based on U.S. Custom and Border Protection (CBP) for U.S. imports during the POR.⁶ On September 30, 2016, the Department selected CINAR and Noksel as mandatory respondents.⁷

On January 19, 2017, the Department extended the deadline for issuing the preliminary results of this administrative review to May 31, 2017.⁸

From October 2016 through May 2017, the Department issued questionnaires to, and received timely responses from CINAR and Noksel.⁹ Atlas Tube and Searing Industries (petitioners) commented on these responses between December 16, 2016, and January 27, 2017.¹⁰

³ See Letter from Domestic Interested Parties to the Secretary of Commerce “Light-Walled Rectangular Pipe and Tube from Turkey: Request for Administrative Review,” dated May 31, 2016.

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 44260 (July 7, 2016) (*Initiation Notice*).

⁵ See Letter from Agir to the Secretary of Commerce “Light-Walled Rectangular Pipe and Tube from Turkey (A-489-815): Anti-Dumping Administrative Review (05/01/15 – 04/30/16),” dated August 9, 2016.

⁶ See *Initiation Notice* at 44261.

⁷ See Memorandum from Victoria Cho, International Trade Compliance Analyst, Office VI, AD/CVD Operations through Erin Kearney, Program Manager, Office VI, AD/CVD Operations to Scot Fullerton, Office Director, Office VI, AD/CVD Operations “Selection of Respondents for the 2015-2016 Administrative Review of the Antidumping Duty Order on Light-Walled Rectangular Pipe and Tube from Turkey,” dated September 30, 2016 (Respondent Selection Memorandum).

⁸ See Memorandum from Jonathan Hill, International Trade Compliance Analyst, Office IV, Antidumping and Countervailing Duty Operations through Abdelali Elouaradia, Director, Office IV, Antidumping and Countervailing Duty Operations to Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, regarding “Antidumping Duty Administrative Review of Light-Walled Rectangular Pipe and Tube from Turkey: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,” dated January 19, 2017.

⁹ See Letter from Erin Kearney, Program Manager, AD/CVD Operations, Office VI, Enforcement and Compliance to CINAR dated October 12, 2016; see also letter from Erin Kearney, Program Manager, AD/CVD Operations, Office VI, Enforcement and Compliance to Noksel dated October 12, 2016; see also letters from CINAR to the Secretary of Commerce dated November 2, 2016, November 28, 2016, December 5, 2016, December 21, 2016, January 17, 2017, January 23, 2017, March 24, 2017, April 26, 2017, May 4, 2017, and May 22, 2017; see also letters from Noksel to the Secretary of Commerce dated November 9, 2016, November 28, 2016, December 6, 2016, December 23, 2016, January 3, 2017, February 2, 2017, and March 27, 2017.

¹⁰ See Letters from petitioners to the Secretary of Commerce dated December 14, 2016, December 15, 2016, December 16, 2016, December 22, 2016, January 17, 2017, January 27, 2017, and May 25, 2017.

CINAR and the petitioners submitted comments in response to the Department's April 20, 2017, request for comments for consideration in these preliminary results of review on May 1, 2017.¹¹ On May 8, 2017, Noksel submitted rebuttal comments.¹²

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 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.

SELECTION OF RESPONDENTS

Section 777A(c)(1) of the Act directs the Department to calculate individual weighted-average dumping margins for each known exporter and producer of the subject merchandise.¹³ However, if it is not practicable to calculate individual weighted-average dumping margins for all known exporters and producers of subject merchandise because of the large number of exporters or producers involved in the investigation or review, section 777A(c)(2) of the Act authorizes the Department to limit its examination to determine the weighted-average dumping margins for a reasonable number of exporters or producers. The Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act also interprets this provision to mean that the authority to select respondents rests exclusively with the Department.¹⁴

¹¹ See Letter to All Interested Parties, "2015 – 2016 Antidumping Duty Administrative Review of Light-Walled Rectangular Pipe and Tube from Turkey: Notice of Opportunity to Submit Pre-Preliminary Results Comments," dated April 20, 2017; see also letter from CINAR to the Secretary of Commerce "Pre-Preliminary Comments of CINAR Boru Profil Sanayi ve Ticaret A.S. ("CINAR") for the 2015/2016 Administrative Review on Light-Walled Rectangular Pipe and Tube (LWRP) from Turkey," dated May 1, 2017; see also letter from the petitioners to the Secretary of Commerce "Light-Walled Rectangular Pipe and Tube from Turkey: Pre-Prelim Comments," dated May 1, 2017; see also letter from Petitioners to the Secretary of Commerce "Light-Walled Rectangular Pipe and Tube from Turkey: Pre-Prelim Comments Concerning Reporting Anomalies," dated May 1, 2017 (Petitioners' Comments on Reporting).

¹² See Letter from Noksel to the Secretary of Commerce "Light-Walled Rectangular Pipe and Tube from Turkey: Noksel's Comments On Petitioner's Pre-Preliminary Comments," dated May 8, 2017.

¹³ Regarding respondent selection in general, see also 19 CFR 351.204(c).

¹⁴ See Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol 1 (1994) at 872.

In its Respondent Selection Memorandum, the Department determined, pursuant to section 777A(c)(2) of the Act, that given the large number of producers or exporters for which a review was initiated, the complexities expected to arise in this review, and the Department's current resource constraints, it would not be practicable to individually examine all known exporters/producers.¹⁵ Therefore, in accordance with section 777A(c)(2)(B) of the Act, the Department selected the two exporters or producers which account for the largest volume of subject merchandise exported to the U.S. for individual examination.¹⁶ Specifically, the Department selected CINAR and Noksel.

PRELIMINARY DETERMINATION OF NO SHIPMENTS

The Department received a timely submission from Agir reporting to the Department that it did not sell or export the subject merchandise to the United States during the POR.¹⁷ Data obtained from CBP for the POR corroborated Agir's no-shipments claim.¹⁸ Additionally, we requested that CBP report any information which would contradict these claims.¹⁹ To date, CBP has not responded to our inquiry with any contrary information, and we have not received any evidence that Agir had any shipments of the subject merchandise sold to the United States during the POR.²⁰ Consistent with the Department's practice regarding no shipment claims, we are completing the review with respect to Agir and will issue appropriate instructions to CBP based on the final results of the review.²¹

AFFILIATION

Section 771(33)(F) of the Act identifies persons that shall be considered "affiliated" or "affiliated persons" as: two or more persons directly or indirectly controlling, controlled by, or under common control with, any person. Section 771(33) of the Act further states that a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.

CINAR reported that MASS Demir Celik Sanayi ve Ticaret Anonim Sirketi (MASS) purchased LWRPT from CINAR in its home market during the POR.²² Furthermore, CINAR stated that three of its shareholders who own the majority of CINAR's stock, own 100 percent of MASS'

¹⁵ See Respondent Selection Memorandum, dated September 30, 2016, at 3-4.

¹⁶ *Id.* at 6.

¹⁷ See Letter from Agir to the Secretary of Commerce "Light-Walled Rectangular Pipe and Tube from Turkey (A-489-815): Anti-Dumping Administrative Review (05/01/15 – 04/30/16)," dated August 9, 2016.

¹⁸ See Letter from Robert James, Program Manager, Office VI, AD/CVD Operations, Import Administration dated August 10, 2016 at Attachment I.

¹⁹ See CBP Message Number 7130307, May 10, 2017, available at <http://adcvd.cbp.dhs.gov/adcvdweb/>.

²⁰ CBP responds to the Department's inquiry when there are records of shipments from the company in question. See, e.g., *Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Flat Products from Brazil: Notice of Rescission of Antidumping Duty Administrative Review*, 75 FR 65453 (October 25, 2010).

²¹ See, e.g., *Certain Frozen Warmwater Shrimp from Thailand; Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Review, Preliminary Determination of No Shipments; 2012-2013*, 79 FR 15951, 15952 (March 24, 2014), unchanged in *Certain Frozen Warmwater Shrimp from Thailand: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Partial Rescission of Review; 2012-2013*, 79 FR at 51306 (August 28, 2014).

²² See CINAR's December 12, 2016 supplemental questionnaire response at 2-3 and Exhibits SA-1 through 5.

stock.²³ Additionally, of its three majority shareholders, CINAR stated that Abdulkadir Cinar and Muhammet Sait Cinar are board members for MASS, and Sezayi Yildirim is a board member for CINAR and MASS.²⁴ By virtue of the percentages of these companies owned by the three individuals noted above, these individuals are legally in a position to exercise restraint or direction over CINAR and MASS, pursuant to 19 CFR 102(b)(3). Accordingly, CINAR and MASS are affiliated pursuant to section 771(33)(F) of the Act, as two companies controlled by common persons. As a result of this preliminary finding, we are treating CINAR's home-market sales to MASS as affiliated-party sales in accordance with 19 CFR 351.403(c). *See* Affiliated-Party Transactions and Arm's-Length Test section below.

RESPONDENTS NOT SELECTED FOR INDIVIDUAL EXAMINATION

After selecting CINAR and Noksel as mandatory respondents, seven companies, Agir, Cayirova Boru Sanayi ve Ticaret A.S., Toscelik Metal Ticaret A.S., Toscelik Profil ve Sac Endustrisi A.S., Tosyali Dis Ticaret A.S., Yucelboru Ihracat Ithalat ve Pazarlama A.S., and Yucel Boru ve Profil Endustrisi A.S., remain subject to this administrative review. With the exception of Agir Haddecilik A.S.,²⁵ none of these companies: (1) was selected as a mandatory respondent; (2) was the subject of a withdrawal of request for review; (3) requested to participate as a voluntary respondent; or (4) submitted a claim of no shipments. As such, these seven companies remain as non-selected respondents.

The statute and the Department's regulations do not address the establishment of a rate to be applied to companies not selected for examination when the Department limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, the Department looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when calculating the rate for companies which were not selected for individual review in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally "an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}." In this review, we have preliminarily calculated a weighted-average dumping margin for these seven companies using the calculated rates of the mandatory respondents, which are not zero, *de minimis*, or determined entirely on the basis of facts available. With two respondents, we normally calculate: (A) a weighted average of the dumping margins calculated for the mandatory respondents; (B) a simple average of the dumping margins calculated for the mandatory respondents; and (C) a weighted average of the dumping margins calculated for the mandatory respondents using each company's publicly-ranged values for the merchandise under consideration. We compare (B) and (C) to (A) and

²³ *See* CINAR's March 24, 2017 supplemental questionnaire response at 1-4 and Exhibit SAB-1 through 3.

²⁴ *Id.*

²⁵ Agir Haddecilik A.S., submitted a claim of no shipments. *See* "Preliminary Determination of No Shipments" below for further discussion.

select the rate closest to (A) as the most appropriate rate for all other companies.²⁶ We have applied that practice here.²⁷

ALLEGATION OF DUTY EVASION

On December 14, 2016, the petitioners placed certain factual information on the record, including ITC entry data and ship manifest data from a subscription service related to U.S. imports of LWRPT from Turkey.²⁸ On May 1, 2017, the petitioners alleged that certain shipments of LWRPT were misclassified upon entry into the United States.²⁹ Specifically, the petitioners alleged that shipments to certain ports appeared to be subject merchandise in the ship manifest data, these shipments in the USITC data, were not declared as type-3 entries of subject merchandise upon entry into the United States.

This issue involves the potential misidentification of certain U.S. entries, which is a matter within the jurisdiction of CBP. Thus, a determination as to whether entries have been misreported should be made by that agency. The Department is committed to preventing the evasion of antidumping duties and, therefore, the Department intends to provide CBP with the petitioners' allegations.³⁰

USE OF PARTIAL ADVERSE FACTS AVAILABLE

Section 776(a) of the Act provides that, subject to section 782(d) of the Act, the Department shall apply "facts otherwise available" if, *inter alia*, necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (TPEA), which made numerous amendments to the antidumping and countervailing duty law, including amendments to section 776(b) and 776(c) of the Act and the

²⁶ See *Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (September 1, 2010).

²⁷ See Memorandum from Jonathan Hill, International Trade Compliance Analyst, AD/CVD Operations to the File, "Calculation of the Rate for Non-Selected Respondents," dated concurrently with this memorandum.

²⁸ See Letter from the petitioners to the Department, Re: "Light-Walled Rectangular Pipe and Tube from Turkey: Factual Information to Rebut, Clarify, or Correct Initial Questionnaire Responses," dated December 14, 2016.

²⁹ See Petitioners' Comments on Reporting at 4-10.

³⁰ See Letter from Wendy J. Frankel, Director, Customs Liaison Unit to Alexander Amdur, Director, AD/CVD Policy and Programs, Re: "Light-Walled Rectangular Pipe and Tube from Turkey: Noksel Celik Boru Sanayi A.S.," dated concurrently with this memorandum.

addition of section 776(d) of the Act.³¹ The amendments to the Act are applicable to all determinations made on or after August 6, 2015 and, therefore, apply to this administrative review.³²

Section 776(b) of the Act provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. In doing so, and under the TPEA, the Department is not required to determine, or make any adjustments to, a weighted average dumping margin based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information.³³ Further, section 776(b)(2) of the Act states that an adverse inference may include reliance on information derived from the petition, the final determination from the antidumping duty investigation, a previous administrative review, or other information placed on the record.³⁴ The SAA explains that the Department may employ an adverse inference “to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”³⁵ Further, affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.³⁶

Record information indicates that Noksel failed to act to the best of its ability in reporting certain U.S. sales of subject merchandise. As a result, the Department has applied partial adverse facts available with respect to these unreported sales, pursuant to sections 776(a)-(b) of the Act.³⁷

DISCUSSION OF THE METHODOLOGY

We are conducting this administrative review of the order in accordance with section 751(a) of the Act, and 19 CFR 351.213.

Comparisons to Normal Value

³¹ See TPEA, Pub. L. No. 114-27, 129 Stat. 362 (2015). The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the International Trade Commission. See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015) (*Applicability Notice*). The text of the TPEA may be found at <https://www.congress.gov/bill/114thcongress/house-bill/1295/text/pl>.

³² See *Applicability Notice*, 80 FR at 46794-95.

³³ See section 776(b)(1)(B) of the Act; TPEA, section 502(1)(B).

³⁴ See also 19 CFR 351.308(c).

³⁵ See Statement of Administrative Action (SAA), H.R. Doc. No. 103-316, 103d Cong., 2d Session, Vol. 1 (1994) at 870.

³⁶ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products From Japan*, 65 FR 42985 (July 12, 2000); *Antidumping Duties, Countervailing Duties*, 62 FR 27296, 27340 (May 19, 1997); and *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (CAFC 2003) (*Nippon Steel*).

³⁷ For a discussion of this decision, including the business proprietary information upon which it is based, see memorandum to Abdelali Elouaradia, Director Office IV, Re: “Application of Partial Adverse Facts Available to Noksel Celik Boru Sanayi A.S.,” dated concurrently with this memorandum.

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

A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates weighted-average dumping margins by comparing weighted-average normal values 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 less-than-fair-value investigations, the Department examines whether to compare weighted-average normal values with the export prices (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. 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 less-than-fair-value investigations.³⁸

In recent investigations, the Department 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.³⁹ The Department 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 administrative review. 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 a respondent's weighted-average dumping margin.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of export prices (or CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchaser, region and time period 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 or state code) and are grouped into regions based upon standard definitions published by the U.S. Census

³⁸ 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 the accompanying Issues and Decision Memorandum at comment 1; see also *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (Ct. Int'l Trade 2014).

³⁹ See, e.g., *Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar From Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); or *Welded Line Pipe From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

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 the Department uses in making comparisons between EP (or CEP) and normal value 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, the Department examines 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 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.

B. Results of the Differential Pricing Analysis

For CINAR, based on the results of the differential pricing analysis, the Department preliminarily finds that 12.02 percent of the value of U.S. sales pass the Cohen's *d* test,⁴⁰ which does not confirm the existence of a pattern of prices that differ significantly among purchasers, regions or time periods. Thus, the results of the Cohen's *d* and ratio tests do not support consideration of an alternative to the average-to-average method. Accordingly, the Department preliminarily determines to apply the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for CINAR.

For Noksel, based on the results of the differential pricing analysis, the Department preliminarily finds that 84.17 percent of the value of U.S. sales pass the Cohen's *d* test,⁴¹ which confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department 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 margin calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, for these preliminary results, the Department is applying the average-to-transaction method to all U.S. sales to calculate the weighted-average dumping margin for Noksel.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by the CINAR and Noksel in Turkey during the POR that fit the description in the "Scope of the Order" section of the accompanying *Federal Register* notice to be foreign like products for purposes of determining NV for the subject merchandise sold in the United States. Pursuant to

⁴⁰ See Memorandum from Jonathan Hill, International Trade Compliance Analyst, AD/CVD Operations, Office IV, Enforcement and Compliance to the File, "2015-2016 Antidumping Duty Administrative Review of Light-Walled Rectangular Pipe and Tube from Turkey: Preliminary Results Analysis Memorandum for CINAR Boru Profil Sanayi ve Ticaret A.S.," dated concurrently with this memorandum (CINAR Preliminary Analysis Memorandum).

⁴¹ See Memorandum from Patrick O'Connor, International Trade Compliance Analyst, AD/CVD Operations, Office IV, Enforcement and Compliance to the File, "2015-2016 Antidumping Duty Administrative Review of Light-Walled Rectangular Pipe and Tube from Turkey: Preliminary Results Analysis Memorandum for Noksel Celik Boru Sanayi A.S.," dated concurrently with the memorandum (Noksel Preliminary Analysis Memorandum).

19 CFR 351.414(f) (3), we compared CINAR's and Noksel's U.S. sales to foreign like product 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, according to section 771(16)(A) of the Act, we compared U.S. sales to sales of the most similar foreign-like product made in the ordinary course of trade. In making the product comparisons, we matched foreign-like products based on the physical characteristics reported by the respondents to the product sold in the United States. In the order of importance, these physical characteristics are as follows: steel input type, metallic coating, painted, nominal perimeter, nominal wall thickness, and shape.⁴²

Date of Sale

Section 351.401(i) of the Department's regulations states that, in identifying the date of sale of the merchandise under consideration or foreign like product, the Department normally will use the date of invoice, as recorded in the exporter's or producer's records kept in the ordinary course of business. However, the regulations permit the Department to 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.⁴³ The Department 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.⁴⁴

For both its home market and U.S. sales, Noksel reported invoice date as the date of sale.⁴⁵ Thus, consistent with Department practice, we have used invoice date as the date of sale except in instances where shipment date preceded the invoice date, in which case we used shipment date.

CINAR reported invoice date as the date of sale for its home market.⁴⁶ CINAR indicated that the material terms of the sale are subject to change up until the issuance of the invoice.⁴⁷ Therefore, for the home market, we have determined that the earlier of the invoice date or shipment date is the most appropriate selection for the date of sale. However, CINAR stated (and record evidence supports) that after signing the sales contract with its U.S. customers, no changes occur regarding the material terms of its U.S. sales.⁴⁸ Thus, based on this information,⁴⁹ we preliminarily

⁴² See e.g. Letters to CINAR and Noksel, dated October 12, 2016, respectively; see also CINAR's November 28, 2016 Section B at 13-16 and Section C response at 11-14 and Noksel's November 28, 2016, Section B Response at 13-16 and Noksel's C Response at 12-15.

⁴³ 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)).

⁴⁴ 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 Issues and Decision Memorandum 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 Issues and Decision Memorandum at Comment 2.

⁴⁵ See Noksel's November 28, 2016, Section B and C Responses at B19 and C19.

⁴⁶ See CINAR's January 17, 2017 supplemental questionnaire response at 1-2.

⁴⁷ See CINAR's November 2, 2016 section A response at 14.

⁴⁸ See CINAR's January 17, 2017 supplemental questionnaire response at 1-2.

⁴⁹ See *Narrow Woven Ribbons with Woven Selvage from Taiwan; Preliminary Results of Antidumping Duty Administrative Review*; 2013-2014, 80 FR 60627 (October 7, 2015) and accompanying Preliminary Decision

determine that contract date better reflects the date on which the exporter or producer establishes the material terms of sale, and therefore will use CINAR's reported contract date as the date of sale for CINAR's U.S. sales.

Export Price

For all sales reported by CINAR and Noksel, we used EP methodology, in accordance with section 772(a) of the Act, because the merchandise under consideration 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 because CEP methodology was not otherwise warranted.

CINAR

We calculated EP for CINAR based on packed prices to unaffiliated purchasers in the United States. We made deductions from the starting price, where appropriate, for movement expenses, *i.e.*, foreign inland freight, brokerage and handling expenses incurred in the country of manufacture, and international freight, in accordance with section 772(c)(2)(A) of the Act.⁵⁰

Noksel

For Noksel, we calculated EP based on packed prices to unaffiliated purchasers in the United States. We made deductions from the gross unit sales price for movement expenses, in accordance with section 772(c)(2)(A) of the Act, which include: foreign inland freight, foreign brokerage and handling, international freight, marine insurance, U.S. brokerage and handling, export fees, and loading fees.⁵¹

Duty Drawback

CINAR and Noksel requested a duty drawback adjustment.⁵² Section 772(c)(1)(B) of the Act states that the price used to establish EP and CEP 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." In determining whether an adjustment for duty drawback should be made, we look for a reasonable link between the duties imposed and those rebated or exempted. We do not require that the imported material be traced directly from importation through exportation. We do require, however, that the company meet our "two-pronged" test in order for this adjustment to be made to U.S. price.⁵³ The first prong of the test is that the import duty and its rebate or exemption be directly linked to, and dependent upon, one another (or the exemption from import duties is

Memorandum at 9, unchanged in *Narrow Woven Ribbons with Woven Selvedge from Taiwan; Final Results of Antidumping Duty Administrative Review; 2013-2014*, 81 FR 22578 (April 18, 2016).

⁵⁰ See CINAR Preliminary Analysis Memorandum.

⁵¹ See Noksel Preliminary Analysis Memorandum.

⁵² See CINAR's November 28, 2016, Section C Response at 36-37 and Noksel's November 28, 2016, Section C Response, at 38-40.

⁵³ See *Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments*, 71 FR 61716, 61723 (October 19, 2006); see also, *Saha Thai Steel Pipe (Public) Co. v. United States*, 635 F.3d 1335, 1340-41 (Fed. Cir. 2011) (*Saha Thai*).

linked to exportation); the second prong is that the company must demonstrate that there were sufficient imports of the imported raw materials to account for the duty drawback or exemption granted for the export of the manufactured product.⁵⁴

The Department's current practice with regard to the Turkish inward processing regime (IPR) (which is the official mechanism for applying for exemption from import duties) is to allow only closed inward processing certificates (IPCs) (*i.e.*, import certificates to which the company was no longer permitted by the GOT to add import or export information) for purposes of calculating a duty drawback adjustment.⁵⁵ While Noksel claimed a duty drawback amount for shipments that it made to the United States during the POR under certain IPCs, Noksel noted that the IPCs are not closed.⁵⁶ Thus, Noksel did not base its duty drawback claim on any closed IPCs. Accordingly, for this preliminary determination, we are not making a duty drawback adjustment for Noksel. CINAR provided IPCs that were open and closed.⁵⁷ Although CINAR claimed that the IPCs which were closed related to certain exports of subject merchandise to the U.S., it did not provide sufficient documentation to tie the IPCs to exports of subject merchandise to the U.S. during the POR. In light of the above, CINAR has not demonstrated that it has satisfied the first prong of the Department's "two-pronged" test, and, accordingly, we are preliminarily not making a duty drawback adjustment for CINAR.

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, 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.

For each respondent, we determined that the aggregate volume of home market sales of the foreign-like product was greater than five percent of the aggregate volume of U.S. sales of the subject merchandise.⁵⁸ Therefore, for CINAR's and Noksel's margin analysis, we used home market sales as the basis for NV, in accordance with section 773(a)(1)(B) of the Act.

⁵⁴ *Id.*; 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.

⁵⁵ See *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 81 FR 47355 (July 21, 2016) and accompanying Issues and Decision Memorandum at Comment 4.

⁵⁶ See Letter from Noksel to the Secretary of Commerce "Section B and C Supplemental Questionnaire Response of Noksel Celik Boru Sanayi A.S.," dated May 8, 2017 at 8.

⁵⁷ See CINAR's March 24, 2017 supplemental questionnaire response at SAD-8 and April 27, 2017 supplemental questionnaire response at SCD-7.

⁵⁸ See CINAR's November 2, 2016, Section A Response at 2-3 and Noksel's November 9, 2016, Section A Response at A2-A3.

B. Affiliated-Party Transactions and Arm's-Length Test

During the POR, CINAR made sales of the foreign-like product in the home market to an affiliated party, as defined in section 771(33)(F) of the Act. Consequently, we tested these sales to ensure that they were made at arm's-length prices, in accordance with 19 CFR 351.403(c). To test whether the sales to affiliates were made at arm's-length prices, where appropriate, we compared the unit prices of sales to affiliated and unaffiliated customers net of all billing adjustments, discounts, movement charges, direct selling expenses, and packing expenses. Pursuant to 19 CFR 351.403(c) and in accordance with the Department's practice, where the price to that affiliated party was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise sold to the unaffiliated parties at the same level of trade, we determined that the sales made to the affiliated party were at arm's length.⁵⁹ Sales to affiliated customers in the home market that were not made at arm's-length prices were excluded from our analysis because we considered these sales to be outside the ordinary course of trade.⁶⁰

C. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (LOT) as the U.S. sales. Sales are made at different levels of trade if they are made at different marketing stages (or their equivalent).⁶¹ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.⁶² 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 levels of trade for EP and comparison market sales, *i.e.*, NV based on either home market or third-country prices,⁶³ 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.⁶⁴

When the Department is unable to match U.S. sales of the foreign like product in the comparison market at the same level of trade as the EP or CEP, the Department may compare the U.S. sale to

⁵⁹ See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002) (establishing that the overall ratio calculated for an affiliate must be between 98 and 102 percent in order for sales to be considered in the ordinary course of trade and used in the NV calculation).

⁶⁰ See section 771(15) of the Act and 19 CFR 351.102(b)(35).

⁶¹ See 19 CFR 351.412(c)(2).

⁶² *Id.*; see also *Certain Orange Juice From Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Antidumping Duty Order in Part*, 75 FR 50999 (August 18, 2010), and accompanying Issues and Decision Memorandum at Comment 7 (*OJ from Brazil*).

⁶³ Where NV is based on constructed value (CV), we determine the NV level of trade based on the level of trade 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).

⁶⁴ See *Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

sales at a different level of trade in the comparison market. In comparing EP or CEP sales at a different level of trade in the comparison market, where available data make it possible, we make a level-of-trade adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV level of trade is at a more advanced stage of distribution than the level of trade of the CEP and there is no basis for determining whether the difference in levels of trade between NV and CEP affects price comparability, *i.e.*, no level-of-trade adjustment is possible, the Department will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.⁶⁵

CINAR

In the home market, CINAR reported that it made sales through two channels of distribution, *i.e.*, direct sales to traders/wholesalers and producers/industrialist.⁶⁶ We examined the selling activities performed and found that CINAR performed the following selling functions in both channels of distribution: packing, inventory maintenance, order input/processing, direct sales personnel, provide cash discounts, warranty service, guarantees, and freight and delivery.⁶⁷ CINAR performed each selling activity at the same or a similar level of intensity in both channels of distribution. Therefore, we preliminarily determine that there is one LOT in the home market.

In the U.S. market, CINAR reported a single channel of distribution, *i.e.*, export sales to traders/wholesalers.⁶⁸ Thus, we preliminarily determine that all U.S. sales were made at the same LOT.

After reviewing the selling activities associated with EP and home market sales, aside from inventory maintenance and cash discounts, we determined that the selling activities associated with the home market LOT were the same as those associated with the EP LOT and all were performed at the same level of intensity. As we find that there were no significant differences between the selling activities, we preliminarily find that CINAR sold the subject merchandise and the foreign like product at the same LOT during the POR. Accordingly, all comparisons of EP to NV are at the same LOT, and thus a LOT adjustment pursuant to section 773(a)(7)(A) of the Act, is not warranted.

Noksel

Noksel reported a single channel of distribution in the home market.⁶⁹ The channel consists of direct sales of self-produced products made from the factory to home market customers including traders, industrial distributors and end users. Noksel provided limited selling activities to these customers and the sales functions for these customers are not substantially different.⁷⁰ For this reason, Noksel reported a single LOT for the home market. Accordingly, we found that

⁶⁵ See *OJ from Brazil* at Comment 7.

⁶⁶ See CINAR's December 21, 2016 supplemental questionnaire response at 7-9 and Exhibits SA-8 and SA-9.

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ See Noksel's Section B Response at B-18. See also Noksel's supplemental Section A Response, date December 23, 2016 at A-2.

⁷⁰ See Noksel's Supplemental Section A Response at A-2.

the single home market channel of distribution constitutes a single LOT.⁷¹ Noksel reported EP sales in the U.S. market made through a single channel of distribution. Noksel reported that in its sales channel, Noksel sold merchandise to unaffiliated trading companies, with the knowledge that the sales were destined for the U.S. market.⁷² Accordingly, we found that the single U.S. market channel of distribution constitutes a single LOT. Further, we determined that the selling activities associated with EP sales were essentially the same as those associated with the home market level of trade and, therefore. Specifically, we noted that the selling function charts provided by Noksel show that for virtually all selling functions, Noksel performed the same selling activities at approximately the same level of intensity in both the U.S. and home markets.⁷³ As a result, we find that there were no significant differences between the selling activities associated with the EP sales and those associated with each of the home market distribution channel. Therefore, we preliminarily find that, during the POR, Noksel sold the subject merchandise and the foreign like product at the same LOT, and we made no LOT adjustment under section 773(a)(7)(A) of the Act.

Cost of Production Analysis

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (TPEA), which made numerous amendments to the AD and countervailing duty law, including amendments to section 773(b)(2) of the Act, regarding the Department's requests for information on sales at less than the cost of production (COP).⁷⁴ This law does not specify dates of application for those amendments.⁷⁵ On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the U.S. International Trade Commission.⁷⁶ Section 773(b)(2)(A)(ii) of the Act controls all determinations in which the complete initial questionnaire has not been issued as of August 6, 2015. It requires the Department to request CV and COP information from respondent companies in all AD proceedings.⁷⁷

Accordingly, the Department requested this information from CINAR and Noksel in this administrative review.⁷⁸ We examined CINAR's and Noksel's 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.

A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the costs of materials and fabrication for the foreign like product, plus amounts for general and

⁷¹ *Id.*

⁷² See Noksel's Section A Response at A-12-A-13 and Exhibit A6. See also Noksel's Section C Response at C-15.

⁷³ See Noksel's Section A Response at Exhibit A6.

⁷⁴ See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015).

⁷⁵ The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

⁷⁶ See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015).

⁷⁷ *Id.*, 80 FR at 46794-95.

⁷⁸ See Section D questionnaire dated October 12, 2016.

administrative expenses (G&A) and interest expenses. We relied on the COP data submitted by CINAR and Noksel.

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 home market sales prices of the foreign like product, in order to determine whether the sales prices were below the COPs. For purposes of this comparison, we used COPs exclusive of selling and packing expenses and used sales prices that were exclusive of any applicable billing adjustments, discounts and rebates, where applicable, movement charges, actual direct and indirect selling expenses, and packing expenses.

C. Results of the COP Test

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

We found that, for certain products, more than 20 percent of CINAR's and Noksel's home market sales during the POR were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.⁷⁹

Calculation of NV Based on Comparison-Market Prices

For those comparison products for which there were an appropriate number of sales at prices above the COP, we based NV on comparison market prices. We calculated NV based on packed, delivered or ex-works prices to unaffiliated customers in Turkey. We made deductions, where appropriate, from the starting price for billing adjustments and discounts in accordance with 19 CFR 351.401(c). We also made a deduction from the starting price for movement expenses, including inland freight under section 773(a)(6)(B)(ii) of the Act. We adjusted for differences in packing, in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act, and for circumstances of sale (imputed credit expenses and other direct selling expenses), in accordance with section 773(a)(6)(c)(iii) of the Act and 19 CFR 351.410. When comparing U.S.

⁷⁹ See Noksel Preliminary Results Analysis Memorandum and CINAR Preliminary Results Analysis Memorandum.

sales with home market sales of merchandise similar to that sold in the U.S. market, we adjusted for differences in costs attributable to differences in the physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise.⁸⁰

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A 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.

CONCLUSION

We recommend applying the above methodology for these preliminary results of review.

☒

Agree

☐

Disagree

5/31/2017

X *Ronald K. Lorentzen*

Signed by: RONALD LORENTZEN

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

⁸⁰ See 19 CFR 351.411(b).