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Investigation
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December 4, 2019

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 Certain Quartz Surface
Products from Turkey

I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that certain quartz surface products (quartz surface products) from the Republic of Turkey (Turkey) are being, or are 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. We preliminarily determine that critical circumstances do not exist for Belenco dis Tikaret A. Ş. (Belenco), Ermaş Madencilik Turizm Sanayi Ve Ticaret Anonim Şirketi (Ermaş), and for imports of quartz surface products from Turkey that are subject to the all-others rate.

II. BACKGROUND

On May 8, 2019, Commerce received an antidumping duty (AD) petition covering imports of quartz surface products from Turkey, filed in proper form on behalf of Cambria Company LLC (the petitioner).¹ We initiated this investigation on May 28, 2019.²

In the *Initiation Notice*, we stated that we intended to select respondents based on U.S. Customs and Border Protection (CBP) data for certain subheadings of the Harmonized Tariff Schedule of the United States listed in the scope of the investigation.³ Accordingly, on May 22, 2019, we

¹ See Petitioner’s Letter, “Petitions for the Imposition of Antidumping and Countervailing Duties: Certain Quartz Surface Products from India and the Republic of Turkey,” dated May 8, 2019 (the Petition).

² See *Certain Quartz Surface Products from India and the Republic of Turkey: Initiation of Less-Than-Fair-Value Investigations*, 84 FR 25529 (June 3, 2019) (*Initiation Notice*).

³ *Id.*, 84 FR at 25533.

released the CBP entry data to all interested parties under an administrative protective order, and requested comments regarding the data and respondent selection.⁴ No party submitted comments. On July 2, 2019, we limited the number of respondents selected for individual examination to the two exporters and producers that account for the largest volume of entries of the subject merchandise into the United States during the period of investigation (POI), Belenco and Ermaş.⁵

On June 28, 2019, 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 quartz surface products from Turkey.⁶ We issued the Initial AD Questionnaire on July 3, 2019.⁷

The *Initiation Notice* also notified parties of an opportunity to comment on the scope of the investigation, as well as the appropriate physical characteristics of quartz surface products to be reported in response to the Initial AD Questionnaire.⁸ We received timely comments regarding the physical characteristics of the merchandise under consideration on the record of this investigation.⁹ Based on the comments received, on July 9, 2019, we issued a memorandum revising the product characteristics field for size of fabricated products.¹⁰ Further, the petitioner and a foreign producer and exporter in India, Antique Marbonite Private Limited, India (Antique Marbonite) filed timely scope comments and rebuttal comments on the record of this investigation.¹¹ As explained below, we also addressed the scope comments placed on the record of this investigation by interested parties in the Preliminary Scope Decision Memorandum, issued concurrently with this memorandum.¹²

On July 17, 2019, Belenco informed us that inflation in Turkey was above 25 percent during the POI, April 1, 2018 through March 31, 2019.¹³ We evaluated certain inflation indices during the

⁴ See Memorandum, “Antidumping Duty Investigation of Certain Quartz Surface Products from Turkey: Release of Customs Data from U.S. Customs and Border Protection,” dated May 22, 2019.

⁵ See Memorandum, “Less-Than-Fair-Value Investigation of Certain Quartz Surface Products from the Republic of Turkey: Respondent Selection,” dated July 2, 2019.

⁶ See *Certain Quartz Surface Products from India and Turkey; Determinations*, 84 FR 31100 (June 28, 2019); see also International Trade Commission Preliminary Report, “Quartz Surface Products from India and Turkey, Invs. 701-TA-624-625 and 731-TA-1450-1451 (Preliminary), ITC Publication 4919, July 2019.

⁷ See Commerce’s Letters to Belenco and Ermas, “Certain Quartz Surface Products from Turkey: Questionnaire,” dated July 3, 2019 (Initial AD Questionnaire).

⁸ See *Initiation Notice*, 84 FR at 25529 – 25530.

⁹ See Petitioner’s Letter, “Certain Quartz Surface Products from India and Turkey: Comments on Model Match Methodology,” dated June 17, 2019.

¹⁰ See Memorandum, “Less-Than-Fair-Value Investigation of Certain Quartz Surface Products from Turkey: Clarification of Product Characteristics,” dated July 9, 2019.

¹¹ See Antique Marbonite’s Letter, “Certain Quartz Surface Products from India (C-533-890 / A-533-889/ A-489-837 / C-489-838), Comments on Scope of Investigation,” dated July 1, 2019; see also Petitioner’s Letter, “Certain Quartz Surface Products from India: Petitioner’s Rebuttal Comments Regarding Scope and Model Match Criteria,” dated November 27, 2019.

¹² For further discussion of these comments, see Memorandum, “Certain Quartz Surface Products from India and Turkey: Preliminary Scope Decision Memorandum,” dated concurrently with this preliminary determination (Preliminary Scope Decision Memorandum).

¹³ See Belenco’s Letter, “Quartz Surface Products from Turkey: Response of Belenco dis Tikaret A. Ş. Regarding Inflation,” dated July 17, 2019.

POI and determined that there was, in fact, inflation above 25 percent during the POI. As a result, on July 19, 2019, we issued a high inflation Section D questionnaire to both Belenco and Ermaş.¹⁴

Belenco and Ermaş submitted timely responses to our Initial AD Questionnaire from July 31, 2019 through August 30, 2019.¹⁵ We issued supplemental questionnaires to each company and received timely responses to these supplemental questionnaires from October 2 through November 27, 2019.¹⁶ During the same time period, the petitioner submitted comments regarding Belenco's and Ermaş's questionnaire responses.¹⁷ The petitioner provided pre-preliminary comments on November 8,¹⁸ November 25,¹⁹ and November 26, 2019.²⁰ Belenco provided rebuttal comments to the petitioner's November 25, 2019 pre-preliminary comments.²¹

¹⁴ See Commerce's Letters to Belenco and Ermaş, "Certain Quartz Surface Products from Turkey: High Inflation Cost of Production and Constructed Value Questionnaire" dated July 19, 2019.

¹⁵ See Belenco's Letters, "Certain Quartz Surface Products from Turkey: Section A Questionnaire Response," dated July 31, 2019 (Belenco's AQR); and "Certain Quartz Surface Products from Turkey: Section B, C and D Questionnaire Responses," dated August 30, 2019 (Belenco's BQR, CQR, and DQR); *see also* Ermaş' Letters, "Certain Quartz Products from Turkey (A-489-837): Section A Responses of Ermaş Madencilik Turizm Sanayi Ve Ticaret Anonim Şirketi (Ermaş), for AD Investigation," dated July 31, 2017 (Ermaş' AQR); "Certain Quartz Products from Turkey (A-489-837): Section B Responses of Ermaş Madencilik Turizm Sanayi Ve Ticaret Anonim Şirketi (Ermaş), for AD Investigation," dated August 29, 2019 (Ermaş' BQR); "Certain Quartz Products from Turkey (A-489-837): Section C Responses of Ermaş Madencilik Turizm Sanayi Ve Ticaret Anonim Şirketi (Ermaş), for AD Investigation," dated August 29, 2019 (Ermaş' CQR); and "Certain Quartz Products from Turkey (A-489-837): Section D Responses of Ermaş Madencilik Turizm Sanayi Ve Ticaret Anonim Şirketi (Ermaş), for AD Investigation," dated August 29, 2019.

¹⁶ See Belenco's Letters, "Certain Quartz Surface Products from Turkey: Section D First and Second Supplemental Questionnaire Responses," dated October 2, 2019; "Certain Quartz Surface Products from Turkey: Part II of Section D First and Second Supplemental Questionnaire Responses," dated October 9, 2019; "Certain Quartz Surface Products from Turkey: Response to Sections A, B and C Second Supplemental Questionnaire," dated October 29, 2019 (Belenco's 1st SQR (ABC)); "Certain Quartz Surface Products from Turkey: Section D Fourth Supplemental Questionnaire Response," dated November 11, 2019; "Certain Quartz Surface Products from Turkey: Response to Sections A, B and C First Supplemental Questionnaire," dated November 12, 2019 (Belenco's 2nd SQR (ABC)); and "Certain Quartz Surface Products from Turkey: Response to 3rd Supplemental Questionnaire," dated November 18, 2019; *see also* Ermaş' Letters, "Certain Quartz Products from Turkey (A-489-837): Supplemental Section D Responses of Ermaş Madencilik Turizm Sanayi Ve Ticaret Anonim Şirketi (Ermaş), for AD Investigation," dated October 22, 2019; "Certain Quartz Products from Turkey (A-489-837): Section ABC Responses of Ermaş Madencilik Turizm Sanayi Ve Ticaret Anonim Şirketi (Ermaş), for AD Investigation," dated November 15, 2019 (Ermaş 1st SQR (ABC)); "Third Supplemental Section D Responses of Ermaş Madencilik Turizm Sanayi Ve Ticaret Anonim Şirketi (Ermaş), for AD Investigation," dated November 22, 2019; and, "Certain Quartz Surface Products from Turkey (A-489-837): Second Supplemental Section ABC Responses of Ermaş Madencilik Turizm Sanayi Ve Ticaret Anonim Şirketi (Ermaş) for AD investigation," dated November 27, 2019.

¹⁷ See Petitioner's Letters, "Certain Quartz Surface Products from the Republic of Turkey: Sections B-C Deficiency Comments," dated September 23, 2019; and "Certain Quartz Surface Products from the Republic of Turkey: Deficiency Comments on Belenco First and Second Supplemental Section D Responses," dated September 26, 2019.

¹⁸ See Petitioner's Letters, "Certain Quartz Surface Products from Turkey: Petitioner's Pre-Preliminary Comments Regarding Belenco," and "Certain Quartz Surface Products from the Republic of Turkey: Pre-Preliminary Determination Comments," each dated November 8, 2019.

¹⁹ See Petitioner's Letter, "Certain Quartz Surface Products from the Republic of Turkey: Petitioner's Additional Pre-Preliminary Comments Regarding Belenco," dated November 25, 2019.

²⁰ See Petitioner's Letter, "Certain Quartz Surface Products from Turkey: Reply to Belenco's Pre-Preliminary Response," dated November 26, 2019.

²¹ See Belenco's Letter, "Quartz Surface Products from Turkey: Response to Petitioner's November 25, 2019 Comments," dated November 25, 2019.

On September 16, 2019, the petitioner requested that the date for the issuance of the preliminary determination in this investigation be extended by 50 days pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(b)(2).²² As a result, pursuant to section 733(c)(1)(A) of the Act, we published a postponement by 50 days of the preliminary determination in the *Federal Register* until no later than December 4, 2019.²³

On September 17, 2019, the petitioner filed an allegation of critical circumstances with respect to quartz surface products from Turkey pursuant to section 733(e) of the Act and 19 CFR 351.206.²⁴ On September 17, 2019, we requested monthly quantity and value shipment data from Belenco and Ermaş.²⁵ On September 27, 2019, Arizona Tile LLC (Arizona Tile) and MS International, Inc. (MS International) filed rebuttal comments regarding the petitioner's allegation of critical circumstances.²⁶ On September 26, October 15, and November 15, 2019, both Belenco and Ermaş reported their monthly quantity and value shipment data.²⁷

On November 18 and 20, 2019, Belenco and Ermaş, respectively, requested Commerce to postpone the final determination in this investigation for a period of 135 days from the date of publication of the preliminary determination, in the event that Commerce published an affirmative preliminary determination.²⁸ In addition, Belenco and Ermaş stated that, in the event that Commerce grants their request, they agree to the extension of the provisional measures from a four-month period to a period not to exceed six months.²⁹ On November 20, 2019, the petitioner requested Commerce to postpone the final determination in this investigation for a

²² See Petitioner's Letter, "Quartz Surface Products from the Republic of Turkey: Request to Extend the Preliminary Determination," dated September 16, 2019.

²³ See *Certain Quartz Surface Products from India and the Republic of Turkey: Postponement of the Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 84 FR 52062 (October 1, 2019).

²⁴ See Petitioner's Letter, "Certain Quartz Surface Products from Turkey: Allegation of the Existence of Critical Circumstances," dated September 17, 2019 (Critical Circumstances Allegation).

²⁵ See Commerce's Letters to Belenco and Ermaş, "Antidumping and Countervailing Duty Investigations of Certain Quartz Surface Products from the Republic of Turkey: Request for Quantity and Value Shipment Data," dated September 17, 2019.

²⁶ See Arizona Tile and MS International's Letter, "Certain Quartz Surface Products from Turkey: Response to Petitioner's Allegation of the Existence of Critical Circumstances," dated September 27, 2019.

²⁷ See Belenco's Letters, "Quartz Surface Products from Turkey: Monthly U.S. Shipment Data for September 2018 to August 2019," dated September 26, 2019; "Quartz Surface Products from Turkey: September 2019 U.S. Shipment Data," dated October 15, 2019; and "Quartz Surface Products from Turkey: October 2019 U.S. Shipment Data," dated November 15, 2019; *see also* Ermaş' Letters, "Ermaş Madencilik Turizm Sanayi Ve Ticaret Anonim Şirketi (Ermaş) Response to the Request of the Department for Quantity and Value Shipment Data," dated October 15, 2019; "Ermaş Madencilik Turizm Sanayi Ve Ticaret Anonim Şirketi (Ermaş) Response to the Request of the Department for Quantity and Value Shipment Data," dated October 15, 2019; and "Ermaş Madencilik Turizm Sanayi Ve Ticaret Anonim Şirketi (Ermaş) Response to the Request of the Department for Quantity and Value Shipment Data," dated November 15, 2019.

²⁸ See Belenco's Letter, "Quartz Surface Products from Turkey: Extension Request for Final Determination," dated November 18, 2019 (Belenco's Request to Extend the Final Determination); *see also* Ermaş' Letter, "Quartz Surface Products from Turkey: Extension Request of Ermaş Madencilik Turizm Sanayi Ve Ticaret Anonim Şirketi (Ermaş) for Final Determination," dated November 20, 2019 (Ermaş' Request to Extend the Final Determination).

²⁹ *Id.*

period of 135 days from the date of publication of the preliminary determination, in the event that Commerce published a negative preliminary determination.³⁰

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

III. PERIOD OF INVESTIGATION

The POI is April 1, 2018 through March 31, 2019. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was May 2019.³¹

IV. SCOPE COMMENTS

In accordance with the *Preamble* to our regulations,³² the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).³³ Certain interested parties from the companion quartz surface products investigations from India commented on the scope of this investigation, as published in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum. We have evaluated the scope comments filed by the interested parties, and we are preliminarily not modifying the scope language as it appeared in the *Initiation Notice*. In the Preliminary Scope Decision Memorandum, we set a separate briefing schedule on scope issues for interested parties. We will issue a final scope decision on the records of the quartz surface products investigations after considering the comments submitted in the scope case and rebuttal briefs.

V. SINGLE ENTITY ANALYSIS

Section 771(33) of the Act identifies persons that shall be considered “affiliated” or “affiliated persons,” if: (A) members of a family, including brothers and sisters (whether by the whole or half-blood), spouse, ancestors, and lineal descendants; (B) any officer or director of an organization and such organization; (C) partners; (D) employer and employee; (E) any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and such organization; (F) two or more persons directly or indirectly controlling, controlled by, or under common control with, any person; and (G) any person who controls any other person and such other 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. Commerce’s regulations at 19 CFR 351.102(b)(3) state that in determining whether control over another person exists within the meaning of section 771(33) of the Act, Commerce

³⁰ See Petitioner’s Letter, “Quartz Surface Products from Turkey: Request to Extend the Final Determination” dated November 20, 2019 (Petitioner’s Request to Extend the Final Determination).

³¹ See 19 CFR 351.204(b)(1).

³² See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

³³ See *Initiation Notice*, 84 FR at 25530.

will not find that control exists unless the relationship has the potential to impact decisions concerning the production, pricing, or cost of the subject merchandise or foreign like product.³⁴

Section 351.401(f) of Commerce's regulations outlines the criteria for treating affiliated producers as a single entity for purposes of antidumping proceedings:

- (1) In general. In an antidumping proceeding under this part, the Secretary will treat two or more affiliated producers as a single entity where those producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities and the Secretary concludes that there is a significant potential for the manipulation of price or production.
- (2) Significant potential for manipulation. In identifying a significant potential for the manipulation of price or production, the factors the Secretary may consider include:
 - (i) The level of common ownership;
 - (ii) The extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and
 - (iii) Whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers.³⁵

Commerce has long recognized that it is appropriate to treat certain groups of companies as a single entity and to determine a single weighted-average margin for that entity to determine margins accurately and to prevent manipulation that would undermine the effectiveness of the antidumping law.³⁶ While section 19 CFR 351.401(f) explicitly applies to producers, Commerce has found it to be instructive in determining whether non-producers should be collapsed and has used the criteria outlined in the regulation in its analysis. In a number of past cases, Commerce has treated exporting companies as a single entity,³⁷ as well as producers and exporters as a single entity.³⁸

Furthermore, the Court of International Trade (CIT) has upheld Commerce's practice of collapsing two entities that were sufficiently related to prevent the possibility of price manipulation, even when those entities were not both producers.³⁹ For example, in *Hontex II*,⁴⁰ the CIT held that, once a finding of affiliation is made, affiliated exporters can be considered a

³⁴ See also *Preamble*, 62 FR at 27298.

³⁵ See 19 CFR 351.401(f).

³⁶ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from Brazil*, 69 FR 76910 (December 23, 2004), and accompanying Issues and Decision Memorandum (IDM) at Comment 5.

³⁷ *Id.*

³⁸ See *Certain Welded Carbon Steel Standard Pipes and Tubes from India: Preliminary Results of Antidumping Duty Administrative Review*, 75 FR 33578, 33580-33581 (June 14, 2010), unchanged in *Certain Welded Carbon Steel Standard Pipes and Tubes from India: Final Results of Antidumping Duty Administrative Review*, 75 FR 69626 (November 15, 2010).

³⁹ See *Queen's Flowers de Colon v. United States*, 981 F. Supp. 617, 628 (CIT 1997).

⁴⁰ See *Hontex Enterprises v. United States*, 342 F. Supp. 2d 1225, 1230-34 (CIT 2004) (*Hontex II*).

single entity where their relationship has the potential to impact decisions concerning the production, pricing, or cost of the subject merchandise.⁴¹

Belenco / Peker Yüzey Tasarımları Sanayi ve Ticaret A.Ş. (Peker Yüzey)

We preliminarily determine that Belenco and Peker Yüzey are affiliated pursuant to section 771(33)(E) of the Act because the record demonstrates that Belenco is a wholly-owned subsidiary of Peker Yüzey.⁴² Further, we preliminarily determine that Belenco and Peker Yüzey should be treated as a single entity for AD purposes pursuant to 19 CFR 351.401(f). Specifically, we find, in accordance with our practice, that the criterion in 19 CFR 351.401(f)(1) is met. Although Peker Yüzey produces the subject merchandise, Belenco sells the merchandise produced by Peker Yüzey in the home market, and exports the merchandise to the United States and third countries.⁴³ We also find that the criterion in 19 CFR 351.401(f)(2), significant potential for manipulation, is met due to common ownership, as well as shared board members and a shared officer (*i.e.*, that all of the members of the board of directors of Belenco also serve on the board of directors of Peker Yüzey,⁴⁴ and one person also serves as the chief financial officer of both Belenco and Peker Yüzey).⁴⁵ Therefore, we are preliminarily treating the two companies as a single entity for purposes of our preliminary determination.

VI. POSTPONEMENT OF FINAL DETERMINATION AND EXTENSION OF PROVISIONAL MEASURES

On November 18 and 20, 2019, Belenco and Ermaş each requested that, contingent upon an affirmative preliminary determination of sales at LTFV, Commerce postpone the final determination, and that provisional measures be extended to a period not to exceed six months.⁴⁶ In addition, on November 20, 2019, the petitioner also requested that Commerce fully postpone the deadline of the final determination in the instant investigation.⁴⁷ In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, we will make our final determination no later than 135 days after the date of publication of this preliminary determination.

⁴¹ *Id.*

⁴² See Belenco's AQR at page A-5 and Exhibit A-3, "Company Structure and Organization Chart."

⁴³ *Id.* at A-5-A-6.

⁴⁴ See Belenco's AQR at Exhibit A-3, "Ownership Structure During the POI," Exhibit A-4, "Belenco's Shareholder Structure and Board of Directors," and, Exhibit A-5, "Peker Yüzey's Shareholder Structure and Board of Directors." See also Belenco's 3rd SQR (ABC) at page 4.

⁴⁵ See Belenco's 3rd SQR (ABC) at 4.

⁴⁶ See Belenco's Request to Extend the Final Determination; and Ermaş' Request to Extend the Final Determination.

⁴⁷ See Petitioner's Request to Extend the Final Determination.

VII. DISCUSSION OF THE METHODOLOGY

Comparisons to Normal Value

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

A. *Determination of the Comparison Method*

Pursuant to 19 CFR 351.414(c)(1), we calculate weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs (or CEPs), *i.e.*, the average-to-average method, unless the Secretary determines that another method is appropriate in a particular situation. In LTFV investigations, we examine 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, we 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.⁴⁸ We find that the differential pricing analysis used in certain investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this investigation. We will continue to develop our approach in this area based on comments received in this and other proceedings, and on our additional experience with addressing the potential masking of dumping that can occur when we use the average-to-average method in calculating a respondent's weighted-average dumping margin.

The differential pricing analysis used in this preliminary determination examines whether there exists a pattern of EPs or CEPs for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination code, *i.e.*, zip code, and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POI based upon the reported

⁴⁸ See, e.g., *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); see also *Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); and *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

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 we use 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 under the “mixed method.” 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, we examine whether using only the average-to-average method can appropriately account for such differences. In considering this question, we test 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.⁴⁹

B. *Results of the Differential Pricing Analysis*

Belenco

For Belenco, based on the results of the differential pricing analysis, we preliminarily find that 52.91 percent of the value of U.S. sales pass the Cohen's *d* test,⁵⁰ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, we preliminarily determine that the average-to-average method cannot account for such differences because the weighted-average dumping margin crosses the *de minimis* threshold when calculated using the average-to-average method and when calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test. Thus, for this preliminary determination, we are applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test to calculate the weighted-average dumping margin for Belenco.

Ermaş

For Ermaş, based on the results of the differential pricing analysis, we preliminarily find that 30.02 percent of the value of U.S. sales pass the Cohen's *d* test,⁵¹ and 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, we preliminarily determine to apply the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Ermaş.

⁴⁹ The Court of Appeals for the Federal Circuit (CAFC) in *Apex Frozen Foods v. United States*, 862 F. 3d 1322 (Fed. Cir. July 12, 2017) recently affirmed much of our differential pricing methodology. We ask that interested parties present only arguments on issues which have not already been decided by the CAFC.

⁵⁰ See Memorandum, "Analysis for the Preliminary Determination in the Investigation of Certain Quartz Surface Products from the Republic of Turkey: Belenco dis Tikaret A.Ş.," dated concurrently with this memorandum (Belenco's Preliminary Calculation Memorandum) at Exhibit 4, in the chart entitled, "The Cohen's *d* Test Overall Results."

⁵¹ See Memorandum, "Analysis for the Preliminary Determination in the Investigation of Certain Quartz Surface Products from the Republic of Turkey: Ermaş Madencilik Turizm Sanayi Ve Ticaret Anonim Şirketi," dated concurrently with this memorandum (Ermaş' Preliminary Calculation Memorandum) at Exhibit 4, in the chart entitled, "The Cohen's *d* Test Overall Results."

VIII. DATE OF SALE

Section 351.401(i) of Commerce's regulations states that, in identifying the date of sale of the merchandise under consideration or foreign like product, we normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business. Additionally, we 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.⁵² Finally, we have a long-standing practice of finding that, where the shipment date precedes the invoice date, the shipment date better reflects the date on which the material terms of sale are established.⁵³

Belenco

Belenco reported the invoice date as the date on which the terms of the sales are definitively established for all U.S. sales and all home market sales.⁵⁴ Accordingly, we used the invoice date as the date of sale for all U.S. and home market sales for this preliminary determination.

Ermaş

Ermaş reported the invoice date as the date on which the terms of the sales are definitively established for all U.S. sales and all home market sales.⁵⁵ Accordingly, we used the invoice date as the date of sale for all U.S. and home market sales for this preliminary determination.

IX. PRODUCT COMPARISONS

In accordance with section 771(16) of the Act, we considered all products that respondents produced and sold in Turkey 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 of foreign like products made in the home market, where appropriate.⁵⁶ 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, we compared 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 subject merchandise and foreign like products based on whether the products were prime or non-prime and the physical characteristics reported by Belenco and Ermaş in the following order of importance: level of fabrication, thickness, slab size, size of fabricated product, design, and surface finish. For the respondents' sales of quartz

⁵² 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)).

⁵³ 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 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.

⁵⁴ See Belenco's AQR at A-16; Belenco's BQR at B-20; and Belenco's CQR at C-17.

⁵⁵ See Ermaş' BQR at 15; and Ermaş' CQR at 13-14.

⁵⁶ See our discussion for Belenco and Ermaş in section X.A., "Home Market Viability."

surface products in the United States, the reported control number identifies the characteristics of quartz surface products, as exported by Belenco and Ermaş, respectively.

We note that, because Turkey's economy experienced high inflation (*i.e.*, above 25 percent) during the POI, it is Commerce's practice to limit our comparisons of U.S. sales to calculated NV during the same month in which the U.S. sale occurred. This methodology minimizes the extent to which calculated dumping margins are overstated or understated due solely to inflation.

X. EXPORT PRICE AND CONSTRUCTED EXPORT PRICE

A. *Export Price*

Section 772(a) of the Act defines EP as "the price at which subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States," as adjusted under section 772(c) of the Act. In accordance with section 772(a) of the Act, we calculated EP for all Belenco's and Ermaş' U.S. sales, where the subject merchandise was first sold to an unaffiliated purchaser in the United States prior to importation and the CEP methodology was not otherwise warranted based on the facts of the record.

Belenco

We calculated EP for Belenco based on packed prices to unaffiliated purchasers in the United States. We made deductions, where appropriate, for movement expenses, *i.e.*, inland freight to the port of exportation and domestic brokerage and handling, in accordance with section 772(c)(2)(A) of the Act.

Ermaş

We calculated EP for Ermaş based on packed prices to unaffiliated purchasers in the United States. We made deductions, where appropriate, for movement expenses, *i.e.*, inland freight from the factory to the port of exportation and domestic brokerage and handling, in accordance with section 772(c)(2)(A) of the Act.

B. *Constructed Export Price*

Pursuant to section 772(b) of the Act, the CEP is "the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter," as adjusted under sections 772(c) and (d) of the Act. In accordance with section 772(b) of the Act, certain of Belenco's U.S. sales of subject merchandise were reported as CEP because the sales were made on Belenco's behalf by its sales affiliates in the United States to unaffiliated purchasers in the

United States. However, none of these sales were made during the POI.⁵⁷ Therefore, we did not calculate a margin for any of Belenco's reported CEP sales.

XI. 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.

In order to determine whether there was a sufficient volume of sales in the home market or in the third country to serve as a viable basis for calculating NV, we compared Belenco's and Ermaş' volume of home-market and third-country sales of the foreign like product to the respective volume of U.S. sales of the subject merchandise in accordance with sections 773(a)(1)(B) and (C) of the Act. We found that both Belenco and Ermaş' aggregate volume of sales of the foreign like product in the home market was greater than five percent of the company's sales of subject merchandise to the United States. Therefore, we used home market sales as the basis for NV for Belenco and Ermaş, in accordance with section 773(a)(1)(B) of the Act.

B. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, we 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).⁵⁸ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.⁵⁹ 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.

⁵⁷ See Belenco's CQR at Exhibit C-1, "U.S. Sales Database;" Belenco's 1st SQR (ABC) at Exhibit S-5, "Updated U.S. Sales Database," and Belenco's 2nd SQR (ABC) at Exhibit SC-2, "Revised CEP Sales Database."

⁵⁸ See 19 CFR 351.412(c)(2).

⁵⁹ *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),⁶⁰ we consider the starting prices before any adjustments.

When we are unable to match sales of the foreign like product in the comparison market at the same LOT as the EP, we may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP sales to sales at a different LOT in the comparison market, where available data makes it possible, we make an LOT adjustment under section 773(a)(7)(A) of the Act.

In this investigation, we obtained information from Belenco and Ermaş regarding the marketing stages involved in making reported comparison market and U.S. sales, including a description of the selling activities performed by Belenco and Ermaş for each channel of distribution.⁶¹ Our LOT findings are summarized below.

Belenco

Belenco reported that it made all home market sales through a single channel of distribution in the home market: sales to an unaffiliated distributor (Channel 1).⁶² Belenco explained that it performed the following selling functions for its home market customer: order solicitation or acceptance of purchase inquiries from customers; signing sales contracts and arranging for production; inspection and quality control of the merchandise; packing the merchandise for shipment; arranging delivery from the plant to the unaffiliated customer's designated location for delivered sales; and, communicating with local customers regarding their needs, activities, and interest level in different products.⁶³ Belenco explained that it makes all home market sales at the same LOT.⁶⁴

Selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery; 3) inventory maintenance and warehousing; and 4) warranty and technical support.⁶⁵ Based on these selling function categories, we find that Belenco performed sales and marketing and freight and delivery services, but did not perform inventory maintenance and warehousing or warranty and technical support services. Because

⁶⁰ Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling, general and administrative expenses (SG&A), and profit for CV, where possible. See 19 CFR 351.412(c)(1).

⁶¹ See Belenco's AQR at A-15 and Exhibit A-7, "Selling Function Chart"; and Belenco's 2nd SQR (ABC) at Exhibit SA-14; see also Ermaş' AQR at 10 – 15; and Ermaş 1st SQR (ABC) at Exhibit SA-5, "Selling Functions by Category."

⁶² See Belenco's AQR at A-17.

⁶³ *Id.* at A-15.

⁶⁴ *Id.* at A-16.

⁶⁵ See *OJ from Brazil* IDM at Comment 7; see also *Certain Frozen Warmwater Shrimp from India: Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 9991, 9996 (March 9, 2009) (*Shrimp from India Prelim*), unchanged in *Certain Frozen Warmwater Shrimp from India: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 33409 (July 13, 2009) (*Shrimp from India Final*); see also *Certain Cold-Rolled Steel Flat Products from the Republic of Korea: Final Determination of Sales at Less Than Fair Value*, 81 FR 49953 (July 29, 2016) (*CRS from Korea*), and accompanying IDM at Comments 9 and 18.

Belenco had only one channel of distribution in the home market, we preliminarily determine that there is one LOT in the home market for Belenco.

Belenco reported that it made EP and CEP sales in the U.S. market through two channels of distribution.⁶⁶ Belenco reports that it made EP sales (Channel 1), from Belenco/Peker Yüzey directly to unaffiliated U.S. customers, which are all distributors.⁶⁷ Belenco reports that it made CEP sales (Channel 2) through a complex chain in which Peker Yüzey issued invoices to Belenco, which subsequently issued invoices to Lotte Advanced Materials Co., Ltd. (Lotte Advanced Materials) in Korea.⁶⁸ Lotte Advanced Materials then issued invoices to Lotte Advanced Materials USA Inc. (Lotte Advanced Materials USA), in the United States, who in turn issued invoices to unaffiliated customers in the United States.⁶⁹ Belenco shipped the merchandise in this transaction chain directly to the unaffiliated customers in the United States.⁷⁰ However, because Belenco reported that none of Lotte Advanced Materials USA's CEP sales to unaffiliated downstream customers occurred during the POI,⁷¹ we did not take Belenco's CEP sales into account for the purposes of this preliminary determination.⁷²

Belenco reported that it performed the following selling functions in Turkey for U.S. sales: order solicitation or acceptance of purchase inquiries from customers; signing sales contracts and arranging for production; inspection and quality control of the merchandise; arranging inland transportation from the plant to the port in Turkey for U.S. sales, and related export expenses such as loading, *etc.*; packing the merchandise for shipment; and, communicating with U.S. customers regarding their needs, activities, and interest level in different products.⁷³ Belenco explained that it makes all U.S. sales at the same LOT.⁷⁴

Belenco reported that it performed the following selling functions for its U.S. sales (EP): sales and marketing; forecasting; strategic/economic planning; and, packing/repacking.⁷⁵ Based on the above-referenced selling function categories, we find that Belenco performed sales and marketing and some freight and delivery services, but did not perform inventory maintenance and warehousing or warranty and technical support in either U.S. channel. Therefore, because Belenco had only one channel of distribution in the United States during the POI, we preliminarily determine that all U.S. sales are at the same LOT.

Finally, we compared the U.S. LOT to the home market LOT. Belenco contends that the selling functions do not generally vary by channel of distribution except in certain circumstances where

⁶⁶ See Belenco's AQR at A-17.

⁶⁷ *Id.* at A-17 and A-18.

⁶⁸ Lotte Advanced Materials acquired the majority interest in Peker Yüzey on March 25, 2019, six days before the end of the POI. See Belenco's AQR at A-9. Thus, Peker Yüzey and Lotte Advanced Materials were unaffiliated for all but the last 6 days of the POI. See also Belenco's 2nd SQR (ABC) at 5-6.

⁶⁹ See Belenco's AQR at A-17 and A-18; and Belenco's 2nd SQR (ABC) at 5-6.

⁷⁰ *Id.*

⁷¹ See Belenco's 2nd SQR (ABC) at Exhibit SC-2, "Revised CEP Sales."

⁷² See Belenco's Preliminary Calculation Memorandum at page 2 and Attachment 1; see also the "Constructed Export Prices" section of this memorandum.

⁷³ See Belenco's AQR at A-15.

⁷⁴ *Id.* at A-16.

⁷⁵ *Id.* at A-15.

it may provide certain services in one channel and not another, *e.g.*, it provides freight and delivery in certain channels but not in others.⁷⁶ Accordingly, we preliminarily find that the selling functions performed for the U.S. and home market customers do not differ significantly. Therefore, we preliminarily find that sales to the home market during the POI were made at the same LOT as sales to the United States, and thus, an LOT adjustment is not warranted in accordance with section 773(a)(7)(A) and (B) of the Act.

Ermaş

Ermaş reported that it made sales through only one channel of distribution in the home market: sales directly to the distributor.⁷⁷ Ermaş explained that it performed the following selling functions in the home market: providing samples and brochures to distributors; providing marketing through their website and social media; participating in trade fairs and exhibitions; organizing meetings and events with target customers of distributors; and making marketing visits to the target customers of Ermaş' distributors to provide technical information about the merchandise and inform fabricators about recommended practices of processing.⁷⁸ Ermaş reports that during these visits, Ermaş' sales representatives do not discuss pricing or sales terms.⁷⁹ Ermaş explained that it makes all home market sales at the same LOT.⁸⁰

Selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery; 3) inventory maintenance and warehousing; and 4) warranty and technical support.⁸¹ Based on these selling function categories, we find that Ermaş performed sales and marketing and warranty and technical support services, but did not perform inventory maintenance and warehousing or freight and delivery services. Because Ermaş had only one channel of distribution in the home market, we preliminarily determine that there is one LOT in the home market for Ermaş.

Ermaş reported that it made EP sales through only one channel of distribution in the U.S. market: sales directly to the distributors.⁸² Ermaş similarly reported U.S. selling functions based on the activities required to sell subject merchandise to its unaffiliated customers in the United States. Ermaş reported that it performed the following selling functions for sales to unaffiliated parties in the United States: providing samples and brochures to the distributors; participating in trade fairs and exhibitions in the U.S. to find more distributors; marketing through and social media; and making business trips to the United States to visit existing and potential distributors and gather information about the market.⁸³ Ermaş does not provide inventory maintenance and post-sale warehousing, repacking.⁸⁴ All Ermaş' sales in the domestic market and exports to the U.S.

⁷⁶ *Id.* at A-15 and A-16; *see also* Belenco's AQR at Exhibit A-7, "Selling Functions Chart"; and Belenco's 2nd SQR (ABC) at Exhibit SA-14, "Revised Selling Function Chart."

⁷⁷ *See* Ermaş' BQR at 24.

⁷⁸ *See* Ermaş' AQR at 10.

⁷⁹ *Id.* at 10 and Exhibit A-5, "Selling Functions by Category."

⁸⁰ *Id.*

⁸¹ *See OJ from Brazil* IDM at Comment 7; *Shrimp from India Prelim*, unchanged in *Shrimp from India Final*; and *CRS from Korea* IDM at Comments 9 and 18.

⁸² *See* Ermaş' AQR at 11; *see also* Ermaş' CQR at 22.

⁸³ *See* Ermaş' AQR at 10 -11.

⁸⁴ *Id.*

are ex-factory and FOB basis respectively.⁸⁵ As a consequence, Ermaş does not provide logistical services for home market sales, but provides inland transportation from factory to the port and undertakes port charges for export sales to the United States.⁸⁶

Based on the above-referenced selling function categories, we find that Ermaş performed sales and marketing services, and certain freight and delivery services for U.S. sales, but did not provide inventory maintenance, warehousing, warranty and technical support in the U.S. market. Because Ermaş had only one channel of distribution in the United States, we preliminarily determine that all U.S. sales are at the same LOT.

Finally, we compared the U.S. LOT to the home market LOT and we preliminarily find that the selling functions performed for the U.S. and home market customers do not differ significantly. Therefore, we preliminarily find that sales to the home market during the POI were made at the same LOT as sales to the United States, and thus, an LOT adjustment is not warranted in accordance with section 773(a)(7)(A) of the Act.

C. *Cost of Production Analysis*

In accordance with Section 773(b)(2)(A)(ii) of the Act, we request CV and cost of production (COP) information from respondent companies in all AD proceedings.⁸⁷ Accordingly, we requested this information from Belenco and Ermaş in this investigation.

1. 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. As noted above, the Turkish economy experienced high inflation during the POI. In order to avoid the distortive effect of inflation on our comparison of NV and EP, we requested that Belenco and Ermaş submit monthly production costs incurred during each month of the POI. We calculated a POI-average cost based on each respondent's reported monthly costs inflated to a common point in time, and then deflated that POI-average back to each month during the POI to take into account Turkey's high inflation. To do this, we indexed the reported monthly costs during the POI to the final month of the POI using the Turkish Producer Price Index and calculated a POI-average cost of manufacturing (COM). We then assigned G&A and financial expense ratios to the COM, and then restated the POI-average COM, G&A expense, and interest expense to the inflation level of each month during the POI to obtain monthly COPs. In doing so, we made the following adjustments to Belenco and Ermaş' submitted costs.

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ 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, 46794-95 (August 6, 2015).

Belenco

We relied on the COP data submitted by Belenco except as follows:⁸⁸

- We revised Belenco's interest expense rate to include net foreign exchange gains and losses.⁸⁹

Ermaş

We relied on the COP data submitted by Ermaş except as follows:⁹⁰

- We denied Ermaş' claimed startup adjustment related to its Coante facility.
- We adjusted Ermaş' raw material costs to fully capture yield losses.
- Because Ermaş did not revalue its fixed assets during the POI, we revised the reported depreciation expenses to account for the effects of inflation.
- We revised the company's G&A expense rate to include depreciation on idle assets as well as other miscellaneous items.
- We revised the company's financial expense rate to include net foreign exchange gains and losses, and other miscellaneous financial expenses.

2. 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. The prices were exclusive of any applicable billing adjustments, discounts and rebates, movement charges, actual direct and indirect selling expenses, and packing expenses.

3. 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

⁸⁸ See Memorandum, "Cost of Production and Constructed Value Calculation Adjustments for Preliminary Determination: Belenco dis Tikaret A.Ş.," dated concurrently with this memorandum.

⁸⁹ *Id.*

⁹⁰ See Memorandum, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination: Ermaş Madencilik Turizm Sanayi Ve Ticaret Anonim Şirketi," dated concurrently with this memorandum.

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.

Where we find that more than 20 percent of a company’s home market sales for a given product were made 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 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.

D. *Calculation of NV Based on Comparison-Market Prices*

Belenco

We based NV for Belenco on comparison market prices where there were an appropriate number of sales at prices above the COP. We calculated NV based on ex-works prices to unaffiliated customers. We made deductions, where appropriate, from the starting price for other discounts, advertising expenses and bank charges in accordance with 19 CFR 351.401(c). We made no deductions from the starting price for movement expenses under section 773(a)(6)(B)(ii) of the Act since Belenco reported that the terms of delivery for all home market sales was ex-works.

We deducted comparison-market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act. We made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale. Specifically, we deducted direct selling expenses incurred for home market sales, *i.e.*, inventory carrying costs and direct selling expenses, and added U.S. direct selling expenses, *i.e.*, imputed credit expenses and direct selling expenses.

When comparing U.S. sales with comparison-market sales of similar, but not identical, merchandise, we also made adjustments for differences in 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 products and merchandise under consideration.⁹¹

Ermaş

We based NV for Ermaş on comparison market prices where there were an appropriate number of sales at prices above the COP. We calculated NV based on ex-works prices to unaffiliated customers. We made deductions, where appropriate, from the starting price for billing adjustments, rebates, and advertising expenses, and we added late payment charges, in accordance with 19 CFR 351.401(c). We made no deductions from the starting price for movement expenses under section 773(a)(6)(B)(ii) of the Act since Ermaş reported that the terms of delivery for all home market sales was ex-works.

⁹¹ See 19 CFR 351.411(b).

We deducted comparison-market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act. We made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale. Specifically, we deducted direct selling expenses incurred for home market sales, *i.e.*, imputed credit expenses, and added U.S. direct selling expenses, *i.e.*, imputed credit expenses and bank charges.

When comparing U.S. sales with comparison-market sales of similar, but not identical, merchandise, we also made adjustments for differences in 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 products and merchandise under consideration.⁹²

XII. NEGATIVE PRELIMINARY DETERMINATION OF CRITICAL CIRCUMSTANCES

Section 733(e)(1) of the Act provides that we will preliminarily determine that critical circumstances exist in an LTFV investigation if there is a reasonable basis to believe or suspect that: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (A)(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period.

In addition, 19 CFR 351.206(h)(2) provides that, in determining whether imports of the subject merchandise have been “massive,” Commerce normally will examine: (i) the volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, 19 CFR 351.206(h)(2) provides that, “{i}n general, unless the imports during the ‘relatively short period’ have increased by at least 15 percent over the imports during an immediately preceding period of comparable duration, the Secretary will not consider the imports massive.” Under 19 CFR 351.206(i), Commerce defines “relatively short period” generally as the period starting on the date the proceeding begins *i.e.*, the date the petition is filed and ending at least three months later.⁹³ This section of the regulations further provides that, if Commerce “finds that importers, or exporters or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely,” then Commerce may consider a period of not less than three months from that earlier time.⁹⁴

⁹² *Id.*

⁹³ See 19 CFR 351.206(i); see also *Change in Policy Regarding Timing of Issuance of Critical Circumstances Determinations*, Policy Bulletin 98.4, 63 FR 55364 (October 15, 1998) (“Commerce has traditionally compared the three-month period immediately after initiation with the three-month period immediately preceding initiation to determine whether there has been at least a 15 percent increase in imports of the subject merchandise”).

⁹⁴ See 19 CFR 351.206(i).

On September 17, 2019, the petitioner alleged that critical circumstances exist with respect to imports of subject merchandise, pursuant to section 733(e)(1) of the Act and 19 CFR 351.206(c)(1).⁹⁵ In accordance with 19 CFR 351.206(c)(2)(i), when a critical circumstances allegation is submitted 20 days or more before the scheduled date of the preliminary determination, Commerce must issue a preliminary finding of whether there is a reasonable basis to believe or suspect that critical circumstances exist no later than the date of the preliminary determination.

Commerce's normal practice in determining whether critical circumstances exist pursuant to the statutory criteria under section 733(e) of the Act has been to examine evidence available to Commerce, such as: (1) the evidence presented in the petitioner's critical circumstances allegation; (2) import statistics released by the ITC; and (3) shipment information submitted to Commerce by the respondents selected for individual examination.⁹⁶ For the reasons explained below, we preliminarily determine that critical circumstances do not exist for Belenco, Ermaş, or all other Turkish exporters and producers of the merchandise under consideration.

A. History of Dumping and Material Injury

In order to determine whether there is a history of dumping pursuant to section 733(e)(1)(A)(i) of the Act, we generally consider current or previous AD orders on subject merchandise from the country in question in the United States and current orders in any other country with regard to imports of subject merchandise.⁹⁷ The petitioner did not address this criterion in its allegation, and we are not aware of the existence of any active AD orders on quartz surface products from Turkey in other countries. As a result, we do not find that there is a history of injurious dumping of quartz surface products from Turkey, and therefore the statutory criterion of section 733(e)(1)(A)(i) of the Act has not been met.

B. Knowledge that Exporters Were Dumping and That There Was Likely To Be Material Injury By Reason of Such Sales

We generally base our decision with respect to knowledge on the weighted-average dumping margins calculated in the preliminary determination and the ITC's preliminary injury determination.⁹⁸ We normally consider margins of 25 percent or more for EP sales and 15

⁹⁵ See Critical Circumstances Allegation.

⁹⁶ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China*, 73 FR 31970, 31972-73 (June 5, 2008); see also *Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances: Small Diameter Graphite Electrodes from the People's Republic of China*, 74 FR 2049, 2052-53 (January 14, 2009).

⁹⁷ See, e.g., *Certain Oil Country Tubular Goods from the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination*, 74 FR 59117, 59120 (November 17, 2009) unchanged in *Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping*, 75 FR 20335 (April 19, 2010).

⁹⁸ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances Determination: Bottom Mount Combination Refrigerator-Freezers from Mexico*, 77 FR 17422, 17425 (March 26, 2012).

percent or more for CEP sales sufficient to impute importer knowledge of sales at LTFV.⁹⁹ We have preliminarily calculated weighted-average dumping margins on EP sales for Belenco and Ermaş that are lower than 25 percent. As a result, for purposes of this investigation, we preliminarily determine that the knowledge standard has not been met for either company. Accordingly, because the statutory criteria of section 733(e)(1)(A)(ii) of the Act have not been satisfied,¹⁰⁰ we find that critical circumstances do not exist with respect to Belenco and Ermaş.

Likewise, for all other producers or exporters of quartz surface products from Turkey, we preliminarily find that the criteria under sections 773(e)(1)(A)(i) and (ii) of the Act have not been met. Accordingly, we preliminarily determine that critical circumstances do not exist for all other producers or exporters of quartz surface products from Turkey.

XIII. ADJUSTMENTS TO CASH DEPOSIT RATES FOR EXPORT SUBSIDIES IN COMPANION COUNTERVAILING DUTY INVESTIGATION

In LTFV investigations where there is a concurrent countervailing duty (CVD) investigation, it is Commerce’s normal practice to calculate the cash deposit rate for each respondent by adjusting the respondent’s weighted-average dumping margin to account for export subsidies found for each respective respondent in the concurrent CVD investigation. Doing so is in accordance with section 772(c)(1)(C) of the Act, which states that U.S. price “shall be increased by the amount of any countervailing duty imposed on the subject merchandise... to offset an export subsidy.”

Commerce determined in the preliminary determination of the companion CVD investigation that Belenco benefitted from export subsidies.¹⁰¹ For Belenco, we find that an export subsidy adjustment of 0.02 percent to the AD cash deposit rate is warranted.¹⁰² With respect to all other producers/exporters, we find that an export subsidy adjustment of 0.02 percent to the cash deposit rate is warranted because this is the export subsidy rate included in the CVD all-others rate, to which these companies are subject in the companion CVD proceeding.¹⁰³ Therefore, consistent with our practice,¹⁰⁴ we will apply the applicable export subsidy offset to the cash deposit rates, as reflected in the accompanying *Federal Register* notice.

XIV. 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.

⁹⁹ *Id.*; see also section 733(e)(1)(A)(ii) of the Act.

¹⁰⁰ We further note that because the criteria under section 733(e)(1)(A) of the Act are not met, it is not necessary for us to examine whether imports of subject merchandise from Belenco and Ermaş were “massive” during the comparison period, as described under section 733(e)(1)(B) of the Act.

¹⁰¹ See *Certain Quartz Surface Products from the Republic of Turkey: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Determination with Final Antidumping Duty Determination*, 84 FR 54841 (October 11, 2019), and accompanying Preliminary Decision Memorandum.

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ See *Glycine from India: Final Determination of Sales at Less Than Fair Value*, 84 FR 18487 (May 1, 2019).

XV. RECOMMENDATION

We recommend applying the above methodology for this preliminary determination.

☒

Agree

☐

Disagree

X

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance