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Investigation
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October 6, 2020

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

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

SUBJECT: Decision Memorandum for the Preliminary Affirmative
Determination in the Less-Than-Fair-Value Investigation of
Common Alloy Aluminum Sheet from Turkey

I. SUMMARY

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

II. BACKGROUND

On March 9, 2020, Commerce received an antidumping duty (AD) petition concerning imports of aluminum sheet from Turkey, filed in proper form by the Aluminum Association Common Alloy Aluminum Sheet Trade Enforcement Working Group and its individual members: Aleris Rolled Products, Inc.; Arconic, Inc.; Constellium Rolled Products Ravenswood, LLC; JW Aluminum Company; Novelis Corporation; and Texarkana Aluminum, Inc. (collectively, the petitioners), domestic producers of aluminum sheet.¹ On March 30, 2020, Commerce initiated

¹ See Petitioners’ Letter, “Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey – Petition for the Imposition of Antidumping and Countervailing Duties,” dated March 9, 2020 (Petition).



the AD investigation on aluminum sheet from Turkey.²

In the *Initiation Notice*, Commerce notified the public that, where appropriate, it intended to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States numbers listed in the “Scope of the Investigations,” in the appendix.³ The Petition identified 21 producers and/or exporters of the subject merchandise in Turkey.⁴

On April 29, 2020, the U.S. International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of aluminum sheet from Turkey.⁵

In the *Initiation Notice*, Commerce notified parties of an opportunity to comment on the scope of the investigation, as well as on the appropriate physical characteristics of aluminum sheet to be reported in response to Commerce’s AD questionnaire.⁶ On April 27, 2020, we received timely-filed comments from interested parties. On May 11, 2020, we received timely-filed rebuttal product characteristics comments from interested parties. On May 18, 2020, Commerce officials spoke via telephone with counsel for the petitioners regarding the petitioners’ product characteristics comments and rebuttal comments.⁷ On May 19, 2020, Commerce determined the product characteristics applicable to this investigation.⁸

On April 20, 2020, Commerce selected Assan Aluminyum Sanayi ve Ticaret A.S. (Assan), and Teknik Aluminyum Sanayi A.S. (Teknik) for individual examination as mandatory respondents in this investigation. Assan and Teknik are the two producers/exporters with the largest volume of subject exports during the period of investigation (POI) based on the CBP data for U.S. imports of subject merchandise.⁹ Accordingly, we issued the AD questionnaire to Assan and Teknik.¹⁰

From May 4 through May 6, 2020, we received timely-filed comments concerning the scope of the investigation from interested parties. On May 21, 2020, we received timely-filed rebuttal scope comments from interested parties. On May 27, 2020, Commerce officials spoke with counsel for the petitioners via telephone regarding the petitioners’ scope comments and rebuttal

² See *Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan and the Republic of Turkey: Initiation of Less-Than-Fair-Value Investigations*, 85 FR 19444 (April 7, 2020) (*Initiation Notice*).

³ *Id.* 85 FR at 19448.

⁴ See Petition, Volume I at Exhibit GEN-6.

⁵ See *Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey*, Investigation Nos. 701–TA–639–642 and 731–TA–1475–1492 (Preliminary), 85 FR 23842 (April 29, 2020).

⁶ See *Initiation Notice*, 85 FR at 19445. Commerce subsequently extended the deadlines for comments and rebuttal comments on the scope and product characteristics.

⁷ See Memorandum, “Phone Call with Outside Counsel,” dated May 19, 2020.

⁸ See Commerce’s Letter, “Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey: Product Characteristics,” dated May 19, 2020 (Product Characteristics Letter).

⁹ See Memorandum, “Antidumping Duty Investigation of Common Alloy Aluminum Sheet from the Republic of Turkey: Selection of Respondents for Individual Examination,” dated April 20, 2020.

¹⁰ See Commerce’s Letter, Antidumping Duty Questionnaire, dated April 29, 2020.

comments.¹¹ We issued the preliminary scope comments decision memorandum on October 6, 2020.¹²

On June 4, 2020, Commerce issued revised descriptions for certain product characteristics.¹³ On June 11, 2020, the petitioners submitted comments in response to requests from respondents from a number of other aluminum sheet investigations to rescind the revisions made in Commerce's Revised Product Characteristics Memorandum.¹⁴ On June 12, 2020, Commerce officials spoke via telephone with counsel for the petitioners, counsel for CSAC, and counsel for respondents in other aluminum sheet investigations regarding Commerce's Revised Product Characteristics Memorandum.¹⁵ On June 16, 2020, we issued the final product characteristics in this investigation.¹⁶

Assan and Teknik submitted timely responses to Section A of Commerce's AD questionnaire (*i.e.*, the section relating to general information), in June 2020.¹⁷ In June through July 2020, Assan and Teknik responded to sections B, C, and D of Commerce's AD questionnaire (*i.e.*, the sections relating to home market sales, U.S. sales, and cost of production (COP) information), respectively.¹⁸

From July through September 2020, we sent supplemental questionnaires to both Assan and Teknik. We received responses to these supplemental questionnaires between July and

¹¹ See Memorandum, "Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey: Deadline for Scope Comments: *Ex Parte* Telephone Call with Counsel for the Aluminum Association Trade Enforcement Working Group," dated May 29, 2020.

¹² See Memorandum, "Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey: Scope Comments Decision Memorandum for the Preliminary Determinations," dated October 6, 2020 (Preliminary Scope Decision Memorandum).

¹³ See Memorandum, "Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey: Product Characteristics Correction," dated June 4, 2020 (Revised Product Characteristics Memorandum).

¹⁴ See Petitioners' Letter, "Antidumping Investigations Concerning Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey – Petitioners' Response to Respondents' Requests to Rescind Product Characteristics Clarification and for Extensions of Time to Submit Section B – D Questionnaire Responses," dated June 11, 2020.

¹⁵ See Memorandum, "Meeting with Outside Counsel," dated June 16, 2020.

¹⁶ See Memorandum, "Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey: Revised Product Characteristics Guidance," dated June 16, 2020 (Final Product Characteristics Memo).

¹⁷ See Assan's June 4, 2020 Section A Questionnaire Response (Assan AQR); and Teknik's June 3, 2020 Section A Questionnaire Response (Teknik AQR).

¹⁸ See Teknik's June 30, 2020 Section B Questionnaire Response (Teknik BQR); Teknik's June 30, 2020 Section C Questionnaire Response (Teknik CQR); Teknik's July 2, 2020 Section D Questionnaire Response; Assan's June 29, 2020 Section B Questionnaire Response (Assan BQR); Assan's June 29, 2020 Section C Questionnaire Response (Assan CQR); and Assan's July 2, 2020 Section D Questionnaire Response.

September 2020.¹⁹ The petitioners submitted comments on Assan's and Teknik's questionnaire responses from July to September 2020.

On July 29, 2020, Commerce postponed the preliminary determination of this investigation by 50 days, to October 6, 2020, pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e).²⁰

On September 4, 2020, the petitioners alleged that critical circumstances exist regarding imports of aluminum sheet from Indonesia, Oman, Taiwan, and Turkey, pursuant to section 733(e)(1)(A) of the Act and 19 CFR 351.206(h) and (i).²¹

On September 11 and 22, 2020, Assan and Teknik requested, respectively, that, in the event of an affirmative preliminary determination in this investigation, Commerce postpone its final determination in accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2) from a four-month to a six-month period.²²

On September 9, 2020, the petitioners submitted comments with respect to Teknik for consideration in the preliminary determination.²³ On September 23, 2020, the petitioners submitted comments with respect to Assan for consideration in the preliminary determination.²⁴ On September 29, 2020, Teknik submitted comments for consideration in the preliminary determination.²⁵

¹⁹ See Teknik's July 17, 2020 Section A Supplemental Questionnaire Response (Teknik ASQR); Teknik's August 10, 2020 Section B Supplemental Questionnaire Response (Teknik BSQR); Teknik's August 17, 2020 Section C Supplemental Questionnaire Response; Teknik's August 31, 2020 Section D Supplemental Questionnaire Response; Teknik's September 1, 2020 Questions 19 and 20 Section D Supplemental Questionnaire Response; Teknik's September 11, 2020 Second Section D Supplemental Questionnaire; and Teknik's September 14, 2020 Second Sections B and C Supplemental Questionnaire Response (Teknik 2nd BCSQR); Assan's July 24, 2020 Section A Supplemental Questionnaire Response (Assan ASQR); Assan's August 19, 2020 Section D Supplemental Questionnaire Response; Assan's August 21, 2020 Section D Question 23 Supplemental Questionnaire Response; Assan's September 4, 2020 Second B Supplemental Questionnaire Response (Assan BSQR); Assan's September 11, 2020 Section C Supplemental Questionnaire Response (Assan CSQR); and Assan's September 15, 2020 Second Section D Supplemental Questionnaire Response.

²⁰ See *Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and the Republic of Turkey: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 85 FR 45576 (July 29, 2020); and Petitioners' Letter, "Common Alloy Aluminum Sheet From Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan and the Republic of Turkey: Petitioners' Request for Postponement of Preliminary Antidumping Determinations," dated July 16, 2020.

²¹ See Petitioners' Letter, "Antidumping Investigations of Common Alloy Aluminum Sheet from Indonesia, Oman, Taiwan, and Turkey – Petitioners' Allegation of Critical Circumstances," dated September 4, 2020.

²² See Assan's Letter, "Request to Extend Final Determination and Provisional Measures," dated September 11, 2020; and Teknik's Letter, "Request to Postpone Final Determination and to Extend Provisional Measures," dated September 22, 2020.

²³ See Petitioners' Letter, "Common Alloy Aluminum Sheet from Turkey – Petitioners' Comments Regarding The Department's Upcoming Preliminary Determination for Teknik Alüminyum Sanayi A.Ş.," dated September 9, 2020.

²⁴ See Petitioners' Letter, "Petitioners' Pre-Preliminary Comments Regarding Assan's Sales and Cost Reporting," dated September 22, 2020.

²⁵ See Teknik's Letter, "Teknik Alüminyum Sanayi A.Ş. – Pre-Preliminary Comments," dated September 29, 2020.

III. PERIOD OF INVESTIGATION

The POI is January 1, 2019 through December 31, 2019. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the Petition, which was March 2020.²⁶

IV. SCOPE OF INVESTIGATION

The products covered by this investigation are common alloy aluminum sheet from Turkey. For a full description of the scope of the investigation, *see* the accompanying preliminary determination *Federal Register* notice at Appendix I.

V. SCOPE COMMENTS

In accordance with the *Preamble* to Commerce's regulations,²⁷ in the *Initiation Notice* Commerce set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).²⁸ As noted above, certain interested parties commented on the scope of this investigation, as published in the *Initiation Notice*. For a summary of the product coverage comments and rebuttals and our accompanying analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.

VI. DISCUSSION OF THE METHODOLOGY

A. Comparisons to Normal Value

To determine whether sales of aluminum sheet from Turkey to the United States were made at LFTV, we compared the export price (EP) and/or constructed export price (CEP) to the NV, as described in the "U.S. Price" and "Normal Value" sections of this memorandum.

1. Determination of Comparison Method

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

In numerous investigations, Commerce has applied a "differential pricing" analysis for determining whether application of the average-to-transaction method is appropriate in a

²⁶ See 19 CFR 351.204(b)(1).

²⁷ See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

²⁸ See *Initiation Notice*, 85 FR at 19444.

particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.²⁹ Commerce finds that the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this investigation. Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and on Commerce's additional experience with addressing the potential masking of dumping that can occur when Commerce uses the average-to-average method in calculating a respondent's weighted-average dumping margin.

The differential pricing analysis used in this preliminary determination examines whether there exists a pattern of EPs 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 date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region, and time period, that Commerce uses in making comparisons between EP or CEP and NV for the individual dumping margins.

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

²⁹ 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); *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).

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

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

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in this preliminary determination, including arguments for modifying the group definitions used in this proceeding.³⁰

2. Results of the Differential Pricing Analysis

For Assan and Teknik, based on the results of the differential pricing analysis, Commerce preliminarily finds that 74.12 percent and 77.27 percent, respectively, of the value of U.S. sales pass the Cohen’s *d* test and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, we preliminarily determine that for each company, there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin

³⁰ The Court of Appeals for the Federal Circuit (CAFC) in *Apex Frozen Foods v. United States*, 16-1789 (Fed. Cir. July 12, 2017) affirmed much of Commerce’s differential pricing methodology. We ask interested parties to present only arguments on issues which have not already been decided by the CAFC.

calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, for this preliminary determination, we are applying the average-to-average method to all U.S. sales to calculate the weighted-average dumping margins for Assan and Teknik.

B. Product Comparisons

As stated above, Commerce gave parties an opportunity to comment on the appropriate hierarchy of physical characteristics used to define each product, including for model matching purposes, within a certain deadline.³¹ We considered the comments that were submitted and established the appropriate product characteristics to use as a basis for defining the product control numbers of aluminum sheet in this AD investigation. Commerce identified nine criteria for the physical characteristics of the subject merchandise: (1) alloy; (2) clad; (3) casting method; (4) non-mechanical surface treatment; (5) coil; (6) nominal width; (7) gauge (nominal thickness); (8) mechanical surface finish; and (9) temper.³² We instructed the respondents to use these product characteristics in its response to the AD questionnaire issued in this investigation.³³

In accordance with section 771(16) of the Act, we considered all products produced and sold by Assan and Teknik 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 made in the home market, where appropriate. Where there were no sales of identical or similar merchandise sold in the home market in the ordinary course of trade to compare to U.S. sales, we made comparisons based on CV.

C. Date of Sale

Section 351.401(i) of Commerce’s regulations states that, in identifying the date of sale of the subject merchandise or foreign like product, Commerce normally will use the date of invoice, as recorded in the exporter or producer’s records kept in the ordinary course of business. Additionally, Commerce may use a date other than the date of invoice if it is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.³⁴ Finally, Commerce has 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.³⁵

³¹ See *Initiation Notice*, 85 FR at 19445.

³² See Commerce’s Product Characteristics Letter.

³³ *Id.*

³⁴ See 19 CFR 351.401(i); and *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)).

³⁵ See, e.g., *Certain Polyester Staple Fiber from the Republic of Korea: Preliminary Results of the 2007/2008 Antidumping Duty Administrative Review*, 74 FR 27281, 27283 (June 9, 2009), unchanged in *Certain Polyester Staple Fiber from the Republic of Korea: Final Results of the 2007-2008 Antidumping Duty Administrative Review*, 74 FR 65517 (December 10, 2009).

Assan reported the earlier of the invoice date or the shipment date as the date of sale for its home market and U.S. sales made through its affiliated trading company, Kibar Americas.³⁶ Specifically, Assan provided an analysis demonstrating and comparing conversion price and/or quantity changes made from the spot order date to the invoice/shipment date.³⁷ Therefore, consistent with 19 CFR 351.401(i) and Commerce's practice, we used the earlier of Assan's shipment date or invoice date as the date of sale, as applicable.

Teknik reported invoice date as the date of sale for its home market and U.S. sales made by its U.S. affiliate, AA Metals (AAM).³⁸ Specifically, Teknik demonstrated instances where the purchase order does not reference the price formula, as well as instances of quantity changes between the issuance of purchase order and the invoice/shipment date.³⁹ Therefore, consistent with 19 CFR 351.401(i) and Commerce's practice, we used the earlier of Teknik's shipment date or invoice date as the date of sale, as applicable.

D. Export Price

Section 772(a) of the Act defines EP as "the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of 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 subsection 772(c) of the Act. Neither Assan nor Teknik reported U.S. sales where the subject merchandise was first sold to an unaffiliated purchaser in the United States prior to importation. Therefore, the EP methodology was not warranted based on the facts of the record.

E. 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, we used CEP for all of Assan and Teknik's sales because the sales were made on their behalf by their U.S. sales affiliate in the United States (*i.e.*, Kibar Americas and AAM, respectively) to unaffiliated purchasers in the United States.⁴⁰

For these sales, we calculated CEP based on delivered prices to unaffiliated purchasers in the United States. We made additions to the starting price for packing in accordance with section 772(c)(1)(A) of the Act. We made deductions from the U.S. sales price for movement expenses in accordance with section 772(c)(2) of the Act. These adjustments included, where applicable, foreign inland freight from plant to the port of exportation, foreign brokerage and handling, U.S. brokerage and handling, international freight, marine insurance, U.S. inland freight from the warehouse to the unaffiliated customer, and U.S. warehousing.

³⁶ See Assan BQR at 23; and Assan CQR at 22.

³⁷ See Assan ASQR at 9; and Assan BSQR at 1 and Exhibits S3-1 and S3-2.

³⁸ See Teknik AQR at A-17; Teknik BQR at B-20; and Teknik CQR at C-20 to C-21.

³⁹ See Teknik ASQR at S1-13; Teknik BSQR at S2-1 to S2-2; and Teknik 2nd BCSQR at S4-1 to S4-8.

⁴⁰ See Assan CQR at 19; and Teknik CQR at C-1 and C-17.

F. Duty Drawback

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 a respondent is entitled to duty drawback, 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. prices.⁴¹ 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 linked to exportation). The second prong of the test is that the company must demonstrate that there were sufficient imports of materials to account for the duty drawback or exemption granted for the export of the manufactured product.⁴²

In prior investigations Commerce has found that Turkish companies that meet the requirements under Turkey’s Inward Processing Regime (IPR), which issues Inward Processing Certificates (IPCs), have satisfied the statute and two-prong test for duty drawback adjustments.⁴³ Teknik did not claim or report duty drawback during the POI. In the case of Assan, it has provided information in its questionnaire response that, when it opened the IPCs with the Government of Turkey (GOT), Assan documented: (1) projected quantities of imports; and (2) projected quantities of exports of aluminum sheet based on an approved production yield/loss ratios also documented on the IPC.⁴⁴ The provided yield/loss ratios that have been approved by the GOT confirm that the quantity of imported raw materials account for the duty drawback or exemption granted. Moreover, consistent with practice, Commerce is considering only IPCs that the GOT has closed for purposes of calculating a duty drawback adjustment.⁴⁵

Because Assan satisfied the criteria described above, we have preliminarily granted duty drawback adjustments to Assan consistent with our practice.⁴⁶ Under this methodology, Commerce will make an upward adjustment to U.S. price based on the amount of the duty imposed on the input and rebated or not collected on the export of the subject merchandise by properly allocating the amount rebated or not collected to all production for the relevant period based on the cost of inputs during the POI.⁴⁷ This ensures that the amount added to both sides of

⁴¹ See *Saha Thai Steel Pipe (Public) Co. v. United States*, 635 F.3d 1335, 1340-41 (Fed. Cir. 2011) (*Saha Thai*).

⁴² *Id.*; and *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 (IDM) at Comment 2.

⁴³ See, e.g., *Steel Concrete Reinforcing Bar from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 82 FR 23192 (May 22, 2017) (*Rebar from Turkey*), and accompanying IDM at Comment 1.

⁴⁴ See Assan CQR at 12-15 and Exhibits C-9 to C-12; and Assan CSQR at 1-2 and Exhibits S4-1 to S4-3.

⁴⁵ See Memorandum, “Antidumping Duty Investigation of Common Alloy Aluminum Sheet from Turkey: Preliminary Determination Margin Calculation for Assan Alüminyum Sanayi ve Ticaret A.Ş.,” (Assan Preliminary Analysis Memorandum), dated concurrently with this memorandum; and *Light-Walled Rectangular Pipe and Tube: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2015-2016*, 82 FR 47477 (October 12, 2017), and accompanying IDM at Comment 5.

⁴⁶ See, e.g., *Rebar from Turkey* at Comment 1.

⁴⁷ See *Certain Corrosion-Resistant Steel Products from India: Affirmative Preliminary Determination of Sales at*

the dumping calculations is equal, *i.e.*, duty neutral, meeting the purpose of the adjustment as affirmed in *Saha Thai*.⁴⁸

Based on the facts of this investigation, Commerce finds that the import duty costs, based on the consumption of imported inputs during the POI, properly accounts for the amount of duties imposed, as required by section 772(c)(1)(B) of the Act. We have added this per unit amount to the U.S. price.⁴⁹

G. Normal Value

1. Comparison 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 this investigation, we preliminarily determined that the aggregate volume of home market sales of the foreign like product for Assan and Teknik were more than five percent of the aggregate volume of each company's U.S. sales of the subject merchandise. Based on our analysis of information on the record, we preliminarily determine that Assan's and Teknik's home market of Turkey is viable. Therefore, we used home market sales in Turkey as the basis for NV for Assan and Teknik in accordance with section 773(a)(1)(A) and (B) of the Act.

2. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, Commerce will calculate NV based on sales at the same level of trade (LOT) as the U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).⁵⁰ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that

Less Than Fair Value and Postponement of Final Determination, 81 FR 63 (January 4, 2016), and accompanying Preliminary Decision Memorandum at 15.

⁴⁸ The CAFC stated in the *Saha Thai* litigation that "it is clear that Commerce only added imputed import duty costs to COP in an amount appropriate to offset Saha's actual import duty exemption under the bonded warehouse program. This did not result in double counting because Commerce merely added the cost of import duties that Saha would have paid on the inputs in category C if Saha had sold the subject merchandise in Thailand rather than exporting it to the United States. Commerce thus calculated an appropriate average COP." See *Saha Thai*, 635 F.3d. at 1344.

⁴⁹ See Assan Preliminary Analysis Memorandum; and Memorandum, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Assan Aluminyum Sanayi ve Ticaret A.S.," dated October 6, 2020.

⁵⁰ See 19 CFR 351.412(c)(2).

there is a difference in the stages of marketing.⁵¹ In order to determine whether the comparison market sales are at different stages in the marketing process than the U.S. sales, we examine the distribution system in each market, *i.e.*, the chain of distribution, including selling functions and class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales, *i.e.*, NV based on either home market or third country prices,⁵² 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.⁵³

When Commerce is unable to match sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, Commerce may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales to sales at a different LOT in the comparison market, where available data make it possible, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability, *i.e.*, no LOT adjustment is possible, Commerce will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.⁵⁴

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

a. Assan Level of Trade

According to 19 CFR 351.412(c)(2), Commerce will determine that sales are made at different LOTs if they are made at different marketing stages (or their equivalent). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stage of marketing. Selling activities can be generally grouped into five selling function categories for analysis, specifically, provision of: (1) sales support; (2) training services; (3) technical support; (4) logistical services; and (5) performance of sales-related administrative activities. Based on Assan's selling functions chart, we find that Assan performed sales support, technical support, logistical services, and sales-related administrative activities for all home market sales.⁵⁵ Therefore, we determine that Assan's sales in the home market during the POI were made at the same LOT.

⁵¹ *Id.*; and *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.

⁵² 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, and profit for CV, where possible. *See* 19 CFR 351.412(c)(1).

⁵³ *See Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

⁵⁴ *See, e.g., OJ from Brazil* IDM at Comment 7.

⁵⁵ *See* Assan AQR at 16; and Assan ASQR at 3 and Exhibit S1-4.

With respect to the U.S. market, Assan reported that it made CEP sales through one channel of distribution involving Kibar Dış, an affiliated Turkish trading company, and Kibar Americas, the U.S. affiliate that sold to unaffiliated U.S. customers.⁵⁶ Both companies are members of the Kibar Holding group of companies that are either owned by Kibar family members, or by companies owned by the family members, where most of the affiliated companies have common officers and interlocking directorates.⁵⁷ Assan reported that Kibar Dış handles the documentation for sales to international markets that includes the United States for merchandise produced by Assan.⁵⁸ The record information shows that in all cases, Kibar Americas purchased the aluminum sheet from Kibar Dış, which in turn purchased the subject merchandise from Assan in a series of back-to-back-to-back transactions.⁵⁹ Assan reported that all paperwork, including the commercial invoice, letter of credit documents, *etc.*, are prepared by Assan staff even if it was exported through Kibar Dış, which charged the same price to Kibar Americas that Assan charged to Kibar Dış.⁶⁰

Assan reported a single LOT in the U.S. market that identified the selling activities included in the five selling function categories related to sales support, training services, technical support, logistical services, and sales-related administrative activities for all of its U.S. sales.⁶¹ We compared this U.S. LOT to the home market LOT, and found that the selling functions and activities reported for the U.S. customers are similar and do not have substantial differences in the selling functions and activities reported in the home market, each being grouped at one LOT.⁶² Assan did not claim a difference in the level of trade, and did not provide the information and documentation requested by Commerce to substantiate the reported selling activities identified in the U.S. and home market LOTs.⁶³ Therefore, we preliminarily determine that a LOT adjustment is not warranted.

b. Teknik Level of Trade

Teknik reported that all home market sales are manufactured to order at Teknik's plant and shipped directly from the plant to the customer, adding that the channel of distribution does not vary by customer category.⁶⁴ We reviewed Teknik's selling functions chart and found that it performed activities in the home market related to sales support, logistical services, and sales-related administrative activities for all home market sales.⁶⁵ Therefore, we determine that all Teknik sales in the home market during the POI were made at the same LOT.

In the U.S. market, Teknik reported that all of its sales are made through its U.S. affiliate, AAM.⁶⁶ Teknik reported that AAM is not claiming a LOT adjustment⁶⁷ and did not claim price

⁵⁶ See Assan AQR at 15.

⁵⁷ See Assan AQR at 8-10.

⁵⁸ See Assan AQR at Exhibit A-5.

⁵⁹ *Id.* at 16.

⁶⁰ *Id.* at 10.

⁶¹ *Id.* at Exhibit A-5.

⁶² *Id.*

⁶³ See Assan ASQR at 2.

⁶⁴ See Teknik AQR at A-15

⁶⁵ *Id.* at Exhibit A-10.

⁶⁶ *Id.* at A-12.

⁶⁷ See Teknik CQR at C-30.

variation based on levels of trade.⁶⁸ Although not claiming a LOT adjustment, Teknik reported LOT information that identified two channels of distribution for US sales: U.S. Channel 1 sales for are two channels of distribution for AAM's U.S. sales: U.S. Channel 1 for sales shipped directly from Teknik's factory to AAM's U.S. customers and U.S. Channel 2 for sales shipped on an ex-warehouse or delivered basis to AAM's U.S. customers.⁶⁹ Teknik reported that the channel of distribution does not vary by customer category.⁷⁰ Teknik did not separately report its activities through its co-located and affiliated trading company Tac Metal Ticaret A.S. (TMT)⁷¹ because it is limited to issuing invoices to AAM.⁷² We reviewed Teknik's selling functions chart and found that it performed activities in the U.S. market related to sales support, logistical services, and sales-related administrative activities for all U.S. sales.⁷³ The performance of sales-related administrative activities were all performed at the same level of intensity in both U.S. Channel 1 and U.S. Channel 2. However, AAM performed sales support and logistical services for U.S. Channel 2 sales at a higher level of intensity than it did for U.S. Channel 1 sales.

According to 19 CFR 351.412(c)(2), Commerce will determine that sales are made at different LOTs if they are made at different marketing stages (or their equivalent). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stage of marketing. Although Teknik's selling function chart reflects differences in two of the three selling function categories for the two U.S. sales channels noted above, Teknik did not provide any quantitative analysis for the reported selling activities that supports the level of intensity reported for each and its impact on price comparability.⁷⁴ Accordingly, we preliminarily determine that these differences are not significant enough to warrant finding that the U.S. sales channels constitute different LOTs. Because we determine that substantial differences in Teknik's selling activities do not exist between the U.S. sales channels, we determine that Teknik's sales in the U.S. market during the POI were made at the same LOT.

We compared this U.S. LOT to the home market LOT, and found that the selling functions and activities reported for the U.S. customers are similar and do not have substantial differences in the selling functions and activities reported in the home market, each being grouped at one LOT.⁷⁵ Teknik did not claim a difference in the level of trade, and did not provide the information and documentation requested by Commerce to substantiate the reported selling activities identified in the U.S. and home market LOTs. Therefore, we preliminarily determine that a LOT adjustment is not warranted.

⁶⁸ See Teknik ASQR at S1-7.

⁶⁹ See Teknik AQR at A-13.

⁷⁰ *Id.* at A-13.

⁷¹ See Teknik ASQR at S1-1

⁷² See Teknik AQR at A-13.

⁷³ *Id.* at Exhibit A-10.

⁷⁴ See Teknik AQR at S1-7

⁷⁵ See Teknik AQR at Exhibit A-10.

3. Cost of Production Analysis

In accordance with section 773(b)(2)(A)(ii) of the Act, Commerce requested CV and COP information from Assan and Teknik. We examined the cost data and determined that our quarterly cost methodology is not warranted, and therefore, we are applying our standard methodology of using annual costs based on Assan's and Teknik's reported data.

a. Calculation of COP

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

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

- we relied on Assan's cost file "Assancop03_2b," for the preliminary determination;
- we calculated a weighted average cost for the raw material premium cost element;
- we adjusted the reported cost of manufacturing (COM) to include the metal hedge position evaluation, the metal hedge position inventory evaluation, and the provision for inventory value; and,
- we adjusted the reported general and administrative (G&A) expense ratio calculation to exclude certain sales related items.⁷⁶

We relied on the data submitted by Teknik except as follows:

- we disallowed Teknik's startup adjustment for the preliminary determination;
- we adjusted the reported COM to reflect the market prices for affiliated transactions in accordance with section 773(f)(2) of the Act; and
- we excluded certain income and expense items from the numerator of the G&A expense ratio calculation.⁷⁷

b. Test of Comparison Market Sales Prices

On a product-specific basis, pursuant to section 773(b) of the Act, we compared the 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, 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

⁷⁶ See Memorandum, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Assan Aluminyum Sanayi ve Ticaret A.S.," dated October 6, 2020.

⁷⁷ See Memorandum, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Teknik Aluminyum Sanayi A.S.," dated October 6, 2020.

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 when: (1) they were made within an extended period of time in "substantial quantities," in accordance with sections 773(b)(2)(B) and (C) of the Act; and (2) based on our comparison of prices to the weighted-average COPs for the POI, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

We found that, for certain products, more than 20 percent of Teknik's home market sales during the POI 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 as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

H. Calculation of NV Based on Comparison-Market Prices

We calculated NV for Assan and Teknik based on prices to unaffiliated customers. In accordance with 19 CFR 351.401(c), we adjusted the starting prices for early payment discounts, where appropriate. We made deductions for movement expenses in accordance with section 773(a)(6)(B)(ii) of the Act, which included, where appropriate, foreign inland freight and insurance. We made adjustments for differences in circumstances of sale pursuant to section 773(a)(6)(C)(iii) of the Act by deducting home market direct selling expenses (*i.e.*, commissions and imputed credit expenses) and adding U.S. direct selling expenses (*i.e.*, imputed credit expenses), where appropriate. We also made adjustments, in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred in the home market or the United States where commissions were granted on sales in one market but not in the other, also known as the "commission offset." Specifically, where commissions were incurred in only one market, we limited the amount of such allowance to the amount of either the indirect selling expenses incurred in the one market or the commissions allowed in the other market, whichever is less.

When comparing U.S. sales with home market sales of similar merchandise, we also made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise.⁷⁸ We also deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act.

⁷⁸ See *Stainless Steel Bar from France: Final Results of Antidumping Duty Administrative Review*, 70 FR 46482 (August 10, 2005), and accompanying IDM at Comment 8.

VII. PRELIMINARY NEGATIVE DETERMINATION OF CRITICAL CIRCUMSTANCES

As stated above, the petitioners submitted information alleging that, pursuant to section 733(e) of the Act and 19 CFR 351.206, critical circumstances exist with respect to imports of aluminum sheet from Turkey.⁷⁹

A. Background

Section 733(e)(1) of the Act provides that Commerce will preliminarily determine that critical circumstances exist in AD investigations if there is a reasonable basis to believe or suspect: (A)(i) that 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 (ii) that 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) that there have been massive imports of the subject merchandise over a relatively short period. 19 CFR 351.206(h)(2) provides that imports must increase by at least 15 percent during the “relatively short period” to be considered “massive” and 19 CFR 351.206(i) defines a “relatively short period” as normally being the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later.⁸⁰ The regulations also provide, however, 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, Commerce may consider a period of not less than three months from that earlier time.⁸¹

B. History of Dumping and Material Injury/Knowledge of Sales Below Fair Value 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, Commerce generally considers current or previous AD orders on subject merchandise from the country in question in the United States and current orders imposed by other countries with regard to imports of the same merchandise. Commerce has not previously issued an AD order on aluminum sheet from Turkey. Moreover, there are no current AD orders imposed by other World Trade Organization members against aluminum sheet from Turkey that Commerce is aware of and the petitioners do not cite any such orders in their allegation.⁸² Therefore, we have found no history of dumping of subject merchandise exported from Turkey.

To determine whether importers knew or should have known that exporters were selling at less than fair value, we typically consider the magnitude of dumping margins, including margins alleged in petitions.⁸³ Commerce has found margins of 15 to 25 percent (depending on whether

⁷⁹ See Critical Circumstances Allegation.

⁸⁰ See 19 CFR 351.206(i).

⁸¹ *Id.*

⁸² See Critical Circumstances Allegation.

⁸³ See, e.g., *Notice of Preliminary Determinations of Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products from Australia, the People's Republic of China, India, the Republic of Korea, the Netherlands, and the Russian Federation*, 67 FR 19157, 19158 (April 18, 2002), unchanged in the respective final determinations.

sales are export price sales or constructed export price sales) to be sufficient for this purpose.⁸⁴ Dumping margins preliminarily determined are below the 15 to 25 percent threshold.⁸⁵ Therefore, on that basis, we preliminarily conclude importers did not know or should have known that they were selling at less than fair value.

To determine whether importers knew or should have known that there was likely to be material injury, we typically consider the preliminary injury determinations of the International Trade Commission (ITC).⁸⁶ If the ITC finds material injury (as opposed to the threat of injury), we normally find that the ITC's determination is sufficient basis to impute importers with sufficient knowledge of injury. Here, the Commission's finding that "there is a reasonable indication that an industry in the United States is materially injured by reason of imports of common alloy aluminum sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey" is sufficient to impute knowledge of the likelihood of material injury.⁸⁷

C. Massive Imports

In determining whether there are "massive imports" over a "relatively short period," pursuant to section 733(e)(1)(B) of the Act, Commerce normally compares the import volumes of the subject merchandise for at least three months immediately preceding the filing of the petition (*i.e.*, the "base period") to a comparable period of at least three months following the filing of the petition (*i.e.*, the "comparison period"). Imports normally will be considered massive when imports during the comparison period have increased by 15 percent or more compared to imports during the base period. Furthermore, Commerce may consider the comparison period to begin at an earlier time if it finds that importers, exporters, or foreign producers had a reason to believe that proceedings were likely before the petition was filed.⁸⁸

Thus, in order to determine whether there has been a massive surge in imports for each cooperating mandatory respondent, Commerce compared the total volume of shipments from March 2020 through July 2020 (all months for which data was available) with the preceding five-month period of October 2019 through February 2020. For "all others," Commerce compared Global Trade Atlas (GTA) data for the period March 2020 through July 2020 (the last

⁸⁴ See, e.g., *Preliminary Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China*, 62 FR 31972, 31978 (June 11, 1997), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Plate from the People's Republic of China*, 62 FR 61964 (November 20, 1997); and *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 42672 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 71005.

⁸⁵ See Petition, Volume X at 7.

⁸⁶ See, e.g., *Certain Potassium Phosphate Salts from the People's Republic of China: Preliminary Affirmative Determination of Critical Circumstances in the Antidumping Duty Investigation*, 75 FR 24572, 24573 (May 5, 2010), unchanged in *Certain Potassium Phosphate Salts from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Termination of Critical Circumstances Inquiry*, 75 FR 30377 (June 1, 2010).

⁸⁷ See *Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey*, Inv. Nos. 701-TA-639-642 and 731-TA-1475-1492 (Prelim.), USITC Pub. 5049 (April 2020) at 1.

⁸⁸ 19 CFR 351.206(i).

month for which GTA data is currently available) with the proceeding five month period of October 2019 through February 2020.⁸⁹ We subtracted shipments reported by the cooperating mandatory respondents from the GTA data. Accordingly, we preliminarily determined the following producers/exporters had massive surges in imports: Assan and Teknik.

D. Conclusion

Based on the criteria and findings discussed above, we preliminarily determine that critical circumstances do not exist with respect to imports of aluminum sheet shipped by Assan and Teknik because their antidumping duty margins are below 15 percent. For all others, we preliminarily determine that critical circumstances do not exist because the antidumping duty margin is below 15 percent and there is no evidence of a massive surge in imports after the petition was filed.

VIII. 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.

IX. RECOMMENDATION

We recommend applying the above methodology for this preliminary determination.



Agree



Disagree

10/6/2020

X



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

⁸⁹ Commerce gathered GTA data under the following harmonized tariff schedule subheadings: 7606113060, 7606116000, 7606123096, 7606126000, 7606913095, 7606916095, 7606923035, 7606926095.