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Investigation
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April 27, 2021

MEMORANDUM TO: Christian Marsh
Acting 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 Aluminum Foil
from the Republic of Turkey

I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that certain aluminum foil (aluminum foil) from the Republic of Turkey (Turkey) is not being, or is not 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 margin is shown in the “Preliminary Determination” section of the accompanying *Federal Register* notice.

II. BACKGROUND

On September 29, 2020, Commerce received an antidumping duty (AD) petition concerning imports of aluminum foil from Turkey, filed in proper form by the Aluminum Association Trade Enforcement Working Group and its individual members, Gränges Americas Inc., JW Aluminum Company, and Novelis Corporation (collectively, the petitioners),¹ domestic producers of aluminum foil.² On October 19, 2020, Commerce initiated the LTFV investigation on aluminum foil from Turkey.³

¹ The petitioners indicated that Novelis Corporation acquired Aleris Corporation (including all of Aleris’ aluminum foil-related operations), effective April 14, 2020.

² See Petitioners’ Letter, “Certain Aluminum Foil from Armenia, Brazil, Oman, Russia, and Turkey - Petition for the Imposition of Antidumping and Countervailing Duties,” dated September 29, 2020 (Petition).

³ See *Certain Aluminum Foil from the Republic of Armenia, Brazil, the Sultanate of Oman, the Russian Federation, and the Republic of Turkey: Initiation of Less-Than-Fair-Value Investigations*, 85 FR 67711 (October 26, 2020) (*Initiation Notice*).



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. entries under the appropriate Harmonized Tariff Schedule of the United States subheadings listed in the “Scope of the Investigations,” in the appendix of the *Initiation Notice*.⁴ The Petition identified ten producers and/or exporters of the subject merchandise in Turkey.⁵ Accordingly, in October 15, 2020, Commerce released the CBP entry data to all interested parties under an administrative protective order, and requested comments regarding the data and respondent selection.⁶ On November 12, 2020, we selected Assan Aluminyum Sanayi ve Ticaret A.S. (Assan) and Kibar Dis Ticaret A.S. (Kibar Dis) for individual examination as mandatory respondents in this investigation.⁷

On November 19, 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 foil from Turkey.⁸

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 foil to be reported in response to Commerce’s AD questionnaire.⁹ On November 13, 2020, we received timely-filed comments concerning the physical characteristics of the subject merchandise from interested parties. On November 23, 2020, we received timely-filed rebuttal comments from interested parties. On December 3, 2020, Commerce determined the product characteristics applicable to this investigation.¹⁰

From November 9, 2020, we received timely-filed comments concerning the scope of the investigation from interested parties. On November 19, 2020, we received timely-filed rebuttal scope comments from interested parties. We issued the preliminary scope comments decision memorandum concurrently with this preliminary decision memorandum.¹¹

On November 18, 2020, we issued the AD questionnaire to Assan and Kibar Dis, the mandatory respondents in this investigation.¹² On December 22, 2020, Assan and Kibar Dis submitted a single, timely response on behalf of both companies to section A of Commerce’s AD

⁴ *Id.*, 85 FR at 67715.

⁵ See Petition at Volume VI at 1 and Volume I at Exhibit GEN-6.

⁶ See Memorandum, “Petition for the Imposition of Antidumping Duties on Imports of Certain Aluminum Foil from Turkey: Release of Customs Data from U.S. Customs and Border Protection,” dated October 15, 2020.

⁷ See Memorandum, “Antidumping Duty Investigation of Certain Aluminum Foil from the Republic of Turkey: Respondent Selection,” dated November 12, 2020 (Respondent Selection Memorandum).

⁸ See *Aluminum Foil from Armenia, Brazil, Oman, Russia and Turkey*, Investigation Nos. 701–TA–658–659 and 731–TA–1538–1542 (Preliminary), 85 FR 73748 (November 19, 2020).

⁹ See *Initiation Notice*, 85 FR at 67712. Commerce subsequently extended the deadlines for comments and rebuttal comments on product characteristics.

¹⁰ See Memorandum, “Antidumping Duty Investigations of Certain Aluminum Foil from Armenia, Brazil, Oman, Russia, and the Republic of Turkey: Finalized Product Characteristics,” dated December 3, 2020.

¹¹ See Memorandum, “Antidumping and Countervailing Duty Investigations of Certain Aluminum Foil from the Republic of Armenia, Brazil, the Sultanate of Oman, the Russian Federation, and the Republic of Turkey: Preliminary Scope Decision Memorandum,” dated concurrently with this memorandum (Preliminary Scope Decision Memorandum).

¹² See Commerce’s Letters, Initial AD Questionnaire, dated November 18, 2020.

questionnaire, *i.e.*, the section relating to general information, claiming that Kibar Dis is an affiliated foreign trading company of the producer of subject merchandise, Assan.¹³ In January 2021, Assan and Kibar Dis jointly 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)/constructed value (CV), respectively.¹⁴

From January through April 2021, we sent supplemental questionnaires to Assan and Kibar Dis. We received joint responses to these supplemental questionnaires between January and April 2021.¹⁵ The petitioners submitted comments on Assan and Kibar Dis’ questionnaire responses from January through April 2021. In February and April 2021, Assan and Kibar Dis submitted rebuttal comments to the petitioners’ comments.

On February 17, 2021, Commerce postponed the preliminary determination of this investigation by 50 days, to April 27, 2021, pursuant to section 733(c)(1)(A) of the Act and 19 CFR

¹³ See Assan and Kibar Dis’ Letter, “Aluminum Foil from the Republic of Turkey: Assan Aluminyum Sanayi ve Ticaret A.S. and Kibar Dis Ticaret A.S.’s Response to Section A Questionnaire,” dated December 22, 2020 (AQR).

¹⁴ See Assan and Kibar Dis’ Letter, “Aluminum Foil from the Republic of Turkey: Assan Aluminyum Sanayi ve Ticaret A.S. and Kibar Dis Ticaret A.S.’s Response to Section B Questionnaire,” dated January 14, 2021 (BQR); Assan and Kibar Dis’ Letter, “Aluminum Foil from the Republic of Turkey: Assan Aluminyum Sanayi ve Ticaret A.S. and Kibar Dis Ticaret A.S.’s Response to Section C Questionnaire,” dated January 14, 2021 (CQR); and Assan and Kibar Dis’ Letter, “Aluminum Foil from the Republic of Turkey: Assan Aluminyum Sanayi ve Ticaret A.S. and Kibar Dis Ticaret A.S.’s Response to Section D Questionnaire,” dated January 19, 2021.

¹⁵ See Assan and Kibar Dis’ Letter, “Aluminum Foil from the Republic of Turkey: Assan Aluminyum Sanayi ve Ticaret A.S. and Kibar Dis Ticaret A.S.’s Response to Supplemental Section A Questionnaire,” dated January 15, 2021; Assan and Kibar Dis’ Letter, “Aluminum Foil from the Republic of Turkey: Assan Aluminyum Sanayi ve Ticaret A.S. and Kibar Dis Ticaret A.S.’s Response to Section A Second Supplemental Questionnaire,” dated February 11, 2021 (2SQR); Assan and Kibar Dis’ Letter, “Aluminum Foil from the Republic of Turkey: Assan Aluminyum Sanayi ve Ticaret A.S. and Kibar Dis Ticaret A.S.’s Response to Third Supplemental Section D Questionnaire,” dated February 22, 2021; Assan and Kibar Dis’ Letter, “Aluminum Foil from the Republic of Turkey: Assan Aluminyum Sanayi ve Ticaret A.S. and Kibar Dis Ticaret A.S.’s Response to the Sections B and C Supplemental Questionnaire,” dated March 16, 2021; Assan and Kibar Dis’ Letter, “Aluminum Foil from the Republic of Turkey: Assan Aluminyum Sanayi ve Ticaret A.S. and Kibar Dis Ticaret A.S.’s Response to the March 8, 2021 Section D Second Supplemental Questionnaire,” dated March 29, 2021; Assan and Kibar Dis’ Letter, “Aluminum Foil from the Republic of Turkey: Assan Aluminyum Sanayi ve Ticaret A.S.’s Response to the March 15, 2021 Section D Third Supplemental Questionnaire,” dated March 29, 2021; Assan and Kibar Dis’ Letter, “Aluminum Foil from the Republic of Turkey: Assan Aluminyum Sanayi ve Ticaret A.S. and Kibar Dis Ticaret A.S.’s Response to the March 12 Section C Second Supplemental Questionnaire,” dated March 31, 2021; Assan and Kibar Dis’ Letter, “Aluminum Foil from the Republic of Turkey: Assan Aluminyum Sanayi ve Ticaret A.S. and Kibar Dis Ticaret A.S.’s Response to the March 12 Section C Second Supplemental Questionnaire (Questions 21-28),” dated April 2, 2021 (5SQR); Assan and Kibar Dis’ Letter, “Aluminum Foil from the Republic of Turkey: Assan Aluminyum Sanayi ve Ticaret A.S. and Kibar Dis Ticaret A.S.’s Response to the March 31 Sections B-C Supplemental Questionnaire (Questions 1-5),” dated April 7, 2021; Assan and Kibar Dis’ Letter, “Aluminum Foil from the Republic of Turkey: Assan Aluminyum Sanayi ve Ticaret A.S. and Kibar Dis Ticaret A.S.’s Response to Question 6 of the March 31, 2021 Sections B and C Supplemental Questionnaire,” dated April 12, 2021; Assan and Kibar Dis’ Letter, “Aluminum Foil from the Republic of Turkey: Assan Aluminyum Sanayi ve Ticaret A.S. and Kibar Dis Ticaret A.S.’s Response to Questions 1 – 4 of the April 9, 2021 Section D Fourth Supplemental Questionnaire,” dated April 13, 2021; and Assan and Kibar Dis’ Letter, “Aluminum Foil from the Republic of Turkey: Assan Aluminyum Sanayi ve Ticaret A.S. and Kibar Dis Ticaret A.S.’s Response to Questions 5 through 10 of the April 9, 2021 Section D Fourth Supplemental Questionnaire,” dated April 15, 2021.

351.205(e).¹⁶

On April 13, 2021, the mandatory respondents requested 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 period of four months to a period not to exceed six months..¹⁷ On April 15, 2021, the petitioners requested that, in the event of a negative 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).¹⁸

III. PERIOD OF INVESTIGATION

The period of investigation (POI) is July 1, 2019, through June 30, 2020. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the Petition, which was March 2020.¹⁹

IV. SCOPE OF INVESTIGATION

The product covered by this investigation is aluminum foil from Turkey. For a full description of the scope of the investigation, *see* Appendix I of the notice of preliminary determination published in the *Federal Register*.

V. SCOPE COMMENTS

In accordance with the *Preamble* to Commerce's regulations,²⁰ in the *Initiation Notice* Commerce set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).²¹ 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.

¹⁶ See *Certain Aluminum Foil from the Republic of Armenia, Brazil, Sultanate of Oman, the Russian Federation, and the Republic of Turkey: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 86 FR 9909 (February 17, 2021); and Petitioners' Letter, "Certain Aluminum Foil from Armenia, Brazil, Sultanate of Oman, the Russian Federation, and the Republic of Turkey: Petitioners' Request for Postponement of Preliminary Antidumping Determinations," dated February 4, 2021.

¹⁷ See Assan and Kibar's Letter, "Aluminum Foil from the Republic of Turkey: Assan Alüminyum Sanayi ve Ticaret A.Ş. and Kibar Dis Ticaret A.Ş.'s Request to Extend the Antidumping Duty Final Determination," dated April 13, 2021.

¹⁸ See Petitioners' Letter, "Certain Aluminum Foil from Armenia, Brazil, the Sultanate of Oman, the Russian Federation, and the Republic of Turkey – Petitioners' Request for Postponement of Final Antidumping Determinations," dated April 15, 2021.

¹⁹ See 19 CFR 351.204(b)(1).

²⁰ See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

²¹ See *Initiation Notice*, 85 FR at 67712.

VI. RESPONDENT SELECTION

As stated above, we selected Assan and Kibar Dis for individual examination as mandatory respondents in this investigation.²² On November 19, 2020, the petitioners requested that Commerce select an additional mandatory respondent stating that record information establishes that Assan and Kibar Dis are affiliated.²³ Because Commerce had to limit its examination to two mandatory respondents due to the large number of potential respondents relative to its resource constraints,²⁴ and it is Commerce's practice not to conduct affiliation or collapsing analyses at the respondent selection phase of a proceeding, we did not select a third mandatory respondent for examination. We stated in the Respondent Selection Memorandum that, "the determination with respect to affiliation and collapsing requires information regarding ownership, management, production facilities, potential for manipulation of price or production, and operations, which is not yet on the record of this investigation."²⁵ Commerce analyzed the information provided by Assan and Kibar Dis in their responses and has made a preliminary determination with respect to affiliation and collapsing. For a detailed discussion *see* the section titled "Affiliation and Single Entity Treatment" in this memorandum.

VII. AFFILIATION AND SINGLE ENTITY TREATMENT

Due to the business proprietary nature of information relating to this analysis, a more detailed discussion of this matter can be found in the Affiliation and Collapsing Memorandum, dated concurrently with this preliminary determination.²⁶

To the extent that Commerce's practice does not conflict with section 773(c) of the Act, Commerce has, in other proceedings, treated certain exporters and producers as a single entity if record facts of the case supported such treatment.²⁷ Pursuant to 19 CFR 351.401(f)(1), Commerce will treat producers as a single entity, or "collapse" them, where: (1) those producers are affiliated; (2) the producers have production facilities for producing similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities; and (3) there is a significant potential for manipulation of price or production.²⁸ In determining whether a significant potential for manipulation exists, 19 CFR

²² See Respondent Selection Memorandum.

²³ See Petitioners' Letter, "Antidumping Duty Investigation of Certain Aluminum Foil from the Republic of Turkey – Petitioners' Request that The Department Select a Second Mandatory Respondent," dated November 19, 2020.

²⁴ See Respondent Selection Memorandum.

²⁵ *Id.* at 6.

²⁶ See Memorandum, "Less-Than-Fair-Value Investigation of Certain Aluminum Foil from the Republic of Turkey: Preliminary Affiliation and Collapsing Memorandum for Assan Aluminyum Sanayi ve Ticaret A.S., Kibar Dis Ticaret A.S. and Ispak Esnek Ambalaj Sanayi A.S.," dated concurrently with this memorandum (Affiliation and Collapsing Memorandum).

²⁷ See *Certain Steel Nails from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances and Postponement of Final Determination*, 73 FR 3928, 3932 (January 23, 2008), unchanged in *Certain Steel Nails from the People's Republic of China: Amended Preliminary Determination of Sales at Less Than Fair Value*, 73 FR 7254 (February 7, 2008), and *Certain Steel Nails from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 33977 (June 16, 2008).

²⁸ See, e.g., *Gray Portland Cement and Clinker from Mexico: Final Results of Antidumping Duty Administrative Review*, 63 FR 12764, 12774-12775 (March 16, 1998).

351.401(f)(2) states that Commerce may consider various factors, including: (1) the level of common ownership; (2) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and (3) whether the operations of the affiliated firms 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.²⁹

“Collapsing” starts with a determination as to whether two or more companies are affiliated. Section 771(33)(E) of the Act defines affiliated persons to include “any person directly or indirectly owning, controlling, or holding with power to vote, five percent or more of the outstanding voting stock or shares of any organization and such organization.” Section 771(33)(F) of the Act defines affiliated persons to include “two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.” Section 771(33)(G) of the Act defines affiliated persons to include “any person who controls any other person and such other person.” Section 771(33) of the Act further provides 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.

Based on record evidence, we preliminarily find that Assan, Kibar Dis, and Ispak Esnek Ambalaj Sanayi A.S. (Ispak) are affiliated, pursuant to section 771(33)(F) of the Act and 19 CFR 351.102(b)(3). Because these companies are majority-owned by Kibar Holding, the record demonstrates that the ownership, management, and operational structure of these companies is such that Kibar Holding, and the Kibar family, is in a position to assert control over decisions concerning Assan, Kibar Dis, and Ispak’s production, pricing and cost of in-scope merchandise.³⁰ Furthermore, because Assan, Kibar Dis, and Ispak are affiliated pursuant to section 771(33)(F) and section 351.102(b)(3) and, consistent with section 19 CFR 351.401(f)(1), because the operations performed by Assan, Kibar Dis and Ispak result in significant potential for the manipulation of price or production, including potential for the restructure of certain manufacturing or selling priorities, we are preliminarily collapsing Assan, Kibar Dis, and Ispak and treating these companies as a single entity (herein after referred to as the Assan Single Entity) and calculating a single estimated weighted-average dumping margin for the preliminary determination.³¹ For more details, *see* the Affiliation and Collapsing Memorandum.

VIII. DISCUSSION OF THE METHODOLOGY

A. Comparisons to Normal Value

To determine whether sales of aluminum foil from Turkey to the United States were made at LTFV, we compared constructed export price (CEP) to the normal value (NV), as described in the “U.S. Price” and “Normal Value” sections of this memorandum, below.

²⁹ See, e.g., *Nihon Cement Co., Ltd. v. United States*, Slip Op. 93-80 (CIT May 25, 1993); *see also Notice of Final Determination of Sales at Less Than Fair Value: Collated Roofing Nails from Taiwan*, 62 FR 51427, 51436 (October 1, 1997).

³⁰ See Affiliation and Collapsing Memorandum.

³¹ *Id.*

1. Determination of Comparison Method

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

In numerous investigations, Commerce has applied a “differential pricing” analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.³² 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 U.S. prices 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,

³² 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); and *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).

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

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

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

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in this preliminary determination, including arguments for modifying the group definitions used in this proceeding.³³

2. Results of the Differential Pricing Analysis

For the Assan Single Entity, based on the results of the differential pricing analysis, Commerce preliminarily finds that 82.03 percent of the value of U.S. sales passes the Cohen's *d* test and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, for this preliminary determination, Commerce is applying the average-to-average method for all U.S. sales to calculate the estimated weighted-average dumping margin for the Assan Single Entity.

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 reporting COP data and for model matching purposes, within a certain deadline.³⁴ 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 LTFV investigation. Commerce identified seven criteria for the physical characteristics of the subject merchandise: (1) gauge; (2) coating; (3) width; (4) casting method; (5) alloy; (6) temper; and (7) surface finish.³⁵ We instructed Assan and Kibar Dis to use these physical characteristics in their responses to the AD questionnaires issued in this investigation.³⁶

In accordance with section 771(16) of the Act, we considered all products produced and sold by the Assan Single Entity in the home market 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 NVs for comparisons with U.S. sale prices. We compared U.S. sale prices to NVs based on sale prices of identical merchandise in the home market. Where there were no sales of identical merchandise sold in the home market made in the ordinary course of trade on which to base NV, we based NV on the sale prices of the most similar foreign-like product made in the ordinary course of trade. Where there were no sales of similar merchandise of the foreign like product, then NV was based on the CV of the subject merchandise.

³³ The Court of Appeals for the Federal Circuit (CAFC) in *Apex Frozen Foods v. United States*, 862 F.3d 1322 (Fed. Cir. 2017) affirmed much of Commerce's differential pricing methodology. We ask interested that parties present only arguments on issues which have not already been decided by the CAFC.

³⁴ See *Initiation Notice*, 85 FR at 67712-13.

³⁵ See Memorandum, "Antidumping Duty Investigations of Certain Aluminum Foil from Armenia, Brazil, Oman, Russia, and the Republic of Turkey: Finalized Product Characteristics," dated December 3, 2020.

³⁶ *Id.*

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.³⁷ 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.³⁸

The Assan Single Entity reported the invoice date is the date at which the price and quantity are set with its customer.³⁹ However, because certain sales had shipment dates that preceded the date of invoice, the Assan Single Entity reported the earlier of the invoice date and the shipment date as the date of sale for its home market and U.S. sales.⁴⁰ Therefore, consistent with 19 CFR 351.401(i) and Commerce's practice, we used the earlier of the Assan Single Entity's shipment date or invoice date as the date of sale.

D. Constructed Export Price

Section 772(b) of the Act defines CEP as 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 subsections (c) and (d)."

In accordance with section 772(b) of the Act, we used CEP to define Assan Single Entity's U.S. sale prices, because the subject merchandise was sold in the United States by a U.S. seller affiliated with the producer. We calculated CEP based on packed price to an unaffiliated purchaser in the United States, accounting for the reported terms of sale. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act, which included, where appropriate, foreign inland freight, foreign brokerage and handling, international freight, and marine insurance, import duties, U.S. brokerage and handling, section 232 duties, U.S. inland freight and U.S. warehousing. In accordance with section 772(d)(1) of the Act, we made deductions for selling expenses associated with economic activities occurring in the United States, which include direct selling expenses (*i.e.*, imputed credit expenses, export fees⁴¹ and commissions), and indirect selling expenses and U.S. inventory carrying costs. Finally, we made an adjustment for profit allocated to these expenses in accordance with section 772(d)(3) of the

³⁷ 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)).

³⁸ 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).

³⁹ See AQR at A-20.

⁴⁰ See, e.g., 5SQR at Exhibit S6C-47.

⁴¹ The export fee is charged by the Turkish Exporters Association. See CQR at 32.

Act.

Pursuant to section 772(c)(1)(B) of the Act, we also made an adjustment to U.S. price for duty drawback. The Assan Single Entity reported that it benefited from Turkey's Inward Processing Regime (IPR) in which the Assan Single Entity recorded on Inward Processing Certificate(s) (IPC) dutiable imports of material inputs with offsetting exports of corresponding merchandise produced in Turkey which extinguish the Assan Single Entity's import duty liability.⁴² The Assan Single Entity reported that it had IPCs which are relevant to the production and exportation of aluminum foil.⁴³ Under Turkey's IPR, Commerce's practice is to base an adjustment to U.S. price for duty drawback on closed IPCs as these claims have been finalized and are no longer subject to change by the exporter.⁴⁴ To calculate the amount of the adjustment to U.S. price, Commerce calculated the total amount of the duty drawback benefit for exempted import duties realized by the Assan Single Entity for exports of aluminum foil to the United States during the POR as documented on closed IPCs, and allocated the amount of this benefit to all U.S. sales reported by the Assan Single Entity during the POI.

E. Normal Value

1. Home-Market Viability and Selection of Comparison Market

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

⁴² See CQR at 39-43.

⁴³ *Id.*

⁴⁴ See Memorandum, "Less-Than-Fair-Value Investigation of Certain Aluminum Foil from the Republic of Turkey: Preliminary Determination Analysis Memorandum for the Assan Single Entity," 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 Issues and Decision Memorandum (IDM) at Comment 5; see also *Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi, A.S. v. United States*, 439 F. Supp. 3d 1342, 1349 (CIT 2020) ("Commerce reasonably predicates its inclusion of IPCs on evidence of closure as demonstrating final duty exemption").

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

Commerce may calculate NV based on sale prices to an affiliated party only if we are satisfied that the prices to the affiliated party is comparable to the prices at which sales are made to parties not affiliated with the exporter or producer, *i.e.*, sales at arm's-length prices.⁴⁵ Commerce excludes home or third-country market sales to affiliated customers that are not made at arm's-length prices from our dumping analysis because Commerce considers them to be outside the ordinary course of trade. Consistent with 19 CFR 351.403(c) and (d) and our practice, “{Commerce} may calculate NV based on sales to affiliates if satisfied that the transactions were made at arm's length {prices}.”⁴⁶

During the POI, Assan and Kibar Dis reported that producer, Assan, made home market sales to Ispak, an affiliated party as defined in section 771(33)(F) of the Act.⁴⁷ Pursuant to 19 CFR 351.403(c) and in accordance with our practice,⁴⁸ to test whether the respondents' comparison market sales were made at arm's-length prices, we compare the prices of sales of comparable merchandise to affiliated and unaffiliated customers, net of all rebates, movement charges, and direct selling expenses. As a result of our test, we preliminarily find that Assan's sales to Ispak were not made at arm's length prices. Further, consistent with 19 CFR 351.403(d), we have included Ispak's downstream sales of the foreign like product to unaffiliated customers in the calculation of NV.

3. 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).⁴⁹ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.⁵⁰ 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,⁵¹ we consider the

⁴⁵ See 19 CFR 351.403(c).

⁴⁶ See *China Steel Corp. v. United States*, 264 F. Supp. 2d 1339, 1367 (CIT 2003), *aff'd*, 306 F. Supp. 2d 1291 (CIT 2004) (citing *Light-Walled Rectangular Pipe and Tube from Mexico: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 55352, 55355 (September 7, 2011)).

⁴⁷ See BQR at B-2 and Exhibit B-1.

⁴⁸ See, e.g., *Common Alloy Aluminum Sheet from Turkey: Final Affirmative Determination of Sales at Less Than Fair Value*, 85 FR 4735 (March 8, 2021).

⁴⁹ See 19 CFR 351.412(c)(2).

⁵⁰ *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.

⁵¹ Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling, general and administrative (SG&A) expenses, and profit for CV, where possible. See 19 CFR 351.412(c)(1).

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.⁵² Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, and profit for CV, where possible.⁵³

When Commerce is unable to determine NV based on the sale prices of the foreign like product in the comparison market at the same LOT as the EP or CEP, Commerce may determine NV based on sale prices at a different LOT in the comparison market. In comparing EP or CEP to NV based on sale prices 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 available data 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

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.⁵⁵ 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. In this investigation, we obtained information from the Assan Single Entity 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.⁵⁶ Our LOT findings are summarized below.

In the home market, the Assan Single Entity reported that Assan made sales through two channels of distribution, *i.e.*, direct shipments by Assan to unaffiliated customers from the company's two plants in Turkey (Assan HM Channel 1), and vendor-managed inventory sales, *i.e.*, consignment sales, where Assan stocks goods in Turkish warehouses owned by the customers and invoicing occurs when the customer withdraws foil for its consumption (Assan HM Channel 2).⁵⁷ The Assan Single Entity reported substantially the same selling functions performed for sales within the Assan HM 1 and Assan HM Channel 2 channels of distribution, differing only the degree of intensity concerning certain inventory maintenance and warehousing

⁵² See *Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

⁵³ See 19 CFR 351.412(c)(1).

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

⁵⁵ See *Orange Juice from Brazil* and accompanying IDM at Comment 7; and *Certain Frozen Warmwater Shrimp from India: Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 9991, 9996 (March 9, 2009), unchanged in *Certain Frozen Warmwater Shrimp from India: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 33409 (July 13, 2009); see also *Certain Cold-Rolled Steel Flat Products from the Republic of Korea: Final Determination of Less Than Fair Value*, 81 FR 49953 (July 29, 2016), and accompanying IDM at Comments 9 and 18.

⁵⁶ See AQR at A-17 through A-19 and Exhibit A-5.

⁵⁷ See AQR at A-17 through A-20.

activities.⁵⁸ Therefore, for Assan, we preliminarily determine the home market sales to be at one LOT.

The Assan Single Entity also reported that affiliated further processor Ispak made sales in the home market through one channel of distribution, *i.e.*, direct shipments by Ispak to unaffiliated customers from the company's two plants in Turkey (Ispak HM Channel 1).⁵⁹ The Assan Single Entity reported substantially the same selling functions performed for sales within the Ispak HM Channel 1 channel of distribution compared to the Assan HM Channel 1 and Assan HM Channel 2 channels of distribution, with the exception of the degree of intensity of certain selling and marketing activities.⁶⁰ Therefore, for Assan and Ispak as a whole, we preliminarily determine the home market sales to be at one LOT (HM LOT).

With respect to the U.S. market, the Assan Single Entity reported that it made CEP sales through two channels of distribution, *i.e.*, mill-direct sales by Assan through its Turkish affiliate, Kibar Dis, and its U.S. affiliate, Kibar Americas Inc. (Kibar Americas), to unaffiliated customers (U.S. Channel 1), and U.S. warehouse sales through its Turkish affiliate, Kibar Dis, and its U.S. affiliate, Kibar Americas, where Kibar Americas stocks goods in warehouses owned by the U.S. customers and invoicing occurs when the customer withdraws foil for its consumption (U.S. Channel 2).⁶¹ The Assan Single Entity reported that it performed the same selling activities for U.S. Channel 1 and U.S. Channel 2 with the only significant difference between the channels of distribution being the degree of intensity at which the Assan Single Entity performed these services.⁶² Specifically, the Assan Single Entity reported no differences in the reported intensity for the selling activities of sales and marketing, freight and delivery, and warranty and technical support.⁶³ Further, for the activity of inventory maintenance and warehousing, the Assan Single Entity reported differing intensities for sales through U.S. Channel 1 and U.S. Channel 2.⁶⁴ Accordingly, we preliminarily find that the Assan Single Entity's sales to the U.S. market during the POI were made at one LOT.

We compared the U.S. LOT with the HM LOT and found that the selling activities the Assan Single Entity performed for its U.S. and home market customers were substantially the same. Specifically, with respect to all the selling activities, the Assan Single Entity performed the same activities in the home market, which are grouped in one LOT, as it performed in the U.S. market, which are also grouped in one LOT. Although there are no differences in type of selling activities performed overall by the Assan Single Entity in both markets, there is a difference in the level of intensity at which certain sales and marketing activities were performed in the U.S. market. Because we find this difference is not significant to warrant finding different LOTs, we preliminarily determine that sales to the United States and Turkey during the POI were made at the same LOT. Therefore, we preliminarily determine that sales to the United States and the home market during the POI were made at the same LOT and, as a result, no LOT adjustment is

⁵⁸ *Id.* at Exhibit A-5.

⁵⁹ *Id.* at A-8 and A-27; *see also* 2SQR at Exhibits S2A-10.1 and S2A-10.2.

⁶⁰ Compare reported selling activities and degrees of intensity for Assan in Exhibit A-5 of AQR to reported selling activities and degrees of intensity for Ispak in Exhibit S2A-10.2 of 2SQR.

⁶¹ *See* CQR at 13.

⁶² *See* AQR at Exhibit A-5.

⁶³ *Id.*

⁶⁴ *Id.*

warranted. Similarly, because the Assan Single Entity's HM LOT is not at a more advanced stage of distribution than its U.S. LOT, a CEP offset is not warranted.

4. Cost of Production Analysis

In accordance with section 773(b)(2)(A)(ii) of the Act, Commerce requested COP information from the Assan Single Entity. 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 the Assan Single Entity'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 (G&A) and financial expenses.

We included an imputed amount for exempted import duties based on the imports during the POI as recorded on the IPC(s) identified by the Assan Single Entity. This imputed amount is based on the total value of exempted import duties and stamp taxes claimed by the Assan Single Entity for imports of material inputs during the POI as recorded on the IPC(s) reported by the Assan Single Entity as associated with its claimed duty drawback benefit. This total value has been allocated based on the total cost of manufacture (COM) and applied to the revised CONNUM-specific⁶⁵ COM.

We relied on the COP data submitted by the Assan Single Entity, except as follows:⁶⁶

- The reported raw material cost differences between CONNUMs appear to be unrelated to cost differences associated with the physical characteristics of the products. Therefore, for the preliminary determination, to mitigate these cost differences unrelated to the physical characteristics of the products, we relied on Assan's reported cost database "assancop02b" that reflects a single weighted-average London Metal Exchange (LME) cost (*i.e.*, DIRMATLME). In addition, we calculated a single weighted average cost for the raw material metal premium cost element (*i.e.*, DIRMATMP).
- We adjusted Assan's reported cost of manufacturing (COM) to disallow the reconciling item Assan claims relates to costs associated with goods in transit.
- We revised Assan's reported manual adjustment factor by excluding certain offsets to the numerator of the calculation and adjusting the denominator in the calculation to reflect the same basis as that which it is applied.

⁶⁵ The product control number (CONNUM) is the concatenation of the physical characteristic codes which defines unique products that are within the scope of the investigation.

⁶⁶ See Memorandum, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Assan Alüminyum Sanayi ve Ticaret A.S. and Ispak Esnek Ambalaj San. A.S.," dated concurrently with this memorandum.

- We adjusted Assan’s reported general and administrative (G&A) expense ratio calculation to exclude certain sales related – items.
- We adjusted Ispak’s reported G&A expense ratio calculation to exclude certain items that were related to sales transactions and prior periods.
- As stated above, we recalculated Assan’s exempted duty cost based on the revised CONNUM-specific COM.
- We disallowed the deduction for packing conversion costs from the COM.

b. Test of Comparison Market Sales Prices

On a CONNUM-specific basis, pursuant to section 773(b) of the Act, we compared the adjusted weighted-average COPs to the comparison market sale prices of the foreign like product, in order to determine whether the sale 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 comparison market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether: (1) within an extended period of time, such sales were made in substantial quantities; and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. In accordance with sections 773(b)(2)(B) and (C) of the Act, where less 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 the Assan Single Entity’s home market sales during the POI were at prices less than the COP. We therefore preliminarily excluded these sales as outside of the ordinary course of trade and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

F. Calculation of Normal Value Based on Comparison Market Prices

For those comparison market products for which there were sales at prices within the ordinary course of trade, we calculated NV for the Assan Single Entity based on packed price to an

unaffiliated customer in Turkey, accounting for the reported terms of sale. We adjusted the starting price, where appropriate, for billing adjustments, discounts and rebates, in accordance with 19 CFR 351.401(c). 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. Further, 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.*, imputed credit expenses and other direct selling 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. sale prices with a NV based on home-market sale prices of similar merchandise, we also made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise sold in each market, 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.⁶⁷ We also added U.S. packing costs and deducted home market packing costs, in accordance with sections 773(a)(6)(A) and (B)(i) of the Act, respectively.

G. Calculation of Normal Value Based on Constructed Value

In accordance with section 773(e) of the Act, if there is no NV based on home-market sale prices of identical or similar merchandise in the ordinary course of trade, then we use CV as the basis for NV. We calculate CV based on the sum of the cost of materials and fabrication, G&A and financial expenses as described above in the section titled “Calculation of Cost Of Production”. Further, in accordance with section 773(e)(2)(A) of the Act and 19 CFR 351.405(b)(1), we add amounts for selling expenses and profit based on the amounts incurred and realized in connection with the production and sale of the foreign like product in the ordinary course of trade in the home market. We calculate the cost of materials and fabrication, G&A and interest expenses based on information submitted, except in instances where we determine that the information is not valued properly. We make adjustments to CV for differences in circumstances of sale, in accordance with section 773(a)(6)(C)(iii) and 19 CFR 351.410. We make 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.*, imputed credit expenses and other direct selling expenses), where appropriate.

We also make adjustments, if applicable, 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 limit the amount of such

⁶⁷ 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.

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. We also add U.S. packing costs, in accordance with section 773(a)(6)(A) of the Act.

IX. 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, as certified by the U.S. Federal Reserve Bank, in effect on the date for each of the U.S. sales.

X. RECOMMENDATION

We recommend applying the above methodology for this preliminary determination.



Agree



Disagree

4/27/2021

X

Signed by: CHRISTIAN MARSH

Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance