

A-469-815  
Administrative Review  
POR: 06/01/2021 – 05/31/2022  
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June 29, 2023

**MEMORANDUM TO:** Lisa W. Wang  
Assistant Secretary  
for Enforcement and Compliance

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

**SUBJECT:** Decision Memorandum for Preliminary Results of the  
Administrative Review of the Antidumping Duty Order on  
Finished Carbon Steel Flanges from Spain; 2021-2022

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## I. SUMMARY

The U.S. Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on finished carbon steel flanges (flanges) from Spain, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). The period of review (POR) is June 1, 2021, through May 31, 2022. The administrative review covers eight companies, including the mandatory respondent, ULMA Forja, S.Coop (ULMA). We preliminarily determine that ULMA made sales of subject merchandise at prices below normal value (NV) during the POR.

## II. BACKGROUND

On June 14, 2017, Commerce published in the *Federal Register* an AD order on flanges from Spain.<sup>1</sup> On June 3, 2022, Commerce published a notice of opportunity to request an administrative review of the *Order*.<sup>2</sup> On June 27, 2022, Commerce received a timely request from ULMA for an administrative review of itself.<sup>3</sup> On June 30, 2022, Commerce received a timely request from Weldbend Corporation (the petitioner) for an administrative review of the following companies: (1) Aleaciones De Metales Sinterizados S.A.; (2) Central Y Almacenes; (3) Farina Group Spain; (4) Friedrich Geldbach GmbH; (5) Grupo Cunado; (6) Transglory S.A.; (7) Tubacero, S.L.; and (8) ULMA.<sup>4</sup> On August 9, 2022, Commerce initiated an administrative

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<sup>1</sup> See *Finished Carbon Steel Flanges from Spain: Antidumping Duty Order*, 82 FR 27229 (June 14, 2017) (*Order*).

<sup>2</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review and Join Annual Inquiry Service List*, 87 FR 33706 (June 3, 2022).

<sup>3</sup> See ULMA's Letter, "Request for Administrative Review," dated June 27, 2022.

<sup>4</sup> See Petitioner's Letter, "Request for Administrative Review," dated June 30, 2022.



review of the *Order* for the period June 1, 2021, through May 31, 2022.<sup>5</sup> The administrative review was initiated for the eight companies for which requests for review had been received.<sup>6</sup>

In the *Initiation Notice*, Commerce stated that if it limited the number of respondents for individual examination in this administrative review, it intended to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POR.<sup>7</sup> On August 23, 2022, Commerce released CBP data for U.S. imports of subject merchandise from Spain during the POR.<sup>8</sup> On August 30, 2022, Commerce received timely filed comments from ULMA regarding the CBP entry data.<sup>9</sup>

On September 23, 2022, we selected ULMA as the sole mandatory respondent in this review.<sup>10</sup> On October 7, 2022, we issued the standard AD questionnaire to ULMA.<sup>11</sup> On October 14, 2022, ULMA notified Commerce that the volume of ULMA's home market sales of the foreign like product during the POR is less than five percent of the volume of ULMA's sales to the United States of the subject merchandise.<sup>12</sup> Between November 4 and 30, 2022, ULMA submitted its responses to sections A through D of the AD questionnaire.<sup>13</sup> Between January 24, and April 7, 2023, we issued supplemental questionnaires to ULMA.<sup>14</sup> Between February 7 and April 21, 2023, ULMA submitted its responses to our supplemental questionnaires.<sup>15</sup>

On February 22, 2023, Commerce extended the deadline for the preliminary results, until June 30, 2023.<sup>16</sup>

On April 14, 2023, we issued a verification preparedness questionnaire to ULMA, and ULMA responded on April 21, 2023.<sup>17</sup>

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<sup>5</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 87 FR 48459 (August 9, 2022) (*Initiation Notice*).

<sup>6</sup> *Id.*, 87 FR at 48462.

<sup>7</sup> *Id.*, 87 FR at 48460.

<sup>8</sup> See Memorandum, "Placement on the Record of Results of Inquiry to U.S. Customs and Border Protection," dated August 23, 2022.

<sup>9</sup> See ULMA's Letter, "Comments on CBP Data," dated August 30, 2022.

<sup>10</sup> See Memorandum, "Identification of Mandatory Respondent for the 2021-2022 Administrative Review of the Antidumping Duty Order on Finished Carbon Steel Flanges from Spain," dated September 23, 2022.

<sup>11</sup> See Commerce's Letter, Initial AD Questionnaire, dated October 7, 2022.

<sup>12</sup> See ULMA's Letter, "Notice of Home Market Sales Less Than Five Percent of U.S. Sales of Subject Merchandise," dated October 14, 2022.

<sup>13</sup> See ULMA's Letters, "Section A Questionnaire Response," dated November 4, 2022 (Section A Response); "Response to section B of the Department's Antidumping Questionnaire," dated November 21, 2022 (Section B Response); "Response to section C of the Department's Antidumping Questionnaire," dated November 21, 2022 (Section C Response); and "Response to section D of the Department's Antidumping Questionnaire," dated November 30, 2022.

<sup>14</sup> See Commerce's Letters, "Supplemental Questionnaire," dated January 24, 2023 (Supplemental Questionnaire); "Supplemental Questionnaire," dated April 7, 2023.

<sup>15</sup> See ULMA's Letters, "Supplemental Questionnaire Response," dated February 7, 2023 (SQR1); and "Second Supplemental Questionnaire Response," dated April 21, 2023.

<sup>16</sup> See Memorandum, "Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated February 22, 2023.

<sup>17</sup> See Commerce's Letter, "Verification Preparedness Questionnaire," dated April 14, 2023; *see also* ULMA's Letter, "Verification Preparedness Questionnaire Response," dated April 21, 2023.

On June 9, 2023, we issued an additional supplemental questionnaire, in which we requested information to determine whether a quarterly cost approach is necessary in this administrative review.<sup>18</sup> ULMA responded to this supplemental questionnaire on June 21, 2023.<sup>19</sup>

### III. SCOPE OF THE *ORDER*

The scope of this *Order* covers finished carbon steel flanges. Finished carbon steel flanges differ from unfinished carbon steel flanges (also known as carbon steel flange forgings) in that they have undergone further processing after forging, including, but not limited to, beveling, bore threading, center or step boring, face machining, taper boring, machining ends or surfaces, drilling bolt holes, and/or de-burring or shot blasting. Any one of these post-forging processes suffices to render the forging into a finished carbon steel flange for purposes of this *Order*. However, mere heat treatment of a carbon steel flange forging (without any other further processing after forging) does not render the forging into a finished carbon steel flange for purposes of this *Order*.

While these finished carbon steel flanges are generally manufactured to specification ASME B16.5 or ASME B16.47 series A or series B, the scope is not limited to flanges produced under those specifications. All types of finished carbon steel flanges are included in the scope regardless of pipe size (which may or may not be expressed in inches of nominal pipe size), pressure class (usually, but not necessarily, expressed in pounds of pressure, *e.g.*, 150, 300, 400, 600, 900, 1500, 2500, *etc.*), type of face (*e.g.*, flat face, full face, raised face, *etc.*), configuration (*e.g.*, weld neck, slip on, socket weld, lap joint, threaded, *etc.*), wall thickness (usually, but not necessarily, expressed in inches), normalization, or whether or not heat treated. These carbon steel flanges either meet or exceed the requirements of the ASTM A105, ASTM A694, ASTM A181, ASTM A350 and ASTM A707 standards (or comparable foreign specifications). The scope includes any flanges produced to the above-referenced ASTM standards as currently stated or as may be amended. The term “carbon steel” under this scope is steel in which:

- (a) iron predominates, by weight, over each of the other contained elements;
- (b) the carbon content is 2 percent or less, by weight; and
- (c) none of the elements listed below exceeds the quantity, by weight, as indicated:
  - (i) 0.87 percent of aluminum;
  - (ii) 0.0105 percent of boron;
  - (iii) 10.10 percent of chromium;
  - (iv) 1.55 percent of columbium;
  - (v) 3.10 percent of copper;
  - (vi) 0.38 percent of lead;
  - (vii) 3.04 percent of manganese;
  - (viii) 2.05 percent of molybdenum;
  - (ix) 20.15 percent of nickel;
  - (x) 1.55 percent of niobium;

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<sup>18</sup> See Commerce’s Letter, “Supplemental Questionnaire,” dated June 9, 2023 (Quarterly Cost Supplemental).

<sup>19</sup> See ULMA’s Letter, “Third Supplemental Questionnaire Response,” filed June 21, 2023 (Quarterly Cost Response).

- (xi) 0.20 percent of nitrogen;
- (xii) 0.21 percent of phosphorus;
- (xiii) 3.10 percent of silicon;
- (xiv) 0.21 percent of sulfur;
- (xv) 1.05 percent of titanium;
- (xvi) 4.06 percent of tungsten;
- (xvii) 0.53 percent of vanadium; or
- (xviii) 0.015 percent of zirconium.

Finished carbon steel flanges are currently classified under subheadings 7307.91.5010 and 7307.91.5050 of the Harmonized Tariff Schedule of the United States (HTSUS). They may also be entered under HTSUS subheadings 7307.91.5030 and 7307.91.5070. The HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope is dispositive.

#### IV. DISCUSSION OF THE METHODOLOGY

##### A. Comparisons to Normal Value

Pursuant to section 773(a)(1)(B) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether ULMA's sales of the subject merchandise from Spain to the United States were made at less than NV, Commerce compared the export price (EP) or constructed export price (CEP) to the NV as described in the "Export Price and Constructed Export Price" and "Normal Value" sections of this memorandum.

##### 1. Determination of the Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs (or CEPs) (*i.e.*, the average-to-average method) unless Commerce determines that another method is appropriate in a particular situation. In less-than-fair-value 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. Although section 777A(d)(1)(B) of the Act does not strictly govern Commerce's examination of this question in the context of administrative reviews, Commerce nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in less-than-fair-value investigations.<sup>20</sup>

In numerous investigations and administrative reviews, Commerce has applied a "differential pricing" analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation consistent with 19 CFR 351.414(c)(1) and section

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<sup>20</sup> See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum (IDM) at Comment 1; see also *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (CIT 2014).

777A(d)(1)(B) of the Act.<sup>21</sup> Commerce finds that the differential pricing analysis is instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. Commerce will continue to evaluate its approach in this area based on comments received in this review and the application of the differential pricing analysis on a case-by-case basis, 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 these preliminary results examines whether there exists a pattern of EPs (or CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchaser, region, and time period to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination code (*i.e.*, ZIP code) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the period of review 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.

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<sup>21</sup> See, e.g., *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); see also *Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); and *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

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 these preliminary results.

## 2. Results of the Differential Pricing Analysis

For ULMA, based on the results of the differential pricing analysis, Commerce preliminarily finds that 79.05 percent of the value of U.S. sales pass the Cohen’s *d* test,<sup>22</sup> which confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines that the average-to-average method cannot account for such differences because the weighted-average dumping margin crosses the *de minimis* threshold when calculated using the average-to-average method and when calculated using an alternative comparison method based on applying the average-to-transaction method to

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<sup>22</sup> See Memorandum, “Finished Carbon Steel Flanges from Spain: Analysis of Data Submitted by ULMA Forja S.Coop. for Preliminary Results of Antidumping Duty Administrative Review; 2021-2022,” dated concurrently with this memorandum (Preliminary Analysis Memorandum), at 2.

all U.S. sales. Thus, for these preliminary results, Commerce is applying the average-to-transaction method to all U.S. sales to calculate the weighted-average dumping margin for ULMA.

## **B. Product Comparisons**

In accordance with section 771(16) of the Act, we compared U.S. sales to sales made in the comparison market on the basis of the comparison product which was either identical or most similar in terms of the physical characteristics to the product sold in the United States. For instances in which there was neither an identical nor similar comparison product, we compared the products sold in the United States to constructed value (CV). In the order of importance, these physical characteristics are: type; specification/grade; pressure rating; nominal outside diameter; reducer; spacer; spectacle; orifice; minimum specified yield strength; heat treatment; metallic coated; face; nominal wall thickness; and painted.

## **C. Date of Sale**

Section 351.401(i) of Commerce's regulations states that we normally will use, as the date of sale, the date of invoice, as recorded in the producer or exporter's records kept in the ordinary course of business. The regulation provides further that we may use a date other than invoice date if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established. Consistent with our long-standing practice, where shipment date precedes invoice date, we find that shipment date better reflects the date on which the material terms of sale are established.<sup>23</sup> In both markets, ULMA records the invoice date as the date of sale, because material terms of sale (product and occasionally price) can, and do, change between the date the original purchase order is confirmed and the date the product is invoiced and shipped. However, while the invoice date is the date of sale according to ULMA's records, ULMA reported the earlier of invoice date or shipment date (the date the merchandise leaves the factory or warehouse) as the date of sale in its U.S. and CM databases.<sup>24</sup> We have preliminarily used the date of sale as ULMA reported, in accordance with Commerce's practice.<sup>25</sup>

## **D. Export Price and Constructed Export Price**

In accordance with section 772(a) of the Act, Commerce calculated EP for ULMA's U.S. sales where subject merchandise was first sold to an unaffiliated purchaser in the United States prior to importation, and CEP methodology was not otherwise warranted based on the facts of the record.

Specifically, the first channel of distribution reported by ULMA consisted of direct sales from ULMA to U.S. customers.<sup>26</sup> We preliminarily determine that these are EP sales. The second

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<sup>23</sup> See *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (December 23, 2004) (*Shrimp from Thailand*), and accompanying IDM at Comment 10; see also *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002) (*Steel Beams from Germany*), and accompanying IDM at Comment 2.

<sup>24</sup> See Section A Response at A-24; see also Section B Response at 32; and Section C Response at 33.

<sup>25</sup> See *Shrimp from Thailand* IDM at Comment 10; see also *Steel Beams from Germany* IDM at Comment 2.

<sup>26</sup> See Section C Response at 32.

channel of distribution reported by ULMA involved back-to-back invoicing through ULMA Piping USA Corp. (ULMA Piping USA), ULMA's U.S. affiliate. In this channel, ULMA invoiced the product to ULMA Piping USA on the date the merchandise left the factory; ULMA issued an invoice from ULMA Piping USA to the U.S. customer on the same date. ULMA was responsible for the documentation, invoicing, transportation, U.S. entry duties, ADs, and all other expenses, and ULMA was the importer. The merchandise never entered into ULMA Piping USA's possession, inventory, or books.<sup>27</sup> Because ULMA negotiated all terms of sale with its customers before the subject flanges entered the United States, we preliminarily determine that these are EP sales.

We calculated EP based on the prices to the first unaffiliated purchaser in the United States. We made deductions to the starting price, where appropriate, for movement expenses (*i.e.*, foreign brokerage and handling expenses, international freight, U.S. customs duties, and inland freight charges) in accordance with section 772(c)(2)(A) of the Act. Where applicable, we reduced movement expenses by freight and pallet revenue, capped by the amount of the corresponding expenses, in accordance with our practice.<sup>28</sup>

## E. Normal Value

### 1. Home Market Viability and Selection of Comparison Market

To determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, *i.e.*, the aggregate volume of home market sales of the foreign like product is 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 the home market is not viable, 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.

We preliminarily determine that the aggregate volume of ULMA's home market sales of the foreign like product was less than five percent of the aggregate volume of its U.S. sales of the subject merchandise.<sup>29</sup> ULMA reported the quantity and value of its sales to each of its three largest third country markets.<sup>30</sup> The volume of ULMA's sales to each of its largest third country markets is greater than five percent of the volume of ULMA's sales to the United States.<sup>31</sup> Therefore, for ULMA's margin analysis, we used third-country sales (*i.e.*, sales to Canada, ULMA's largest third-country market) as the basis for NV, in accordance with section 773(a)(1)(B)(ii) of the Act.<sup>32</sup>

<sup>27</sup> See Section A Response at A-2, A-19, and A-22.

<sup>28</sup> See, *e.g.*, *Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review*, 74 FR 40167 (August 11, 2009) (*Orange Juice from Brazil 2007-08*), and accompanying IDM at Comment 3.

<sup>29</sup> See Section A Response at A-3 and Exhibit A-1.

<sup>30</sup> *Id.* at A-2 to A-3 and Exhibit A-1.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*



## 2. Cost of Production

Pursuant to section 773(b)(2)(A)(ii) of the Act, Commerce requested cost of production (COP) information from ULMA to determine if there were reasonable grounds to believe or suspect that sales of foreign like product had been made at prices that represented less than the COP of the product.

### *a. Cost Averaging Methodology*

Commerce's normal practice is to calculate a weighted-average cost for the POR. However, we recognize that possible distortions may result if we use our normal POR weighted-average cost method during a time of significant cost changes. In determining whether to deviate from our normal methodology of calculating a POR weighted-average cost, we evaluate the case-specific record evidence by examining two primary criteria: (1) if the changes in the cost of manufacturing (COM) recognized by the respondent during the POR are deemed significant; and (2) if the record evidence indicates that sales prices during the shorter (quarterly) cost-averaging periods could be reasonably linked with the COP during the same shorter (quarterly) cost-averaging periods.<sup>33</sup>

On June 9, 2023, we issued a supplemental questionnaire to ULMA, requesting additional information with which to determine whether or not our quarterly cost methodology is warranted.<sup>34</sup> ULMA responded to this supplemental questionnaire on June 21, 2023.<sup>35</sup> Because we had insufficient time to analyze ULMA's response to our quarterly cost supplemental questionnaire for these preliminary results, we applied our standard methodology of using annual costs based on the reported data. We intend to conduct a post-preliminary analysis to determine whether the quarterly cost methodology is warranted. Parties will have the opportunity to comment on this analysis.

### *i. Significance of Cost Changes*

In prior determinations, we established 25 percent as the threshold (between the high- and low-quarterly COM) for determining that the changes in COM are significant enough to warrant a departure from our standard POR weighted-average cost approach.<sup>36</sup> As ULMA's response to our quarterly cost supplemental questionnaire was received shortly before these preliminary results, we did not have sufficient time to analyze it and, thus, intend to include this analysis in a post-preliminary analysis.

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<sup>33</sup> See *Stainless Steel Sheet and Strip in Coils from Mexico: Final Results of Antidumping Duty Administrative Review*, 75 FR 6627 (February 10, 2010) (*SSSSC from Mexico*), and accompanying IDM at Comment 6; see also *Stainless-Steel Plate in Coils from Belgium: Final Results of Antidumping Duty Administrative Review*, 73 FR 75398 (December 11, 2008) (*SSPC from Belgium*), and accompanying IDM at Comment 4.

<sup>34</sup> See Quarterly Cost Supplemental.

<sup>35</sup> See Quarterly Cost Response.

<sup>36</sup> See *SSPC from Belgium* IDM at Comment 4.

ii. *Linkage Between Sales and Cost Information*

When we find the changes in quarterly COM to be significant, Commerce's practice is to evaluate whether there is evidence of a linkage between the COM changes and the sale prices during the POR.<sup>37</sup> Absent a surcharge or other pricing mechanism, Commerce may alternatively look for evidence of a pattern showing that changes in sale prices reasonably correlate to changes in unit COM.<sup>38</sup> To determine whether a reasonable correlation existed between the sale prices and underlying COM during the POR, we will compare weighted-average quarterly prices to the corresponding quarterly COM for high volume control numbers. If we find the changes in quarterly COM to be significant, we intend to include this analysis, in our final results.

If we determine that changes in sale prices correlate reasonably to changes in unit COM, we will determine there is a linkage between ULMA's changing sales prices and COM during the POR. Where we find significant cost changes in COM as well as reasonable linkage between costs and sale prices, it is our practice to determine that a shorter cost-averaging period approach, based on a quarterly-average COM, is appropriate.

b. *Reconversion Funds*

ULMA reported certain reconversion funds maintained in a certain account.<sup>39</sup> The reconversion income is, in effect, a shifting of expenses from a profitable company to an unprofitable one, which we have previously disallowed as an offset to the COP because it would enable companies to artificially lower their costs and potentially mask dumping; under Commerce's practice, it is treated as an investment-related income item normally excluded from the reported costs.<sup>40</sup> Consequently, we instructed ULMA to exclude the certain account from computation of its general and administrative (G&A) expense ratio calculations,<sup>41</sup> and ULMA complied with this instruction.<sup>42</sup> For these preliminary results, we used the figure derived from ULMA's recalculation of its G&A expense ratio.<sup>43</sup>

c. *Calculation of COP*

We calculated the COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for G&A and financial expenses, in accordance with section 773(b)(3) of the Act. We relied on the COP data submitted by ULMA in its questionnaire responses for the COP calculation. We instructed ULMA to exclude a certain account when computing its G&A expense ratio. See the Preliminary Analysis Memorandum for a full explanation.<sup>44</sup>

<sup>37</sup> See *SSSSC from Mexico* IDM at Comment 6; see also *SSPC from Belgium* IDM at Comment 4.

<sup>38</sup> See *SSPC from Belgium* IDM at Comment 4.

<sup>39</sup> See Section A Response at A-13 to A-15.

<sup>40</sup> See *Finished Carbon Steel Flanges from Spain: Final Results of Antidumping Duty Administrative Review, 2017-2018*, 85 FR7919 (February 12, 2020), and accompanying IDM at Comment 3.

<sup>41</sup> See Supplemental Questionnaire at 8.

<sup>42</sup> See SQR1 at 18 and Exhibit SD-11.

<sup>43</sup> See Preliminary Analysis Memorandum at 5-6.

<sup>44</sup> *Id.*

*d. Test of Comparison Market Sales Prices*

As required under sections 773(b)(1) and (2) of the Act, we compared the weighted average of the COP for the POR to the per-unit price of the comparison market sales of the foreign like product to determine whether these sales had been made at prices below the COP within an extended period of time in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. We determined the net comparison market prices for the below cost test by subtracting from the gross unit price any applicable movement charges, discounts, billing adjustments, direct and indirect selling expenses, and packing expenses.

*e. Results of the COP Test*

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of sales of a given product were at prices less than the COP, we did not disregard below-cost sales of that product because we determined that the below-cost sales were not made in substantial quantities. Where 20 percent or more of the respondent's comparison market sales of a given model were at prices less than the COP, we disregarded the below-cost sales because: (1) they were made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act; and (2) based on our comparison of prices to the weighted average of the COPs, the sales were made 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. Our cost tests for ULMA indicated that, for comparison market sales of certain products, more than 20 percent were sold at prices below the COP within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time. Thus, in accordance with section 773(b)(1) of the Act, we excluded these below-cost sales from our analysis and used the remaining above-cost sales to determine NV.

3. Level of Trade

In accordance with section 773(a)(1)(B)(i), 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).<sup>45</sup> Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.<sup>46</sup> 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, class of customer (customer category), and the level of selling expenses for each type of sale.

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<sup>45</sup> See 19 CFR 351.412(c)(2).

<sup>46</sup> *Id.*; see also *Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not to Revoke Antidumping Duty Order, in Part*, 75 FR 50999, 51001 (August 18, 2010) (*Orange Juice from Brazil 2008-09*), and accompanying IDM at Comment 7.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices),<sup>47</sup> 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.<sup>48</sup>

When we are unable to match sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, we 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 an 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), we will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.<sup>49</sup>

ULMA did not claim different levels of trade in the comparison market or the U.S. market, coding all sales as at the same level of trade in its database reporting;<sup>50</sup> ULMA claimed neither a level of trade adjustment nor a CEP offset (as there were no CEP sales). We nevertheless examined the differences in selling functions reported in ULMA's responses. Selling activities can be generally grouped into four selling function categories for analysis: (1) sales and marketing; (2) freight and delivery services; (3) inventory maintenance and warehousing; and (4) warranty and technical support. ULMA reported that it utilized only one channel of distribution in the comparison market, direct sales to unaffiliated customers.<sup>51</sup> We, therefore, preliminarily find that there is a single LOT in the comparison market.

ULMA reported two channels of distribution in the United States, as detailed above. Most or all of the selling activities related to sales in the United States are performed by ULMA. We find that, for both channels of distribution, the selling functions performed by ULMA are minimal. For these sales, the selling activities that ULMA performs are substantially similar to the selling activities ULMA performed in its comparison market LOT. ULMA reported activity in 11 selling functions for its sales in the comparison market and in the United States.<sup>52</sup> For none of these selling activities was there a higher level of intensity in the comparison market sufficient to determine that the comparison market LOT was substantially different from the EP LOT. Accordingly, we preliminarily determine that the comparison market sales were not made at an LOT that was at a more advanced stage of distribution than the EP LOT. On this basis, we preliminarily find that an LOT adjustment is not warranted.

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<sup>47</sup> Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling, G&A expenses, and profit for CV, where possible. *See* 19 CFR 351.412(c)(1).

<sup>48</sup> *See Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

<sup>49</sup> *See, e.g., Orange Juice from Brazil 2008-09* at Comment 7.

<sup>50</sup> *See* Section B Response at 44; *see also* Section C Response at 46.

<sup>51</sup> *See* Section A Response at A-20; *see also* Section B Response at 31.

<sup>52</sup> *See* Section A Response Exhibit A-12.

#### 4. Calculation of Normal Value Based on Comparison Market Prices

We based NV on the starting prices of ULMA to unaffiliated comparison market customers. We made adjustments for differences in packing and for movement expenses in accordance with sections 773(a)(6)(A) and (B) of the Act. Where applicable, we reduced movement expenses by freight and pallet revenue, capped by the amount of the corresponding expenses, in accordance with our practice.<sup>53</sup> When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in 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 products and the subject merchandise.<sup>54</sup> See the Preliminary Analysis Memorandum for further details.

#### 5. Calculation of Normal Value Based on Constructed Value

In accordance with 773(e) of the Act, we used CV as the basis for NV for the U.S. sales for which we could not find comparison market sales of similar or identical merchandise. In accordance with section 773(e) of the Act, we calculated CV based on the sum of the cost of materials and fabrication, selling, general, and administrative (SG&A) expenses, U.S. packing expenses, and profit. We relied on information submitted by the respondent for material and fabrication costs, SG&A expenses, and U.S. packing costs. In accordance with 773(e)(2)(A) of the Act and 19 CFR 351.405(b)(1), we based selling expenses and profit on the amounts ULMA incurred and realized in connection with the production and sale of the foreign like product in the ordinary course of trade in the comparison market.<sup>55</sup>

### V. CURRENCY CONVERSION

We made currency conversions into U.S. dollars in accordance with section 773A of the Act and 19 CFR 351.415, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. These exchange rates are available on the Enforcement and Compliance website at <https://enforcement.trade.gov/exchange/index.html>.

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<sup>53</sup> See, e.g., *Orange Juice from Brazil 2007-08* IDM at Comment 3.

<sup>54</sup> See 19 CFR 351.411(b).

<sup>55</sup> See Preliminary Analysis Memorandum.

## VI. RECOMMENDATION

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

\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

6/29/2023

X



Signed by: LISA WANG  
Lisa W. Wang  
Assistant Secretary  
for Enforcement and Compliance