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Investigation  
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December 21, 2015

**MEMORANDUM TO:** Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

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

**SUBJECT:** Decision Memorandum for the Preliminary Determination of the  
Antidumping Duty Investigation of Certain Corrosion-Resistant  
Steel Flat Products from Italy

## I. SUMMARY

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

## II. BACKGROUND

On June 3, 2015, the Department received an antidumping duty (“AD”) petition covering imports of corrosion-resistant steel from Italy,<sup>1</sup> which was filed in proper form by United States Steel Corporation, Nucor Corporation, ArcelorMittal USA, AK Steel Corporation, Steel Dynamics, Inc., and California Steel Industries, Inc., (collectively “Petitioners”). The Department initiated this investigation on June 23, 2015.<sup>2</sup>

In the *Initiation Notice*, the Department notified the public that the Department intended to select respondents based on U.S. Customs and Border Protection (“CBP”) data for U.S. imports of corrosion-resistant steel from Italy during the period of investigation (“POI”) under the Harmonized Tariff Schedule of the United States (“HTSUS”) subheadings listed in the scope of

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<sup>1</sup> See *Petitions for the Imposition of Antidumping Duties on Imports of Certain Corrosion-Resistant Steel Products from Italy, India, the People’s Republic of China, Korea, and Taiwan*, (June 3, 2015) (“Petitions”).

<sup>2</sup> See *Certain Corrosion-Resistant Steel Products from Italy, India, the People’s Republic of China, the Republic of Korea, and Taiwan: Initiation of Less-Than-Fair-Value Investigations*, 80 FR 37228 (June 30, 2015) (“*Initiation Notice*”).



the investigation.<sup>3</sup> On June 24, 2015, the Department released CBP import data to interested parties.<sup>4</sup> On July 6, 2015, Petitioners and Marcegaglia SpA (“Marcegaglia”) submitted comments on the Department’s selection of respondents. On July 23, 2015, in accordance with section 777A(c)(1) of the Act, the Department selected Acciaieria Arvedi SPA (“Arvedi”) and Marcegaglia for individual examination in this investigation because they accounted for the largest volume of exports of Italian corrosion-resistant steel to the United States.<sup>5,6</sup>

The Department issued its AD questionnaire to Arvedi and Marcegaglia on July 24, 2015. Between September 2015 and December 2015, Arvedi and Marcegaglia timely responded to the Department’s original and supplemental questionnaires.

Additionally, in the *Initiation Notice*, the Department notified parties of an opportunity to comment on the scope of the investigation, as well as the appropriate physical characteristics of corrosion-resistant steel to be reported in response to the Department’s AD questionnaire.<sup>7</sup> In July and August 2015, Baoshan Iron & Steel Co., Ltd and Baosteel America, Inc., (collectively “Baosteel”), Great Grandeul Steel Co., Ltd. (“GGS”), POSCO, Totem Steel International (“Totem”), a U.S. importer of subject merchandise, and Yieh Phui Enterprise Co., Ltd. (“Yieh Phui”), respondents in the companion AD investigations, submitted comments on the scope of this investigation. On July 24, 2015, Petitioners submitted rebuttal scope comments in response to Baosteel, GGS, POSCO, Totem and Yieh Phui.

On July 17, 2015, Petitioners, Dongkuk Steel Mill Co., Ltd./Union Steel Manufacturing Co., Ltd. (“Dongkuk/Union Steel”), Hyundai Steel Company (“Hyundai”), Prosperity Tieh Enterprise Co., Ltd. (“Prosperity Tieh”), and Yieh Phui, respondents in the companion AD investigations, submitted comments to the Department regarding the physical characteristics of the merchandise under consideration to be used for reporting purposes. On July 27, 2015, Petitioners, Arvedi, Dongkuk/Union Steel, Hyundai, JSW Steel Ltd. and JSW Steel Coated Products Limited (collectively “JSW”), Marcegaglia, POSCO, Prosperity Tieh, Uttam Galva Steels Limited (“Uttam Galva”), and Yieh Phui, and filed rebuttal comments regarding the physical characteristics of the merchandise under consideration. On August 6, 2015, the Department issued the product characteristics to be used in the investigation.<sup>8</sup>

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<sup>3</sup> *Id.*, at 37233.

<sup>4</sup> See Memorandum to the File from Julia Hancock, Senior International Trade Compliance Analyst, Office V “Certain Corrosion-Resistant Steel Products from Italy: U.S. Customs and Border Protection Data for Respondent Selection Purposes” (June 24, 2015).

<sup>5</sup> See Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, from Susan Pulongbarit, Senior International Trade Analyst, Office V, “Antidumping Duty Investigation of Certain Corrosion-Resistant Steel Products from Italy: Respondent Selection” (July 23, 2015) (“Respondent Selection Memo”).

<sup>6</sup> Arvedi and Marcegaglia (collectively known as “Respondents”).

<sup>7</sup> See *Initiation Notice*, 80 FR at 37229.

<sup>8</sup> See Letter to Interested Parties from Paul Walker, Program Manager, Office V, “Product Characteristics for the Antidumping Investigation of Certain Corrosion-Resistant Steel Products from Italy” (August 6, 2015).

On July 24, 2015, the U.S. International Trade Commission preliminarily determined that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of corrosion-resistant steel from Italy.<sup>9</sup>

In October 2015, and pursuant to section 733(c)(1)(B) of the Act, and 19 CFR 351.205(f)(1), the Department published in the *Federal Register* a postponement of the preliminary determination by 41 days until no later than December 21, 2015.<sup>10</sup>

The Department is conducting this investigation in accordance with section 733(b) of the Act.

### **III. PERIOD OF INVESTIGATION**

The POI is April 1, 2014, through March 30, 2015. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the Petitions, which was June 2015.<sup>11</sup>

### **IV. PRELIMINARY DETERMINATION OF NO CRITICAL CIRCUMSTANCES**

On July 23, 2015, Petitioners filed allegations that critical circumstances exist with respect to imports of subject merchandise from all five countries under investigation. On October 29, 2015, the Department issued its preliminary critical circumstances determinations for all five countries. Pursuant to this determination, the Department determined that critical circumstances did not exist for imports of subject merchandise from Arvedi, Marcegaglia, and “all-others.”<sup>12</sup>

### **V. SCOPE OF THE INVESTIGATION**

The products covered by this investigation are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. The products covered include coils that have a width of 12.7 mm or greater, regardless of form of coil (*e.g.*, in successively superimposed layers, spirally oscillating, etc.). The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either

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<sup>9</sup> See *Certain Corrosion-Resistant Steel Products from China, India, Italy, Korea, and Taiwan*, 80 FR 44151 (July 24, 2015).

<sup>10</sup> See *Certain Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 80 FR 61793 (October 14, 2015).

<sup>11</sup> See 19 CFR 351.204(b)(1).

<sup>12</sup> See *Antidumping and Countervailing Duty Investigations of Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Preliminary Determinations of Critical Circumstances*, 80 FR 68504 (November 5, 2015).

rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.*, products which have been “worked after rolling” (*e.g.*, products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

- (1) where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and
- (2) where the width and thickness vary for a specific product (*e.g.*, the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, etc.), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this investigation are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels and high strength low alloy (HSLA) steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum.

Furthermore, this scope also includes Advanced High Strength Steels (AHSS) and Ultra High Strength Steels (UHSS), both of which are considered high tensile strength and high elongation steels.

Subject merchandise also includes corrosion-resistant steel that has been further processed in a third country, including but not limited to annealing, tempering painting, varnishing, trimming, cutting, punching and/or slitting or any other processing that would not otherwise remove the merchandise from the scope of the investigations if performed in the country of manufacture of the in-scope corrosion-resistant steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this investigation:

- Flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (“terne plate”), or both chromium and chromium oxides (“tin free steel”), whether or not painted, varnished or coated with plastics or other non-metallic substances in addition to the metallic coating;
- Clad products in straight lengths of 4.7625 mm or more in composite thickness and of a width which exceeds 150 mm and measures at least twice the thickness; and
- Certain clad stainless flat-rolled products, which are three-layered corrosion-resistant flat-rolled steel products less than 4.75 mm in composite thickness that consist of a flat-rolled steel product clad on both sides with stainless steel in a 20%-60%-20% ratio.

The products subject to the investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0091, 7210.49.0095, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, and 7212.60.0000.

The products subject to the investigation may also enter under the following HTSUS item numbers: 7210.90.1000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.91.0000, 7225.92.0000, 7225.99.0090, 7226.99.0110, 7226.99.0130, 7226.99.0180, 7228.60.6000, 7228.60.8000, and 7229.90.1000.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

## **VI. ALL-OTHERS RATE**

Section 735(c)(5)(A) of the Act provides that the estimated “all-others” rate shall be an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins,

and any margins determined entirely under section 776 of the Act. Section 735(c)(5)(B) provides that as an exception the Department may use “any reasonable method” to determine the all-others rate when it cannot be calculated under subsection (A).

In this investigation, the Department preliminarily calculated a weighted-average dumping margin for a single mandatory respondent, Arvedi, that is above *de minimis* and which is not based on section 776 of the Act. However, for the only other mandatory respondent in this investigation, Marcegaglia, the Department calculated a weighted-average dumping margin that is zero. Accordingly, pursuant to section 735(c)(5)(A) of the Act, the Department is using the weighted-average dumping margin calculated for Arvedi as the estimated weighted-average dumping margin assigned to all other producers and exporters of the merchandise under consideration.<sup>13</sup>

## VII. DISCUSSION OF THE METHODOLOGY

### Comparisons to Fair Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether Arvedi’s and Marcegaglia’s sales of the subject merchandise from Italy to the United States were made at less than normal value (“NV”), the Department compared the export price (“EP”) and constructed export price (“CEP”) to the NV as described in the “Export Price and Constructed Export Price” and “Normal Value” sections of this memorandum.

#### *A. Determination of the Comparison Method*

Pursuant to 19 CFR 351.414(c)(1), the Department calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs (or CEPs) (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In LTFV investigations, the Department 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 recent investigations, the Department applied a “differential pricing” analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.<sup>14</sup> The Department finds that the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to

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<sup>13</sup> See, e.g., *Certain Frozen Warmwater Shrimp from India: Final Results of Antidumping Duty Administrative Review, Partial Rescission, and Final No Shipment Determination*, 76 FR 41203, 41205 (July 13, 2011); See Memorandum to the File from Julia Hancock and Susan Pulongbarit, Senior Case Analysts, Office V, Enforcement and Compliance, “Certain Corrosion-Resistant Steel Products from Italy: Calculation of All-Others’ Rate in Preliminary Determination,” (December 21, 2015).

<sup>14</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); *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); *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less-Than-Fair-Value*, 80 FR 61362 (October 13, 2015).

apply an alternative comparison method in this investigation. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating a respondent's weighted-average dumping margin.

The differential pricing analysis used in this preliminary determination requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differs significantly among purchasers, regions, or time periods. 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 differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. For Arvedi, purchasers are based on the reported customer codes.<sup>15</sup> For Marcegaglia, purchasers are based on the reported consolidated customer codes.<sup>16</sup> Regions are defined using the reported destination code (*i.e.*, zip code for Arvedi and Marcegaglia) 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 investigation 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 ("CONNUM") and all characteristics of the U.S. sales, other than purchaser, region and time period, that the Department uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

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

Next, the "ratio test" assesses the extent of the significant price differences for all sales as

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<sup>15</sup> See Arvedi's Sections B, C, and D Questionnaire Response (October 6, 2015), at C-34.

<sup>16</sup> See Marcegaglia's 2<sup>nd</sup> Supplemental Sections B and C Questionnaire Response (December 2, 2015), at 9.

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

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

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

#### B. Results of the Differential Pricing Analysis

##### Arvedi

For Arvedi, based on the results of the differential pricing analysis, the Department preliminarily finds that 71.28 percent of the value of U.S. sales pass the Cohen's *d* test, and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods.<sup>17</sup> Further, the Department preliminarily determines that the average-to-average method

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<sup>17</sup> See Memorandum to the File from Julia Hancock, "Analysis for the Preliminary Determination of the Less-Than-Fair-Value Investigation of Certain Corrosion-Resistant Steel Products from Italy" ("Arvedi Preliminary Analysis Memorandum"), dated concurrently with this memorandum.

cannot account for such differences because the weighted-average dumping margin crosses the *de minimis* threshold when calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, for this preliminary determination, the Department finds that there is a meaningful difference between using the different comparison methods, and is applying the average-to-transaction method to all U.S. sales to calculate the weighted-average dumping margin for Arvedi.

### Marcegaglia

For Marcegaglia, based on the results of the differential pricing analysis, the Department preliminarily finds that 4.13 percent of the value of U.S. sales pass the Cohen's *d* test,<sup>18</sup> and does not confirm the existence of a pattern of prices that differ significantly among purchasers, regions or time periods. Thus, the results of the Cohen's *d* and ratio tests do not support consideration of an alternative to the average-to-average method. Accordingly, the Department preliminarily determines to apply the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Marcegaglia.

## **VIII. DATE OF SALE**

19 CFR 351.401(i) states that, in identifying the date of sale of the merchandise under consideration, or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business. Additionally, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.<sup>19</sup>

### Arvedi

For both home market and U.S. sales, Arvedi reported that typically the date of shipment (delivery note) and date of invoice (commercial invoice) are the same, but that there are times when the date of invoice will be issued shortly after the day that merchandise is released for shipment.<sup>20</sup> The Department notes that although Arvedi stated that the material terms of sale (*i.e.*, quantity, gross unit price, total value, and sales terms) do not change between issuance of the delivery note (shipment date) and the commercial invoice (invoice date) for its home market and U.S. sales,<sup>21</sup> the Department's practice is to use the invoice date as the date of sale since that

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<sup>18</sup> See Memorandum to the File from Susan Pulongbarit, "Analysis for the Preliminary Determination of the Less-Than-Fair-Value Investigation of Certain Corrosion-Resistant Steel Products from Italy" ("Marcegaglia Preliminary Analysis Memorandum"), dated concurrently with this memorandum.

<sup>19</sup> See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090-92 (CIT 2001) ("*Allied Tube & Conduit Corp.*") ("As elaborated by Department practice, a date other than invoice date 'better reflects' the date when 'material terms of sale' are established if the party shows that the 'material terms of sale' undergo no meaningful change (and are not subject to meaningful change) between the proposed date and the invoice date.").

<sup>20</sup> See Arvedi's Second Supplemental Sections B and C Questionnaire Response (December 4, 2015), at 2-4.

<sup>21</sup> *Id.*

is the date on which the parties establish the material terms of the sale.<sup>22</sup> For those sales where shipment date precedes invoice date, we have used the shipment date as the date of sale.<sup>23</sup>

### Marcegaglia

Marcegaglia reported the date of invoice to the first unaffiliated customer as the date of sale for both its home market sales and U.S. sales (EP and CEP).<sup>24</sup> Marcegaglia reported that the invoice date best represents the date of sale because, at that point, the material terms of the sale cannot be altered.<sup>25</sup> Therefore, the Department preliminarily used the invoice date as the date of sale for Marcegaglia, in accordance with our practice.

## **IX. PRODUCT COMPARISONS**

In accordance with section 771(16) of the Act, we considered all products produced and sold by Respondents in Italy during the POI that fit the description in the “Scope of Investigation” section of this notice to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market, where appropriate. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade.

In making product comparisons, we matched foreign like products based on prime versus non-prime merchandise and the physical characteristics reported by the Respondents in the following order of importance: type, reduction process, clad material/coating metal, metallic coating weight, metallic coating process, quality, yield strength, nominal thickness, nominal width, and form. For Arvedi’s and Marcegaglia’s respective sales of corrosion-resistant steel in the United States, the reported CONNUM identifies the characteristics of corrosion-resistant steel, as exported by Arvedi and Marcegaglia, respectively.

Neither Arvedi nor Marcegaglia reported sales of non-prime corrosion-resistant steel to the United States, but both Respondents stated that they respectively sold non-prime corrosion-resistant steel in the home market. According to both Arvedi and Marcegaglia, each company sells its products as prime if it meets the product specifications that is sold with a quality guarantee or mill certificate.<sup>26</sup> Both Arvedi and Marcegaglia will sell the merchandise “as is” classified as non-prime merchandise, (*i.e.*, stock merchandise with defects) only if the merchandise does not meet industry or quality control specifications for prime merchandise.

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<sup>22</sup> See 19 CFR 351.401(i).

<sup>23</sup> *Id.*

<sup>24</sup> See Marcegaglia’s Sections B and C Questionnaire Response (October 6, 2015), at B-19 and C-19.

<sup>25</sup> *Id.*

<sup>26</sup> See Marcegaglia’s 2<sup>nd</sup> Supplemental Sections B and C Response, at 4-7; Arvedi’s 2<sup>nd</sup> Supplemental Sections B and C Response (December 4, 2015), at 2-10.

## **X. EXPORT PRICE AND CONSTRUCTED EXPORT PRICE**

In accordance with section 772(a) of the Act, we calculated EP for Arvedi's and certain of Marcegaglia's U.S. sales where the 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. In accordance with section 772(b) of the Act, for the remainder of Marcegaglia's U.S. sales, we used CEP because the merchandise under consideration was sold in the United States by U.S. sellers affiliated with Marcegaglia, and EP, as defined by section 772(a) of the Act, was not otherwise warranted.

### Arvedi

For Arvedi, the Department based EP on a packed price to the first unaffiliated purchaser in the United States. For the certain sales that Arvedi reported as samples, the Department is treating these sales as sample sales because Arvedi provided the samples to the respective customer for testing and did not receive payment for these samples.<sup>27</sup> Accordingly, the Department finds that these sample sales are not a "sale" since no "consideration" was provided and should not be included in calculating EP in the U.S. market.<sup>28</sup> The Department also made adjustments for billing adjustments,<sup>29</sup> credit expenses, bank charges, inventory carrying costs in the country of manufacture, commissions, and indirect selling expenses incurred in the country of manufacture, as appropriate. The Department made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act; these expenses included, where appropriate, foreign inland freight, foreign brokerage and handling, foreign inland insurance, international freight, marine insurance, U.S. customs duties and clearance charges, U.S. brokerage and handling, survey and damage expenses, and other U.S. freight (barge freight).<sup>30</sup> The Department notes that one of the foreign inland freight (rail freight) expenses incurred by Arvedi on U.S. sales was provided by a wholly-owned subsidiary; however, we based these freight expenses on the affiliated price because the record evidence demonstrates these are arm's-length transactions.<sup>31</sup>

### Marcegaglia

For certain of Marcegaglia's U.S. sales, the Department calculated EP based on a packed price to the first unaffiliated purchaser in the United States. The Department also made adjustments for credit expenses, other direct selling expenses, indirect selling expenses incurred in the country of manufacture, and inventory carrying costs in the country of manufacture, as appropriate. The Department made deductions for movement expenses, in accordance with section 772(c)(2)(A)

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<sup>27</sup> See Arvedi's Supplemental Sections B and C Questionnaire Response (November 12, 2015), at 21-23 and Exhibit C-19.

<sup>28</sup> See *NSK Ltd. And NSK Corp. v. United States*, 115 F.3d 965, 975 (CIT 1997) (because NSK's samples did not constitute "sales" they should not have been included in calculating United States price); *Polyethylene Terephthalate Film, Sheet, and Strip from the United Arab Emirates: Final Determination of Sales at Less-Than-Fair-Value*, 73 FR 55036 (September 24, 2008) and accompanying Issues and Decision Memorandum at Comment 7.

<sup>29</sup> The Department used the net of returns quantity and net of post-sale value adjustment gross unit price reported by Arvedi. See Arvedi's Sections B-D Questionnaire Response (October 6, 2015), at C-22 and C-23.

<sup>30</sup> See Arvedi Preliminary Analysis Memorandum.

<sup>31</sup> See Arvedi's Supplemental Sections B and C Response, at 19 and Exhibit C-15.

of the Act; these expenses included, where appropriate, foreign inland freight, marine insurance, and international freight.<sup>32</sup>

In accordance with section 772(b) of the Act, CEP is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter. For purposes of this investigation, Marcegaglia classified some of its sales of corrosion-resistant steel to the United States as CEP sales. Marcegaglia reported that it sold the merchandise under consideration to its affiliated U.S. importer, Marcegaglia USA, which then further manufactured corrosion-resistant steel into galvanized steel pipe.<sup>33</sup> Further, the Department concluded that for these sales, EP was not otherwise warranted. The Department calculated CEP based on packed, delivered prices to unaffiliated purchasers in the United States.

The Department made adjustments to the prices for billing adjustments, rebates, and early payment discounts. The Department adjusted these prices for movement expenses, including foreign inland freight, U.S. brokerage and handling, international freight, marine insurance, and U.S. inland freight, in accordance with section 772(c)(2)(A) of the Act. Additionally, the Department has not treated Marcegaglia's reported freight revenue as an addition to Marcegaglia's price, pursuant to 19 CFR 351.401(c). Instead, the Department followed its normal practice by treating freight revenue as an offset to freight costs rather than as an addition to U.S. price where freight revenue exceeds freight expenses.<sup>34</sup> In accordance with section 772(d)(1) of the Act, the Department also deducted selling expenses associated with economic activities occurring in the United States, which includes direct selling expenses (credit expenses, advertising expenses, and other direct selling expenses) and indirect selling expenses (inventory carrying costs and other indirect selling expenses). In accordance with section 772(f) of the Act, the Department calculated the CEP profit rate using the expenses incurred by Marcegaglia and its U.S. importer/affiliate, Marcegaglia USA, related to their sales of the foreign like product in the comparison market and their sales of the merchandise under consideration in the United States and the profit associated with those sales.<sup>35</sup>

We also deducted an amount for further-manufacturing costs, where applicable, in accordance with section 772(d)(2) of the Act, and made an adjustment for profit in accordance with section 772(d)(3) of the Act. To calculate the cost of further manufacturing, we relied on Marcegaglia USA's reported cost of further-manufacturing materials, labor, and overhead, plus amounts for

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<sup>32</sup> See Marcegaglia Preliminary Analysis Memorandum.

<sup>33</sup> See Marcegaglia Section A Questionnaire Response (September 8, 2015), at A-5 – A-6.

<sup>34</sup> See *Circular Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty Administrative Review*, 77 FR 61738 (October 11, 2012) and accompanying Issues and Decision Memorandum at Comment 3; see also *Multilayered Wood Flooring from the People's Republic of China: Final Determination of Sales at Less-Than-Fair-Value*, 76 FR 64318 (October 18, 2011) and accompanying Issues and Decision Memorandum at Comment 39 (explaining that where freight revenue earned by a respondent exceeds the freight charge incurred for the same type of activity, the Department will cap freight revenue at the corresponding amount of freight charges incurred because it is inappropriate to increase gross unit selling price for subject merchandise as a result of profit earned on the sale of services).

<sup>35</sup> See Marcegaglia Preliminary Analysis Memorandum.

further-manufacturing general and administrative (G&A) expenses, and financial expenses adjusted as discussed in the “Cost of Production Analysis” section below.

Lastly, because we did not find export subsidies for Arvedi or Marcegaglia in the companion countervailing duty investigation of corrosion-resistant steel from Italy, we did not make an export subsidy adjustment to their cash deposit rates.<sup>36</sup>

## **XI. NORMAL VALUE**

### **A. *Comparison Market Viability***

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we normally compare the respondent’s volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with sections 773(a)(1)(A) and (B) of the Act. If we determine that no viable home market exists, we may, if appropriate, use a respondent’s sales of the foreign like product to a third country market as the basis for comparison market sales in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404.

In this investigation, we determined that Arvedi’s and Marcegaglia’s aggregate volume of home market sales of the foreign like product was greater than five percent of the aggregate volume of U.S. sales of the subject merchandise. Therefore, we used home market sales as the basis for NV for Arvedi and Marcegaglia, in accordance with section 773(a)(1)(B) of the Act. Consistent with our practice, we also included Arvedi’s and Marcegaglia’s sales to affiliated parties for purposes of determining home market viability.<sup>37</sup>

### **B. *Affiliated-Party Transactions and Arm’s-Length Test***

The Department may calculate NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the exporter or producer, *i.e.*, sales were made at arm’s-length prices.<sup>38</sup> The Department excludes home market sales to affiliated customers that are not made at arm’s-length prices from our margin analysis because the Department considered them to be outside the ordinary course of trade. Consistent with 19 CFR 351.403(c) and (d) and our practice, “the

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<sup>36</sup> See *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from Italy: Preliminary Affirmative Determination*, 80 FR 68839 (November 6, 2015). Unlike in administrative reviews, the Department calculates the adjustment for export subsidies in investigations not in the margin calculation program, but in the cash deposit instructions issued to CBP. See *Notice of Final Determination of Sales at Less-Than-Fair-Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India*, 71 FR 45012 (August 8, 2006) and accompanying Issues and Decision Memorandum at Comment 1.

<sup>37</sup> See *Certain Oil Country Tubular Goods from Saudi Arabia: Final Determination of Sales at Less-Than-Fair-Value*, 79 FR 41986 (July 18, 2014) and accompanying Issues and Decision Memorandum at Comment 2 (use of affiliated party sales in viability determination).

<sup>38</sup> See 19 CFR 351.403(c).

Department may calculate normal value based on sales to affiliates if satisfied that the transactions were made at arm's-length.<sup>39</sup>

During the POI, Arvedi and Marcegaglia made sales of corrosion-resistant steel in the home market to affiliated parties, as defined in section 771(33) of the Act.<sup>40</sup> Consequently, the Department tested these sales to ensure that they were made at arm's-length prices, in accordance with 19 CFR 351.403(c). To test whether the sales to affiliates were made at arm's-length prices, we compared the unit prices of sales to affiliated and unaffiliated customers net of all direct selling and packing expenses. Pursuant to 19 CFR 351.403(c) and, in accordance with the Department's practice, where the price to that affiliated party was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise sold to the unaffiliated parties at the same level of trade ("LOT"), we determined that the sales made to the affiliated party were at arm's-length. Sales to affiliated customers in the home market that were not made at arm's-length prices were excluded from our analysis because we considered these sales to be outside the ordinary course of trade.<sup>41</sup>

### C. *Level of Trade*

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same LOT as the U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).<sup>42</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>43</sup> 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),<sup>44</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>45</sup>

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<sup>39</sup> See *China Steel Corp. v. United States*, 264 F. Supp. 2d 1339, 1365 (CIT 2003), *aff'd*, 306 F. Supp. 2d 1291 (CIT 2004) ("*China Steel*") (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) ("*Mexican Pipe*").

<sup>40</sup> See Arvedi Preliminary Analysis Memorandum and Marcegaglia Preliminary Analysis Memorandum for a detailed discussion of the Arm's-Length Test.

<sup>41</sup> See section 771(15) of the Act and 19 CFR 351.102(b); see also *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002) (explaining the Department's practice).

<sup>42</sup> See 19 CFR 351.412(c)(2).

<sup>43</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 (August 18, 2010) and accompanying Issues and Decision Memorandum at Comment 7 ("*OJ from Brazil*").

<sup>44</sup> Where NV is based on constructed value ("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).

<sup>45</sup> See *Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

When the Department is unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it possible, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.*, no LOT adjustment is possible), the Department will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.<sup>46</sup>

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

### Arvedi

Arvedi reported that its home market sales were made through three channels of distribution, unaffiliated distributor/end-users, unaffiliated commission agents that sell to distributors/end-users, and an affiliated service center that sells to unaffiliated distributors/end-users.<sup>47</sup> Arvedi reported that these three channels in the home market constitute one LOT.<sup>48</sup> 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. Arvedi reported its selling functions for sales to its home market customers.<sup>49</sup> In examining Arvedi's questionnaire responses and the home market sales database, the Department finds that the selling activities performed by Arvedi to its customers in the home market for all channels do not significantly differ.<sup>50</sup> Accordingly, we determine that all home market sales are at the same LOT.

With respect to the U.S. market, Arvedi reported it sold the merchandise through two channels of distribution, direct sales to unaffiliated distributors/end-users, and sales through unaffiliated commission agents to distributors/end-users,<sup>51</sup> but that these two channels represent a single LOT for its U.S. sales.<sup>52</sup> Additionally, we preliminarily find that, during the POI, Arvedi sold merchandise under consideration and foreign like product at the same LOT. Therefore, for this preliminary determination, the Department determined that it is appropriate to match Arvedi's

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<sup>46</sup> See, e.g., *OJ from Brazil* at Comment 7.

<sup>47</sup> See Arvedi's Supplemental Section A Response (October 30, 2015), at Exhibit SA-44.

<sup>48</sup> *Id.*, at 11-12 and Exhibit SA-45.

<sup>49</sup> *Id.*; see also Arvedi Preliminary Analysis Memorandum for a business proprietary discussion of Arvedi's channels of distribution.

<sup>50</sup> See Arvedi Preliminary Analysis Memorandum for a business proprietary discussion of Arvedi's channels of distribution.

<sup>51</sup> See Arvedi's Supplemental Section A Response, at 11-13, Exhibit SA-44, and Exhibit SA-45.

<sup>52</sup> *Id.*

EP sales to home market sales without making a LOT adjustment to NV, pursuant to section 773(a)(7)(a) of the Act.<sup>53, 54</sup>

### Marcegaglia

Marcegaglia reported that it made its home market sales through two channels-of-distribution, which are distinguished by which party sold directly to the distributor or end user: 1) Home Market Channel 1: Marcegaglia sells directly to distributors and end users; and 2) Home Market Channel 2: Marcegaglia commissions sales agents to sell to distributors and end users.<sup>55</sup>

Further, Marcegaglia's sales are made either from stock or on a made-to-order basis. According to Marcegaglia it sold the foreign like product through one LOT in the home market.<sup>56</sup>

Accordingly, the Department finds that the record evidence demonstrates that there are no significant differences between stock sales and made-to-order sales.<sup>57</sup> As a result, the Department preliminarily finds that Marcegaglia's home market sales in Channel 1 and Channel 2 constitute a single LOT.

In the U.S. market, Marcegaglia made EP and CEP sales. For EP sales, Marcegaglia sold the merchandise through one channel of distribution, sales directly to unaffiliated U.S. distributors and end-users.<sup>58</sup> For CEP sales, Marcegaglia sold the merchandise through one channel of distribution, sales of merchandise to its U.S. importer/affiliate which, in turn, are sold to unaffiliated U.S. customers.<sup>59</sup> In contrast to the selling activities performed by Marcegaglia for sales in Italy, the record shows the relatively limited selling functions that Marcegaglia performs for its U.S. affiliate, Marcegaglia USA.<sup>60</sup> Marcegaglia contends that sales to the United States constitute two levels of trade as CEP sales are sales of further manufactured corrosion-resistant steel made by its affiliate, Marcegaglia USA, while EP sales are sales of corrosion-resistant steel made by Marcegaglia itself.<sup>61, 62</sup>

The Department also considered the role played by Marcegaglia's importer/affiliate, Marcegaglia USA, to be relevant in its decision concerning level of trade. In prior cases, the Department found that evidence showing that the U.S. affiliate performs significant selling activities in the U.S. market supports the conclusion that the foreign producer's sales in the comparison market

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<sup>53</sup> See section 773(a)(7)(A) of the Act; for a more detailed explanation of our LOT analysis for Arvedi, see the "Level of Trade" section in the Arvedi Preliminary Analysis Memorandum.

<sup>54</sup> See *China Steel*, 264 F. Supp. 2d 1339, 1365 (CIT 2003), *aff'd*, 306 F. Supp. 2d 1291 (CIT 2004) (citing *Mexican Pipe*, 76 FR 55352, 55355).

<sup>55</sup> See Marcegaglia's Supplemental Section A Response, at Exhibit A-35.

<sup>56</sup> See Marcegaglia's Section B Response, at 27.

<sup>57</sup> For further discussion, please see the "Level of Trade" section in the Marcegaglia Preliminary Analysis Memorandum.

<sup>58</sup> *Id.*, at Exhibit A-35.

<sup>59</sup> *Id.*

<sup>60</sup> See Marcegaglia's Supplemental Section A Response, at A-37.

<sup>61</sup> For further discussion, please see Marcegaglia's Preliminary Analysis Memorandum.

<sup>62</sup> *Id.*

are made at a more advanced LOT than CEP sales.<sup>63</sup> The Department's reasoning, as explained in past cases, is that if the U.S. affiliate performs significant selling activities in the U.S. market that are handled by the foreign producer in the comparison market, then the comparison-market LOT is necessarily more advanced than the CEP LOT, which excludes the activities performed by the U.S. affiliate from the price, pursuant to section 772(d) of the Act.<sup>64</sup>

The Department compared the selling activities reported by Marcegaglia at the EP and CEP LOT with its selling activities at the comparison market LOT. The Department finds that while one channel of distribution in the home market has more sales/marketing support and rebates associated with it, these selling functions are not exclusive to this channel, and as noted above, we find Marcegaglia's comparison market sales to constitute one LOT.<sup>65</sup> In contrast, the Department finds that these selling activities, warehousing, sales/marketing support and rebates were at a lower level for sales at the CEP LOT. With respect to the EP LOT, the sales activities performed for those sales were fewer than those performed for the comparison market LOT. Therefore, we considered the comparison market sales to be at a different LOT and at a more advanced stage of distribution than the EP and CEP LOT.

Because the comparison market LOT was different from the EP and CEP LOT, the Department could not match to sales at the same LOT in the comparison market. Moreover, because there was only one LOT in Marcegaglia's comparison market, there is no basis for an LOT adjustment. However, for Marcegaglia's CEP sales, the Department made a CEP offset adjustment in accordance with section 773(a)(7)(B) of the Act. The Department determined the CEP offset based on the sum of comparison market indirect selling expenses, up to the amount of U.S. indirect selling expenses deducted from CEP.

#### D. *Cost of Production Analysis*

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 ("TPEA"), which made numerous amendments to the AD and CVD law, including amendments to section 773(b)(2) of the Act, regarding the Department's requests for information on sales at less than cost of production.<sup>66</sup> The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of

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<sup>63</sup> See, e.g., *Stainless Steel Sheet and Strip in Coils from Germany; Notice of Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 45024, 45029 (August 6, 2006) (finding that in the home market the respondent made sales "further down the chain of distribution by providing certain downstream selling functions that are normally performed by the affiliated resellers in the U.S. market") (unchanged in *Stainless Steel Sheet and Strip in Coils from Germany; Notice of Final Results of Antidumping Duty Administrative Review*, 71 FR 74897 (December 13, 2006)).

<sup>64</sup> See *Certain Frozen Warmwater Shrimp from Thailand: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 47551 (September 16, 2009) and accompanying Issues and Decision Memorandum at Comment 8.

<sup>65</sup> For further discussion of this business proprietary information, please see Marcegaglia's Preliminary Analysis Memo.

<sup>66</sup> See *Trade Preferences Extension Act of 2015*, Pub. L. No. 114-27, 129 Stat. 362 (2015) ("TPEA").

material injury by the ITC.<sup>67</sup> Section 773(b)(2)(A)(ii) of the Act controls all determinations in which the complete initial questionnaire has not been issued as of August 6, 2015. It requires the Department to request constructed value and cost of production information from respondent companies in all AD proceedings.<sup>68</sup> Accordingly, the Department requested this information from Arvedi and Marcegaglia.<sup>69</sup> We examined Arvedi and Marcegaglia's cost data and determined that our quarterly cost methodology is not warranted and, therefore, we applied our standard methodology of using annual costs based on the reported data.

## 1. Calculation of COP

We calculated each respondent's cost of production ("COP") based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for selling, general and administrative ("SG&A") expenses, in accordance with section 773(b)(3) of the Act.<sup>70</sup>

The Department relied on the COP data provided by the Respondents in their most recently submitted cost database for the COP calculation, except as follows:

### Arvedi

For Arvedi, we adjusted the cost of raw materials purchased from affiliated companies in accordance with section 773(f)(2) of the Act. We also adjusted the SG&A expense ratio to include certain expenses and to deduct packing cost from the denominator of the ratio. We revised the financial expense ratio to exclude certain offsets and to deduct packing cost from the denominator of the ratio.<sup>71</sup>

### Marcegaglia

For Marcegaglia, we adjusted the SG&A expense ratio to include certain expenses and by using the cost of goods sold from Marcegaglia's 2014 unconsolidated financial statements in the denominator of the calculation. We also adjusted the financial expense ratio by including only an offset for interest income from current assets in the numerator of the calculation and by using the cost of goods sold from Marfin Srl's 2014 consolidated financial statements in the denominator of the calculation.<sup>72</sup>

## 2. Test of Comparison Market Sales Prices

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<sup>67</sup> See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015) ("Applicability Notice").

<sup>68</sup> *Id.*, 80 FR at 46794-95.

<sup>69</sup> The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>; see also the Petition.

<sup>70</sup> See "Test of Comparison Market Sales Prices" section, below, for treatment of comparison market selling expenses.

<sup>71</sup> For additional details, see Memorandum to Neal M. Halper, Director, Office of Accounting, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination— Acciaieria Arvedi S.p.A.," dated concurrently with this memorandum.

<sup>72</sup> For additional details, see Memorandum to Neal M. Halper, Director, Office of Accounting, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination— Marcegaglia S.p.A.," dated concurrently with this memorandum.

On a product-specific basis, pursuant to section 773(a)(1)(B)(i) of the Act, we compared the adjusted weighted-average COPs to the home market sales prices of the foreign like product, in order to determine whether the sales prices were below the COPs. For purposes of this comparison, we used COPs exclusive of selling and packing expenses. The prices were exclusive of any applicable billing adjustments, movement charges, actual direct and indirect selling expenses, and packing expenses.

### 3. Results of the COP Test

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

#### E. *Calculation of Normal Value Based on Comparison Market Prices*

For those comparison products for which there were an appropriate number of sales at prices above the COP for Arvedi and Marcegaglia, we based NV on comparison market prices. We calculated NV based on packed, ex-factory or delivered prices to unaffiliated customers in Italy.

When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, the Department 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. The Department based this adjustment on the difference in the variable cost of manufacturing for the foreign like products and the merchandise under consideration.<sup>73</sup>

#### Arvedi

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<sup>73</sup> See 19 CFR 351.411(b); Arvedi Preliminary Analysis Memorandum.

The Department calculated the NV based on prices to unaffiliated customers. The Department increased or decreased, where appropriate, the starting price to account for billing adjustments, in accordance with 19 CFR 351.401(c).<sup>74</sup> The Department then adjusted the starting price for foreign inland freight, pursuant to section 773(a)(6)(B) of the Act. Next, the Department made deductions pursuant to section 773(a)(6)(C) of the Act and 19 CFR 351.410 for differences in circumstances of sale for home market credit expenses, bank charges, and commissions. Additionally, in accordance with 19 CFR 351.410(e), the Department made an adjustment to U.S. sales where commissions were granted on sales in one market and not granted in the other market. In accordance with 19 CFR 351.410(e), the Department also made adjustments to Arvedi's NV for indirect selling expenses and inventory carrying costs incurred in the comparison market. In accordance with sections 773(a)(6)(A) and (B) of the Act, the Department also deducted home market packing costs, and added U.S. packing costs.

### Marcegaglia

The Department calculated the NV based on prices to unaffiliated customers. The Department increased, where appropriate, the starting price to account for billing adjustments, in accordance with 19 CFR 351.401(c).<sup>75</sup> The Department also made a deduction from the starting price for early payment discounts and rebates, pursuant to 19 CFR 351.401(c). The Department then adjusted the starting price for inland freight, pursuant to section 773(a)(6)(B) of the Act. Next, the Department made deductions pursuant to section 773(a)(6)(C) of the Act and 19 CFR 351.410 for differences in circumstances of sale for home market commissions, credit expenses, and commissions. Additionally, in accordance with 19 CFR 351.410(e), the Department made an adjustment to U.S. sales where commissions were granted on sales in one market and not granted in the other market. In accordance with 19 CFR 351.410(e), the Department also made adjustments to Marcegaglia's NV for indirect selling expenses and inventory carrying costs incurred in the comparison market. In accordance with sections 773(a)(6)(A) and (B) of the Act, the Department also deducted home market packing costs.

## **XII. CURRENCY CONVERSION**

The Department 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 date of the U.S. sales as certified by the Federal Reserve Bank.

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<sup>74</sup> See Arvedi Preliminary Analysis Memorandum; the Department used the net of returns quantity and net of post-sale value adjustment gross unit price reported by Arvedi, see Arvedi's Sections B-D Questionnaire Response, at 24-26.

<sup>75</sup> See Marcegaglia Preliminary Analysis Memorandum.

### **XIII. Conclusion**

We recommend applying the above methodology for this preliminary determination.

\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

\_\_\_\_\_  
Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

\_\_\_\_\_  
Date