known as standard pipe, fence pipe and tube, sprinkler pipe, and structural pipe (although subject product may also be referred to as mechanical tubing). Specifically, the term ''carbon quality'' includes products 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) 1.80 percent of manganese;
(ii) 2.25 percent of silicon;
(iii) 1.00 percent of copper;
(iv) 0.50 percent of aluminum;
(v) 1.25 percent of chromium;
(vi) 0.30 percent of cobalt;
(vii) 0.40 percent of lead;
(viii) 1.25 percent of nickel;
(ix) 0.30 percent of tungsten;
(x) 0.15 percent of molybdenum;
(xi) 0.10 percent of niobium;
(xii) 0.41 percent of titanium;
(xiii) 0.15 percent of vanadium;
(xiv) 0.15 percent of zirconium.

Subject pipe is ordinarily made to ASTM specifications A53, A135, and A795, but can also be made to other specifications. Structural pipe is made primarily to ASTM specifications A252 and A500. Standard and structural pipe may also be produced to proprietary specifications rather than to industry specifications. Fence tubing is included in the scope regardless of certification to a specification listed in the exclusions below, and can also be made to the ASTM A513 specification. Sprinkler pipe is designed for sprinkler fire suppression systems and may be made to industry specifications such as ASTM A53 or to proprietary specifications. These products are generally made to standard O.D. and wall thickness combinations. Pipe multi-stenciled to a standard and/or structural specification and to other specifications, such as American Petroleum Institute (''API'') API–5L specification, is also covered by the scope of this investigation when it meets the physical description set forth above, and also has one or more of the following characteristics: Is 32 feet in length or less; is less than 2.0 inches (50mm) in outside diameter; has a galvanized and/or painted (*e.g.,* polyester coated) surface finish; or has a threaded and/or coupled end finish.

The scope of this investigation does not include: (a) Pipe suitable for use in boilers, superheaters, heat exchangers, refining furnaces and feedwater heaters, whether or not cold drawn; (b) finished electrical conduit; (c) finished scaffolding; [49] (d) tube and pipe hollows for redrawing; (e) oil country tubular goods produced to API specifications; (f) line pipe produced to only API specifications; and (g) mechanical tubing, whether or not cold-drawn. However, products certified to ASTM mechanical tubing specifications are not excluded as mechanical tubing if they otherwise meet the standard sizes (*e.g.,* outside diameter and wall thickness) of standard, structural, fence and sprinkler pipe. Also, products made to the following outside diameter and wall thickness combinations, which are recognized by the industry as typical for fence tubing, would not be excluded from the scope based solely on their being certified to ASTM mechanical tubing specifications:

1.315 inch O.D. and 0.035 inch wall thickness (gage 20)
1.315 inch O.D. and 0.047 inch wall thickness (gage 18)
1.315 inch O.D. and 0.055 inch wall thickness (gage 17)
1.315 inch O.D. and 0.065 inch wall thickness (gage 16)
1.315 inch O.D. and 0.072 inch wall thickness (gage 15)
1.315 inch O.D. and 0.083 inch wall thickness (gage 14)
1.315 inch O.D. and 0.095 inch wall thickness (gage 13)
1.660 inch O.D. and 0.047 inch wall thickness (gage 18)
1.660 inch O.D. and 0.055 inch wall thickness (gage 17)
1.660 inch O.D. and 0.065 inch wall thickness (gage 16)
1.660 inch O.D. and 0.072 inch wall thickness (gage 15)
1.660 inch O.D. and 0.083 inch wall thickness (gage 14)
1.660 inch O.D. and 0.095 inch wall thickness (gage 13)
1.660 inch O.D. and 0.109 inch wall thickness (gage 12)
1.900 inch O.D. and 0.047 inch wall thickness (gage 18)
1.900 inch O.D. and 0.055 inch wall thickness (gage 17)
1.900 inch O.D. and 0.065 inch wall thickness (gage 16)
1.900 inch O.D. and 0.072 inch wall thickness (gage 15)
1.900 inch O.D. and 0.095 inch wall thickness (gage 13)
1.900 inch O.D. and 0.109 inch wall thickness (gage 12)
2.375 inch O.D. and 0.047 inch wall thickness (gage 18)
2.375 inch O.D. and 0.055 inch wall thickness (gage 17)
2.375 inch O.D. and 0.065 inch wall thickness (gage 16)
2.375 inch O.D. and 0.072 inch wall thickness (gage 15)
2.375 inch O.D. and 0.095 inch wall thickness (gage 13)
2.375 inch O.D. and 0.109 inch wall thickness (gage 12)
2.375 inch O.D. and 0.120 inch wall thickness (gage 11)
2.875 inch O.D. and 0.109 inch wall thickness (gage 12)
2.875 inch O.D. and 0.134 inch wall thickness (gage 10)
2.875 inch O.D. and 0.165 inch wall thickness (gage 8)
3.500 inch O.D. and 0.109 inch wall thickness (gage 12)
3.500 inch O.D. and 0.148 inch wall thickness (gage 9)
3.500 inch O.D. and 0.165 inch wall thickness (gage 8)
4.000 inch O.D. and 0.148 inch wall thickness (gage 9)
4.000 inch O.D. and 0.165 inch wall thickness (gage 8)
4.500 inch O.D. and 0.203 inch wall thickness (gage 7)

The pipe subject to this investigation is currently classifiable in Harmonized Tariff Schedule of the United States (''HTSUS'') statistical reporting numbers 7306.19.1010, 7306.19.1050, 7306.19.5110, 7306.19.5150, 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, 7306.30.5090, 7306.50.1000, 7306.50.5050, and 7306.50.5070. However, the product description, and not the HTSUS classification, is dispositive of whether the merchandise imported into the United States falls within the scope of the investigation.

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BILLING CODE 3510–DS–P

[49] Finished scaffolding is defined as component parts of a final, finished scaffolding that enters the United States unassembled as a ''kit.'' A ''kit'' is understood to mean a packaged combination of component parts that contain, at the time of importation, all the necessary component parts to fully assemble a final, finished scaffolding.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–520–805]

Circular Welded Carbon-Quality Steel Pipe From the United Arab Emirates: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (the Department) preliminarily determines that circular welded carbon-quality steel pipe (certain steel pipe) from the United Arab Emirates (UAE) is being, or is likely to be, sold in the United States at less than fair value (LTFV) as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are listed in the ''Preliminary Determination'' section of this notice. Interested parties are invited to comment on this preliminary determination. Pursuant to requests from interested parties, we are postponing for 60 days the final determination and extending provisional measures from a four-month period to not more than six months. Accordingly, we will make our final determination not later than 135 days after publication of the preliminary determination.

DATES: *Effective Date:* June 1, 2012.

FOR FURTHER INFORMATION CONTACT: Deborah Scott or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–2657 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 26, 2011, the Department received petitions concerning imports of certain steel pipe from India, the Sultanate of Oman (Oman), the UAE, and the Socialist Republic of Vietnam (Vietnam) filed in proper form on behalf of Allied Tube and Conduit, JMC Steel Group, Wheatland Tube Company, and United States Steel Corporation (collectively, petitioners).[1] On November 15, 2011, the Department initiated the antidumping duty investigations on certain steel pipe from India, Oman, the UAE, and Vietnam.[2]

The Department set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of the date of signature of the *Initiation Notice*.[3] We received comments from SeAH Steel Vina Corp. (SeAH VINA), a Vietnamese producer, on December 5, 2011, and we received rebuttal comments from petitioners Allied Tube and Conduit, JMC Steel Group, and Wheatland Tube Company on December 14, 2011. After reviewing all comments, we have adopted the ''Scope of Investigation'' section of this notice, below. The Department also set aside a period of time for parties to comment on product characteristics to be used in the antidumping duty questionnaire and indicated that in order to consider such comments, they should be submitted no later than December 9, 2011.[4] On December 9, 2011, we received comments from a UAE producer, Universal Tube and Plastic Industries, Ltd. (UTP), and its U.S. affiliate, Prime Metal Corp. USA (Prime Metal). After reviewing all comments, we have adopted the characteristics and hierarchy as explained in the ''Product Comparisons'' section of this notice, below.

The Department also stated in the *Initiation Notice* that it intended to select mandatory respondents for this investigation based on U.S. Customs and Border Protection (CBP) data.[5] On November 22, 2011, the Department released U.S. import data obtained from CBP to all interested parties and invited parties to submit comments on the potential respondent selection by November 29, 2011.[6] No parties filed comments on these CBP data. On December 16, 2011, we selected UTP and Abu Dhabi Metal Pipes & Profiles Industries Complex LLC (ADPICO) as the mandatory respondents in this investigation.[7]

On December 16, 2011, the International Trade Commission (ITC) published its affirmative preliminary determination that there is a reasonable indication that imports of certain steel pipe from India, Oman, the UAE, and Vietnam are materially injuring the U.S. industry, and the ITC notified the Department of its finding.[8]

On December 20, 2011, the Department issued its antidumping duty questionnaire to UTP and ADPICO. The events which have occurred with respect to each respondent since issuance of the antidumping duty questionnaire are discussed separately for each respondent below.

On February 29, 2012, petitioners Allied Tube and Conduit and JMC Steel Group requested that the Department postpone its preliminary determination by 50 days. In accordance with section 733(c)(1)(A) of the Act, we postponed our preliminary determination by 50 days.[9]

On May 16, 2012, petitioners Allied Tube and Conduit and JMC Steel Group submitted comments with respect to both respondents for consideration in the preliminary determination.

UTP/Universal

UTP submitted its response to section A of the Department's antidumping duty questionnaire on January 24, 2012. In its response, UTP stated that it was reporting its own sales of the foreign like product as well as sales of merchandise that was produced during the period of investigation (POI) by two other affiliated manufacturers, KHK Scaffolding & Formwork LLC (KHK) and Universal Tube and Pipe Industries LLC (DIP). (Hereinafter, we refer to these three affiliated producers collectively as ''Universal.'') *See* Universal's January 24, 2012, section A questionnaire response (AQR) at 3. With respect to its U.S. sales, Universal reported that the overwhelming majority of its U.S. sales during the POI were shipped directly from the UAE to the United States. Universal explained that the remaining quantity consisted of sales from Prime Metal's inventory, and requested that the Department excuse Universal from reporting these sales not only because of the small quantity but also because this merchandise is co-mingled with material purchased from other suppliers located in the United States. *See* Universal's AQR at 3–4, footnote 1.

On January 30, 2012, petitioners Allied Tube and Conduit and JMC Steel Group filed comments on Universal's section A questionnaire response.

On February 21, 2012, Universal submitted its response to section B (*i.e.,* the section covering comparison market sales) and section C (*i.e.,* the section covering U.S. sales) of the Department's antidumping questionnaire. In its section B response, in addition to reporting the sales of the three affiliated manufacturers, Universal also reported the downstream sales made by three home market affiliated distributors.

On February 22, 2012, petitioners Allied Tube and Conduit and JMC Steel Group filed an allegation of sales below cost with respect to Universal. On March 13, 2012, the Department initiated a cost investigation with respect to Universal.[10] On March 14, we notified Universal of our decision to initiate a cost investigation and requested that Universal provide a response to section D of the Department's antidumping questionnaire (*i.e.,* the section covering the cost of production (COP) and constructed value (CV)).

On February 24, 2012, the Department issued a supplemental questionnaire concerning Universal's section A questionnaire response. In that supplemental questionnaire, we informed Universal that we were preliminarily not requiring it to report its U.S. sales from inventory, but that we might require Universal to report these sales in the future. Universal submitted its response to this

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[1] *See* Circular Welded Carbon-Quality Steel Pipe From India, Oman, the UAE, and Vietnam: Antidumping and Countervailing Duty Petitions, filed on October 26, 2011.

[2] *See Circular Welded Carbon-Quality Steel Pipe from India, the Sultanate of Oman, the United Arab Emirates, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations,* 76 FR 72164 (November 22, 2011) (*Initiation Notice*).

[3] *See Initiation Notice,* 76 FR at 72164.

[4] *See Initiation Notice,* 76 FR at 72164–5.

[5] *See Initiation Notice,* 76 FR at 72168.

[6] *See* Letter from Robert James, Program Manager, to All Interested Parties, dated November 22, 2011.

[7] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, from Richard O. Weible, Director, Office 7, ''Antidumping Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Respondent Selection Memorandum,'' dated December 16, 2011 (Respondent Selection Memorandum).

[8] *See Circular Welded Carbon-Quality Steel Pipe From India, Oman, the United Arab Emirates, and Vietnam,* Investigation Nos. 701–TA–482–485 and 731–TA–1191–1194 (Preliminary), 76 FR 78313 (December 16, 2011).

[9] *See Circular Welded Carbon-Quality Steel Pipe From India, the Sultanate of Oman, the United Arab Emirates, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations of Antidumping Duty Investigations,* 77 FR 15718 (March 16, 2012).

[10] *See* Memorandum to Richard Weible, Director, Office 7, from The Team, ''The Petitioners' Allegation of Sales Below the Cost of Production for Universal Tube and Plastic Industries, Ltd.,'' dated March 13, 2012 (Universal Cost Initiation Memorandum).

supplemental questionnaire on March 20, 2012.

On March 20, 2012, Universal filed a letter with the Department in which it requested that it be permitted to report home market sales data for only the three affiliated manufacturers or, alternatively, for the three manufacturers and just one of the three affiliated distributors. On March 28, 2012, the Department issued a supplemental questionnaire covering sections B and C. In the cover letter of that supplemental questionnaire, we informed Universal that it would not be permitted to limit its reporting of home market sales. On April 25, 2012, Universal responded to the Department's supplemental questionnaire for sections B and C.

On April 4, 2012, petitioner Wheatland Tube filed an allegation of targeted dumping by Universal. *See* the ''Allegation of Targeted Dumping'' section below.

On April 23, 2012, Universal filed its section D questionnaire response. On May 15, 2012, the Department issued a supplemental questionnaire for section D. Universal's response to this supplemental questionnaire is currently due on May 29, 2012.

On April 25, 2012, the Department issued a second supplemental questionnaire for section A. Universal submitted its response on May 4, 2012, and provided additional information on May 10 and 16, 2012.

ADPICO

ADPICO filed its response to section A of the Department's antidumping duty questionnaire on February 7, 2012.[11]

ADPICO's response to sections B and C of the Department's antidumping questionnaire was originally due on January 26, 2012. In response to timely requests for extensions, the Department extended the deadline until February 9, 2012, and again until February 16, 2012. However, ADPICO did not file a response to sections B and C of the questionnaire on February 16, 2012. On February 17, 2012, ADPICO requested three additional days to submit its response. Although ADPICO did not file this request in a timely manner, the Department stated in a letter dated February 17, 2012, that ''due to the extraordinary circumstances cited'' by ADPICO,[12] the Department was granting ADPICO an extension to file its response to sections B and C until February 21, 2012. In that letter, the Department informed ADPICO that it would not consider any additional requests for an extension to submit a response to sections B and C of the questionnaire. Further, the Department stated in its letter that ADPICO must file, in a timely manner, any future questionnaire or supplemental questionnaire responses or any requests for an extension to file such responses.

On February 21, 2012, ADPICO submitted a response, albeit a significantly deficient one, to sections B and C of the Department's antidumping questionnaire. ADPICO's narrative response to sections B and C totaled only one page. Although ADPICO did not submit a U.S. sales database in the requested format or worksheets showing how it calculated expenses incurred on its U.S. sales, it did provide spreadsheets containing certain U.S. sales information, such as customer names, invoice numbers, sales quantities and values, and amounts corresponding to a few expenses. However, ADPICO did not supply any such information with respect to its comparison market sales. Rather, the only information ADPICO provided regarding its comparison market sales was a listing of the total quantity and value of sales to each customer.[13] On February 22, 2012, petitioners Allied Tube and Conduit and the JMC Steel Group filed a letter requesting that the Department stay the deadline for making a sales below cost allegation with respect to ADPICO, noting that ADPICO's February 21, 2012, response lacked a comparison market sales database. On March 2, 2012, the Department issued a memorandum stating it would stay the deadline for making a sales below cost allegation with respect to ADPICO and that the deadline would be tied to ADPICO's submission of usable data.

On March 5, 2012, the Department issued a supplemental questionnaire to ADPICO for sections A through C. In the cover letter to this supplemental questionnaire, the Department informed ADPICO that it must submit its section B database, which was missing entirely from its February 21, 2012, filing, by March 12, 2012, and that the remainder of its supplemental questionnaire response was due on March 19, 2012. ADPICO did not submit its section B database by the established deadline of March 12, 2012. On March 19, 2012, ADPICO requested an extension to respond to the entire supplemental questionnaire. ADPICO filed a supplemental questionnaire response on March 20 and 21, 2012. On March 30, 2012, the Department issued a letter stating that because ADPICO did not submit its section B database by the established deadline or request an extension to submit that portion of its response in a timely manner, ADPICO's March 20 and 21, 2012, submissions were untimely and, therefore, the Department was rejecting ADPICO's March 20 and 21, 2012, submissions in their entirety.

On April 20, 2012, ADPICO filed a letter requesting that the Department reconsider its decision with respect to ADPICO's March 20 and 21, 2012, submissions. On May 17, 2012, ADPICO submitted a letter in response to the pre-preliminary comments filed by petitioners Allied Tube and Conduit and JMC Steel Group on May 16, 2012.

Period of Investigation

The POI is October 1, 2010, through September 30, 2011. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, October 2011. *See* 19 CFR 351.204(b)(1).

Scope of Investigation

The products covered by this investigation are certain steel pipe from the UAE. For a full description of the scope of this investigation as set forth in the *Initiation Notice, see* the ''Scope of the Investigation'' in Appendix I of this notice.

Scope Comments

As noted above, on December 5, 2011, SeAH VINA, a mandatory respondent in the concurrent antidumping and countervailing duty investigations concerning certain steel pipe from Vietnam, filed comments arguing that the treatment of double and triple stenciled pipe in the scope of these investigations differs from previous treatment of these products under other orders on circular welded pipe. Specifically, SeAH VINA claims that the Brazilian, Korean, and Mexican orders on these products exclude ''Standard pipe that is dual or triple certified/stenciled that enters the U.S. as line pipe of a kind used for oil and gas

[11] ADPICO filed earlier versions of its section A questionnaire response on January 31, 2012, and February 5, 2012, but due to issues such as improper bracketing and a missing or incomplete public version, the Department rejected these versions. *See* Memoranda to The File from Deborah Scott, International Trade Compliance Analyst, ''Circular Welded Carbon Quality Steel Pipe From the United Arab Emirates,'' dated February 3, 2012, and February 8, 2012, respectively. In addition, on February 9, 2012, ADPICO submitted another version of its section A questionnaire response with altered bracketing and certain information deleted.

[12] The lead company official explained that he had been outside the UAE undergoing several surgeries for cancer.

[13] This listing also contained total sales quantities and values for ADPICO's U.S. customers.

pipelines * * *'' [14] According to SeAH VINA: (i) If the term ''class or kind of merchandise'' has meaning, it cannot have a different meaning when applied to the same products in two different cases; and (ii) the distinction between standard and line pipe reflected in the Brazil, Korea and Mexico orders derives from customs classifications administered by CBP and, thus, is more administrable.

On December 14, 2011, Allied Tube and Conduit, JMC Steel Group, and Wheatland Tube (collectively, Certain Petitioners), responded to SeAH VINA's comments stating that the scope as it appeared in the *Initiation Notice* reflected Petitioners' intended coverage. Certain Petitioners contend that pipe that is multi-stenciled to both line pipe and standard pipe specifications and meets the physical characteristics listed in the scope (*i.e.,* is 32 feet in length or less; is less than 2.0 inches (50mm) in outside diameter; has a galvanized and/or painted (*e.g.,* polyester coated) surface finish; or has a threaded and/or coupled end finish) is ordinarily used in standard pipe applications. Certain Petitioners state that, in recent years, the Department has rejected end-use scope classifications, preferring instead to rely on physical characteristics to define coverage, and the scope of these investigations has been written accordingly. Therefore, Certain Petitioners ask the Department to reject SeAH VINA's proposed scope modification.

We agree with Certain Petitioners that the Department seeks to define the scopes of its proceedings based on the physical characteristics of the merchandise.[15] Moreover, we disagree with SeAH VINA's contention that once a ''class or kind of merchandise'' has been established that the same scope description must apply across all proceedings involving the product. For example, as the Department has gained experience in administering antidumping duty and countervailing duty orders, it has shifted away from end use classifications to scopes defined by the physical characteristics.[16] Thus, proceedings initiated on a given product many years ago may have end use classifications while more recent proceedings on the product would not.[17] Finally, Certain Petitioners have indicated the domestic industry's intent to include multi-stenciled products that otherwise meet the physical characteristics set out in the scope. Therefore, the Department is not adopting SeAH VINA's proposed modification of the scope.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. Section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of exporters or producers, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies. As explained in the Respondent Selection Memorandum, the Department determined that it was appropriate to limit the number of producers or exporters examined in this investigation, and therefore we selected the two respondents which accounted for the largest volume of imports of subject merchandise during the POI, ADPICO and Universal.

Use of Facts Otherwise Available

For the reasons discussed below, we determine that the use of facts otherwise available with an adverse inference is appropriate for the preliminary determination with respect to ADPICO.

A. Use of Facts Available

Section 776(a)(2) of the Act provides that, if an interested party withholds information requested by the administering authority, fails to provide such information by the deadlines for submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act, significantly impedes a proceeding under this title, or provides such information but the information cannot be verified as provided in section 782(i) of the Act, the administering authority shall use, subject to section 782(d) of the Act, the facts otherwise available in reaching the applicable determination. Section 782(d) of the Act provides that where the Department determines a response to a request for information does not comply with the request, the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act states further that the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; (5) the information can be used without undue difficulties.

After multiple requests by ADPICO for extensions to submit its response to sections B and C of the Department's antidumping questionnaire, the Department stated the following in a letter to ADPICO dated February 17, 2012:

> Please be aware that any future questionnaire or supplemental questionnaire responses filed with the Department, as well as any requests for an extension to file any such responses, must be submitted in a timely manner. The Department's antidumping investigations are governed by statutory deadlines which are mandatory, not optional, in nature, and we must remind you that untimely or otherwise deficient filings hinder the progress of this investigation.

We also noted that ''future untimely filings may result in the rejection of such responses in their entirety, and may warrant the use of partial or total facts available, pursuant to section 776(a) of the {Act} * * *, which may include adverse inferences pursuant to section 776(b) of the Act.''

ADPICO filed a response to sections B and C of the questionnaire on February 21, 2012, which was the deadline established in the Department's February 17, 2012, letter, but this response, even after nearly one month of extensions from the original deadline, contained myriad significant deficiencies. Sections B and C of the Department's antidumping questionnaire request that respondents provide databases containing detailed

[14] *See* SeAH Vina comments dated December 5, 2011; *see also Certain Circular Welded Non-Alloy Steel Pipe from Brazil, the Republic of Korea, and Taiwan; and Certain Circular Welded Carbon Steel Pipes and Tubes From Taiwan: Final Results of the Expedited Third Sunset Reviews of the Antidumping Duty Order,* 76 FR 66899, 66900 (October 28, 2011).

[15] *See Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China,* 73 FR 31970 (June 5, 2008), and accompanying Issues and Decision Memorandum at Comment 1.

[16] *Id.*

[17] *Compare, e.g., Countervailing Duty Order: Oil Country Tubular Goods from Canada,* 51 FR 21783 (June 16, 1986) (describing subject merchandise as being ''intended for use in drilling for oil and gas'') *with Certain Oil Country Tubular Goods From the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 75 FR 3203 (January 20, 2010) (describing the subject merchandise in terms of physical characteristics without regard to use or intended use).

information about their comparison (or third-country) market and U.S. sales, including information such as product characteristics, terms of sale, customer names, invoice numbers and dates, shipment and payment dates, quantities, gross unit prices, and the expenses incurred in making such sales. In addition, sections B and C of the Department's antidumping questionnaire ask that respondents discuss the details of their sales in narrative format and submit worksheets showing the calculation of the sales expenses reported in their databases. In this case, ADPICO's narrative response for sections B and C totaled only one page; ADPICO did not provide a database detailing its comparison market sales; it did not submit its U.S. sales database in the format requested, and some of the requested data were missing; and ADPICO did not include any worksheets showing how it calculated the expenses incurred in making its comparison market and U.S. sales. In this state, ADPICO's responses could not be relied upon to calculate a dumping margin. Given the substantial deficiencies in ADPICO's response, particularly the lack of a home market sales database, petitioners Allied Tube and Conduit and the JMC Steel Group filed a letter on February 22, 2012, requesting that the Department stay the deadline for making a sales below cost allegation with respect to ADPICO. On March 2, 2012, the Department issued a memorandum stating that the deadline for making a sales below cost allegation would be tied to ADPICO's submission of usable data.

On March 5, 2012, the Department issued a supplemental questionnaire to ADPICO to provide it an opportunity to remedy the significant deficiencies in its section B questionnaire response, to correct deficiencies, and to provide additional information regarding its responses to sections A and C of the original questionnaire. With respect to sections B and C, the Department's March 5, 2012, supplemental questionnaire essentially asked ADPICO to refer back to the original questionnaire and respond fully to each section therein, while providing ADPICO with additional guidance on how to respond properly. Because the Department had not yet received a comparison market database or even a narrative response to section B of the questionnaire at that point in the investigation, we established a deadline for ADPICO to submit its section B database that was earlier than the deadline for the rest of ADPICO's response to the March 5, 2012, supplemental questionnaire. Specifically, the Department indicated that the due date for ADPICO's section B database was March 12, 2012, and the deadline for ADPICO to submit the remainder of its supplemental questionnaire response was March 19, 2012. The Department also noted in the cover letter to its March 5, 2012, supplemental questionnaire:

> The Department must conduct this investigation in accordance with statutory and regulatory deadlines. If you are unable to respond completely to every question in the attached supplemental questionnaire by the established deadline, or are unable to provide all requested supporting documentation by the same date, you must notify the official in charge and submit a written request for an extension of the deadline for all or part of the supplemental questionnaire response. * * * An extension request submitted without a proper certification for any factual information contained therein will be considered improperly filed and, as with any other improperly filed document, will not be accepted. Any extension granted in response to your request will be in writing; otherwise, the original deadline will apply.

Furthermore, we stated:

> If the Department does not receive either the requested information or a written extension request before 5 p.m. ET on the established deadline, we may conclude that your company has decided not to cooperate in this proceeding. The Department will not accept any requested information submitted after the deadline. As required by section 351.302(d) of our regulations, we will reject such submissions as untimely. Therefore, failure to properly request extensions for all or part of a questionnaire response may result in the application of partial or total facts available, pursuant to section 776(a) of the Act, which may include adverse inferences, pursuant to section 776(b) of the Act.

ADPICO did not submit its section B database by the established deadline of March 12, 2012. On March 19, 2012, ADPICO requested an extension until March 20, 2012 to respond to the entire supplemental questionnaire. In its letter, ADPICO stated that it had been experiencing problems with the Department's electronic filing system, IA ACCESS. However, the Department considered this explanation inadequate as by that point, ADPICO's home market database was already one week overdue, and ADPICO had not attempted to contact the Department on or around the deadline of March 12, 2012, to address the alleged technical difficulties. As a result, ADPICO's request on March 19, 2012, for additional time to submit its home market sales database, a significant portion of the information needed to conduct our analysis, was untimely. The Department did not extend the deadline for any portion of ADPICO's supplemental questionnaire. ADPICO filed a supplemental questionnaire response on March 20 and 21, 2012.

ADPICO did not submit its section B database by the established deadline or request an extension to submit that portion of its response in a timely manner. Accordingly, the Department issued a letter on March 30, 2012, stating that ADPICO's March 20 and 21, 2012, submissions were untimely and, therefore, the Department was rejecting ADPICO's March 20 and 21, 2012, submissions in their entirety and deleting them from the record. The Department further stated it would not consider the information contained in those submissions in the preliminary determination.

In this case, ADPICO failed to provide requested information by the established deadline within the meaning of section 776(a)(2)(B) of the Act and significantly impeded the proceeding within the meaning of section 776(a)(2)(C) of the Act. As noted above, we provided ADPICO with an opportunity to remedy its deficient responses, pursuant to section 782(d) of the Act, but ADPICO failed to do so. Because ADPICO did not provide the requested information by the established deadline, its submissions do not satisfy the criteria of section 782(e) of the Act. Further, as discussed below, ADPICO did not act to the best of its ability in providing the requested information, and therefore did not satisfy the criteria of section 782(e) of the Act for this reason as well. Accordingly, pursuant to section 776(a)(2) of the Act, we are relying upon facts otherwise available for ADPICO's antidumping duty margin.

B. Application of Adverse Inferences for Facts Available

Section 776(b) of the Act provides that, if the Department finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information, the Department may use an inference adverse to the interests of that party in selecting the facts otherwise available.[18] In addition, the Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Rep. 103–316, Vol. 1, 103d Cong. (1994) (SAA) explains that the Department may employ an adverse

[18] *See Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India,* 70 FR 54023, 54025–26 (September 13, 2005), and *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil,* 67 FR 55792, 55794–96 (August 30, 2002).

inference ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' [19] Furthermore, affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.[20] It is the Department's practice to consider, in employing adverse inferences, the extent to which a party may benefit from its own lack of cooperation.[21]

Despite granting ADPICO numerous extensions of time to submit information critical to the antidumping analysis and providing ADPICO with notice of the consequences of the failure to respond to our antidumping questionnaires or to request extensions in a timely manner, ADPICO failed to provide a timely response to a critical portion of the Department's March 5, 2012, supplemental questionnaire, *i.e.,* its home market sales database, by the established deadline of March 12, 2012.[22] Further, having given ADPICO an opportunity to correct the other significant deficiencies identified in its original responses, ADPICO failed to do so by the deadline of March 19, 2012, requesting yet another extension, which we did not grant. These failures indicate that ADPICO did not ''put forth its maximum effort to provide Commerce with full and complete answers to all inquiries in {this} investigation.'' [23] Moreover, ''{i}t is {respondent's} burden to create an accurate record during Commerce's investigation.'' [24] ADPICO's repeated failure to submit information in a proper and timely manner has precluded the Department from performing the necessary analysis and verification of ADPICO's questionnaire responses required by section 782(i)(1) of the Act and within the time required to complete an investigation.

For the reasons discussed above, the Department has preliminarily determined that ADPICO has failed to cooperate to the best of its ability and, therefore, in selecting from among the facts otherwise available, an adverse inference is warranted, pursuant to section 776(b) of the Act.[25]

C. Selection and Corroboration of Information Used as Facts Available

Where the Department applies AFA because a respondent failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Act authorizes the Department to rely on information derived from the petition, a final determination, a previous administrative review, or other information placed on the record.[26] In selecting a rate for AFA, the Department selects a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated. Normally, it is the Department's practice to use the highest rate from the petition in an investigation when a respondent fails to act to the best of its ability to provide the necessary information.[27] The rates in the petition range from 6.23 percent to 11.71 percent.[28] We have selected the highest petition rate of 11.71 percent as AFA for ADPICO. This rate achieves the purpose of applying an adverse inference, *i.e.,* it is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.[29]

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation as facts available, it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal. Secondary information is described in the SAA as ''information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' *See SAA* at 870. The SAA provides that to ''corroborate'' means simply that the Department will satisfy itself that the secondary information to be used has probative value. *Id.* The Department's regulations state that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *See* 19 CFR 351.308(d); *see also* the SAA at 870. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.[30]

The AFA rate the Department has used for ADPICO is from the petition. During our pre-initiation analysis, we examined evidence supporting the calculations in the petition and the supplemental information provided by petitioners to determine the probative value of the margins alleged in the petition. During our pre-initiation analysis, we also examined the information used as the basis of the export price (EP) and normal value (NV) in the petition to derive the alleged margins, thereby corroborating key elements of the EP and NV calculations and establishing the basis for the estimated margins identified in the

[19] *See* SAA at 870; *see also, e.g., Certain Polyester Staple Fiber from Korea: Final Results of the 2005–2006 Antidumping Duty Administrative Review,* 72 FR 69663 (December 10, 2007).

[20] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products From Japan,* 65 FR 42985 (July 12, 2000); Antidumping Duties, Countervailing Duties, 62 FR 27296, 27340 (May 19, 1997); and *Nippon Steel Corp.* v. *United States,* 337 F.3d 1373, 1382–83 (Fed. Cir. 2003) (*Nippon Steel*) (''While intentional conduct, such as deliberate concealment or inaccurate reporting, surely evinces a failure to cooperate, the statute does not contain an intent element.'')

[21] *See Essar Steel Ltd.* v. *United States,* 2012 U.S. App. LEXIS 8621 at *18 (Fed. Cir. Apr. 27, 2012) (*Essar*). (''Because Commerce lacks subpoena power, Commerce's ability to apply adverse facts is an important one. The purpose of the adverse facts statute is 'to provide respondents with an incentive to cooperate' with Commerce's investigation, not to impose punitive damages.'')

[22] *See Essar* at *19 (''Without the ability to enforce full compliance with its questions, Commerce runs the risk of gamesmanship and lack of finality in its investigations.'').

[23] *See Nippon Steel,* 337 F.3d at 1382 (While the '' 'best of its ability' '' ''standard does not require perfection and recognizes that mistakes sometimes occur, it does not condone inattentiveness, carelessness, or inadequate recordkeeping.'').

[24] *See Essar* at *22 (citing *Zenith Elecs. Corp.* v. *United States,* 988 F.2d 1573, 1583 (Fed. Cir. 1993)).

[25] *See, e.g., Notice of Preliminary Determinations of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars From Poland, Indonesia, and Ukraine,* 66 FR 8343, 8346 (January 30, 2001) *(unchanged in Notice of Final Determinations of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars from Indonesia, Poland and Ukraine,* 66 FR 18752, 18753 (April 11, 2001)) and *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products From Japan,* 65 FR 42985, 42986 (July 12, 2000) (where the Department applied total adverse facts available (AFA) where respondents failed to respond to questionnaires in a timely manner).

[26] *See also* 19 CFR 351.308(c) and the SAA at 868–870.

[27] *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Purified Carboxymethylcellulose From Finland,* 69 FR 77216 (December 27, 2004) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Purified Carboxymethylcellulose From Finland,* 70 FR 28279 (May 17, 2005)).

[28] *See Initiation Notice,* 76 FR at 72168.

[29] *See Gallant Ocean (Thailand) Co.* v. *United States,* 602 F.3d 1319, 1323 (Fed. Cir. 2010).

[30] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews,* 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part,* 62 FR 11825 (March 13, 1997).

Initiation Notice.[31] Petitioners' methodology for calculating EP and NV in the petition is discussed in the *Initiation Notice.*[32] These calculations appear reasonable and no information on the record provides a basis for challenging the appropriateness of those estimated margins. Therefore, because we confirmed the accuracy and validity of the information underlying the calculation of margins in the petition by examining source documents as well as publicly available information, we preliminarily determine that the margins in the petition and in the *Initiation Notice* are reliable for the purposes of this investigation.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin irrelevant. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin and determine an appropriate margin.[33] The rates in the petition reflect commercial practices of the steel pipe industry and, as such, are relevant to ADPICO. Commercial behavior inherent in the industry is important in determining the relevance of the selected AFA rate to the uncooperative respondent by virtue of it belonging to the same industry.[34] Such consideration typically encompasses the commercial behavior of other respondents under investigation and the selected AFA rate is gauged against the margins we calculate for those respondents. Therefore, we compared the transaction-specific margins we calculated for Universal for the POI to the petition rate of 11.71 percent, selected as AFA in this investigation, in order to determine whether the rate of 11.71 percent is probative. We found that a number of transaction-specific margins we calculated for Universal in this investigation were higher than or within the range of the 11.71 percent margin alleged in the petition. Accordingly, the AFA rate is relevant as applied to ADPICO for this investigation because it falls within the range of transaction-specific margins we calculated for Universal in this investigation. A similar corroboration methodology has been upheld by the court.[35] Further, it is consistent with our past practice.[36]

Accordingly, by using information that was corroborated in the pre-initiation stage of this investigation and preliminarily determining it to be reliable and relevant for the uncooperative respondent in this investigation, we have corroborated the AFA rate of 11.71 percent ''to the extent practicable'' as provided in section 776(c) of the Act. *See also* 19 CFR 351.308(d). Therefore, for ADPICO we have used, as AFA, the margin in the petition of 11.71 percent, as set forth in the *Initiation Notice.*

Affiliation and Collapsing—Universal

Section 771(33) of the Act provides that:

> The following persons shall be considered to be 'affiliated' or 'affiliated persons':
> (A) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.
> (B) Any officer or director of an organization and such organization.
> (C) Partners.
> (D) Employer and employee.
> (E) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and such organization.
> (F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.
> (G) Any person who controls any other person and such other person.

Additionally, section 771(33) of the Act stipulates that: ''For purposes of this paragraph, a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.''

In its questionnaire responses, Universal indicated it was reporting the sales of three producers, UTP, KHK, and DIP, since all three companies are affiliated and manufacture subject merchandise. *See, e.g.,* Universal's AQR at 2. Based on the record evidence, we found that UTP, KHK, and DIP are affiliated pursuant to section 771(33) of the Act by virtue of their ownership through Taurani Holdings Limited. Because our analysis of affiliation involves the use of business proprietary information, *see* Memorandum to the File, through Robert James, Program Manager, from Deborah Scott, International Trade Analyst, ''Analysis Memorandum for the Preliminary Determination of the Antidumping Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates,'' dated May 23, 2012 (Universal Preliminary Analysis Memorandum) for more information.

Section 351.401(f)(1) of the Department's regulations outlines the criteria for collapsing (*i.e.,* treating as a single entity) affiliated producers for purposes of calculating a dumping margin. The regulations state that we will treat two or more affiliated producers as a single entity where (1) those producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities and (2) we conclude that there is a significant potential for the manipulation of price or production. In identifying a significant potential for the manipulation of price or production, the Department may consider the following factors: (i) The level of common ownership; (ii) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; (iii) whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers. *See* 19 CFR 351.401(f)(2). Based on information on the record, we find that, as UTP, KHK, and DIP each produced the merchandise under consideration during the POI, they had production facilities for similar or identical merchandise that would not require substantial retooling of any of the three facilities in order to restructure their manufacturing priorities. We also find that there was a significant potential for the manipulation of price or production among the three companies based on their common ownership and their intertwined operations. Accordingly, the Department has preliminarily determined that it is appropriate to treat UTP, KHK, and DIP as a single entity, pursuant to 19 CFR 351.401(f)(1) and (2). For a more detailed discussion of our collapsing analysis, *see* Universal Preliminary Analysis Memorandum.

Allegation of Targeted Dumping

Section 777A(d)(1)(B) of the Act allows the Department to employ an alternative dumping margin calculation

[31] *See Initiation Notice,* 76 FR at 72166–68.

[32] *Id.*

[33] *See Fresh Cut Flowers From Mexico; Final Results of Antidumping Duty Administrative Review,* 61 FR 6812, 6814 (February 22, 1996) (the Department disregarded the highest dumping margin as best information available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin).

[34] *See, e.g., Stainless Steel Bar from Spain: Final Results of Antidumping Duty Administrative Review,* 72 FR 42395 (August 2, 2007), and accompanying Issues and Decision Memorandum at Comment 6.

[35] *See PAM, S.p.A.* v. *United States,* 582 F.3d 1336, 1340 (Fed. Cir. 2009).

[36] *See Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 75 FR 41808, 41811 (July 19, 2010).

methodology in an AD investigation under the following circumstances: (1) There is a pattern of EPs or CEPs for comparable merchandise that differ significantly among purchasers, regions, or periods of time; and (2) the Department explains why such differences cannot be taken into account using the standard average-to-average or transaction-to-transaction methodology.

On April 4, 2012, petitioner Wheatland Tube submitted a timely allegation of targeted dumping with respect to Universal, arguing the Department should apply the average-to-transaction methodology to all reported U.S. sales in calculating Universal's dumping margin. In its allegation, petitioner asserted there are patterns of U.S. prices for comparable merchandise that differ significantly among customers, time periods, and regions. The petitioner relied on the Department's current version of the targeted dumping test first introduced in *Certain Steel Nails from the United Arab Emirates: Notice of Final Determination of Sales at Not Less Than Fair Value* (*Nails*) and recently clarified in *Multilayered Wood Flooring From the People's Republic of China: Final Determination of Sales at Less Than Fair Value (Wood Flooring).*[37]

A. Targeted Dumping Test

We conducted customer, time-period, and regional analyses of targeted dumping for Universal using the methodology we adopted in *Nails* and most recently articulated in *Wood Flooring.* The methodology we employed involves a two-stage test; the first stage addresses the pattern requirement and the second stage addresses the significant-difference requirement.[38] In this test, we made all price comparisons on the basis of identical merchandise (*i.e.,* by control number or CONNUM). The test procedures are the same for the customer, time-period, and regional allegations of targeted dumping. We based all of our targeted dumping calculations on the U.S. net price, which we determined for Universal's U.S. sales in our standard margin calculations. For further discussion of the test and the results, *see* Universal Preliminary Analysis Memorandum. As a result of our analysis, we preliminarily determine that there is a pattern of U.S. prices for comparable merchandise that differs significantly among certain customers, time periods, and regions for Universal in accordance with section 777A(d)(1)(B)(i) of the Act and our current practice as discussed in *Nails* and *Wood Flooring.*

B. Price Comparison Method

Section 777A(d)(1)(B)(ii) of the Act states that the Department may compare the weighted average of the NV to EPs or CEPs of individual transactions for comparable merchandise if the Department explains why differences in the patterns of EPs and CEPs cannot be taken into account using the average-to-average methodology. As described above, we preliminarily determine that, with respect to sales by Universal, for certain customers, time periods, and regions there was a pattern of prices that differed significantly. For Universal, we find that these differences cannot be taken into account using the standard average-to-average methodology because the average-to-average methodology conceals differences in the patterns of prices between the targeted and non-targeted groups by averaging low-priced sales to the targeted group with high-priced sales to the non-targeted group. Therefore, the Department preliminarily determines, pursuant to 777A(d)(1)(B)(ii) of the Act, that the standard average-to-average methodology does not take into account Universal's price differences because the alternative average-to-transaction methodology yields a material difference in the margin. Accordingly, for this preliminary determination we have applied the alternative average-to-transaction methodology to all of Universal's reported U.S. sales to calculate the dumping margin for Universal.[39] *See* Universal Preliminary Analysis Memorandum for further discussion.

Product Comparisons

The Department identified five criteria for matching U.S. sales of subject merchandise to normal value (specification/grade, diameter, wall thickness, coating, and end finish) and, as noted above, gave parties to this and the concurrent AD investigations an opportunity to comment within a certain deadline. The only timely comments submitted were from UTP and its U.S. affiliate, Prime Metal. UTP and Prime Metal requested that the placement of the coating characteristic in the model match hierarchy be adjusted from that proposed by the Department, so that it would be the highest in the hierarchy. UTP and Prime Metal argued that the coating characteristic should be highest in the hierarchy of product characteristics because significant cost and price differences are associated with whether or not pipes are coated with zinc (galvanized), and because of differences in end uses between galvanized pipes and pipes that are not galvanized.

None of the interested parties objected to the inclusion of the coating product characteristic in the hierarchy, and none of the interested parties in the four concurrent certain steel pipe antidumping investigations (India, Oman, UAE, and Vietnam) other than UTP and Prime Metal suggested that the placement of the coating product characteristic in the model match hierarchy should be changed from that originally proposed by the Department.

The Department is not modifying the model match hierarchy that it originally proposed to incorporate the suggestion of UTP and Prime Metal. The goal of the product characteristic hierarchy is to identify the best possible matches with respect to the characteristics of the merchandise. While variations in cost may suggest the existence of variation in product characteristics, such variations do not constitute differences in products in and of themselves. Furthermore, the magnitude of variations in cost may differ from company to company, and even for a given company over time, and therefore do not, in and of themselves, provide a reliable basis for identifying the relative importance of different product characteristics. The Department has noted that for defining products and creating a model match hierarchy, ''{t}he physical characteristics are used to distinguish the differences among products across the industry,'' that ''{c}ost is not the primary factor for establishing these characteristics,'' and, in short, ''{c}ost variations are not the determining factor in assigning product characteristics for model-matching purposes.'' [40]

[37] *See Nails,* 73 FR 33985 (June 16, 2008), and accompanying Issues and Decision Memorandum (Nails Decision Memorandum) at Comments 1–9 and *Wood Flooring,* 76 FR 64318 (October 18, 2011), and accompanying Issues and Decision Memorandum (Wood Flooring Decision Memorandum) at Comment 4, respectively. *See also Proposed Methodology for Identifying and Analyzing Targeted Dumping in Antidumping Investigations; Request for Comment,* 73 FR 26371 (May 9, 2008).

[38] *See* Nails Decision Memorandum at Comments 3 and 6 and Wood Flooring Decision Memorandum at Comment 4; *see also* section 777A(d)(1)(B)(i) of the Act.

[39] *See Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From Indonesia: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 75 FR 24885, 24888 (May 6, 2010) and *Polyethylene Retail Carrier Bags From Indonesia: Final Determination of Sales at Less Than Fair Value,* 75 FR 16431 (April 1, 2010), and accompanying Issues and Decision Memorandum at Comment 1.

[40] *See Stainless Steel Wire Rod from Sweden: Final Results of Antidumping Duty Administrative Review,* 73 FR 12950 (March 11, 2008), and accompanying Issues and Decision Memorandum at

UTP and Prime Metal also refer to price and end-use differences regarding galvanized versus non-galvanized pipe, but the Department's proposed hierarchy for the certain steel pipe antidumping duty investigations did include coating as a characteristic because whether or not the product is coated (*e.g.,* galvanized) is important enough to distinguish products from one another. However, differences in other product characteristics also influence potential end uses. Neither UTP nor Prime Metal demonstrated why the coating product characteristic should be considered the most important of all when defining models and for comparison purposes and, as noted above, no other interested parties argued for such a change in a timely manner.

Therefore, as noted above, the Department is not modifying the hierarchy it proposed at the outset of the AD investigations and included in the questionnaires it issued to respondents in these investigations. In accordance with section 771(16) of the Act, all products produced by Universal covered by the description in the ''Scope of the Investigation'' in Appendix I of this notice, below, and sold in the UAE during the POI are considered to be the foreign like product for purposes of determining appropriate product comparisons to U.S. sales. We have relied on five criteria to match U.S. sales of subject merchandise to comparison market sales of the foreign like product: (1) Pipe specification and grade; (2) outside diameter; (3) wall thickness; (4) coating; and (5) end finish. 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 next most similar foreign like product on the basis of the characteristics listed above which were made in the ordinary course of trade. *See* Universal Preliminary Analysis Memorandum for additional information.

Date of Sale

The regulation at 19 CFR 351.401(i) states that the Department normally will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The regulation provides further that the Department may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established. The Department has a long-standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established.[41]

For its home market sales, Universal indicated that the sales invoice is normally issued at the same time or a few days after shipment, and it reported the earlier of shipment date or invoice date as the date of sale. *See* Universal's March 20, 2012, section A supplemental questionnaire response (ASQR) at 11 and its February 21, 2012, section B questionnaire response (BQR) at 15–16. For its U.S. sales, Universal stated that its sales are shipped directly from Universal to the unaffiliated U.S. customer, and therefore it reported the bill of lading date, which it characterized as the shipment date, as the date of sale since shipment occurs before issuance of the invoice from Prime Metal to the U.S. customer. *See* Universal's February 21, 2012, section C questionnaire response (CQR) at 11–12. For these preliminary results, we have used the date of sale as reported by Universal, *i.e.,* shipment date where it precedes the invoice date, and invoice date in the remaining instances, in accordance with our practice.

Fair Value Comparisons

To determine whether Universal made sales of certain steel pipe to the United States at LTFV, we compared the constructed export price (CEP) to NV and as described in the ''Constructed Export Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(1)(B) of the Act, we compared transaction-specific CEPs to POI weighted-average NVs.

Constructed Export Price

As noted above in the ''Background'' section of this notice, Universal reported that all but a minor quantity of its U.S. sales during the POI were shipped directly from the UAE to the U.S. customer. Universal described these sales as ''direct CEP shipments,'' whereby its U.S. affiliate, Prime Metals, made the sale, and then Universal manufactured the pipe and shipped it directly to the United States. *See* Universal's CQR at 2. Universal requested that the Department excuse it from reporting the remaining quantity of its U.S. sales, which were made from Prime Metal's inventory, claiming that the small quantity coupled with the merchandise being co-mingled with merchandise purchased from other U.S. suppliers would make it difficult to report these sales. *See* Universal's AQR at 3–4, footnote 1. In our February 24, 2012, section A supplemental questionnaire, we informed Universal that we were preliminarily not requiring it to report its U.S. sales through inventory.

For the price to the United States, we used CEP, in accordance with section 772(b) of the Act. We calculated CEP for those sales where a person in the United States, affiliated with the foreign exporter or acting for the account of the exporter, made the sale to the first unaffiliated purchaser in the United States of the subject merchandise. *See* section 772(b) of the Act. We based CEP on the packed prices charged to the first unaffiliated customer in the United States and the applicable terms of sale.

In accordance with section 772(b) of the Act, we calculated CEP where the record established that sales made by Universal were made in the United States after the date of importation by or for the account of the producer or exporter, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter.

In accordance with section 772(c)(2)(A) of the Act, and where appropriate, we made deductions from the starting price for certain billing adjustments and early payment discounts. We made further deductions to price for certain movement expenses (offset by reported freight revenue), where appropriate, for foreign inland freight, foreign brokerage and handling, ocean freight, marine insurance, U.S. inland freight, certain other transportation expenses, and U.S. brokerage expenses, pursuant to section 772(c)(2)(A) of the Act. In accordance with our practice, we capped Universal's freight revenue at the

Comment 1. Also, the Department's '' * * * selection of model match characteristics {is based} on unique measurable physical characteristics that the product can possess * * *.'' and '' * * * differences in price or cost, standing alone, are not sufficient to warrant inclusion in the Department's model-match of characteristics which a respondent claims to be the cause of such differences * * *.'' *See Notice of Final Determination of Sales at Less Than Fair Value; Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Turkey,* 65 FR 15123 (March 21, 2000), and accompanying Issues and Decision Memorandum at Model Match Comment 1.

[41] *See, e.g., 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), and accompanying Issues and Decision Memorandum 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), and accompanying Issues and Decision Memorandum at Comment 2.

corresponding amount of freight charges incurred.[42]

Pursuant to section 772(d)(1) of the Act, we made additional adjustments to CEP for credit expenses, warranty expenses, inventory carrying costs incurred in the UAE, and other indirect selling expenses. Pursuant to section 772(d)(3) of the Act, we made an adjustment for CEP profit. For a detailed discussion of these adjustments, *see* Universal Preliminary Analysis Memorandum.

Normal Value

A. Home Market Viability and Comparison-Market Selection

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 compared Universal's volume of home market sales of the foreign like product to its volume of U.S. sales of the subject merchandise. *See* section 773(a)(1)(C) of the Act. Based on this comparison, we determined that Universal had a viable home market during the POI. *See* Universal's April 25, 2012 section B and C supplemental questionnaire response at Exhibit A–38 (quantity and value chart). Consequently, we based NV on Universal's home market sales.

B. Affiliated Party Transactions

Pursuant to 19 CFR 351.403(d), if an exporter or producer sold the foreign like product through an affiliated party, the Department may calculate NV based on sales made by such affiliated party. The Department's regulation further states that the Department normally will not calculate NV based on sales by an affiliated party if sales of the foreign like product by an exporter or producer to affiliated parties account for less than five percent of the total value or quantity of the exporter's or producer's sales of the foreign like product in the comparison market or if sales to the affiliated party are comparable, as defined in 19 CFR 351.403(c).

During the POI, Universal sold the foreign like product to three affiliated distributors in the UAE: Al Zaher Building Materials LLC (ALZ), ANA Steel Trading LLC (ANA), and Dayal Steel Suppliers (DSS). In its BQR at 7, Universal stated that since its sales to ALZ, ANA, and DSS surpassed five percent of domestic market sales during the POI and none of the affiliated distributors consumed the foreign like product, it was reporting sales by the affiliated distributors to unaffiliated customers in the UAE. For the preliminary determination, we have calculated NV based on downstream sales by ALZ, ANA, and DSS.

C. Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP. *See also* section 773(a)(7) of the Act. Pursuant to 19 CFR 351.412(c)(1)(iii), the NV LOT is based on the starting price of the sales in the comparison market or, when NV is based on constructed value, the starting price of the sales from which we derive selling, general and administrative expenses, and profit. For CEP sales (which constituted all of Universal's reported sales), the U.S. LOT is based on the starting price of the U.S. sales, as adjusted under section 772(d) of the Act, which is from the exporter to the importer. *See* 19 CFR 351.412(c)(1)(ii).

To determine whether NV sales are at a different LOT than CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. *See* 19 CFR 351.412(c)(2). If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision).[43]

In this investigation, we obtained information from Universal regarding the marketing stages involved in making its reported home market and U.S. market sales, including a description of the selling activities performed by Universal and its affiliates for each channel of distribution. *See* Universal's AQR at pages 10–15 and Universal's ASQR at 5–10 and Exhibit A–19 (revised selling functions chart). Universal reported two channels of distribution in the home market: (1) Sales by UTP, DIP, and KHK directly to unaffiliated customers; and (2) sales by the three affiliated distributors directly to unaffiliated customers. *See, e.g.,* Universal's BQR at 15. In the U.S. market, Universal reported one channel of distribution corresponding to the CEP sales made through its affiliated company in the United States, Prime Metal. *See, e.g.,* Universal's CQR at 11. Universal claimed that its CEP U.S. sales were made at a different, less advanced LOT than its comparison market sales. *See, e.g.,* Universal's May 4, 2012 supplemental questionnaire response at 2. Because it had no comparison market sales that were at the same LOT as its CEP sales, Universal stated that it cannot seek a LOT adjustment and claimed that a CEP offset is warranted. *Id.*

In evaluating Universal's claim, we examined the sales activities it performed for both of its reported home market channels of distribution. Based on our analysis, we preliminarily determine that Universal made sales at two different LOTs, because for sales by affiliated distributors, both Universal and its affiliated distributors performed various selling activities associated with the affiliated distributors' sales to unaffiliated customers in the home market, whereas only Universal performed such selling functions for sales directly to unaffiliated customers. *See, e.g.,* Universal's ASQR at 5–10 and Exhibit A–19. Thus, based on Universal's responses, we preliminarily determine that Universal sold at two LOTs in the comparison market. Further, based on Universal's responses, we preliminarily determine that Universal sold at one LOT in the U.S. market since there is only one channel of distribution in this market, and the marketing process and selling functions are generally the same for all of Universal's customers in the United States. *Id.*

We then compared the U.S. LOT to the two LOTs in the comparison market. Record evidence indicates that Universal undertakes significantly fewer selling activities for its CEP sales than it performed for its home market sales. For example, based on Universal's responses, sales at the U.S. LOT do not include activities such as inventory maintenance, warranty services, and sales/marketing support. *Id.* Accordingly, we considered the CEP LOT to be different from the two home market LOTs and to be at a less advanced stage of distribution than the home market LOTs.

Based on our findings, we could not match the CEP sales to sales at the same

[42] *See* Wood Flooring Decision Memorandum at Comment 39.

[43] *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa,* 62 FR 61731, 61732–33 (November 19, 1997) (applying the CEP offset analysis under section 773(a)(7)(B)).

LOT in the home market. In addition, we could not make a LOT adjustment because the differences in price between the CEP level of trade and the two home market LOTs could not be quantified due to the lack of an equivalent LOT in the home market to the CEP LOT. Also, there are no other data on the record which would allow us to make a LOT adjustment. Because the data available do not form an appropriate basis for making a LOT adjustment, and because the NV LOTs are more remote from the factory than the CEP LOT, for this preliminary determination we have made a CEP offset to NV in accordance with section 773(a)(7)(B) of the Tariff Act. In accordance with section 773(a)(7) of the Act, we calculated the CEP offset as the smaller of the indirect selling expenses on the home-market sale or the indirect selling expenses we deducted from the starting price in calculating CEP.

D. Cost of Production Analysis

Based on the Department's analysis of petitioners' allegation, we initiated a sales-below-cost investigation to determine whether Universal had sales that were made at prices below their COP pursuant to section 773(b) of the Act. *See* Universal Cost Initiation Memorandum.

1. Calculation of Cost of Production

We calculated the COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for selling, general, and administrative expenses and packing, in accordance with section 773(b)(3) of the Act. We relied on the COP data submitted by Universal except where noted below. Based on the review of record evidence, Universal did not appear to experience significant changes in the cost of manufacturing during the period of investigation. Therefore, we followed our normal methodology of calculating an annual weighted-average cost.

—We increased UTP's and DIP's reported total cost of manufacturing (COM) to include the un-reconciled difference between the COM in the overall cost reconciliation and the reported cost files.
—We included provisions for net realizable value in the calculation of UTP's general and administrative (G&A) expense ratio numerator.
—We included the annual management fees and excluded the scrap revenues which were related to the merchandise not under consideration from the calculation of DIP's G&A expense ratio numerator.
—We included interest expenses associated with loans from the shareholders in the calculation of UTP's, DIP's, and KHK's financial expense ratio numerator.
—We set UTP's negative other material costs (which were reported in a separate data field of the cost file) to zero.
—For CONNUMs sold but not produced during the POI, we used as a surrogate the most similar product cost based on the Department's product characteristic hierarchy. For additional details, *see* Memorandum to Neal M. Halper from Ji Young Oh, ''Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination—Universal Tube and Plastic Industries, Ltd.'' dated May 23, 2012 (Universal Preliminary Cost Calculation Memorandum).

2. Test of Comparison Market Prices

As required under section 773(b)(1)–(2) of the Act, we compared the weighted-average COP for Universal to its home market sales prices of the foreign like product to determine whether these sales had been made at prices below the COP within an extended period of time (*i.e.,* normally a period of one year) in substantial quantities and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. We compared the model-specific COP to home market prices, less any applicable billing adjustments, movement charges, commissions, direct and indirect selling expenses, and packing. *See* Universal Preliminary Analysis Memorandum.

3. Results of COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of a respondent's sales of a given product during the POI are at prices less than the COP, we do not disregard any 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 a respondent's sales of a given product during the POI were made at prices less than the COP, we determine that such sales have been made in ''substantial quantities.'' *See* section 773(b)(2)(C) of the Act. Further, we determine that the sales were made within an extended period of time, in accordance with section 773(b)(2)(B) of the Act, because we examine below-cost sales occurring during the entire POI. In accordance with section 773(b)(2)(D) of the Act, we compare prices to the POI-average costs to determine whether the prices permit recovery of costs within a reasonable period of time.

In this case, we found that, for certain products, more than 20 percent of Universal's sales were made at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. Therefore, we excluded these sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act. *See* Universal Preliminary Analysis Memorandum.

E. Calculation of Normal Value Based on Comparison-Market Prices

We calculated NV for Universal based on the reported packed, delivered prices to comparison market customers. We made deductions from the starting price, where appropriate, for billing adjustments, inland freight, and warehousing expenses, pursuant to section 773(a)(6)(B)(ii) of the Act.

Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(b), we made, where appropriate, circumstance-of-sale adjustments for credit expenses, warranties, and import duties paid on finished goods sold in the UAE that were produced in the Jebel Ali free trade zone. We added U.S. packing costs and deducted home market packing costs, in accordance with sections 773(a)(6)(A) and (B)(i) of the Act. In accordance with 19 CFR 351.410(e), we made an adjustment (*i.e.,* the commission offset) to account for commissions paid in one market but not the other. Finally, we made a CEP offset pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). We calculated the CEP offset as the lesser of the indirect selling expenses incurred on the home market sales or the indirect selling expenses deducted from the starting price in calculating CEP.

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 product and subject merchandise. *See* 19 CFR 351.411(b).

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act and 19 CFR 351.415(a) based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information relied upon in making our final determination for Universal.

Preliminary Determination

The weighted-average dumping margins are as follows:

Manufacturer/exporter	Weighted-average margin (percent)
Universal Tube and Plastic Industries, Ltd., KHK Scaffolding & Formwork LLC, Universal Tube and Pipe Industries LLC	3.29
Abu Dhabi Metal Pipes & Profiles Industries Complex LLC ..	11.71
All Others	3.29

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct CBP to suspend liquidation of all entries of certain steel pipe from the UAE that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Consistent with the Department's practice, where the product under investigation is also subject to a concurrent countervailing duty investigation, we instruct CBP to require a cash deposit or posting of a bond equal to the amount by which the normal value exceeds the export price or constructed export price, less the amount of the countervailing duty determined to constitute an export subsidy.[44] In this case, although the product under investigation is also subject to a concurrent countervailing duty investigation, the Department preliminarily found no countervailable export subsidy.[45] Therefore, we have not offset the cash deposit rates shown above for purposes of this preliminary determination.

We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average margin, as indicated above as follows: (1) The rates for Universal and ADPICO will be the rates we have determined in this preliminary determination; (2) if the exporter is not a firm identified in this investigation but the manufacturer is, the rate will be the rate established for the manufacturer of the subject merchandise; and (3) the rate for all other producers or exporters will be 3.29 percent, as discussed in the ''All Others Rate'' section below. These suspension-of-liquidation instructions will remain in effect until further notice.

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. Universal is the only respondent in this investigation for which the Department has calculated a company-specific rate that is not zero or *de minimis.* Therefore, for purposes of determining the ''all others'' rate and pursuant to section 735(c)(5)(A) of the Act, we are using the dumping margin calculated for Universal, 3.29 percent, for the ''all others'' rate, as referenced in the ''Preliminary Determination'' section, above.

Disclosure

The Department will disclose to parties the calculations performed in connection with this preliminary determination within five days of the date of publication of this notice. *See* 19 CFR 351.224(b).

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters, who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On May 17, 2012, Universal requested that in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days (135 days after publication of the preliminary determination) and extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a six-month period. On May 18, 2012, petitioners Allied Tube and Conduit, JMC Steel Group, and Wheatland Tube also requested that the Department postpone its final determination by 60 days. In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative; (2) the requesting producer/exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are granting this request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly. We are also extending the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2) from a four-month period to a six-month period.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of the Department's preliminary affirmative determination of sales at LTFV. Section 735(b)(2) of the Act requires the ITC to make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of certain steel pipe from the UAE, or sales (or the likelihood of sales) for importation, of the certain steel pipe within 45 days of our final determination.

Public Comment

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs to the Department no later than seven days after the date of the issuance of the last verification report in this proceeding. *See* 19 CFR 351.309(c)(1)(i). Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs. *See* 19 CFR 351.309(d)(1) and 19 CFR 351.309(d)(2). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. *See* 19 CFR 351.309(c)(2). Executive summaries should be limited to five pages total, including footnotes. Interested parties who wish to comment on the preliminary determination must

[44] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Carbazole Violet Pigment 23 From India,* 69 FR 67306, 67307 (November 17, 2004).

[45] *See Circular Welded Carbon-Quality Steel Pipe From the United Arab Emirates: Preliminary Negative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination,* 77 FR 19219 (March 30, 2012).

file briefs electronically using Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Time.

In accordance with section 774(1) of the Act, the Department will hold a public hearing, if timely requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. *See also* 19 CFR 351.310. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, filed electronically using IA ACCESS, as noted above. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Standard Time within 30 days after the date of publication of this notice. *See* 19 CFR 351.310(c). Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. Oral presentations will be limited to issues raised in the case briefs. If a request for a hearing is made, we will inform parties of the scheduled date and time for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. *See* 19 CFR 351.310. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled date.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: May 23, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix I—Scope of the Investigation

This investigation covers welded carbon-quality steel pipes and tube, of circular cross-section, with an outside diameter (''O.D.'') not more than 16 inches (406.4 mm), regardless of wall thickness, surface finish (*e.g.,* black, galvanized, or painted), end finish (plain end, beveled end, grooved, threaded, or threaded and coupled), or industry specification (*e.g.,* American Society for Testing and Materials International (''ASTM''), proprietary, or other) generally known as standard pipe, fence pipe and tube, sprinkler pipe, and structural pipe (although subject product may also be referred to as mechanical tubing). Specifically, the term ''carbon quality'' includes products 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) 1.80 percent of manganese;
(ii) 2.25 percent of silicon;
(iii) 1.00 percent of copper;
(iv) 0.50 percent of aluminum;
(v) 1.25 percent of chromium;
(vi) 0.30 percent of cobalt;
(vii) 0.40 percent of lead;
(viii) 1.25 percent of nickel;
(ix) 0.30 percent of tungsten;
(x) 0.15 percent of molybdenum;
(xi) 0.10 percent of niobium;
(xii) 0.41 percent of titanium;
(xiii) 0.15 percent of vanadium;
(xiv) 0.15 percent of zirconium.

Subject pipe is ordinarily made to ASTM specifications A53, A135, and A795, but can also be made to other specifications. Structural pipe is made primarily to ASTM specifications A252 and A500. Standard and structural pipe may also be produced to proprietary specifications rather than to industry specifications. Fence tubing is included in the scope regardless of certification to a specification listed in the exclusions below, and can also be made to the ASTM A513 specification. Sprinkler pipe is designed for sprinkler fire suppression systems and may be made to industry specifications such as ASTM A53 or to proprietary specifications. These products are generally made to standard O.D. and wall thickness combinations. Pipe multi-stenciled to a standard and/or structural specification and to other specifications, such as American Petroleum Institute (''API'') API–5L specification, is also covered by the scope of this investigation when it meets the physical description set forth above, and also has one or more of the following characteristics: is 32 feet in length or less; is less than 2.0 inches (50mm) in outside diameter; has a galvanized and/or painted (*e.g.,* polyester coated) surface finish; or has a threaded and/or coupled end finish.

The scope of this investigation does not include: (a) Pipe suitable for use in boilers, superheaters, heat exchangers, refining furnaces and feedwater heaters, whether or not cold drawn; (b) finished electrical conduit; (c) finished scaffolding;[46] (d) tube and pipe hollows for redrawing; (e) oil country tubular goods produced to API specifications; (f) line pipe produced to only API specifications; and (g) mechanical tubing, whether or not cold-drawn. However, products certified to ASTM mechanical tubing specifications are not excluded as mechanical tubing if they otherwise meet the standard sizes (*e.g.,* outside diameter and wall thickness) of standard, structural, fence and sprinkler pipe. Also, products made to the following outside diameter and wall thickness combinations, which are recognized by the industry as typical for fence tubing, would not be excluded from the scope based solely on their being certified to ASTM mechanical tubing specifications:

1.315 inch O.D. and 0.035 inch wall thickness (gage 20)
1.315 inch O.D. and 0.047 inch wall thickness (gage 18)
1.315 inch O.D. and 0.055 inch wall thickness (gage 17)
1.315 inch O.D. and 0.065 inch wall thickness (gage 16)
1.315 inch O.D. and 0.072 inch wall thickness (gage 15)
1.315 inch O.D. and 0.083 inch wall thickness (gage 14)
1.315 inch O.D. and 0.095 inch wall thickness (gage 13)
1.660 inch O.D. and 0.047 inch wall thickness (gage 18)
1.660 inch O.D. and 0.055 inch wall thickness (gage 17)
1.660 inch O.D. and 0.065 inch wall thickness (gage 16)
1.660 inch O.D. and 0.072 inch wall thickness (gage 15)
1.660 inch O.D. and 0.083 inch wall thickness (gage 14)
1.660 inch O.D. and 0.095 inch wall thickness (gage 13)
1.660 inch O.D. and 0.109 inch wall thickness (gage 12)
1.900 inch O.D. and 0.047 inch wall thickness (gage 18)
1.900 inch O.D. and 0.055 inch wall thickness (gage 17)
1.900 inch O.D. and 0.065 inch wall thickness (gage 16)
1.900 inch O.D. and 0.072 inch wall thickness (gage 15)
1.900 inch O.D. and 0.095 inch wall thickness (gage 13)
1.900 inch O.D. and 0.109 inch wall thickness (gage 12)
2.375 inch O.D. and 0.047 inch wall thickness (gage 18)
2.375 inch O.D. and 0.055 inch wall thickness (gage 17)
2.375 inch O.D. and 0.065 inch wall thickness (gage 16)
2.375 inch O.D. and 0.072 inch wall thickness (gage 15)
2.375 inch O.D. and 0.095 inch wall thickness (gage 13)
2.375 inch O.D. and 0.109 inch wall thickness (gage 12)
2.375 inch O.D. and 0.120 inch wall thickness (gage 11)
2.875 inch O.D. and 0.109 inch wall thickness (gage 12)
2.875 inch O.D. and 0.134 inch wall thickness (gage 10)
2.875 inch O.D. and 0.165 inch wall thickness (gage 8)
3.500 inch O.D. and 0.109 inch wall thickness (gage 12)
3.500 inch O.D. and 0.148 inch wall thickness (gage 9)
3.500 inch O.D. and 0.165 inch wall thickness (gage 8)
4.000 inch O.D. and 0.148 inch wall thickness (gage 9)
4.000 inch O.D. and 0.165 inch wall thickness (gage 8)
4.500 inch O.D. and 0.203 inch wall

[46] Finished scaffolding is defined as component parts of a final, finished scaffolding that enters the United States unassembled as a ''kit.'' A ''kit'' is understood to mean a packaged combination of component parts that contain, at the time of importation, all the necessary component parts to fully assemble a final, finished scaffolding.

thickness (gage 7)

The pipe subject to this investigation is currently classifiable in Harmonized Tariff Schedule of the United States (''HTSUS'') statistical reporting numbers 7306.19.1010, 7306.19.1050, 7306.19.5110, 7306.19.5150, 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, 7306.30.5090, 7306.50.1000, 7306.50.5050, and 7306.50.5070. However, the product description, and not the HTSUS classification, is dispositive of whether the merchandise imported into the United States falls within the scope of the investigation.

[FR Doc. 2012–13230 Filed 5–31–12; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–811]

Circular Welded Carbon-Quality Steel Pipe From the Socialist Republic of Vietnam: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* June 1, 2012.

SUMMARY: The Department of Commerce (Department) preliminarily determines that circular welded carbon-quality steel pipe (certain steel pipe) from the Socialist Republic of Vietnam (Vietnam) is being, or is likely to be, sold in the United States at less-than-fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (Act). The estimated margins of sales at LTFV are shown in the ''Preliminary Determination'' section of this notice.

Pursuant to requests from interested parties, we are postponing for 60 days the final determination and extending provisional measures from a four-month period to not more than six months. Accordingly, we will make our final determination not later than 135 days after publication of the preliminary determination.

FOR FURTHER INFORMATION CONTACT: Fred Baker or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2924 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Initiation

On October 26, 2011, the Department received a petition concerning imports of certain steel pipe from Vietnam filed in proper form by Allied Tube and Conduit, JMC Steel Group, Wheatland Tube Company, and the United States Steel Corporation (petitioners).[1]

On November 15, 2011, the Department initiated an antidumping duty (AD) investigation on certain steel pipe from Vietnam.[2] Additionally, in the *Initiation Notice,* the Department notified parties of the application process by which exporters and producers may obtain separate-rate status in non-market economy (NME) investigations such as this investigation.[3]

On December 12, 2011, the United States International Trade Commission (the Commission) issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Vietnam of certain steel pipe. The Commission published its preliminary determination in the **Federal Register** on December 16, 2011.[4]

Questionnaire

On December 21, 2011, the Department issued to Vietnam Haiphong Hongyuan Machinery Manufactory Co., Ltd. (Haiphong Hongyuan) and SeAH Steel VINA Corporation (SeAH VINA) the NME AD questionnaire with product characteristics used in the designation of control numbers (CONNUMs) and assigned to the merchandise under consideration. Between January 18, 2012, and May 2, 2012, Haiphong Hongyuan and SeAH VINA submitted responses to the Department's original and supplemental sections A, C, and D questionnaires. On May 9 and 10, 2012, SeAH VINA submitted additional factor values for materials that it had previously classified as indirect rather than direct raw materials. On May 11, 2012, petitioners submitted comments on those submissions from SeAH VINA.

Period of Investigation

The period of investigation (POI) is April 1, 2011, through September 30, 2011.[5]

Scope of Investigation

The products covered by this investigation are circular welded carbon-quality steel pipe from Vietnam. For a full description of the scope of the investigation, as set forth in the *Initiation Notice* see the ''Scope of the Investigation'' in Appendix I of this notice.

Scope Comments

The Department set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of the date of signature of the Initiation Notice. *See Initiation Notice,* 76 FR at 72164. We received comments from SeAH VINA, a Vietnamese producer, on December 5, 2011, and we received rebuttal comments from petitioners Allied Tube and Conduit, JMC Steel Group, and Wheatland Tube Company on December 14, 2011. After reviewing all comments, we have adopted the ''Scope of the Investigations'' section of this notice, in Appendix I. The Department also set aside a period of time for parties to comment on product characteristics for use in the AD duty questionnaire and indicated that in order to consider such comments, they should be submitted no later than December 9, 2012. *See Initiation Notice,* 76 FR at 72164–5. On December 9, 2011, we received comments from a UAE producer named Universal Tube and Plastics Industries, Ltd. and its U.S. affiliate, Prime Metal Corporation USA.

As noted above, on December 5, 2011, SeAH VINA, a mandatory respondent in this investigation and the concurrent CVD investigations of certain steel pipe from Vietnam, filed comments arguing that the treatment of double and triple stenciled pipe in the scope of these investigations differs from previous treatment of these products under other orders on circular welded pipe. Specifically, SeAH VINA claims that the Brazilian, Korean, and Mexican orders on these products exclude ''Standard pipe that is dual or triple certified/stenciled that enters the U.S. as line pipe of a kind used for oil and gas pipelines * * *'' *See* SeAH VINA comments (December 5, 2011); *see also Certain Circular Welded Non-Alloy Steel Pipe from Brazil, Mexico, the Republic of Korea, and Taiwan; and Certain Circular Welded Carbon Steel*

[1] *See* Circular Welded Carbon-Quality Steel Pipe From India, Oman, the UAE, and Vietnam: Antidumping and Countervailing Duty Petitions, filed on October 26, 2011 (the petition).

[2] *See Circular Welded Carbon-Quality Steel Pipe From India, the Sultanate of Oman, the United Arab Emirates, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations,* 76 FR 72164 November 22, 2011) (*Initiation Notice*).

[3] *See id.,* 76 FR at 72169.

[4] *See* Investigation Nos. 701–TA–482 and 731–TA–1191–1194 (Preliminary), *Circular Welded Carbon-Quality Steel Pipe From India, Oman, the United Arab Emirates, and Vietnam,* 76 FR 78313 (December 16, 2011).

[5] *See* 19 CFR 351.204(b)(1).