



A-122-853
Administrative Review
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July 2, 2019

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

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

SUBJECT: Decision Memorandum for Preliminary Results of Antidumping
Duty Administrative Review: Citric Acid and Certain Citrate
Salts from Canada; 2017-2018

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on citric acid and certain citrate salts (citric acid) from Canada. The review covers one producer/exporter of the subject merchandise, Jungbunzlauer Canada Inc. (JBL Canada). The period of review (POR) is May 1, 2017 through April 30, 2018. We preliminarily determine that JBL Canada did not make sales below normal value (NV) during this POR.

II. BACKGROUND

In response to Commerce's notice of opportunity to request an administrative review on citric acid from Canada,¹ on May 8, 2018, JBL Canada timely requested an administrative review of the AD order on citric acid from Canada with respect to its exports of subject merchandise to the United States during the POR. On May 31, 2018, Archer Daniels Midland Company; Cargill, Incorporated; and Tate & Lyle Ingredients Americas LLC (collectively, the petitioners), domestic producers of the subject merchandise, requested an administrative review with respect to JBL Canada.² Accordingly, on July 12, 2018, in accordance with 19 CFR 351.221(c)(1)(i),

¹ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 83 FR 19047, 19048 (May 1, 2018).

² See JBL Canada's and Petitioners' Letters, dated May 8, 2018, and May 31, 2018, respectively.



we published a notice of initiation of an administrative review of the AD order on citric acid from Canada.³

On December 20, 2018, Commerce postponed the deadline for the preliminary results of this administrative review until March 18, 2019, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(h)(2).⁴ Subsequently, Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018 through the resumption of operations on January 29, 2019.⁵ The revised deadline for the preliminary results in this administrative review is July 10, 2019.

On July 18, 2018, we issued the AD questionnaire to JBL Canada. Between August 23 and September 7, 2018, JBL Canada timely submitted its responses to our questionnaire.⁶ On February 4, 2019, we issued a supplemental Section A, B, and C questionnaire to JBL Canada, to which it timely responded on February 15, 2019.⁷ On September 9 and November 30, 2018, we issued Section D supplemental questionnaires, to which JBL Canada timely submitted its responses on October 9 and December 14, 2018, respectively.⁸

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 32270 (July 12, 2018).

⁴ See Memorandum to James Maeder, Associate Deputy Assistance Secretary for Antidumping and Countervailing Duty Operations performing the duties of Deputy Assistance Secretary for Antidumping and Countervailing Duty Operations, “Citric Acid and Certain Citrate Salts from Canada: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,” dated December 20, 2018.

⁵ See Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations for Enforcement and Compliance, “Deadlines Affected by the Partial Shutdown of the Federal Government,” dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

⁶ See JBL Canada’s Letters, “Ninth Administrative Review of the Antidumping Order on Citric Acid and Certain Citrate Salts from Canada – Response to Section A of the Antidumping Request for Information,” dated August 23, 2018 (SAQR); “Ninth Administrative Review of the Antidumping Order on Citric Acid and Certain Citrate Salts from Canada – Response to Section B (Home Market Sales) of the Antidumping Request for Information,” dated August 30, 2018 (SBQR); “Ninth Administrative Review of the Antidumping Order on Citric Acid and Certain Citrate Salts from Canada – Response to Section C (U.S. Sales) of the Antidumping Request for Information,” dated August 31, 2018 (SCQR); and “Ninth Administrative Review of the Antidumping Order on Citric Acid and Certain Citrate Salts from Canada – Response to Section D (Cost of Production and Constructed Value) of the Antidumping Request for Information,” dated September 7, 2018.

⁷ See JBL Canada’s Letter, “Ninth Administrative Review of the Antidumping Order against Citric Acid and Certain Citrate Sales from Canada – Jungbunzlauer Canada’s Response to Supplemental Section A-C Questionnaire,” dated February 15, 2019.

⁸ See JBL Canada’s Letters, “Ninth Administrative Review of the Antidumping Order on Citric Acid and Certain Citrate Salts from Canada – Response to the First Supplemental Section D Questionnaire,” dated October 9, 2018; and “Ninth Administrative Review of the Antidumping Order on Citric Acid and Certain Citrate Salts from Canada – Response to the Second Supplemental Section D Questionnaire,” dated December 14, 2018.

On October 19, 2018, we received a timely request by the petitioners to conduct verification of JBL Canada.⁹ From March 25 to March 28, 2019, we conducted verification at JBL Canada, and from April 1 to April 3, 2019 at JBL Inc., JBL Canada's U.S. affiliate.¹⁰

On May 29, 2019, we issued a letter to JBL Canada requesting post-verification data revisions to the U.S. and home market databases.¹¹ On June 5, 2019, JBL Canada timely submitted the requested revisions.¹²

III. SCOPE OF THE ORDER

The merchandise covered by the *Order*¹³ is citric acid and certain citrate salts from Canada. The scope of the order includes all grades and granulation sizes of citric acid, sodium citrate, and potassium citrate in their unblended forms, whether dry or in solution, and regardless of packaging type. The scope also includes blends of citric acid, sodium citrate, and potassium citrate; as well as blends with other ingredients, such as sugar, where the unblended form(s) of citric acid, sodium citrate, and potassium citrate constitute 40 percent or more, by weight, of the blend. The scope of the *Order* also includes all forms of crude calcium citrate, including dicalcium citrate monohydrate, and tricalcium citrate tetrahydrate, which are intermediate products in the production of citric acid, sodium citrate, and potassium citrate. The scope of the *Order* does not include calcium citrate that satisfies the standards set forth in the United States Pharmacopeia and has been mixed with a functional excipient, such as dextrose or starch, where the excipient constitutes at least 2 percent, by weight, of the product. The scope of the *Order* includes the hydrous and anhydrous forms of citric acid, the dihydrate and anhydrous forms of sodium citrate, otherwise known as citric acid sodium salt, and the monohydrate and monopotassium forms of potassium citrate. Sodium citrate also includes both trisodium citrate and monosodium citrate, which are also known as citric acid trisodium salt and citric acid monosodium salt, respectively. Citric acid and sodium citrate are classifiable under 2918.14.0000 and 2918.15.1000 of the Harmonized Tariff Schedule of the United States (HTSUS), respectively. Potassium citrate and crude calcium citrate are classifiable under 2918.15.5000 and 3824.90.9290 of the HTSUS, respectively. Blends that include citric acid, sodium citrate, and potassium citrate are classifiable under 3824.90.9290 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the *Order* is dispositive.

⁹ See the Petitioner's Letter, "Citric Acid and Certain Citrate Sales from Canada/Request for Verification," dated October 19, 2018.

¹⁰ See Memorandum to the File, "Verification of cost and Sales Responses of Jungbunzlauer Canada Inc. and Jungbunzlauer Inc. in the Antidumping Duty Administrative Review of Citric Acid and Certain Citrate Salts from Canada," dated May 29, 2019 (Verification Report).

¹¹ See Commerce's Letter, "2017-2018 Administrative Review of the Antidumping Order on Citric Acid and Certain Citrate Salts from Canada: Post-Verification Data Revisions," dated May 29, 2019.

¹² See JBL Canada's Letter, "Ninth Administrative Review of the Antidumping Order against Citric Acid and Certain Citrate Salts from Canada – Jungbunzlauer Canada's Post-Verification Data Revisions," dated June 5, 2019.

¹³ See *Citric Acid and Certain Citrate Salts from Canada and the People's Republic of China: Antidumping Duty Orders*, 74 FR 25703 (May 29, 2009) (*Order*).

IV. DISCUSSION OF THE METHODOLOGY

We are conducting this administrative review of the *Order* in accordance with section 751(a) of the Act and 19 CFR 351.213.

A. Comparisons to Normal Value

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

1. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average export prices (EPs) (or CEPs) (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, Commerce examines whether to compare weighted-average NVs with the EPs (or CEPs) of individual sales (*i.e.*, the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern Commerce's examination of this question in the context of administrative reviews, Commerce nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in less-than-fair-value investigations.¹⁴

In recent proceedings, Commerce applied a "differential pricing" analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.¹⁵ Commerce finds that the differential pricing analysis used in certain investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and on Commerce's additional experience with addressing the potential masking of dumping that can occur when Commerce uses the average-to-average method in calculating a respondent's weighted-average dumping margin.

¹⁴ See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum (IDM) at Comment 1; see also *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (CIT 2014); and *JBF RAK LLC v. United States*, 790 F. 3d 1358, 1363–65 (Fed. Cir. 2015) ("the fact that the statute is silent with regard to administrative reviews does not preclude Commerce from filling gaps in the statute to properly calculate and assign antidumping duties") (citations omitted).

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

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of EPs (or CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchaser, region and time period to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination code (*i.e.*, zip code) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the period of review based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region, and time period, that Commerce uses in making comparisons between EPs (or CEPs) and NV for the individual dumping margins.

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

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

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

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

2. Results of the Differential Pricing Analysis

For JBL Canada, based on the results of the differential pricing analysis, Commerce preliminarily finds that 57.08 percent of the value of U.S. sales pass the Cohen's *d* test,¹⁶ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test. Thus, for these preliminary results, Commerce is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for JBL Canada.

B. Date of Sale

Section 351.401(i) of Commerce's regulations states that, in identifying the date of sale of the subject merchandise or foreign like product, Commerce normally will use the date of invoice, as recorded in the producer or exporter's records kept in the ordinary course of business. Additionally, Commerce may use a date other than the date of invoice if it is satisfied that a

¹⁶ See Memorandum, "Preliminary Determination Margin Calculation for Jungbunzlauer Canada Inc." dated concurrently with this memorandum (Preliminary Results Calculation Memorandum) at 2.

different date better reflects the date on which the exporter or producer establishes the material terms of sale.¹⁷ Finally, Commerce has a long-standing practice of finding that, where the shipment date precedes the invoice date, the shipment date better reflects the date on which the material terms of sale are established.¹⁸ For its home market sales and U.S. sales, JBL Canada reported the invoice date as the date of sale.¹⁹

C. Product Comparisons

For the purposes of determining an appropriate product comparison to the U.S. sale, in accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the “Scope of the Order” section of this notice, above, that were in the ordinary course of trade. In making the product comparisons, we matched foreign like products to the products sold in the United States based on the physical characteristics. In order of importance, these physical characteristics are type, form, grade, and particle size.

Pursuant to 19 CFR 351.414(f), we compared U.S. sales of JBL Canada to home market sales of JBL Canada within the contemporaneous window period, which extends from three months prior to the month of the first U.S. sale until two months after the month of the last U.S. sale. 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, according to section 771(16)(B) of the Act, we compared U.S. sales of citric acid to sales of the most similar foreign like product in the ordinary course of trade.

D. Constructed Export Price

In accordance with section 772(b) of the Act, we calculated CEP for those sales where the subject merchandise was first sold or agreed to be sold in the United States before or after the date of importation by or for the account of the producer or exporter or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter. We based CEP on packed prices to unaffiliated purchasers in the United States. In accordance with 19 CFR 351.401(c), we adjusted the starting prices for billing adjustments and rebates, where appropriate. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act, which included, where appropriate, inland freight, insurance, brokerage, and warehousing expenses. In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we deducted selling expenses associated with economic activities occurring in the United States, including direct selling expenses (*i.e.*, imputed credit expenses) and indirect selling expenses (including inventory carrying costs). We also deducted from CEP an amount for profit in accordance with section 772(d)(3) of the Act. In accordance with section 772(f) of

¹⁷ See 19 CFR 351.401(i); *see also Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)).

¹⁸ *See, e.g., Certain Frozen Warmwater Shrimp from Thailand: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 52065 (September 12, 2007), and accompanying IDM at Comment 11; *see also Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002) (*Steel Beams from Germany*), and accompanying IDM at Comment 2.

¹⁹ *See* JBL Canada’s SAQR at A-21; SBQR at B-15; and SCQR at C-14.

the Act, we calculated the CEP profit rate using the expenses incurred by JBL Inc. (Boston), JBL Canada's U.S. affiliate, on its sales of the subject merchandise in the United States and the profit associated with those sales. Additionally, consistent with our normal practice, we recalculated indirect selling expenses incurred on U.S. sales by adding the administrative and financial expenses incurred by JBL Inc. (Boston) to the total indirect selling expense figure because these expenses support the selling functions of JBL Inc. (Boston).²⁰

E. Normal Value

1. Home Market Viability and Selection of Comparison Market

To determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404. Based on this comparison, we determine that, pursuant to 19 CFR 351.404(b), JBL Canada had a viable home market during the POR because the volume of JBL Canada's home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise. Consequently, pursuant to section 773(a)(1)(B)(i) of the Act and 19 CFR 351.404(c)(1)(i), we based NV on home market sales.

2. Level of Trade (LOT)/CEP Offset

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, Commerce will calculate NV based on sales of the foreign like product at the same LOT as U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).²¹ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.²² To determine whether the comparison-market sales were at different stages in the marketing process than the U.S. sales, we review the distribution system in each market (*i.e.*, the chain of distribution), including selling functions, class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (*i.e.*, where NV is based on either home market or third country prices), we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.²³

²⁰ See *Citric Acid and Certain Citrate Salts from Canada: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 79 FR 37286 (July 1, 2014), and accompanying IDM at Comment 3; see also *Certain Frozen Warmwater Shrimp from Ecuador: Final Results of Antidumping Duty Administrative Review*, 72 FR 52070 (September 12, 2007); *First Administrative Review of Certain Activated Carbon from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 57995 (November 10, 2009), and accompanying IDM at Comment 5b; and the Preliminary Results Calculation Memorandum.

²¹ See 19 CFR 351.412(c)(2).

²² *Id.*; see also *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 (November 19, 1997) (*Plate from South Africa*).

²³ See *Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314 (Fed. Cir. 2001).

When Commerce is unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the EP or CEP sale, Commerce may compare the U.S. sales to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it possible, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP sale and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.*, no LOT adjustment is possible), Commerce shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act and 19 CFR 351.412(f).²⁴

In this administrative review, we obtained information from JBL Canada regarding the marketing stages involved in making its reported home market and U.S. sales, including a description of the selling activities performed by the respondent and its affiliates for each channel of distribution. During the POR, JBL Canada reported that it sold citric acid to end-users and distributors through two channels of distribution in both the U.S. and home markets. JBL Canada stated that its selling process was essentially the same for both channels of distribution. Because the details of JBL Canada's reported selling functions for each channel of distribution are business proprietary, our analysis of these selling functions for purposes of determining whether different LOTs exist is contained in a separate memorandum entitled "Level-of-Trade Analysis for the Preliminary Results."²⁵

Based on our analysis, we found that the selling functions JBL Canada performed for each of its channels of distribution in the U.S. market were essentially the same, with the exception of one selling function which we determine is not sufficient to warrant a LOT distinction between these channels. Therefore, we preliminarily determine that there is only one LOT in the U.S. market. Furthermore, because JBL Canada has one channel of distribution in the home market in which it (or its affiliates) performed the same selling functions for all customers, we preliminarily determine that there is only one LOT in the home market.

In comparing the home market LOT to the U.S. LOT, we found that the selling activities performed by JBL Canada (and its affiliates) for its home market customers are at a more advanced stage of distribution than those performed for its U.S. customers. That is, there are significantly more selling activities performed for home market sales than for U.S. sales. Therefore, based on the totality of the facts and circumstances, we preliminarily determine that home market sales during the POR were made at a different LOT than U.S. sales.

Finally, we could not match U.S. CEP sales to sales at the same LOT in the home market, nor could we determine a LOT adjustment based on JBL Canada's home market sales because there is only one LOT in the home market.²⁶ Furthermore, we have no other information that provides an appropriate basis for determining a LOT adjustment. Consequently, because the available data do not form an appropriate basis for making a LOT adjustment, but the home market LOT is

²⁴ See *Plate from South Africa*, 62 FR at 61732-33.

²⁵ See Memorandum, "Level-of-Trade Analysis for the Preliminary Results," dated concurrently with this memorandum.

²⁶ See section 773(a)(7)(A) of the Act.

at a more advanced stage of distribution than the U.S. LOT, we find it is appropriate to make a CEP offset to NV, in accordance with section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). The CEP offset is calculated as the lesser of: (1) the indirect selling expenses incurred on the home market sales; or (2) the indirect selling expenses deducted from the starting price in calculating CEP.

F. Cost of Production (COP) Analysis

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

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated the respondent's COP based on the sum of its costs of materials and fabrication for the foreign like product, plus amounts for G&A expenses and interest expenses (*see* "Test of Comparison Market Sales Prices" section, below, for treatment of home market selling expenses).

2. Test of Comparison Market Sales Prices

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

3. Results of the COP Test

In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act whether: 1) within an extended period of time, such sales were made in substantial quantities; and 2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. In accordance with sections 773(b)(2)(B) and (C) of the Act, where less than 20 percent of the respondent's comparison market sales of a given product are at prices less than the COP, we do not disregard any below-cost sales of that product because we determine that in such instances the below-cost sales were not made within an extended period of time and in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we disregard the below-cost sales when: 1) they were made within an extended period of time in substantial quantities, in accordance with sections 773(b)(2)(B) and (C) of the Act; and 2) based on our comparison of prices to the weighted-average COPs for the POR, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

In this case, we found that less than 20 percent of JBL Canada's sales were at prices less than the COP. Therefore, we used all of JBL Canada's home market sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

G. Calculation of NV Based on Comparison Market Prices

We based NV for JBL Canada on packed prices to unaffiliated customers in the home market. We adjusted, where appropriate, the starting price for billing adjustments, in accordance with 19 CFR 351.401(c). We made deductions, where appropriate, from the starting price for movement expenses, including inland freight and inland insurance, under section 773(a)(6)(B)(ii) of the Act. Pursuant to section 773(a)(6)(C) of the Act and 19 CFR 351.410, we made deductions for direct selling expenses (*i.e.*, imputed credit).

We also deducted home market packing costs and added U.S. packing costs, in accordance with sections 773(a)(6)(A) and (B) of the Act. Finally, as discussed in the "Level of Trade/CEP Offset" section above, 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, revised as described under the "Constructed Export Price" section of this memorandum.

H. Currency Conversion

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

V. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.



Agree



Disagree

7/2/2019

X



Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance