



A-427-831
Investigation
POI: 7/1/2019 – 6/30/2020
Public Document
E&C/OIV: ZS

February 24, 2021

MEMORANDUM TO: Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Preliminary Determination in the
Less-Than-Fair-Value Investigation of Methionine from France

I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that methionine from France 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 (the Act). The estimated weighted-average dumping margins are shown in the “Preliminary Determination” section of the accompanying *Federal Register* notice.

II. BACKGROUND

On July 29, 2020, Commerce received an antidumping duty (AD) petition concerning imports of methionine from France, filed in proper form by Novus International, Inc. (the petitioner), a domestic producer of methionine.¹ Commerce initiated the investigation on August 18, 2020.²

In the *Initiation Notice*, Commerce stated that the petitioner had identified only one producer and exporter of methionine in France, Adisseo France SAS, yet the petitioner was not able to certify that Adisseo France SAS represented all exporters of the merchandise under consideration. Accordingly, on August 17, 2020,³ Commerce released to all interested parties under an administrative protective order (APO) the U.S. Customs and Border Protection (CBP) entry data under the appropriate Harmonized Tariff Schedule of the United States subheadings listed in the

¹ See Petitioner’s Letter, “Petitions for the Imposition of Antidumping Duties: Methionine from France, Japan, and Spain,” dated July 29, 2020 (Petition).

² See *Methionine from France, Japan, and Spain: Initiation of Less-Than-Fair-Value Investigations*, 85 FR 52324 (August 25, 2020) (*Initiation Notice*).

³ See Memorandum, “Petition for the Imposition of Antidumping Duties on the Imports of Methionine from France: Release of Customs Data from U.S. Customs and Border Protection,” dated August 17, 2020.

appendix of the accompanying *Federal Register* notice, and requested comments regarding the CBP data and respondent selection.⁴ Commerce notified the public that, where appropriate, it intended to select respondents based on the CBP entry data.⁵ On August 28, 2020, the petitioner and interested parties submitted comments on the CBP entry data and respondent selection.⁶

On September 14, 2020, the U.S. International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of methionine from France.⁷

On September 22, 2020, Commerce selected two respondents for individual examination that accounted for the largest volume of entries of subject merchandise into the United States during the period of investigation (POI), Adisseo France SAS and Commentry.⁸ Accordingly, we issued the AD questionnaire individually to Adisseo France SAS and Commentry.⁹ On October 7, 2020, Adisseo France SAS and Commentry submitted comments on the respondents which Commerce had selected for examination, stating that Commentry was not a separate domestic producer of subject merchandise, but rather the location for one of Adisseo France SAS's manufacturing operations.¹⁰ Record evidence indicates that Commentry is not a separately incorporated company, but is rather one of two locations of Adisseo France SAS's manufacturing operations (*i.e.*, Adisseo Commentry).¹¹ Furthermore, Adisseo France SAS has indicated that its responses would include "all information regarding its Commentry facility." Therefore, Commerce has accepted Adisseo France SAS's responses to its questionnaires on behalf of itself and Adisseo Commentry (collectively, Adisseo France).

In the *Initiation Notice*, Commerce notified parties of an opportunity to comment on the scope of this and the companion investigations of methionine, as well as on the appropriate physical characteristics of methionine to be reported in response to Commerce's AD questionnaire.¹² On September 8, 2020, we received timely comments from interested parties on physical characteristics,¹³ and on September 18, 2020, we received timely rebuttal comments from

⁴ See Memorandum, "Petition for the Imposition of Antidumping Duties on Imports of Methionine from France: Release of Customs Data from U.S. Customs and Border Protection," dated August 17, 2020.

⁵ See *Initiation Notice*, 85 FR at 52327.

⁶ See Petitioners' Letter, "Methionine from France: Respondent Selection Comments," dated August 28, 2020; see also Adisseo France's Letter, "Methionine from France: Respondent Selection Comments," dated August 28, 2020.

⁷ See *Methionine From France, Japan, and Spain; Determinations*, Investigation Nos. 731-TA-1534-1536 (Preliminary), 85 FR 58385 (September 18, 2020).

⁸ See Memorandum, "Less-Than-Fair-Value Investigation of Methionine from France: Respondent Selection," dated September 22, 2020 (Respondent Selection Memo).

⁹ See Commerce's Letter to Adisseo France, dated September 23, 2020; and Commerce's Letter to Commentry, dated September 23, 2020; see also Memorandum, "Antidumping Duty Investigation of Methionine from France: Delivery of Antidumping Questionnaire," dated September 29, 2020.

¹⁰ See Adisseo France's Letter, "Methionine from France Comments on Selection of Mandatory Respondents," dated October 7, at 2; see also Petition at Exhibit I-8.

¹¹ See Petition at Exhibit I-8.

¹² See *Initiation Notice*, 85 FR at 52325-52326.

¹³ See Petitioner's Letter, "Methionine from France, Japan, and Spain: Comments on Product Characteristics," dated September 8, 2020; Adisseo France's Letter, "Methionine from France, Japan and Spain: Comments on Product Characteristics," dated September 8, 2020; and Sumitomo Chemical Company, Ltd.'s and Sumitomo Chemical America, Inc.'s (collectively, Sumitomo) Letter, "Methionine from France; Product Characteristic Comments," dated September 8, 2020.

interested parties on physical characteristics.¹⁴ On September 25, 2020, Commerce determined the product characteristics applicable to this investigation.¹⁵ Commerce received no comments in the course of this investigation concerning the scope of the investigation from interested parties.¹⁶

From November 2020 through January 2021, Adisseo France submitted timely responses to Commerce's questionnaire and supplemental questionnaires¹⁷ and the petitioner submitted comments on these responses.¹⁸ On January 22, 2021, the due date for its response to Commerce's supplemental questionnaire for sections B and C, Adisseo France informed Commerce of its withdrawal from further participation in this investigation.¹⁹ Adisseo France further requested that Commerce remove its business proprietary information (BPI) from the record of this investigation²⁰ and did not respond to Commerce's January 15, 2021 supplemental questionnaire.²¹ On January 25, 2021, the petitioner filed comments on Adisseo France's letter of withdrawal²² and submitted factual information to the record supporting its comments.²³

On December 1, 2020, the petitioner submitted a request to extend the preliminary determination in this investigation,²⁴ and on December 8, 2020, Commerce postponed the preliminary determination in this investigation by 50 days until February 24, 2020, pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e).²⁵

¹⁴ See Petitioner's Letter, "Methionine from France, Japan, and Spain: Rebuttal Comments on Product Characteristics," dated September 18, 2020; Adiseo France's Letter, "Methionine from France, Japan and Spain: Rebuttal Comments on Product Characteristics," dated September 18, 2020; and Sumitomo's Letter, "Methionine from France, Japan, and Spain: Rebuttal Comments on Product Characteristics," dated September 18, 2020.

¹⁵ See Memorandum, "Product Characteristics for Use in Sections B and C Questionnaire Responses of Methionine from France," dated September 25, 2020.

¹⁶ The deadline for interested parties to submit comments on the scope of this investigation was September 8, 2020. See *Initiation Notice*, 85 FR at 52325.

¹⁷ See Adisseo France's October 26, 2020 Section A Questionnaire Response; Adisseo France's November 10, 2020 Sections B, C and D Questionnaire Response; Adisseo France's December 1, 2020 Section A Supplemental Questionnaire Response; Adisseo France's December 18, 2020 Section B Supplemental Questionnaire Response; Adisseo France's December 22, 2020 Section C Supplemental Questionnaire Response; Adisseo France's December 23, 2020 Sections A and C Supplemental Questionnaire Response; and Adisseo France's January 12, 2021 Section D Supplemental Questionnaire Response.

¹⁸ See Petitioner's Letters, "Methionine from France: Comments on Adisseo's Response to Section A of the Department's Initial Questionnaire," dated November 3, 2020; "Methionine from France: Comments on Adisseo's Initial Questionnaire Responses," dated December 8, 2020; "Methionine from France: Comments on Adisseo's Questionnaire Responses," dated December 15, 2020; "Methionine from France: Comments on Adisseo's Questionnaire Responses," dated January 13, 2021; and "Methionine from France, Comments on Adisseo's Supplemental Section D Response: Submission of Rebuttal Factual Information," dated January 22, 2021.

¹⁹ See Adisseo France's Letter, "Methionine from France: Withdrawal from Investigation and Withdrawal of Proprietary Information," dated January 22, 2021 (Adisseo France's Letter of Withdrawal).

²⁰ *Id.* at 2-3.

²¹ See Commerce's Sections B and C Supplemental Questionnaire, issued January 15, 2021.

²² See Petitioner's Letter, "Methionine from France: Comments on Adisseo's January 22, 2021 Letter," dated January 25, 2021.

²³ See Petitioner's Letter, "Methionine from France: Submission of Factual Information," dated January 25, 2021.

²⁴ See Petitioner's Letter, "Methionine from France, Spain, and Japan: Request to Extend Preliminary Determinations," dated December 1, 2020.

²⁵ See *Methionine From France, Japan and Spain: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 85 FR 80774 (December 14, 2020).

On February 1, 2021, the petitioner alleged the existence of critical circumstances with regard to imports of methionine from France, pursuant to 19 CFR 351.206.²⁶

On February 1, 2021, the petitioner and Adisseo France submitted comments for consideration in Commerce's preliminary determination.²⁷

On February 5, 2021, Adisseo France requested that, in the event of an affirmative preliminary determination in this investigation, Commerce postpone its final determination in accordance with 19 CFR 351.210(b)(2)(ii)(e) and extend the provisional measures period in the AD investigation from four to no more than six months pursuant to 19 CFR 351.210(e)(2).²⁸ On February 9, 2021, the petitioner submitted its objection to Adisseo France's request for a postponement of Commerce's final determination in this investigation.²⁹

III. PERIOD OF INVESTIGATION

The period of investigation is July 1, 2019, through June 30, 2020. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the Petition, which was filed on July 29, 2020.³⁰

IV. SCOPE OF INVESTIGATION

The product covered by this investigation is methionine from France. For a full description of the scope of this investigation, *see* the accompanying *Federal Register* notice for the preliminary determination of this investigation at Appendix I.

V. SCOPE COMMENTS

In accordance with the *Preamble* to Commerce's regulations,³¹ in the *Initiation Notice* Commerce set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).³² As noted above, no interested parties commented on the scope of this investigation, as published in the *Initiation Notice*.³³

²⁶ See Petitioner's Letter, "Methionine from France: Allegation of the Existence of Critical Circumstances," dated February 1, 2021 (Critical Circumstances Allegation).

²⁷ See Petitioner's Letter, "Pre-Preliminary Determination Comments," dated February 1, 2021; *see also* Adisseo France's Letter, "Methionine from France: Pre-Preliminary Comments," dated February 1, 2021.

²⁸ See Adisseo France's Letter, "Methionine from France: Request for Postponement of Final Determination and Provisional Measures Period," dated February 5, 2021.

²⁹ See Petitioner's Letter, "Methionine from France: Opposition to Extension of Final Determination," dated February 9, 2021.

³⁰ See 19 CFR 351.204(b)(1).

³¹ See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

³² See *Initiation Notice*, 85 FR at 52325.

³³ Sumitomo's September 8, 2020 scope comments pertain to the product characteristics, and not the scope of the investigation.

VI. RETURN OF RECORD INFORMATION

On January 22, 2021, Adisseo France requested that Commerce return the BPI which it had placed on the record, and that other parties with access to that BPI under APO certify destruction of that BPI.³⁴ On January 25, 2021, the petitioner objected to Adisseo France's request, stating that Adisseo France would benefit from the return of its BPI, and providing an analysis of Adisseo France's data in an effort to demonstrate that, in fact, Adisseo France would benefit from the return of its BPI, and the application of the Petition rate, rather than be subject to a calculated rate based on the company's own data.³⁵ On this basis, the petitioner requested that Commerce retain Adisseo France's BPI on the record and use it to determine a rate for Adisseo France on the basis of adverse facts available (AFA).³⁶

Although Adisseo France requested that the information it submitted be removed from the record and returned,³⁷ we have preliminarily determined to retain its BPI on the record of this investigation and use it for the purposes of facts available. Commerce has the discretion to deny a respondent's request to withdraw information where it is necessary to preserve the integrity of the proceeding and the remedial purpose of the law.³⁸ If Commerce were to grant Adisseo France's request for the return of its BPI, the only remaining information on the record of the proceeding would be the information used for the initiation of this investigation. Commerce's analysis of the petitioner's evaluation of Adisseo France's data on the record demonstrates that Adisseo France would benefit by receiving the lower Petition rate rather than its own calculated margin.³⁹ Allowing Adisseo France to withdraw its information from the record of this proceeding would inappropriately allow it to benefit from its refusal to further participate in this investigation, and would permit Adisseo France to limit Commerce's analysis and determination. As a result, we have preliminarily determined it is necessary to retain Adisseo France's BPI on the record of the investigation in order to avoid diminishing the potential remedy in the event an AD order were issued, and to protect the integrity of this proceeding.

VII. APPLICATION OF FACTS AVAILABLE AND USE OF ADVERSE INFERENCES

Application of Facts Available

Sections 776(a)(1) and 776(a)(2)(A)-(D) of the Act provide that, if necessary information is not available on the record, or if an interested party: (1) withholds information requested by the Commerce; (2) 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; (3) significantly impedes a proceeding; or (4) provides such information but the information cannot be verified as provided in section 782(i) of the Act, Commerce shall use,

³⁴ See Adisseo France's Letter of Withdrawal at 2.

³⁵ See Petitioner's Letter, "Methionine from France: Comments on Adisseo's January 22, 2021 Letter," dated January 25, 2020 (Petitioner's Objection Letter), at 2.

³⁶ See Petitioner's Objection Letter at 5 and 6.

³⁷ See Adisseo France's Letter of Withdrawal at 2.

³⁸ See *Notice of Final Determination of Sales at Less Than Fair Value: Live Cattle from Canada*, 64 FR 56739, 56743 (October 21, 1999).

³⁹ See Petitioner's Letter, "Methionine from France: Submission of Factual Information," at Exhibit 3; see also Petitioner's Objection Letter.

subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination.

Section 782(c)(1) of the Act states that Commerce shall consider the ability of an interested party to provide information in the form and manner requested upon a prompt notification by that party that it is unable to submit the information in the form and manner required, and that party also provides a full explanation for the difficulty and suggests an alternative form in which the party is able to provide the information.

Section 782(d) of the Act states that if Commerce “determines that a response to a request for information ... does not comply with the request,” it “shall promptly inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person with an opportunity to remedy or explain the deficiency in light of the time limits established for the completion of investigations or reviews ...”

Section 782(e) of the Act states further that Commerce 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; and (5) the information can be used without undue difficulties.

Adisseo France decided to withdraw from further participation in this investigation.⁴⁰ At the same time, Adisseo France elected not to respond to Commerce’s latest request for information.⁴¹ Hence, we preliminarily find Adisseo France withheld requested information and significantly impeded the investigation. Due to its non-responsiveness and affirmative statement that it would no longer participate in this investigation, we find that necessary information is missing from the record, and Commerce is unable to perform the necessary analysis to calculate an estimated weighted-average dumping margin based on complete and verifiable information from Adisseo France. Therefore, we preliminarily find, pursuant to sections 776(a)(1) and 776(a)(2)(A) and (C) of the Act, that the use of facts available is warranted.

Use of Adverse Inference

Section 776(b) of the Act provides that, if Commerce 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, Commerce may use an inference adverse to the interests of that party in selecting the facts otherwise available.⁴² In so doing, Commerce is not required to determine, or make any

⁴⁰ See Adisseo France’s Letter of Withdrawal at 2.

⁴¹ See Commerce’s Letter, “Antidumping Duty Investigation of Methionine from France: Second Section B, C Supplemental Questionnaire,” dated January 15, 2021; see also Adisseo France’s Letter of Withdrawal at 2.

⁴² See 19 CFR 351.308(a); see also *Common Alloy Aluminum Sheet from Romania: Preliminary Affirmative Determination of Sales at Less Than Fair Value*, 85 FR 65358 (October 15, 2020) at Appendix II, Attachments II and VI; *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).

adjustments to, estimated dumping margins based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information.⁴³ In addition, the Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA) explains that Commerce may employ an adverse inference “to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”⁴⁴ Furthermore, affirmative evidence of bad faith on the part of a respondent is not required before Commerce may make an adverse inference.⁴⁵ It is Commerce’s practice to consider, in employing adverse inferences, the extent to which a party may benefit from its own lack of cooperation.⁴⁶

We preliminarily find that Adisseo France has not acted to the best of its abilities to comply with Commerce’s requests for information pursuant to section 776(b) of the Act because it decided to withdraw from the investigation and elected not to respond to Commerce’s request for information.⁴⁷ Therefore, in accordance with section 776(b) of the Act and 19 CFR 351.308(a), we preliminarily determine to use an adverse inference when selecting from among the facts otherwise available.⁴⁸

Selection of the AFA Rate

Section 776(b)(2) of the Act states that Commerce, when employing AFA, may rely upon information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record.⁴⁹ In selecting a rate based on AFA, Commerce 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.⁵⁰ Commerce’s practice is to select, as an AFA rate, the higher of: (1) the

⁴³ See section 776(b)(1)(B) of the Act.

⁴⁴ See SAA, H.R. Doc. 103-316, Vol. 1 (1994) at 870; and *Certain Polyester Staple Fiber from Korea: Final Results of the 2005-2006 Antidumping Duty Administrative Review*, 72 FR 69663, 69664 (December 10, 2007).

⁴⁵ See, e.g., *Nippon Steel Corp. v. United States*, 337 F. 3d 1373, 1382-83 (Fed. Cir. 2003); see also *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); and *Preamble*, 62 FR at 27340.

⁴⁶ See, e.g., *Steel Threaded Rod from Thailand: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances*, 78 FR 79670 (December 31, 2013), and accompanying Issues and Decision Memorandum (IDM) at 4, unchanged in *Steel Threaded Rod from Thailand: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances*, 79 FR 14476 (March 14, 2014).

⁴⁷ See Adisseo France’s Letter of Withdrawal at 2.

⁴⁸ See, e.g., *Common Alloy Aluminum Sheet from Romania: Preliminary Affirmative Determination of Sales at Less Than Fair Value*, 85 FR 65358 (October 15, 2020) at Appendix II, Attachments II and V; see also *Non-Oriented Electrical Steel from Germany, Japan, and Sweden: Preliminary Determinations of Sales at Less Than Fair Value, and Preliminary Affirmative Determinations of Critical Circumstances, in Part*, 79 FR 29423 (May 22, 2014), and accompanying Preliminary Decision Memorandum (PDM) at 7-11, unchanged in *Non Oriented Electrical Steel from Germany, Japan, the People’s Republic of China, and Sweden: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determinations of Critical Circumstances, in Part*, 79 FR 61609 (October 14, 2014); and *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR at 42985, 42986 (July 12, 2000) (where Commerce applied total AFA when the respondent failed to respond to the antidumping questionnaire); see also 19 CFR 351.308(c).

⁴⁹ See 19 CFR 351.308(c).

⁵⁰ See SAA at 870.

highest dumping margin alleged in the petition; or (2) the highest calculated rate of any respondent in the investigation.⁵¹

We assigned an estimated weighted-average dumping margin to Adisseo France equal to the highest individual dumping margin based on an average-to-average comparison calculated using the record information provided by Adisseo France.⁵² It is unnecessary to corroborate this rate because we obtained it in the course of this investigation and, therefore, it is not secondary information which must be corroborated to the extent practicable.

VII. ALL-OTHERS RATE

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all other producers and exporters shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding rates that are zero, *de minimis*, or determined entirely under section 776 of the Act. As indicated above, we determined the estimated weighted-average dumping margin for the mandatory respondents entirely under section 776 of the Act. In the situation where no weighted-average dumping margins other than zero, *de minimis*, or those determined entirely under section 776 of the Act have been established for individually examined companies, in accordance with section 735(c)(5)(B) of the Act, Commerce typically averages the dumping margins alleged in the petition and applies the results to all other producers and exporters not individually examined.⁵³ In the Petition, the petitioner alleged only one dumping margin.⁵⁴ Thus, consistent with our practice and as a reasonable method under section 735(c)(5)(B) of the Act, we have preliminarily based the all-others rate on the dumping margin alleged in the Petition, *i.e.*, 16.17 percent.

VIII. CRITICAL CIRCUMSTANCES

A. Legal Framework

In accordance with 19 CFR 351.206(c)(2)(i), when a critical circumstances allegation is submitted more than 20 days before the scheduled date of the preliminary determination, Commerce must issue a preliminary finding of whether there is a reasonable basis to believe or suspect that critical circumstances exist by no later than the date of the preliminary determination.

Section 733(e)(1) of the Act provides that Commerce, upon receipt of a timely-filed allegation of critical circumstances, will preliminarily determine that critical circumstances exist in a LTFV investigation if there is a reasonable basis to believe or suspect that: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of

⁵¹ See, e.g., *Welded Stainless Pressure Pipe from Thailand: Final Determination of Sales at Less Than Fair Value*, 79 FR 31093 (May 30, 2014), and accompanying IDM at Comment 3.

⁵² See, e.g., *Common Alloy Aluminum Sheet from Romania: Preliminary Affirmative Determination of Sales at Less Than Fair Value*, 85 FR 65358 (October 15, 2020) (CAAS Romania) at Appendix II, Attachments II and V.

⁵³ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany*, 73 FR 38986, 38987 (July 8, 2008), and accompanying IDM at Comment 2.

⁵⁴ See Petitioner's Supplement at Exhibit S-II-2.

the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at LTFV and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period.

Section 351.206(h)(2) of Commerce's regulations provides that, generally, imports must increase by at least 15 percent during the "relatively short period" to be considered "massive," and section 351.206(i) defines a "relatively short period" as normally being the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed)⁵⁵ and ending at least three months later.⁵⁶ Commerce's regulations also provide, however, that if Commerce finds that importers, exporters or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, Commerce may consider a period of not less than three months from that earlier time.⁵⁷

B. Critical Circumstances Allegation

On February 1, 2021, the petitioner alleged that critical circumstances exist regarding imports of methionine from France.⁵⁸ In its allegation, the petitioner contends that, based on the weighted-average dumping margin calculated using Adisseo France's BPI on the record for methionine, importers of methionine from France knew, or should have known, that the merchandise under consideration was being sold at LTFV.⁵⁹ The petitioner also contends that, based on the preliminary determination of injury by the ITC, there is a reasonable basis to impute importers' knowledge that material injury is likely by reason of such imports.⁶⁰ Finally, the petitioner contends that, based on USITC Dataweb statistics, an inference can be made that imports were massive during the relevant time period.⁶¹

C. Critical Circumstances Analysis

Commerce's normal practice in determining whether critical circumstances exist pursuant to the statutory criteria under section 733(e) of the Act has been to examine evidence available to Commerce, such as: (1) the evidence presented in the petitioners' critical circumstances allegation; (2) U.S. import statistics; and (3) shipment information submitted to Commerce by the respondents selected for individual examination.⁶²

⁵⁵ See 19 CFR 351.102(b)(40) (providing that a proceeding begins on the date of the filing of a petition).

⁵⁶ See 19 CFR 351.206(h)(2) and (i).

⁵⁷ See 19 CFR 351.206(i).

⁵⁸ See Critical Circumstances Allegation.

⁵⁹ *Id.*

⁶⁰ *Id.* at 5.

⁶¹ *Id.*

⁶² See, e.g., *Certain Carbon and Alloy Steel Wire Rod from the Russian Federation and the United Arab Emirates: Affirmative Preliminary Determinations of Sales at Less Than Fair Value, and Affirmative Preliminary Determination of Critical Circumstances for Imports of Certain Carbon and Alloy Steel Wire Rod from the Russian Federation*, 82 FR 42794 (September 12, 2017), and accompanying PDM at 11, unchanged in *Certain Carbon and Alloy Steel Wire Rod from the Russian Federation and the United Arab Emirates: Affirmative Final Determinations of Sales at Less Than Fair Value, and Partial Affirmative Finding of Critical Circumstances*, 82 FR 56214 (November 28, 2017); and *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final*

History of Dumping and Material Injury/Knowledge of Sales Below Fair Value and Material Injury

To determine whether there is a history of dumping pursuant to section 733(e)(1)(A)(i) of the Act, Commerce generally considers current or previous U.S. AD orders on the subject merchandise from the country in question and current AD orders imposed by other countries with regard to imports of the same merchandise.⁶³ The current investigation marks the first instance in which Commerce has examined whether sales of the subject merchandise have been made at LTFV in the United States from France. Accordingly, Commerce previously has not imposed an AD order on methionine from France. Moreover, Commerce is not aware of an AD order on methionine from France imposed by another country. Therefore, Commerce finds no history of injurious dumping of the subject merchandise pursuant to section 733(e)(1)(A)(i) of the Act.

To determine whether importers knew or should have known that exporters were selling the subject merchandise at LTFV, pursuant section 733(e)(1)(A)(ii) of the Act, we typically consider the magnitude of dumping margins, including margins calculated in the course of the investigation.⁶⁴ Commerce has found that a dumping margin of 15 percent or more for constructed export price (CEP) sales, or a dumping margin of 25 percent or more for export price

Determination of Critical Circumstances: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China, 73 FR 31970, 31972-73 (June 5, 2008) (CWP from China).

⁶³ See, e.g., *CWP from China*, 73 FR at 31972-73; and *Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances: Small Diameter Graphite Electrodes from the People's Republic of China*, 74 FR 2049, 2052-53 (January 14, 2009).

⁶⁴ See, e.g., *Antidumping and Countervailing Duty Investigations of Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Preliminary Determinations of Critical Circumstances*, 80 FR 68504 (November 5, 2015) (CORE Critical Circumstances Prelim); *Certain Corrosion-Resistant Steel Products from India: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances*, 81 FR 35329 (June 2, 2016); *Certain Corrosion-Resistant Steel Products from Italy: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*, 81 FR 35320 (June 2, 2016); *Certain Corrosion-Resistant Steel Products from the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 81 FR 35303 (June 2, 2016); *Certain Corrosion-Resistant Steel Products from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 35316 (June 2, 2016); *Certain Corrosion-Resistant Steel Products from Taiwan: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*, 81 FR 35313 (June 2, 2016) (collectively, *CORE Final Determinations*); *Notice of Preliminary Determinations of Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products from Australia, the People's Republic of China, India, the Republic of Korea, the Netherlands, and the Russian Federation*, 67 FR 19157, 19158 (April 18, 2002), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Australia*, 67 FR 47509 (July 19, 2002); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from the People's Republic of China*, 67 FR 62107 (October 3, 2002); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from India*, 67 FR 47518 (July 19, 2002); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Korea*, 67 FR 62124 (October 3, 2002); *Notice of Final Determination of Sales at Less Than Fair Value and Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products from the Netherlands*, 67 FR 62112 (October 3, 2002); and *Notice of the Final Determination Sales at Less Than Fair Value and Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products from the Russian Federation*, 67 FR 62121 (October 3, 2002).

(EP) sales to be sufficient for this purpose.⁶⁵ For Adisseo France, Commerce has determined an estimated weighted-average dumping margin of 43.82 percent. The rate of 43.82 percent assigned to Adisseo France meets the 15-percent threshold necessary to impute importer knowledge of dumping for CEP sales, the basis for Adisseo France's U.S. price as evidence in the record information. Therefore, we preliminarily conclude that importers knew or should have known that Adisseo France was selling methionine in the United States at LTFV, satisfying the criteria under section 733(e)(1)(A)(ii) of the Act. Further, for all other producers and exporters, we have preliminarily determined an estimated weighted-average dumping margin of 16.17 percent, the single dumping margin alleged in the Petition. The U.S. price information used to calculate the dumping margin alleged in the Petition was based on an EP sale pursuant to section 772(a) of the Act.⁶⁶ Because this rate does not exceed the 25 percent threshold for an EP sale, the rate does not meet the threshold necessary to impute that the importer knew, or should have known, that the sale was at LTFV under section 733(e)(1)(A)(ii) of the Act.

To determine whether importers knew or should have known that there was likely to be material injury caused by reason of such imports pursuant to section 733(e)(1)(A)(ii) of the Act, Commerce normally will look to the preliminary injury determination of the ITC.⁶⁷ If the ITC finds a reasonable indication of material injury (rather than the threat of injury) to the relevant U.S. industry, Commerce will normally determine that a reasonable basis exists to impute to importers sufficient knowledge of injury by such imports. In its injury investigation of methionine from France, the ITC found that there is a "reasonable indication" of material injury to the domestic industry because of the imported subject merchandise.⁶⁸ Therefore, the ITC's preliminary injury determination in its investigation of U.S. imports of methionine is sufficient to impute knowledge of the likelihood of material injury to the domestic industry. Thus, we preliminarily determine that importers knew, or should have known, that there was likely to be material injury caused by reason of such imports, pursuant to section 733(e)(1)(A)(ii) of the Act.

Massive Imports

In determining whether imports of subject merchandise from Adisseo France were "massive" over a relatively short period, pursuant to section 733(e)(1)(B) of the Act and 19 CFR 351.206(h), Commerce normally compares the import volumes of the subject merchandise for at least three months immediately preceding the filing of the petition (*i.e.*, the "base period") to a comparable period of at least three months following the filing of the petition (*i.e.*, the

⁶⁵ *Id.*; see also *Preliminary Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China*, 62 FR 31972, 31978 (June 11, 1997), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China*, 62 FR 61964 (November 20, 1997); and *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 42672 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004).

⁶⁶ See *Initiation Notice*, 85 FR at 52327.

⁶⁷ See, *e.g.*, *Certain Potassium Phosphate Salts from the People's Republic of China: Preliminary Affirmative Determination of Critical Circumstances in the Antidumping Duty Investigation*, 75 FR 24572, 24573 (May 5, 2010), unchanged in *Certain Potassium Phosphate Salts from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Termination of Critical Circumstances Inquiry*, 75 FR 30377 (June 1, 2010).

⁶⁸ See *ITC Preliminary Determination*.

“comparison period”). Imports will normally be considered massive when imports during the comparison period have increased by 15 percent or more compared to imports during the base period.

As discussed above, we are applying total AFA in our preliminary determination concerning Adisseo France. We do not have information regarding import volumes for Adisseo France, based on Adisseo France’s affirmative statement that it would no longer participate in this investigation. Accordingly, Commerce preliminarily finds, on the basis of AFA, that Adisseo France had massive imports of subject merchandise over a relatively short period, satisfying the criteria under section 733(e)(1)(B) of the Act and 19 CFR 351.206(h).

To determine whether there have been massive imports of subject merchandise into the United States over a relatively short period from all other producers and exporters of methionine in France, Commerce’s normal practice is to subtract the volume of shipments reported by the cooperating mandatory respondents from the U.S. imports of the merchandise under consideration for the same period of time.⁶⁹ However, because the analysis presented above concludes that, for all other producers and exporters, there was neither a history of dumping nor knowledge on the part of importers, either actual or implied, of material injury and sales at LTFV, we have not addressed whether there have been massive imports of the subject merchandise over a relatively short period on the part of all other producers and exporters of methionine from France.

D. Critical Circumstances Determination

Based on the above analysis, we preliminarily determine that critical circumstances exist regarding imports of methionine from France from Adisseo France, pursuant to section 733(e) of the Act and 19 CFR 351.206. Further, we preliminarily determine that critical circumstances do not exist regarding imports of methionine from France from all other producers and exporters.

VIII. RECOMMENDATION

We recommend applying the above methodology for this preliminary determination.

☒

☐

Agree

Disagree

2/24/2021

X 

Signed by: CHRISTIAN MARSH

⁶⁹ See, e.g., *CORE Critical Circumstances Prelim*; and *CORE Final Determinations*.

Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance