



A-427-830
Administrative Review
POR: 05/17/2019-10/31/2020
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July 27, 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: Strontium Chromate from France: Decision Memorandum for the
Preliminary Results of Antidumping Duty Administrative Review;
2019-2020

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on strontium chromate from France,¹ for the period of review (POR) May 17, 2019, through October 31, 2020. This review covers Société Nouvelle des Couleurs Zinciques (SNCZ). Commerce preliminarily determines that SNCZ sold subject merchandise at prices below normal value (NV) during the POR.

II. BACKGROUND

On November 3, 2020, Commerce published a notice of “Opportunity to Request an Administrative Review” of the *Order*.² On November 25, 2020, Commerce received timely requests for an administrative review from WPC Technologies (the petitioner) and SNCZ.³ On January 6, 2021, based on these timely requests and in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review on strontium chromate from France.⁴

On January 8, 2021, we released and solicited comments on data obtained from U.S. Customs and Border Protection (CBP) regarding entries of subject merchandise from France during the

¹ See *Strontium Chromate from Austria and France: Antidumping Duty Orders*, 84 FR 65349 (November 27, 2019) (*Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 85 FR 69586 (November 3, 2020).

³ See Petitioner’s Letter, “Request for Administrative Review,” dated November 25, 2020; see also SNCZ’s Letter, “Administrative Review Request,” dated November 25, 2020.

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 86 FR 511 (January 6, 2021).



during the POR.⁵ No interested parties submitted comments regarding these entries; however, the petitioner did submit comments regarding the physical characteristics of the merchandise under review.⁶

On January 29, 2021, Commerce issued an initial questionnaire to SNCZ, the sole respondent in this review.⁷ On February 1, 2021, the petitioner submitted comments regarding the model matching hierarchy in Commerce's initial questionnaire.⁸ On February 22, 2021, pursuant to 19 CFR 351.301, Commerce rejected the petitioner's model matching hierarchy comments as they contained untimely new factual information.⁹ Per Commerce's request, on February 24, 2021, the petitioner timely refiled its February 1, 2021, comments, in accordance with 19 CFR 351.301.¹⁰

On March 1, 2021, SNCZ submitted a timely response to section A of Commerce's initial questionnaire, *i.e.*, the section relating to general information.¹¹ On March 31, 2021, SNCZ requested permission to submit its costs based on the period April 2019 through December 2020.¹² Commerce denied SNCZ's request and informed SNCZ that it must submit costs based on the POR.¹³ On April 2, 2021, SNCZ responded to sections B, C, and D of Commerce's initial questionnaire,¹⁴ *i.e.*, the sections relating to home market sales, U.S. sales, and cost of production (COP)/constructed value (CV), respectively.

We sent supplemental questionnaires to SNCZ between March 2021 and June 2021.¹⁵ We received responses to these supplemental questionnaires from April 2021 through June 2021.¹⁶

III. SCOPE OF THE *ORDER*

The merchandise covered by this *Order* is strontium chromate, regardless of form (including but not limited to, powder (sometimes known as granular), dispersions (sometimes known as paste), or in any solution). The chemical formula for strontium chromate is SrCrO₄ and the Chemical Abstracts Service (CAS) registry number is 7789-06-2.

⁵ See Memorandum, "Customs and Border Protection Data for Respondent Selection," dated January 8, 2021.

⁶ See Petitioner's Letter, "Initial Market and Product Characteristic Comments," dated January 8, 2021.

⁷ See Commerce's Letter, Initial AD Questionnaire, dated January 29, 2021.

⁸ See Petitioner's Letter, "Objection to Model Matching Hierarchy," dated February 1, 2021.

⁹ See Commerce's Letter, "New Factual Information Filed by Petitioner," dated February 22, 2021; *see also* Memorandum, "Reject and Retain Document Placed on Record," dated February 22, 2021.

¹⁰ See Petitioner's Letter, "Objection to Model Matching Hierarchy," dated February 24, 2021.

¹¹ See SNCZ's Letter, "Section A Response," dated March 1, 2021 (SNCZ Initial AQR).

¹² See SNCZ's Letter, "Period of Review for Reporting Costs," dated March 31, 2021.

¹³ See Commerce's Letter, "Request for Third Extension of Deadline to Submit Response to Sections B through E and Request to Revise Cost Reporting Period," dated April 1, 2021.

¹⁴ See SNCZ's Letter, "Sections B-D Response," dated April 2, 2021 (SNCZ Initial BCDQR).

¹⁵ See Commerce's Letter, "Section A Supplemental Questionnaire," dated March 17, 2021; *see also* Commerce's Letter, "Section D Supplemental Questionnaire," dated April 20, 2021; Commerce's Letter, "Sections B and C Supplemental Questionnaire," dated April 29, 2021; and Commerce's Letter, "Second Section D Supplemental Questionnaire," dated June 2, 2021.

¹⁶ See SNCZ's Letter, "Supplemental Section A Response," dated April 15, 2021 (SNCZ Supplemental AQR); *see also* SNCZ's Letter, "Supplemental Section D Response," dated May 12, 2021 (SNCZ Supplemental DQR); SNCZ's Letter, "Supplemental Sections B & C Response," dated May 13, 2021; and SNCZ's Letter, "Second Supplemental Section D Response," dated June 11, 2021.

Strontium chromate that has been blended with another product or products is included in the scope if the resulting mix contains 15 percent or more of strontium chromate by total formula weight. Products with which strontium chromate may be blended include, but are not limited to, water and solvents such as Aromatic 100 Methyl Amyl Ketone (MAK)/2-Heptanone, Acetone, Glycol Ether EB, Naphtha Leicht, and Xylene. Subject merchandise includes strontium chromate that has been processed in a third country into a product that otherwise would be within the scope of this *Order* if processed in the country of manufacture of the in-scope strontium chromate.

The merchandise subject to this *Order* is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 2841.50.9100. Subject merchandise may also enter under HTSUS subheading 3212.90.0050. While the HTSUS subheadings and CAS registry number are provided for convenience and customs purposes, the written description of the scope is dispositive.

IV. DISCUSSION OF THE METHODOLOGY

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether SNCZ's sales of strontium chromate from France to the United States were made at less than NV, we compared the export price (EP) to the NV, as described in the "Export Price" and "Normal Value" sections of this memorandum.¹⁷

A) Determination of the Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates dumping margins by comparing weighted-average NVs to weighted-average EPs or constructed export prices (CEPs) (*i.e.*, the average-to-average method) unless Commerce determines that another method is appropriate in a particular situation. In antidumping 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, the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is analogous to the issue in antidumping investigations.¹⁸

Commerce has 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

¹⁷ See Memorandum, "Preliminary Results Margin Calculation for Société Nouvelle des Couleurs Zinciques," dated concurrently with this memorandum (Preliminary Calculation Memo).

¹⁸ See, e.g., *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), *aff'd* 862 F. 3d 1322 (Fed. Cir. 2017); and *JBF RAK LLC v. United States*, 790 F. 3d 1358, 1363–65 (Fed. Cir. 2015) ("{t}he 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).

351.414(c)(1) and section 777A(d)(1)(B) of the Act.¹⁹ Commerce finds that the differential pricing analysis used in recent 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.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of prices for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all U.S. 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 consolidated customer codes reported by the respondent. 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 POR based upon the U.S. date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region, and time period, that Commerce uses in making comparisons between EP or CEP and NV for the individual dumping margins.

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

¹⁹ See, *e.g.*, *Polyethylene Terephthalate Resin from Taiwan: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 83 FR 19696 (May 4, 2018), unchanged in *Polyethylene Terephthalate Resin from Taiwan: Final Determination of Sales at Less Than Fair Value, and Final Affirmative Determination of Critical Circumstances, in Part*, 83 FR 48287 (September 24, 2018); *Large Diameter Welded Pipe from Canada: Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 83 FR 43649 (August 27, 2018), unchanged in *Large Diameter Welded Pipe from Canada: Final Affirmative Determination of Sales at Less Than Fair Value*, 84 FR 6378 (February 27, 2019); and *Cast Iron Soil Pipe from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 83 FR 44567 (August 31, 2018), unchanged in *Cast Iron Soil Pipe from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 84 FR 6767 (February 28, 2019).

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 accounts 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.²⁰

B) Results of the Differential Pricing Analysis

Commerce preliminarily finds, based on the results of the differential pricing analysis, that 2.64 percent of the value of U.S. sales pass the Cohen's *d* test, which does not confirm the existence

²⁰ The Court of Appeals for the Federal Circuit (CAFC) in *Apex Frozen Foods v. United States*, 862 F. 3d 1322 (Fed. Cir. 2017) affirmed much of Commerce's differential pricing methodology. We ask that interested parties present only arguments on issues which have not already been decided by the CAFC.

of a pattern of prices that differ significantly among purchasers, regions or time periods.²¹ Thus, the results of the Cohen's *d* test do not support consideration of an alternative to the average-to-average method. Accordingly, Commerce preliminarily determines to apply the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for SNCZ.

C) 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 will normally use the date of invoice, as recorded in the exporter's or producer's records kept in the ordinary course of business. The date of sale is generally the date on which the parties establish the material terms of the sale,²² which normally include the price, quantity, delivery terms and payment terms.²³ Commerce may use a date other than the date of invoice if Commerce is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.²⁴ Furthermore, 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.²⁵

Non-consignment Sales in U.S. Market and All Sales in Home Market

For non-consignment EP sales in the U.S. market and for all sales in the home market, SNCZ reported the order confirmation date as the date of sale.²⁶ However, SNCZ reported that the price changes for certain sales up until the issuance of the order confirmation.²⁷ Thus, because record evidence demonstrates that the material terms of sale can change prior to issuance of the sales invoice, and consistent with our regulatory presumption of invoice date as the date of sale,²⁸ we preliminarily determine that invoice date is the appropriate date of sale for all home market and non-consignment EP sales.

Consignment Sales

SNCZ reported that certain strontium chromate sales to the United States were made on a consignment basis.²⁹ Specifically, SNCZ reported that it ships subject merchandise to the consignee who inventories the subject merchandise in a warehouse.³⁰ SNCZ also reported that it

²¹ See Preliminary Calculation Memo at 3.

²² See 19 CFR 351.401(i).

²³ See, e.g., *USEC Inc. v. United States*, 498 F. Supp. 2d 1337, 1343-1344 (CIT 2007).

²⁴ 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)).

²⁵ 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; and *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002), and accompanying IDM at Comment 2.

²⁶ See SNCZ Initial AQR at 11.

²⁷ *Id.* at 11-12.

²⁸ See 19 CFR 351.401(i).

²⁹ See SNCZ Initial AQR at Exhibit A-3.

³⁰ *Id.* at 13.

maintains title to the subject merchandise until it is withdrawn from the warehouse.³¹ SNCZ issues an invoice for these goods in the aggregate at the end of each month based on a single monthly report of consumption by the consignee.³² SNCZ stated that the sales price can and does change from the sales order date to the invoice date for U.S. sales, although the quantity, price, and product are all initially agreed upon prior to shipment and sale to the ultimate third party.³³ Because the material terms of sale may change until the invoice date, as noted, we find it appropriate to use the commercial invoice date as the date of sale for all of SNCZ's sales to the consignee, which is the first unaffiliated party to which the subject merchandise is sold in the United States.³⁴

D) Product Comparisons

In accordance with section 771(16) of the Act, we considered all products described in the “Scope of the *Order*” section, above, produced and sold by the respondents in the home market that were in the ordinary course of trade, during the POR, to be foreign like products for purposes of determining NV for the merchandise sold by respondents in the United States. Pursuant to 19 CFR 351.414(f), we compared the respondents' U.S. sales of strontium chromate to its sales of strontium chromate made in the home market 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. In making the product comparisons, we matched foreign like products to the products sold in the United States based on the products' physical characteristics. In the order of importance, these physical characteristics are oil absorption rate, form, percentage of strontium chromate in the final dispersion product, and solvent type. In this case, we matched all U.S. sales of the subject merchandise to sales of the identical merchandise in the home market.

E) Export Price

Section 772(a) of the Act defines EP as “the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c).” In accordance with section 772(a) of the Act, for certain U.S. sales made by SNCZ, we used the EP methodology because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States before the date of importation by the producer or exporter of the subject merchandise outside the United States.

We calculated EP based on packed prices to unaffiliated purchasers in the United States. We made deductions for movement expenses which included, where appropriate, domestic inland

³¹ See SNCZ Initial AQR at 13.

³² *Id.* at 15 and Exhibit A-3.

³³ See SNCZ Supplemental DQR at 10.

³⁴ See, e.g., *Certain Stilbenic Optical Brightening Agents from Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2016–2017*, 83 FR 26950 (June 11, 2018), and accompanying Preliminary Decision Memorandum at “Date of Sale,” unchanged in *Certain Stilbenic Optical Brightening Agents from Taiwan: Final Results of Antidumping Duty Administrative Review; 2016–2017*, 83 FR 49360 (October 1, 2018).

freight, international freight, and marine insurance, in accordance with section 772(c)(2)(a) of the Act.³⁵

F) Constructed Export Price

Section 772(b) of the Act defines CEP as “the price at which the subject merchandise is first sold (or agreed to be sold) in the United States to an unaffiliated purchaser in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d).” Although SNCZ reported consignment sales as EP sales, we determine that these sales are more appropriately classified as CEP sales because the subject merchandise is first sold (or agreed to be sold) in the United States to an unaffiliated purchaser in the United States after the date of importation for the account of the producer/exporter (*i.e.*, SNCZ).³⁶

We calculated CEP based on packed prices to the first unaffiliated purchaser in the United States. We also made deductions, where appropriate, for movement expenses (*i.e.*, domestic inland freight from the plant to the port of exportation, international freight, and marine insurance), consistent with section 772(c)(2)(A) of the Act.³⁷ In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we calculated CEP by deducting selling expenses associated with economic activities occurring in the United States, which included direct selling expenses (*i.e.*, bank charges and imputed credit expenses) and indirect selling expenses (including inventory carrying costs). Finally, we made an adjustment for profit allocated to these expenses, in accordance with section 772(d)(3) of the Act. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by SNCZ on its sales of the subject merchandise in the United States and the profit associated with those sales.

G) Normal Value

1. Home Market Viability

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

In this review, we determined that the aggregate volume of home market sales of the foreign like product for SNCZ was greater than five percent of the aggregate volume of its U.S. sales of the

³⁵ See Preliminary Calculation Memo at Attachment 1.

³⁶ See SNCZ Supplemental AQR at 7.

³⁷ See Preliminary Calculation Memo at Attachment 2.

subject merchandise.³⁸ Therefore, we used home market sales as the basis for NV for SNCZ, in accordance with section 773(a)(1)(B) of the Act.

2. *Level of Trade*

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, Commerce will calculate NV based on sales at the same level of trade (LOT) as the U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).³⁹ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.⁴⁰ In order to determine whether the home market sales are at different stages in the marketing process than the U.S. sales, we examine the distribution system in each market, *i.e.*, the chain of distribution, including selling functions and class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and home market sales, *i.e.*, NV based on either home market or third country prices,⁴¹ 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.⁴²

When Commerce is unable to match sales of the foreign like product in the home market at the same LOT as the EP or CEP, Commerce may compare the U.S. sale to sales at a different LOT in the home market. In comparing EP or CEP sales to sales at a different LOT in the home market, where available data make it possible, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability, *i.e.*, no LOT adjustment is possible, Commerce will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.⁴³

In this administrative review, we obtained information from SNCZ regarding the marketing stages involved in making the reported home market and U.S. sales, including a description of the selling activities performed for each channel of distribution.⁴⁴ Our LOT findings are summarized below.

With respect to the home market, SNCZ reported that it made sales through one channel of distribution, *i.e.*, sales to distributors and end-users on an ex-works basis (home market (HM) channel).⁴⁵ According to SNCZ, it performed packing services, and freight and delivery services for all customers in the HM channel.⁴⁶ In addition, SNCZ's response indicates that it performed

³⁸ See SNCZ Supplemental AQR at Exhibit SA-1.

³⁹ See 19 CFR 351.412(c)(2).

⁴⁰ *Id.*; see also *Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not to Revoke Antidumping Duty Order in Part*, 75 FR 50999 (August 18, 2010) (*OJ from Brazil*), and accompanying IDM at Comment 7.

⁴¹ Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling, general and administrative expenses, and profit for CV, where possible. See 19 CFR 351.412(c)(1).

⁴² See *Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (CAFC 2001).

⁴³ See, e.g., *OJ from Brazil* IDM at Comment 7.

⁴⁴ See SNCZ Initial AQR at 10; see also SNCZ Supplemental AQR at 8-9.

⁴⁵ *Id.* at Exhibit A-3.

⁴⁶ *Id.* at Exhibit A-4.

order input/processing and inventory maintenance for all home market sales.⁴⁷ Furthermore, SNCZ reported that it performed certain selling activities relating to the European Union regulation, Registration, Evaluation, Authorization and Restriction of Chemicals (REACH).⁴⁸

Selling activities can be generally grouped into five selling function categories for analysis, specifically, provision of: (1) sales support; (2) training services; (3) technical support; (4) logistical services; and (5) performance of sales-related administrative activities. We examined the selling activities performed for these sales and found that SNCZ performed the following selling functions in the home market: provision of sales support; provision of logistical services, and provision of sales-related administrative activities.⁴⁹ Because SNCZ only has one channel of distribution (*i.e.*, direct delivery to customers or distributor warehouse), we preliminarily determine that there is one LOT in the home market.

With respect to the U.S. market, as noted above, SNCZ reported that it made CEP sales through an unaffiliated consignee using one channel of distribution, *i.e.*, sales made from the unaffiliated consignee's warehouse to distributors and end-users. SNCZ also reported that it made EP sales as direct shipments to its U.S. customer.⁵⁰ According to SNCZ, it performed packing services, order input/processing, and freight and delivery services at the same levels of intensity for sales to all customers in both U.S. distribution channels. In addition, SNCZ's response indicates that it performed order input/processing and inventory maintenance at the same levels of intensity for sales to all customers in both U.S. distribution channels.⁵¹

Based on the selling function categories noted above, we find that SNCZ performed the following selling functions for both U.S. sales channels at the same levels of intensity: provision of sales support; provision of logistical services, and provision of sales-related administrative activities.⁵² In accordance with 19 CFR 351.412(c)(2), Commerce will determine that sales are made at different LOTs if they are made at different marketing stages (or their equivalent). Therefore, because we do not find that there are any differences in selling functions between the two U.S. sales channels, we determine that SNCZ's EP and CEP sales during the POR were made at the same LOT.

Finally, we compared the U.S. LOT to the home market LOT, and found that the selling functions SNCZ performed for its U.S. and home market customers do not differ significantly such that they constitute different LOTs. Specifically, SNCZ performed the same selling functions in the home market, which are grouped in one LOT, as it performed in the U.S. market, which are also grouped in one LOT. Furthermore, while there was a slight difference in the level of intensity reported with respect to one selling activity within the logistical services category related to the arrangement of shipments and the tracking of consignee sales in the United States,⁵³ for all other selling functions, the level of intensity was the same in both markets. Therefore, we preliminarily determine that sales to the United States and home market during the

⁴⁷ See SNCZ Initial BCDQR at 23, 24, and Exhibit B-6.

⁴⁸ See SNCZ Supplemental AQR at 8.

⁴⁹ See SNCZ Initial AQR at Exhibit A-4.

⁵⁰ *Id.* at Exhibit A-3.

⁵¹ See SNCZ Initial BCDQR at C-13; *see also* SNCZ Initial AQR at Exhibit A-4.

⁵² See SNCZ Initial AQR at Exhibit A-4.

⁵³ *Id.* at Exhibit A-3.

POR were made at the same LOT and, as a result, no LOT adjustment or CEP offset is warranted.

3. Cost of Production Analysis

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

i. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the costs of materials and fabrication for the foreign like product, plus amounts for general and administrative (G&A) and interest expenses.⁵⁴ We relied on the COP data submitted by SNCZ.

ii. Test of Comparison Market Sales Prices

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

iii. 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 a respondent's home market sales of a given product are at prices less than the COP, we do not disregard any of the 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) the sales were made within an extended period of time in accordance with sections 773(b)(2)(B) of the Act; and (2) based on our comparison of prices to the weighted-average COPs for the POR, the sales 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 SNCZ did not make any below-cost sales.

⁵⁴ See "Test of Comparison Market Sales Prices" section, below, for treatment of home market selling expenses.

4. *Calculation of NV Based on Comparison Market Prices*

We calculated NV based on delivered prices to unaffiliated customers in the home market. We made a deduction, consistent with section 773(a)(6)(B)(ii) of the Act, for inland freight from the plant to the unaffiliated customers.⁵⁵

For comparisons made to EP sales, we made adjustments for differences in circumstances-of-sale pursuant to section 773(a)(6)(C)(iii) of the Act. We made circumstance-of-sale adjustments by deducting home market direct selling expenses (*i.e.*, imputed credit) and adding U.S. direct selling expenses (*i.e.*, bank charges and imputed credit), where appropriate. We deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act.

For comparisons to CEP sales, in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410, we deducted from NV direct selling expenses (*i.e.*, imputed credit). We also deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act.

Because SNCZ only reported sales of identical merchandise in both the U.S. and home markets, we made no adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411.

V. CURRENCY CONVERSION

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

⁵⁵ See Preliminary Calculation Memo at Attachment 1.

VI. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.




Agree



Disagree

7/27/2021

X



Signed by: CHRISTIAN MARSH

Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance