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MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Import Administration

FROM: Christian Marsh 
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results of Antidumping
Duty Administrative Review: Certain Lined Paper Products from
India

SUMMARY

In response to requests from interested parties, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain lined paper products from India. The review covers 57 producers/exporters of the subject merchandise. The period of review (POR) is September 1, 2010, through August 31, 2011.

We have preliminary found that during the POR the two mandatory respondents in this proceeding, Riddhi Enterprises, Ltd. (Riddhi) and SAB International (SAB), made sales of subject merchandise at less than normal value (NV). Based on the publicly ranged U.S. quantities of Riddhi and SAB, we calculated a rate for 50 of the non-selected companies covered in this proceeding.¹ In addition, we applied an adverse facts available (AFA) rate to five companies which did not respond to the Department's Quantity and Value (Q&V) questionnaire.²

If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of subject merchandise during the POR.

¹ This rate is a weighted-average percentage margin (calculated based on the publicly ranged U.S. quantities of the two reviewed companies with an affirmative dumping margin) for the period September 1, 2010, through August 31, 2011. See Memorandum to the File, titled, "Certain Lined Paper Products from India: Margin for Respondents Not Selected for Individual Examination," from Cindy Robinson and Victoria Cho, Case Analysts, through James Terpstra, Program Manager, dated October 1, 2012.

² Ampoules & Vials Mfg Co Ltd.; AR Printing & Packaging (India) PVT; Chitra Exports; Diki Continental Exports; and Pioneer Stationery Pvt. Ltd.



Interested parties are invited to comment on these preliminary results. We will issue final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act).

BACKGROUND

Initiation of the Administrative Review

On September 2, 2011, the Department issued a notice of opportunity to request an administrative review of antidumping and countervailing duty orders with August anniversary dates.³ On September 30, 2010, the Department received letters from the Association of American School Paper Suppliers (AASPS or Petitioner) and Navneet Publications (India) Ltd. (Navneet), an Indian producer/exporter of subject merchandise, requesting review of 57 producers/exporters of subject merchandise.

On October 31, 2011, the Department published in the Federal Register the notice of initiation of this antidumping duty administrative review with respect to 57 companies⁴ for the POR.⁵

Selection of Respondents for Individual Examination

In light of the large number of respondents for which an administrative review has been initiated, the Department notified interested parties of its intent to use entry data from Customs and Border Protection (CBP) for respondent selection, in accordance with section 777A(c)(2) of the Act. On November 10, 2011, the Department placed on the record a proprietary memo containing the CBP entry data during the POR for imports from India.⁶ We subsequently released the

³ See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity To Request Administrative Review, 76 FR 54735 (September 2, 2011).

⁴ Abhinav Paper Products Pvt Ltd.; American Scholar, Inc. and/or I-Scholar; A R Printing & Packaging India; Akar Limited; Ampoules & Vials Mfg. Co. Ltd.; Apl Logistics India Pvt. Ltd.; AR Printing & Packaging (I); Artesign Impex; Arun Art Printers Pvt. Ltd.; Aryan Worldwide; Bafna Exports; Cargomar Pvt. Ltd.; Cello International Pvt. Ltd. (M/S Cello Paper Products); Chitra Exports; Corporate Stationery Pvt. Ltd.; Crane Worldwide Logistics Ind Pvt.; Creative Divya; D.D International; Diki Continental Exports; Exel India (Pvt.) Ltd.; Exmart International Pvt. Ltd.; Expeditors International (India) Pvt/Expeditors Cargo Mgmt Systems; Fatechand Mahendrakumar; FFI International; Freight India Logistics Pvt. Ltd.; Gauriputra International; International Greetings Pvt. Ltd.; Karur K.C.P. Packagings Ltd; Kejriwal Paper Ltd. and Kejriwal Exports; Lodha Offset Limited; M.S. The Bell Match Company; Magic International Pvt Ltd; Mahavideh Foundation; Marisa International; Navneet Publications (India) Ltd.; Orient Press Ltd.; Paperwise Inc.; Phalada Agro Research Foundations; Pioneer Stationery Pvt. Ltd.; Premier Exports; Raghunath Exporters; Rajvansh International; Riddhi Enterprises; SAB International; SAI Suburi International; SAR Transport Systems; SDV Intl Logistics Ltd.; Seet Kamal International; SGM Paper Products; Shivam Handicrafts; Soham Udyog; Sonal Printers Pvt. Ltd.; Super Impex; Swati Growth Funds Ltd.; Swift Freight (India) Pvt. Ltd; V&M; and Yash Laminates.

⁵ See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in part, 76 FR 67133 (October 31, 2011) (Initiation Notice).

⁶ The request for CBP data covered the following Harmonized Tariff Schedule of the United States (HTSUS) numbers: 4810.22.5044, 4811.90.9050, 4820.10.2010, 4820.10.2020, 4820.10.2030, 4820.10.2040, 4820.10.2060, 4820.10.4000, and the companies for which a review was initiated.

memorandum to all interested parties with an administrative protective order (APO) and invited interested parties to comment on the use of the data for respondent selection.⁷

On November 29, 2011, we received comments from Petitioner and Navneet. Petitioner urged the Department to select at least four exporters or producers accounting for the largest volume of the subject merchandise that can be reasonably examined. Navneet, however, argued that with regard to lined paper products, the CBP data is inaccurate as a result of reporting imports in terms of pieces rather than gross weight. In addition, Navneet argued that one of the HTS categories mentioned in the scope of this case is a general “basket” category which is broad and would not be thought to contain meaningful quantities of subject merchandise. Thus, Navneet urged the Department not to use CBP data in order to avoid relying on an inaccurate picture of import volumes. Navneet instead requested that the Department issue quantity and value (Q&V) questionnaires to the ten largest exporters or producers as they appear in the CBP data to determine which companies to select as mandatory respondents.

After considering the issues raised by Navneet, the Department concluded that relying on information reported in the CBP data would result in an inaccurate assessment of the largest exporters or producers because of the difference in reporting import quantities in terms of pieces rather than by weight. Thus, the Department issued a Q&V questionnaire to the following 13 Indian companies, for which CBP data showed entries which are subject to the antidumping duty order during the POR: Akar Limited; Ampoules & Vials Mfg Co Ltd.; AR Printing & Packaging (India) PVT; Chitra Exports; Diki Continental Exports; Lodha Offset Ltd.; Magic International Pvt. Ltd (Magic); Navneet; Orient Press Limited; Pioneer Stationery Pvt. Ltd. (Pioneer); Riddhi; SAB; and SGM Paper Products.⁸

We were able to confirm via Federal Express tracking records, that all 13 Q&V questionnaires were delivered.⁹ After granting extension requests, we received Q&V responses from the following eight companies: Akar Limited; Lodha Offset Ltd.; Magic; Navneet; Orient Press Limited; Riddhi; SAB; and SGM Paper Products.

For the five companies that did not respond to the Department’s Q&V questionnaire, we are applying AFA for these preliminary results. See the “Use of Facts Otherwise Available and Adverse Inferences” section below for details.

Pursuant to section 777A(c)(2)(B) of the Act, as discussed in the Respondent Selection Memo, our analysis of the quantity and value data on the record demonstrated that Riddhi and SAB are

⁷ See Memorandum to the File, “Customs and Border Protection Data for Selection of Respondents for Individual Review,” dated November 10, 2011.

⁸ See the Department’s letter dated December 8, 2011 from James Terpstra, Program Manager.

⁹ See Respondent Selection Memo below. See also Memorandum to File, Through James Terpstra, Program Manager, Office 3, AD/CVD Operations, From Cindy Robinson, Case Analyst, Titled: “Placing FedEx’s Delivery Information on the Record, Re 2010-2011 Antidumping Duty Administrative Review of Certain Lined Paper Products from India,” (Delivery Confirmation Memo), dated August 22, 2012.

the companies accounting for the largest volume of subject merchandise exported from India that could reasonably be examined.¹⁰ Thus, we selected these companies as mandatory respondents.

Requests for Information

On January 20, 2012, the Department issued its antidumping questionnaire (original questionnaire) to Riddhi and SAB with a response due date of February 27, 2012. After granting two extensions to Riddhi, the original questionnaire responses for sections A-C and section D were submitted on March 27 and April 3, 2012, respectively. The Department issued a supplemental questionnaire to Riddhi on July 13, 2012. Riddhi submitted its responses on August 8, 2012.

With respect to SAB, we received the Sections A-C questionnaire response on March 19, 2012. The Department issued a Sections A-C supplemental questionnaire to SAB on May 24, 2012, and SAB's response was received on June 21, 2012.

Petitioner submitted a COP allegation regarding SAB on April 9, 2012. Based on petitioner's allegation and pursuant to section 773(b) of the Act, the Department initiated a sales-below cost investigation with respect to SAB and issued a Section D questionnaire to SAB on the same day.¹¹ SAB responded to the Section D questionnaire on May 29, 2012. On June 15, 2012, the Department issued a section D supplemental questionnaire to SAB, and we received SAB's response on July 20, 2012.

On May 17, 2012, the Department extended the time limit for the preliminary results by 120 days.¹²

SCOPE OF THE ORDER

The scope of this order includes certain lined paper products, typically school supplies (for purposes of this scope definition, the actual use of or labeling these products as school supplies

¹⁰ See Memorandum to Melissa Skinner, Director, Office 3, AD/CVD Operations, through James Terpstra, Program Manager, from Cindy Robinson, Senior International Trade Compliance Analyst, titled "Selection of Respondents for Individual Examination" (Respondent Selection Memo) dated January 20, 2012.

¹¹ See Memorandum to Melissa Skinner, Director, Office 3, AD/CVD Operations, from The Team, titled "Petitioner's Allegation of Sales Below the Cost of Production for SAB International," dated April 23, 2012 (Cost Initiation Memo).

¹² See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through Melissa Skinner, Office Director, AD/CVD Operations 3, from Cindy Robinson, International Trade Compliance Analyst, Office 3, titled "Certain Lined Paper Products from India: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated May 17, 2012. Because the 120th day, September 29, 2012, falls on a Saturday, consistent with the Department's practice, the deadline for the completion of the preliminary results rolls over to the first business day thereafter, October 1, 2012.

or non-school supplies is not a defining characteristic) composed of or including paper that incorporates straight horizontal and/or vertical lines on ten or more paper sheets (there shall be no minimum page requirement for looseleaf filler paper) including but not limited to such products as single- and multi-subject notebooks, composition books, wireless notebooks, looseleaf or glued filler paper, graph paper, and laboratory notebooks, and with the smaller dimension of the paper measuring 6 inches to 15 inches (inclusive) and the larger dimension of the paper measuring 8-3/4 inches to 15 inches (inclusive). Page dimensions are measured size (not advertised, stated, or “tear-out” size), and are measured as they appear in the product (i.e., stitched and folded pages in a notebook are measured by the size of the page as it appears in the notebook page, not the size of the unfolded paper). However, for measurement purposes, pages with tapered or rounded edges shall be measured at their longest and widest points. Subject lined paper products may be loose, packaged or bound using any binding method (other than case bound through the inclusion of binders board, a spine strip, and cover wrap). Subject merchandise may or may not contain any combination of a front cover, a rear cover, and/or backing of any composition, regardless of the inclusion of images or graphics on the cover, backing, or paper. Subject merchandise is within the scope of this order whether or not the lined paper and/or cover are hole punched, drilled, perforated, and/or reinforced. Subject merchandise may contain accessory or informational items including but not limited to pockets, tabs, dividers, closure devices, index cards, stencils, protractors, writing implements, reference materials such as mathematical tables, or printed items such as sticker sheets or miniature calendars, if such items are physically incorporated, included with, or attached to the product, cover and/or backing thereto.

Specifically excluded from the scope of this order are:

- unlined copy machine paper;
- writing pads with a backing (including but not limited to products commonly known as “tablets,” “note pads,” “legal pads,” and “quadrille pads”), provided that they do not have a front cover (whether permanent or removable). This exclusion does not apply to such writing pads if they consist of hole-punched or drilled filler paper;
- three-ring or multiple-ring binders, or notebook organizers incorporating such a ring binder provided that they do not include subject paper;
- index cards;
- printed books and other books that are case bound through the inclusion of binders board, a spine strip, and cover wrap;
- newspapers;
- pictures and photographs;
- desk and wall calendars and organizers (including but not limited to such products generally known as “office planners,” “time books,” and “appointment books”);
- telephone logs;
- address books;
- columnar pads & tablets, with or without covers, primarily suited for the recording of written numerical business data;
- lined business or office forms, including but not limited to: pre-printed business forms, lined invoice pads and paper, mailing and address labels, manifests, and shipping log books;

- lined continuous computer paper;
- boxed or packaged writing stationery (including but not limited to products commonly known as “fine business paper,” “parchment paper”, and “letterhead”), whether or not containing a lined header or decorative lines;
- Stenographic pads (“steno pads”), Gregg ruled (“Gregg ruling” consists of a single- or double-margin vertical ruling line down the center of the page. For a six-inch by nine-inch stenographic pad, the ruling would be located approximately three inches from the left of the book.), measuring 6 inches by 9 inches.

Also excluded from the scope of this order are the following trademarked products:

- Fly™ lined paper products: A notebook, notebook organizer, loose or glued note paper, with papers that are printed with infrared reflective inks and readable only by a Fly™ pen-top computer. The product must bear the valid trademark Fly™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- Zwipes™: A notebook or notebook organizer made with a blended polyolefin writing surface as the cover and pocket surfaces of the notebook, suitable for writing using a specially-developed permanent marker and erase system (known as a Zwipes™ pen). This system allows the marker portion to mark the writing surface with a permanent ink. The eraser portion of the marker dispenses a solvent capable of solubilizing the permanent ink allowing the ink to be removed. The product must bear the valid trademark Zwipes™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- FiveStar®Advance™: A notebook or notebook organizer bound by a continuous spiral, or helical, wire and with plastic front and rear covers made of a blended polyolefin plastic material joined by 300 denier polyester, coated on the backside with PVC (poly vinyl chloride) coating, and extending the entire length of the spiral or helical wire. The polyolefin plastic covers are of specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). Integral with the stitching that attaches the polyester spine covering, is captured both ends of a 1" wide elastic fabric band. This band is located 2-3/8" from the top of the front plastic cover and provides pen or pencil storage. Both ends of the spiral wire are cut and then bent backwards to overlap with the previous coil but specifically outside the coil diameter but inside the polyester covering. During construction, the polyester covering is sewn to the front and rear covers face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. The flexible polyester material forms a covering over the spiral wire to protect it and provide a comfortable grip on the product. The product must bear the valid trademarks FiveStar®Advance™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- FiveStar Flex™: A notebook, a notebook organizer, or binder with plastic polyolefin front and rear covers joined by 300 denier polyester spine cover extending the entire

length of the spine and bound by a 3-ring plastic fixture. The polyolefin plastic covers are of a specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). During construction, the polyester covering is sewn to the front cover face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. During construction, the polyester cover is sewn to the back cover with the outside of the polyester spine cover to the inside back cover. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. Each ring within the fixture is comprised of a flexible strap portion that snaps into a stationary post which forms a closed binding ring. The ring fixture is riveted with six metal rivets and sewn to the back plastic cover and is specifically positioned on the outside back cover. The product must bear the valid trademark FiveStar Flex™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

Merchandise subject to this order is typically imported under headings 4810.22.5044, 4811.90.9050, 4820.10.2010, 4820.10.2020, 4820.10.2030, 4820.10.2040, 4820.10.2060, and 4820.10.4000 of the Harmonized Tariff Schedule of the United States ("HTSUS"). The HTSUS headings are provided for convenience and customs purposes; however, the written description of the scope of this order is dispositive.

DISCUSSION OF THE METHODOLOGY

Fair Value Comparisons

To determine whether sales of CLPP from Riddhi and SAB were made in the United States at less than normal value (NV), we compared the export price (EP) to the NV, as described in the "Export Price" and "Normal Value" sections of this notice. In particular, the Department compared monthly, weighted-average export prices with monthly, weighted-average normal values, and granted offsets for negative comparison results in the calculation of the weighted-average dumping margins.¹³

Export Price

For all U.S. sales made by Riddhi and SAB, we used the EP methodology, in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation. We based EP on packed prices to the first unaffiliated purchaser in the United States. When appropriate, we reduced the EP prices to reflect discounts.

In accordance with section 772(c)(2)(A) of the Act, we made deductions, where appropriate, for movement expenses including foreign inland freight from plant/warehouse to the port of exportation, foreign brokerage and handling, and foreign bill of lading charges. We also increased EP by an amount equal to the countervailing duty (CVD) attributed to export

¹³ See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification, 77 FR 8101 (February 14, 2012) ("Final Modification for Reviews").

subsidies in the most recently completed CLPP from India CVD segment¹⁴ to which the respondents were subject, in accordance with section 772(c)(1)(C) of the Act.

Normal Value

Selection of Comparison Market

To determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we normally compare respondent's volume of home market sales of the foreign like product to the volume of their U.S. sales of the subject merchandise. Riddhi and SAB reported that they have no sales of the foreign like product in the home market.

Section 773(a)(1)(C)(i) of the Act applies to the Department's determination of NV if the foreign like product is not sold (or offered for sale) for consumption in the exporting country. When sales in the home market are not viable, section 773(a)(1)(B)(ii) of the Act provides that sales to a particular third country market may be utilized if: (1) the prices in such market are representative; (2) the aggregate quantity of the foreign like product sold by the producer or exporter in the third country market is five percent or more of the aggregate quantity of the subject merchandise sold in or to the United States; and (3) the Department does not determine that a particular market situation in the third country market prevents a proper comparison with the U.S. price.

In its Section A QR, dated March 27, 2012, at page A-2 and Exhibit A-1, Riddhi reported its quantity and value of sales of foreign like product made to its three largest third country markets: Costa Rica, Nicaragua, and Panama. Based on this data, we find that Nicaragua is the largest third country market during the POR. We also find that sales to Nicaragua meet the Department's five percent threshold for viability because its sales of the foreign like product are of sufficient quantity to form the basis of normal value. See 19 CFR 351.404(b)(2).

In its March 19, 2012, Section A questionnaire response (Sec. AQR) at page A-4 and Exhibit A-1, SAB reported the quantity and value of sales of foreign like product made to its three largest third country markets: Ethiopia, Puerto Rico, and Guyana. Based on this data, we find that Ethiopia is SAB's largest third country market during the POR. In addition, we find that only the sales to Ethiopia meet the Department's five percent threshold for viability because its sales of the foreign like product are of sufficient quantity to form the basis of normal value. See 19 CFR 351.404(b)(2).

The Department has examined Riddhi and SAB's reported third country sales quantity and volume and preliminarily finds that Riddhi and SAB have satisfied the aforementioned criteria. Therefore, we have used Riddhi's third country sales to Nicaragua and SAB's sales to Ethiopia as the basis for calculating NV, in accordance with section 773(a)(4) of the Act.

¹⁴ For the most recently completed CVD segment for Riddhi and SAB, see Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Lined Paper Products from India, 71 FR 45034, 45035 (August 8, 2006).

Product Comparisons

For purposes of calculating NV, section 771(16) of the Act defines “foreign like product” as merchandise which is either (1) identical or (2) similar to the subject merchandise sold in the United States.

We have relied on eight physical characteristics to define subject merchandise and foreign like product and to match U.S. sales of subject merchandise to comparison market sales of the foreign like product: (1) form, (2) paper volume, (3) brightness, (4) binding type, (5) cover material, (6) back material, (7) number of inserts, and (8) insert material. Foreign like product is found to be identical to the subject merchandise when these eight physical characteristics are identical. Where there were no sales of identical merchandise in the comparison market in the ordinary course of trade to match with U.S. sales, we identified the most similar foreign like product sold in the comparison market on the basis of the physical characteristics listed above, and made an adjustment to the NV for differences in cost attributable to differences in the actual physical characteristics between the product sold in the United States and the product sold in the comparison market.¹⁵

Calculation of Normal Value Based on Comparison Market Prices

For Riddhi and SAB, we based comparison market prices on packed prices to unaffiliated customers in Riddhi’s third-country market, Nicaragua, and in SAB’s third-country market, Ethiopia. Where appropriate, in accordance with section 773(a)(6)(B) of the Act, we deducted inland freight expenses from the starting price. Pursuant to 19 CFR 351.401(c), we made deductions from the starting price, when appropriate, for discounts and rebates. In accordance with sections 773(a)(6)(A) and (B) of the Act, we added U.S. packing costs and deducted comparison market packing, respectively. We also deducted comparison market movement expenses pursuant to section 773(a)(6)(B) of the Act. In addition, for comparisons made to EP sales, we made adjustments for differences in circumstances of sale (COS) pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(b). Specifically, we made adjustments to normal value for comparison to Riddhi and SAB’s EP transactions by deducting direct selling expenses incurred for comparison market sales (i.e., credit expenses) and adding U.S. direct selling expenses (i.e., credit expenses) and U.S. commissions. See section 773(a)(6)(C)(iii) of the Act, and 19 CFR 351.410(c).

When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacture for the foreign like product and subject merchandise, using period-wide, weighted-average costs.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP, to the extent possible. If the

¹⁵ See 19 CFR 351.411 and section 773(a)(6)(C)(ii) of the Act.

comparison market sales are at a different LOT and the differences affect price comparability, as manifested in a pattern of consistent price differences between sales at different LOTs in the country in which NV is determined, we make an LOT adjustment under section 773(a)(7)(A) of the Act.

Pursuant to 19 CFR 351.412, to determine whether EP and NV sales were at different LOTs, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated (or arm's-length) customers.

Based on our analysis of the selling activities in the third country market and in the U.S market reported by Riddhi, there is one single level of trade for all sales in both the third country market (Nicaragua) and the U.S. market.¹⁶ Similarly, our analysis of the selling activities in the third country market and in the U.S market reported by SAB also show that there is only one single level of trade for all sales in both the third country market (Ethiopia) and the U.S. market.¹⁷ We further find that the third country market LOT is not at a more advanced stage than the US LOT for both Riddhi and SAB.

Therefore, we did not make an LOT adjustment under 19 CFR 351.412(e) because there was only one third-country market LOT for each respondent and we were unable to identify a pattern of consistent price differences attributable to differences in LOTs. See 19 CFR 351.412(d).

For a detailed description of our LOT methodology and a summary of respondent-specific LOT findings for these preliminary results, see Riddhi and SAB's October 1, 2012, preliminary results calculation memorandums.

Date of Sale

The Department normally uses the date of invoice as the date of sale. However, the Department may use a date other than the date of invoice (e.g., the date of contract in the case of a long-term contract) if satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale (e.g., price, quantity). See 19 CFR 351.401(i) of the regulations.

Riddhi reports that for "both for U.S. market and third country market sales, there are no further changes to the agreed price and quantity once the commercial invoice is issued. Hence, the commercial invoice date sets out the final terms of sale."¹⁸ Accordingly, we have relied on invoice date as the sale date for both the U.S. market and Riddhi's third country market, Nicaragua.

SAB also reports the commercial invoice date as the date of sale for both the comparison market and the U.S. market sales because the price and quantity did not change after the issuance of the

¹⁶ See Riddhi's Sec. AQR, at Exhibit A-5.

¹⁷ See SAB's Sec. AQR, at page A-14-17 and Exhibit A-3.

¹⁸ See Riddhi's Section B at pages B-20-21 and Section C at pages C-17-18.

invoice.¹⁹ Accordingly, we have relied on invoice date as the sale date for both the U.S. market and SAB's third country market, Ethiopia.

Cost of Production Analysis

In regard to Riddhi, because the Department disregarded below-cost sales in the most recently completed segment of the proceeding in which Riddhi participated,²⁰ we have reasonable grounds to believe or suspect that comparison market sales of the foreign like product by Riddhi were made at prices below the COP during the POR, in accordance with section 773(b)(2)(A)(ii) of the Act. Therefore, we required Riddhi to submit a response to Section D of the Department's questionnaire.

With respect to SAB, the Department initiated a sales-below-cost-of-production investigation based on petitioner's sales-below-cost-of-production allegation.²¹

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated a weighted-average COP by model based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses (G&A). We have made no adjustments to Riddhi and SAB's reported costs for these preliminary results.

Based on the review of record evidence, Riddhi and SAB did not appear to experience significant changes in cost of materials (COM) during the POR. Therefore, for both Riddhi and SAB, we followed our normal methodology of calculating a weighted-average cost for the POR.

2. Test of Comparison Market Prices and COP

As required under section 773(b)(2) of the Act, we compared the weighted-average COP for the respondents to their comparison market sales prices of the foreign like product, as required under section 773(b) of the Act, to determine whether these sales had been made at prices below the COP within an extended period of time (i.e., normally a period of one year) in substantial quantities and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. On a model-specific basis, we compared the COP to the comparison market prices, less any applicable movement charges, discounts, rebates, and direct and indirect selling expenses.

¹⁹ See SAB's Sec. BQR, at page B-21 and Sec. CQR at page C-21.

²⁰ See Certain Lined Paper Products from India: Notice of Final Results of Antidumping Duty Administrative Review, 77 FR 14729 (March 13, 2012).

²¹ See Cost Initiation Memo.

3. Results of COP Test

The Act directs us to disregard below-cost sales where: (1) 20 percent or more of the respondent's sales of a given product during the POR were made at prices below the COP in accordance with sections 773(b)(2)(B) and (C) of the Act; and (2) based on comparisons of prices to weighted-average COPs for the POR, below-cost sales of the product were at prices that would not permit recovery of all costs within a reasonable time period, in accordance with section 773(b)(2)(D) of the Act.

As discussed in further detail in the preliminary calculation memoranda, we found that Riddhi and SAB made sales below cost and we disregarded such sales where appropriate. See Preliminary Calculation Memorandum for Riddhi, and Preliminary Calculation Memorandum for SAB, both dated October 1, 2012.

Calculation of Normal Value Based on Constructed Value

In accordance with section 773(a)(4) of the Act, we used constructed value as the basis for normal value when there were no above cost sales of the foreign like product in the comparison market. We calculated constructed value in accordance with section 773(e) of the Act. We included the cost of materials and fabrication, selling, general & administrative (SG&A) expenses, U.S. packing expenses, and profit in the calculation of constructed value. In accordance with section 773(e)(2)(A) of the Act, we based selling SG&A expenses and profit on the amounts incurred and realized by each respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the comparison market. When appropriate, we made adjustments to constructed value in accordance with section 773(a)(8) of the Act, 19 CFR 351.410, and 19 CFR 351.412 for circumstance-of-sale differences and level-of-trade differences. For comparisons to EP, we made circumstance-of-sale adjustments by deducting home market direct selling expenses from and adding U.S. direct selling expenses to constructed value.

Rate for Non-Selected Companies

In accordance with section 777A(c)(2)(B) of the Act, the Department limited its examination of respondents, as the large number of companies involved would have made individual review impracticable.²² As discussed above in "Selection of Respondents for Individual Examination" section, the Department issued a Q&V questionnaire to 13 Indian companies. In addition to Riddhi and SAB, only the following six companies responded to the Department's Q&V responses: Akar Limited; Lodha Offset Ltd.; Magic; Navneet; Orient Press Limited; and SGM Paper Products. Because we only selected Riddhi and SAB as mandatory respondents, these six cooperative respondents were not reviewed individually in this segment of the proceeding.²³

²² See the Department's November 10, 2011, Memorandum entitled, "Customs and Border Protection Data for Selection of Respondents for Individual Review" ("Respondent Selection Memo").

²³ The five non-cooperative companies who failed to respond to the Q&V questionnaire are discussed separately in the section titled "Use of Facts Otherwise Available and Adverse Inferences," below.

The statute and the Department's regulations do not directly address the establishment of a rate to be applied to individual companies not selected for individual examination where the Department limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. However, the Department's practice in cases involving limited selection based on exporters accounting for the largest volumes of trade has been to look to section 735(c)(5) of the Act for guidance, which provides instructions for calculating the all-others rate in an investigation. Section 735(c)(5)(A) of the Act instructs that we are not to calculate an all-others rate using any zero or *de minimis* rates or any rates based entirely on facts available. Section 735(c)(5)(B) of the Act also provides that, where all rates are zero rates, *de minimis* rates, or rates based entirely on facts available, we may use "any reasonable method" for assigning the rate to non-selected respondents. In this instance, we have calculated rates above *de minimis* for both Riddhi and SAB.

Consistent with the Department's practice, we have established a margin for 50 non-selected companies,²⁴ including the six cooperative companies who responded to the Department's Q&V questionnaire but were not selected as mandatory respondents. The rate for these non-selected companies is calculated based on the rate we calculated for the two mandatory respondents, Riddhi and SAB, excluding, where appropriate, any rates that were zero, *de minimis*, or based entirely on AFA.²³

Use of Facts Otherwise Available and Adverse Inferences

Sections 776(a)(1) and (2) of the Tariff Act of 1930, as amended ("the Act"), provide that the Department shall apply "facts otherwise available" if, *inter alia*, necessary information is not on the record or if an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

²⁴ Abhinav Paper Products Pvt Ltd.; American Scholar, Inc. and/or I-Scholar; Akar Limited; Apl Logistics India Pvt. Ltd.; AR Printing & Packaging (I); Artesign Impex; Arun Art Printers Pvt. Ltd.; Aryan Worldwide; Bafna Exports; Cargomar Pvt. Ltd.; Cello International Pvt. Ltd. (M/S Cello Paper Products); Corporate Stationery Pvt. Ltd.; Crane Worldwide Logistics Ind Pvt.; Creative Divya; D.D International; Exel India (Pvt.) Ltd.; Exmart International Pvt. Ltd.; Expeditors International (India) Pvt/Expeditors Cargo Mgmt Systems; Fatechand Mahendrakumar; FFI International; Freight India Logistics Pvt. Ltd.; Gauriputra International; International Greetings Pvt. Ltd.; Karur K.C.P. Packagings Ltd; Kejriwal Paper Ltd. and Kejriwal Exports; Lodha Offset Limited; M.S. The Bell Match Company; Magic International Pvt Ltd; Mahavideh Foundation; Marisa International; Navneet Publications (India) Ltd.; Orient Press Ltd.; Paperwise Inc.; Phalada Agro Research Foundations; Premier Exports; Raghunath Exporters; Rajvansh International; SAI Suburi International; SAR Transport Systems; SDV Intl Logistics Ltd.; Seet Kamal International; SGM Paper Products; Shivam Handicrafts; Soham Udyog; Sonal Printers Pvt. Ltd.; Super Impex; Swati Growth Funds Ltd.; Swift Freight (India) Pvt. Ltd; V&M; and Yash Laminates. See, also, the "Preliminary Results of the Review" section, under the subheading "Rate for the 50 Non-Selected/Cooperative Companies," of the Federal Register notice for this proceeding, Certain Lined Paper Products from India: Antidumping Duty Administrative Review: 2010-2011, dated October 1, 2012.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information.

Non-Cooperative Companies

As explained in the “Selection of Respondents for Individual Examination” section, on December 8, 2011, based on the CBP information the Department issued Q&V questionnaire to 13 companies subject to review and requested that they respond to the Department’s Q&V questionnaire for purposes of mandatory respondent selection. We have confirmation regarding the delivery of the Q&V questionnaires to these companies.²⁵ The following five companies failed to respond to the Department’s requests for Q&V data: Ampoules & Vials Mfg Co Ltd.; AR Printing & Packaging (India) PVT; Chitra Exports; Diki Continental Exports; and Pioneer.²⁶

By failing to respond to the Department’s Q&V questionnaire, these five companies withheld requested information and significantly impeded the proceeding. As a result, necessary information is not on the record. Moreover, by not responding to requests for information concerning the Q&V of their sales, the companies impeded the respondent selection analysis. Thus, pursuant to sections 776(a)(2)(A) and (C) of the Act, because these companies did not respond to the Department’s questionnaire and necessary information is missing from the record, the Department preliminarily determines to use facts otherwise available with regard to these five companies.

We further preliminarily determine that an adverse inference is warranted, pursuant to section 776(b) of the Act because, by failing to submit responses to the Department’s Q&V questionnaire, these companies did not cooperate to the best of their ability in this review.

Selection of AFA Rate

In deciding which facts to use as adverse facts available (“AFA”), section 776(b) of the Act and 19 CFR 351.308(c)(1) and (2) authorize the Department to rely on information derived from: (1) The petition; (2) a final determination in the investigation; (3) any previous review or determination; or (4) any other information placed on the record.

²⁵ See Respondent Selection Memo (Delivery Confirmation Memo). In addition, the Department placed documentation on the record confirming delivery of the questionnaires to each of these companies. See the memorandum to the File from Cindy Robinson, Senior Analyst, entitled, “Placing FedEx’s Delivery Information on the Record Regarding the 2010-2011 Antidumping Duty Administrative Review on Certain Lined Paper Products from India,” dated August 22, 2012.

²⁶ See also the “Preliminary Results of the Review” section, under the subheading “AFA Rate for the five Un-cooperative Companies,” of the Federal Register notice for this proceeding, Certain Lined Paper Products from India: Antidumping Duty Administrative Review; 2010-2011, dated October 1, 2012.

The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the rate is sufficiently adverse "as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner."²⁷ The Department's practice also ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully."²⁸

Pursuant to section 776(b) of the Act, we are relying on information on the record in this proceeding from the cooperative respondents.²⁹ However, because this information is from cooperative respondents, we have determined to use the highest calculated margin for a respondent in this review in order to ensure that the AFA rate is sufficiently adverse so as to induce cooperation. Accordingly, we have preliminarily determined that a 36.27 percent rate is appropriate as AFA and are assigning this rate to the five uncooperative companies: Ampoules & Vials Mfg Co Ltd.; AR Printing & Packaging (India) PVT; Chitra Exports; Diki Continental Exports; and Pioneer.

Currency Conversion

For purposes of these preliminary results, we made currency conversions in accordance with section 773A(a) of the Act, based on the official exchange rates published by the Federal Reserve Bank. See Preliminary Calculation Memorandum for Riddhi, and Preliminary Calculation Memorandum for SAB, both dated October 1, 2012.

²⁷ See, e.g., Certain Steel Concrete Reinforcing Bars from Turkey; Final Results and Rescission of Antidumping Duty Administrative Review in Part, 71 FR 65082, 65084 (Nov. 7, 2006). See also, Certain Frozen Warmwater Shrimp from India: Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review, 72 FR 65082, 65084 (Nov. 7, 2006), unchanged in the final results; Certain Frozen Warmwater Shrimp from India: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 72 FR 65082, 65084 (Nov. 7, 2006).

²⁸ See Statement of Administrative Action ("SAA") accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103-316, Vol. I, at 870 (1994), reprinted at 1994 U.S.C.C.A.N. 4040, 4199.

²⁹ See Memorandum to File through Jim Terpstra, Program Manager, AD/CVD Operations 3, from the Team, titled "Certain Lined paper Products from India: Notice of Preliminary Results of Antidumping Duty Administrative Review: Selection of Total Adverse Facts-Available Rate, (AFA Memo)" dated October 1, 2012.

RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

✓
Agree

Disagree

Paul Piquado
Paul Piquado
Assistant Secretary
for Import Administration

1 OCTOBER 2012
Date