



A-533-843
Administrative Review
POR: 9/1/2013-8/31/2014
Public Document
AD/CVD III: CR/GM

DATE: September 30, 2015

MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh *CM*
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; 2013-2014

I. SUMMARY

In response to requests from interested parties, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty (AD) order on certain lined paper products from India.¹ The period of review (POR) is September 1, 2013, through August 31, 2014. We initiated this review with respect to seven Indian producers/exporters of subject merchandise.² We subsequently rescinded the review with respect to three companies for which all review requests were timely withdrawn.³ In addition, subsequent to the initiation of the administrative review, we determined that Kokuyo Riddhi Paper Products Private Limited (Kokuyo Riddhi) is the successor-in-interest to Riddhi Enterprises.⁴ Accordingly, we refer to Kokuyo Riddhi and Riddhi Enterprises as Kokuyo Riddhi in this review. This review covers two mandatory respondents, Kokuyo Riddhi and SAB, and one non-selected respondent, Navneet.

¹ See *Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from the People's Republic of China; Notice of Antidumping Duty Orders: Certain Lined Paper Products from India, Indonesia and the People's Republic of China; and Notice of Countervailing Duty Orders: Certain Lined Paper Products from India and Indonesia*, 71 FR 56949 (September 28, 2006) (CLPP AD India Order).

² See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 79 FR 64565 (November 30, 2014) (*Initiation Notice*). The seven companies are: Kokuyo Riddhi Paper Products Private Limited (Kokuyo Riddhi), Marisa International (Marisa), Navneet Publications (India) Ltd./Navneet Education Limited (Navneet), Pioneer Stationery Private Limited (Pioneer), Riddhi Enterprises, SAB International (SAB), and Super Impex (AKA M/S Super Impex) (Super Impex).

³ The three rescinded companies are Marisa, Pioneer, and Super Impex. See *Certain Lined Paper from India: Partial Rescission of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 15553 (March 24, 2015) (*Partial Rescission Notice*).

⁴ See *Certain Lined Paper Products From India: Notice of Final Results of Antidumping Duty Changed Circumstances Review*, 80 FR 18373 (April 6, 2015) (*Final Results of CCR – Kokuyo Riddhi*), and the accompanying Issues and Decision Memorandum.



We preliminarily find that Kokuyo Riddhi made sales of subject merchandise at less than normal value (NV) during the POR, and SAB did not.

Interested parties are invited to comment on these preliminary results. We intend to 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). Upon issuance of the final results, we will instruct U.S. Customs and Border Protection (CBP) to assess ADs on all appropriate entries of subject merchandise during the POR.

II. BACKGROUND

A. Initiation of the Administrative Review

On September 2, 2014, the Department published a notice of opportunity to request an administrative review of the *CLPP AD India Order*.⁵ On September 30, 2014, the Department received letters requesting an administrative review from the following five companies: Kokuyo Riddhi, Marisa, Navneet, Pioneer, and Super Impex.⁶ On the same day, Petitioners⁷ also filed requests for review with respect to the following seven companies: Kokuyo Riddhi, Marisa, Navneet, Pioneer, Riddhi Enterprises, SAB, and Super Impex.⁸

Pursuant to requests from interested parties, on October 30, 2014, the Department initiated an administrative review with respect to seven companies for the period September 1, 2013, through August 31, 2014.⁹ Pursuant to 19 CFR 351.213(d)(1), the deadline to timely file withdrawal of review requests was January 28, 2015.

B. Partial Rescission of the 2013-2014 Administrative Review

On December 12, 2014, Navneet timely withdrew its request for administrative review. On January 28, 2015, the following four companies timely withdrew their requests for the instant administrative review: Kokuyo Riddhi, Marisa, Pioneer, and Super Impex. On January 28, 2015, Petitioners also timely withdrew their request for administrative review of the following three companies: Marisa, Pioneer, and Super Impex.¹⁰

On March 24, 2015, the Department rescinded this review with respect to Marisa, Pioneer, and Super Impex, in accordance with 19 CFR 351.213(d)(1).¹¹ As stated above, the Department has

⁵ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 79 FR 51958 (September 2, 2014).

⁶ See the respective letters from Kokuyo Riddhi, Marisa, Navneet, Pioneer, and Super Impex, dated September 30, 2014.

⁷ Petitioners are the Association of American School Paper Suppliers (AASPS) and its individual members, which consists of the following companies: ACCO Brands USA LLC, Norcom Inc., and Top Flight, Inc. See Petitioners' letter dated September 30, 2014.

⁸ *Id.*

⁹ See *Initiation Notice*.

¹⁰ See the letter from Navneet dated December 12, 2014, and the respective letters from Kokuyo Riddhi, Marisa, Pioneer, Super Impex, and Petitioners, dated January 28, 2015.

¹¹ See *Partial Rescission Notice*.

determined that Kokuyo Riddhi is a successor-in-interest to Riddhi Enterprises. Accordingly, the instant review covers the remaining three companies: Kokuyo Riddhi, SAB, and Navneet.¹²

C. Selection of Respondents for Individual Examination

In light of the large number of respondents for which an administrative review had been initiated, the Department notified interested parties of its intent to use entry data from CBP for respondent selection, in accordance with section 777A(c)(2) of the Act. On November 10, 2014, the Department placed on the record and released under administrative protective order (APO) to all interested parties with an APO a business proprietary memorandum containing the Customs and Border Protection (CBP) entry data for the POR for imports from India.¹³ We requested comments regarding respondent selection from the interested parties in the CBP Data Release Memo at 3. We did not receive any comments.

The CBP data indicated that all seven companies covered in this review had entries which are subject to the *CLPP AD India Order* during the POR. For purposes of selecting mandatory respondents, we issued a quantity and value (Q&V) questionnaire to these seven Indian producers/exporters on November 14, 2014.¹⁴ All seven companies submitted their Q&V responses between November 25 and 26, 2014.

Based on our analysis of the reported Q&V responses and the Department's resource constraints, the Department issued its respondent selection memorandum on December 30, 2014, and selected Kokuyo Riddhi and SAB International as the mandatory respondents for this review.¹⁵ On December 8, 2014, the Department issued section A-D questionnaires to Kokuyo Riddhi and SAB.

D. Kokuyo Riddhi

After granting three extension requests, Kokuyo Riddhi submitted its original questionnaire response for section A on January 29, 2015 (Kokuyo Riddhi AQR), and submitted its sections B-D responses on February 23, 2015. On March 11, 2015, Petitioners submitted their comments on Kokuyo Riddhi's responses to sections A-D of the questionnaire. The Department issued its first supplemental questionnaire for sections A-D to Kokuyo Riddhi on April 22, 2015, to which Kokuyo Riddhi submitted its responses on May 26, 2015. On June 9, 2015, Petitioners submitted their comments on Kokuyo Riddhi's first supplemental questionnaire response. On June 12, 2015, the Department issued its second supplemental questionnaires for sections A-D to Kokuyo Riddhi, and Kokuyo Riddhi submitted its response on June 25, 2015.

¹² Kokuyo Riddhi and Navneet remain in the instant review because Petitioners also requested a review of these companies and Petitioners' withdrawal request did not include these two particular companies.

¹³ See the Department's Memorandum titled, "Respondent Selection and Release of Customs and Border Protection (CBP) Data Query Results," dated November 10, 2014 (CBP Data Release Memorandum).

¹⁴ See Memorandum to the File titled, "Issuance of Quantity and Value Questionnaires," dated November 12, 2014.

¹⁵ See Memorandum to Melissa Skinner, Director, Office III, AD/CVD Operations, Enforcement and Compliance, titled "Certain Lined Paper Products from India, Antidumping Duty Administrative Review, 2013-2014: Selection of Respondents for Individual Examination" dated December 8, 2014 (Respondent Selection Memorandum).

On June 25, 2015, the Department issued its verification outlines for both the sales and cost of production (COP) responses submitted by Kokuyo Riddhi. The Department conducted the sales and cost verifications of Kokuyo Riddhi in Mumbai, India, between July 6, 2015, and July 17, 2015. On September 2, 2015, the Department issued both the Sales Verification Report and the Cost Verification Report to Kokuyo Riddhi and interested parties.¹⁶ For detailed discussion of the sales and cost verification procedures and findings, *see* Kokuyo Riddhi's Sales Verification Report and Cost Verification Report, respectively. *See also* "Kokuyo Riddhi Preliminary Sales and Cost Calculation Memorandum" for the changes made to Kokuyo Riddhi's sales and COP databases based on the Department's verification findings.¹⁷

On September 15, 2015, Petitioners submitted comments in advance of these preliminary results, which reiterate certain arguments they previously raised regarding Kokuyo Riddhi's reported sales and cost responses.¹⁸

E. SAB

After granting two extension requests, SAB submitted its original questionnaire response for section A on January 25, 2015 (SAB AQR), submitted its sections B-C responses on February 9, 2015, and its section D response on February 23, 2015. On February 23, 2015, Petitioners submitted their comments on SAB's responses to sections A-C of the questionnaire and submitted an allegation asserting that SAB's reported third country sales did not constitute a viable market.¹⁹ The Department issued its first supplemental questionnaire for sections A-D to SAB on March 16, 2015, to which SAB submitted its responses on April 27, 2015, after receiving two extensions.

On March 16, 2015, the Petitioners submitted a request that the Department initiate a sales-below-cost investigation of Kokuyo Riddhi and SAB, stating that in the last completed administrative review, the Department found that both Riddhi Enterprises and SAB made below-cost sales in their comparison markets (CM).²⁰

¹⁶ *See* Memorandum to File, through Eric B. Greynolds, Program Manager, Office III, from Cindy Robinson and Eve Wang, International Trade Compliance Analysts, Office III, titled "Verification of the Sales Response of Kokuyo Paper Products Private Limited in the Antidumping Review of Certain Lined Paper Products from India" (Sales Verification Report), and Memorandum to File, through Eric B. Greynolds, Program Manager, Office 3, from Cindy Robinson and Eve Wang, International Trade Compliance Analysts, Office III, titled "Verification of the Cost of Production Response of Kokuyo Paper Products Private Limited in the Antidumping Review of Certain Lined Paper Products from India" (Cost Verification Report), dated September 2, 2015, respectively.

¹⁷ *See* Memorandum to File through Eric B. Greynolds, Program Manager, AD/CVD Operations, Office III, from Cindy Robinson, Case Analyst, AD/CVD Operations, Office III, titled "Preliminary Sales and Cost of Production Calculation Memorandum for Kokuyo Riddhi Paper Products Private Limited (Kokuyo Riddhi)" dated concurrently with this memorandum (Kokuyo Riddhi Preliminary Sales and Cost Calculation Memorandum).

¹⁸ *See* Petitioners' letter titled, "Pre-Preliminary Comments on Riddhi's Questionnaire Responses and Proper Margin Calculations," dated September 14, 2015.

¹⁹ *See* Petitioners' letters titled, "Petitioner's HM Viability Allegation Regarding SAB" and "Deficiency Comments on SAB's Sections A-C Questionnaire Response," dated February 23, 2015.

²⁰ The Department previously found that both Riddhi Enterprises and SAB made below-cost sales in their comparison markets. *See Certain Lined Paper Products From India: Final Results of Antidumping Duty Review; 2010-2011*, 78 FR 22232, 22233 (April 15, 2013) and accompanying Decision Memorandum. Accordingly, we issued section D questionnaires to Riddhi Enterprises and SAB on December 8, 2014, with Sections A, B, C, and E of the initial questionnaire.

On June 3, 2015, Petitioners submitted their comments on SAB's first supplemental questionnaire response. On July 15, 2015, the Department issued its second supplemental questionnaire for section D to SAB, to which SAB submitted its response on July 16, 2015.

On April 27, 2015, the Department extended the time limit for the preliminary results by 120 days.²¹ On June 11, 2015, the Department issued a memorandum²² to provide all interested parties an opportunity to comment and submit new factual information on constructed value (CV) profit and selling expenses to be used in this review for SAB, because SAB's CM sales fell below the Department's five percent threshold for determining viability and, thus, we could not use SAB's own profit percentage from the CM for calculation of CV.²³

On June 19, 2015, SAB submitted the financial statements of two companies, Sundaram Multi Pap Ltd. (Sundaram) and Vata Paper Limited (Vata) for purposes of the Department's calculations of CV profit and selling expenses for SAB.²⁴ On June 19, 2015, Petitioners submitted the financial statement of Navneet for purposes of the Department's calculations of CV profit and selling expenses for SAB.²⁵ On June 26, 2015, SAB submitted rebuttal comments regarding the CV profit information submitted by Petitioners.²⁶

On September 15, 2015, Petitioners submitted comments which reiterate certain arguments they previously raised regarding SAB's reported sales and cost responses.²⁷

III. 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 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

²¹ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through Melissa Skinner, Director, Office III, Antidumping and Countervailing Duty Operations, from Cindy Robinson, Case Analyst, Office III, titled "Certain Lined Paper Products from India: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review; 2013-2014," dated April 27, 2015.

²² See Memorandum titled "Request for Constructed Value Profit and Selling Expenses Comments and Information," dated June 11, 2015.

²³ See SAB's Sec. AQR at Exhibit A-1 and page 2; *see also* revised data in SAB's Section A-D supplemental questionnaire response dated April 27, 2015 at Exhibits S1-1 (a), Exhibits S1-1 (b), and the accompanying SAB's U.S. and Third Country sales database for sales during the POR.

²⁴ See SAB's "Submission of factual information for Constructed Value Profit," dated June 19, 2015.

²⁵ See the Petitioners' submission titled, "CV Profit Information" dated June 19, 2015.

²⁶ See SAB's "Rebuttal Comments to the CV Profit Information Submitted by the Petitioners," dated June 26, 2015.

²⁷ See Petitioners' letter titled, "Pre-Preliminary Comments on SAB's Questionnaire Responses and Proper Margin Calculations," dated September 14, 2015.

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 4811.90.9035, 4811.90.9080, 4820.30.0040, 4810.22.5044, 4811.90.9050, 4811.90.9090, 4820.10.2010, 4820.10.2020, 4820.10.2030, 4820.10.2040, 4820.10.2050, 4820.10.2060, and 4820.10.4000 of the HTSUS. The HTSUS headings are provided for convenience and customs purposes; however, the written description of the scope of this order is dispositive.

IV. DISCUSSION OF THE METHODOLOGY

A. Date of Sale

Section 351.401(i) of the Department's regulations states that the Department normally will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The regulation provides further that the Department may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale (such as price and quantity) are established.

Kokuyo Riddhi reported the commercial invoice date as the date of sale in both the U.S. market and comparison market, and nothing on the record suggests that a different date better reflects the date on which the material terms of sale are established.²⁸ Thus, for Kokuyo Riddhi, we are basing the date of sale on the commercial invoice date.

SAB originally reported the earlier of the commercial invoice date or date of shipment as the date of sale.²⁹ Pursuant to the Department's first supplemental questionnaire, SAB later revised its sales database to report the proforma invoice date in its claimed date of sale field.³⁰ SAB indicated that the proforma invoice memorializes the final sales terms³¹ and reported that it found that "there are no instances of changes which occurred either after the initial proforma invoice or first receipt of payment."³² Based on this, we find that, for SAB, the proforma invoice date reflects the date on which the material terms of sale are better established than the commercial invoice or shipment date. Accordingly, for SAB, we are using the proforma invoice date as the date of sale for these preliminary results.

²⁸ See Kokuyo Riddhi's Sections B and C Questionnaire Responses, dated February 23, 2015, at B-22 and C-20, respectively.

²⁹ See SAB AQR, at page 17.

³⁰ See SAB's First Supplemental Sections A-D response, dated April 27, 2015 (SAB Sec. A-D QR).

³¹ See SAB's Section A Response at 17-18.

³² See SAB Sec. A-D QR at 6.

B. Comparisons to Normal Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), in order to determine whether sales of subject merchandise to the United States were made at less than NV, we compared export price (EP) to NV, as described in the “U.S. Price,” and “Normal Value” sections of this decision memorandum.

C. Product Comparisons

Section 771(16) of the Act directs us to compare the prices of products produced by respondent(s) and sold in the U.S. market with the prices of comparison products sold in the home market. The comparison products were either identical or most similar in terms of the physical characteristics to the product sold in the United States. In the order of importance for the *CLPP AD India Order*, these physical characteristics are: (1) form, (2) paper volume, (3) brightness, (4) binding type, (5) cover material, (6) back material, (7) number of inserts, and (8) insert material.

D. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average constructed export prices (CEPs) or EPs (the average-to-average or A-to-A method), unless the Secretary determines that another method is appropriate in a particular situation. In AD investigations, the Department examines whether to use the average-to-transaction (A-to-T) 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 the Department’s examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in AD investigations.³³ In recent investigations, the Department applied a “differential pricing” (DP) analysis for determining whether application of A-to-T comparisons is appropriate pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.³⁴ The Department finds the DP analysis used in these preliminary results and other recent proceedings may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative

³³ See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Review; 2010-2011*, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum at Comment 1.

³⁴ See Memoranda to Paul Piquado, Assistant Secretary for Import Administration, from Abdelali Elouaradia, Director of AD/CVD Operations Office 4, entitled “Less Than Fair Value Investigation of Xanthan Gum from Austria: Post-Preliminary Analysis and Calculation Memorandum;” “Less than Fair Value Investigation of Xanthan Gum from the People’s Republic of China: Post-Preliminary Analysis and Calculation Memorandum for Neimenggu Fufeng Biotechnologies Co., Ltd. (aka Inner Mongolia Fufeng Biotechnologies Co., Ltd.) and Shandong Fufeng Fermentation Co., Ltd.,” and “Less than Fair Value Investigation of Xanthan Gum from the People’s Republic of China: Post-Preliminary Analysis and Calculation Memorandum for Deosen Biochemical Ltd.,” all dated March 4, 2013.

review.³⁵ The Department intends to continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the A-to-A method in calculating weighted-average dumping margins.

The DP analysis used in these preliminary results requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differs significantly among purchasers, regions, or time periods.³⁶ If such a pattern is found, then the DP analysis evaluates whether such differences can be taken into account when using the A-to-A method to calculate the weighted-average dumping margin. The DP analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. For Kokuyo Riddhi and SAB, the purchasers are based on the reported customer names and regions are defined using the reported states or zip codes, which 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 being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region, and time period, that the Department uses in making comparisons between EP and NV for the individual dumping margins.

In the first stage of the DP analysis used here, the "Cohen's *d* test" is applied. The Cohen's *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen's *d* coefficient is calculated when the test and comparison groups of data 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 net prices to a particular purchaser, region or time period differ significantly from the net 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. Of these thresholds, the large threshold (*i.e.*, 0.8) provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered

³⁵ See, e.g., *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and New Shipper Reviews; 2011-2012*, 78 FR 40692 (July 8, 2013); *Certain Activated Carbon From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 26748 (May 8, 2013); *Certain Steel Threaded Rod From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 21101 (April 9, 2013) (*Steel Threaded Rod*); *Polyester Staple Fiber From Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 17637 (March 22, 2013) (*Polyester Staple Fiber*).

³⁶ As noted above, the DP analysis has been utilized in recent investigations to determine the appropriate comparison methodology. It has also been used in several recent AD administrative reviews. See, e.g., *Steel Threaded Rod; Circular Welded Carbon Steel Pipes and Tubes From Thailand: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 21105 (April 9, 2013); *Polyvinyl Alcohol From Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2010-2012*, 78 FR 20890 (April 8, 2013); and *Polyester Staple Fiber*.

significant 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 EPs that differ significantly supports the consideration of the application of the A-to-T method to all sales as an alternative to the A-to-A 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 A-to-T method to those sales identified as passing the Cohen's *d* test as an alternative to the A-to-A method, and application of the A-to-A 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 A-to-A 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 EPs (or CEPs) that differ significantly such that an alternative comparison method should be considered, then in the second stage of the DP analysis, we examine whether using only the A-to-A method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative 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 A-to-A method only. If the difference between the two calculations is meaningful, then this demonstrates that the A-to-A method cannot account for differences such as those observed in this analysis, and, therefore, an alternative 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 margin between the A-to-A method and the appropriate alternative method where both rates are above the *de minimis* threshold, or 2) the resulting weighted-average dumping margin moves across the *de minimis* threshold.

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

E. Results of the DP Analysis

1. Kokuyo Riddhi

Based on the results of the DP analysis, the Department finds that 63.55 percent of the value of Kokuyo Riddhi's U.S. sales pass the Cohen's *d* test, which confirms the existence of a pattern of prices for comparable merchandise that differ significantly among purchasers, regions or time periods. However, the Department determines that the A-to-A method can appropriately account for such differences because there is a less than 25 percent relative change in the weighted-average dumping margins when calculated using the A-to-A method and an alternative method based on the A-to-T method applied to the U.S. sales which pass the Cohen's *d* test.

Accordingly, the Department determines to use the A-to-A method for all U.S. sales to calculate the weighted-average dumping margin for Kokuyo Riddhi.³⁷

2. SAB

Based on the results of the DP analysis, the Department finds that 84.06 percent of the value of SAB's U.S. sales pass the Cohen's *d* test, which confirms the existence of a pattern of prices for comparable merchandise that differ significantly among purchasers, regions or time periods. However, the Department determines that the A-to-A method can appropriately account for such differences because the resulting weighted-average dumping margin does not move across the *de minimis* threshold when calculated using the A-to-A method and an alternative method based on the A-to-T method applied to the U.S. sales which pass the Cohen's *d* test. Accordingly, the Department determines to use the A-to-A method for all U.S. sales to calculate the weighted-average dumping margin for SAB.

F. U.S. 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)."

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 (e) and (d)."

For all U.S. sales made by Kokuyo 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.

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, marine insurance, and international freight. We also increased EP by an amount equal to the countervailing duty (CVD) attributed to export subsidies in accordance with section 772(c)(1)(C) of the Act. Normally, we adjust EP by adding an amount equal to the CVD rate attributable to export subsidies for the mandatory respondent in question in an amount equal to the CVD rate attributed to export subsidies in the most recently

³⁷ In these preliminary results, the Department applied the weighted-average dumping margin calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012). In particular, for Kokuyo Riddhi and SAB, the Department compared monthly weighted-average EPs with monthly weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

completed CVD review, as it pertains to that respondent.³⁸ However, because Kokuyo Riddhi and SAB were not individually reviewed by the Department during the original CVD investigation or in any subsequent reviews, neither Kokuyo Riddhi nor SAB has its company-specific CVD rate. Therefore, in accordance with our practice, we preliminarily determine that the CVD all others rate of 9.42 percent, which is attributable to export subsidies, is applicable to Kokuyo Riddhi and SAB for purposes of the EP adjustment.³⁹

G. Normal Value

1. Home Market Viability and Comparison Market Selection

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 a respondent's volume of home market sales of the foreign like product to the volume of their U.S. sales of the subject merchandise. Kokuyo Riddhi did not have viable home market sales during the POR. SAB reported that they have no sales of the foreign like product in the home market. Accordingly, for Kokuyo Riddhi and SAB, we cannot calculate NV based upon the methodology set forth in section 773(a)(1)(B)(i) of the Act.

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.

2. Kokuyo Riddhi

Kokuyo Riddhi reported its quantity and value of sales of foreign like product made to its three largest third country markets: Panama, Nicaragua, and Costa Rica.⁴⁰ Sales to these three third-country markets were at volumes greater than five percent of the aggregate U.S. sales during the POR.⁴¹ However, of these viable third country markets, we find that Panama is the largest third country market during the POR.⁴² Accordingly, we have selected Panama as the third country market.⁴³

³⁸ See *Certain Lined Paper Products from India: Notice of Final Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 10876 (February 28, 2011) (2008-2009 CLPP from India) and accompanying Issues and Decision Memorandum at Comment 6.

³⁹ *Id.*

⁴⁰ See Kokuyo Riddhi AQR, at page A-3 and Exhibit A-1.

⁴¹ See 19 CFR 351.404(b)(2).

⁴² See 19 CFR 351.404(e)(2).

⁴³ *Id.*

3. SAB

SAB reported that it made no sales of subject merchandise in the home market during the POR.⁴⁴ SAB reported its quantity and value of sales of foreign like product made to its two largest third country markets: Mexico and Canada.⁴⁵ Based on our analysis of SAB's data, we requested that SAB revise its sales database to report the proforma invoice date for its sales for both its CM and U.S. market.⁴⁶ SAB submitted databases which revised its sale dates based on the date of the proforma invoice for its CM and U.S. markets.⁴⁷ Based on the revised U.S. date of sale reported by SAB, its sales to Mexico do not represent a viable CM because the CM sales fall below the Department's five percent threshold for determining viability.⁴⁸

The Department examined Kokuyo Riddhi and SAB's reported third country sales quantity and volume and preliminarily finds that Kokuyo Riddhi has satisfied the criteria specified in section 773(a)(1)(B)(ii) of the Act, as referenced above. Therefore, we have used Kokuyo Riddhi's third country sales to Panama as the basis for calculating NV. In accordance with section 773(a)(4) of the Act we based SAB's NV on CV because SAB had no viable comparison markets.

4. Level of Trade

Section 773(a)(1)(B) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (LOT) as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).⁴⁹ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.⁵⁰ In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the chain of distribution), including selling functions, class of customer (*i.e.*, customer category), and the level of selling expenses for each type of sale.

Pursuant to 19 CFR 351.412(c)(1), in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either home-market or third-country prices), we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and CEP profit under section 772(d) of the Act.⁵¹ Where NV is

⁴⁴ See SAB's Sec. AQR at Exhibit A-1 and page 2; *see also* revised data in SAB's Section A-D supplemental questionnaire response dated April 27, 2015 at Exhibits S1-1 (a), Exhibits S1-1 (b), and the accompanying SAB's U.S. and Third Country sales database for sales during the POR.

⁴⁵ See SAB AQR, at page 2 and Exhibit A-1. SAB reports that, "during the POR SAB has sales only to United States, Mexico and Canada and to no other third countries. It also does not have any sales in home market." *Id.* at page 2.

⁴⁶ See the Department's Section A-D supplemental questionnaire issued March 16, 2015.

⁴⁷ See SAB's Sec A-D SQR at page 8.

⁴⁸ See 19 CFR 351.404(b)(2).

⁴⁹ See 19 CFR 351.412(c)(2).

⁵⁰ See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997) (*Plate from South Africa*).

⁵¹ See *Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314-1315 (Fed. Cir. 2001).

based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling, general, and administrative (SG&A) expenses, and profit for CV, where possible.⁵²

When the Department is unable to match U.S. sales with sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sales to sales at a different LOT in the comparison market. In comparing EP or CEP sales with sales at a different LOT in the comparison market, where available data make it practicable, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.*, no LOT adjustment could be calculated), then the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.⁵³

Based on our analysis of the selling activities in the third country market and in the U.S. market reported by Kokuyo Riddhi, there is one single level of trade for all sales in both the third country market (Panama) and the U.S. market.⁵⁴ We further find that the third country market LOT is not at a more advanced stage than the U.S. LOT for Kokuyo Riddhi. Therefore, we did not make a LOT adjustment for Kokuyo Riddhi 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).

With respect to SAB, because we preliminarily find that SAB had no viable home market or third-country market during the POR, we based NV on CV. As noted above, when NV is based on CV, the NV LOT is that of the sales from which we derive SG&A and profit. In accordance with 19 CFR 351.412(d)(2), where possible the Department will make its LOT determination under paragraph (d)(1) of that section on the basis of sales of the foreign like product by the producer or exporter. Because it is not possible in this case to make a LOT determination on the basis of sales of the foreign like product in the home or third-country markets, the Department may use sales of different or broader product lines, sales by other companies, or any other reasonable basis. However, SAB made no sales in the home market and its sales to third country markets were not viable.⁵⁵ In addition, there is no detailed information on the record pertaining to SAB's selling activities in the third country markets. Therefore, consistent with the Department's recent decision in *OCTG from Turkey*,⁵⁶ we did not make a LOT adjustment to CV

⁵² *See* 19 CFR 351.412(c)(1)(iii).

⁵³ *See Plate from South Africa*, 62 FR at 61732-33.

⁵⁴ *See* Kokuyo Riddhi's Section A response at pages A-20 – A-22, and Exhibit A-10.

⁵⁵ *See* SAB's Sec. AQR at Exhibit A-1 and page 2; *see also* revised data in SAB's Section A-D supplemental questionnaire response dated April 27, 2015 at Exhibits S1-1 (a), Exhibits S1-1 (b), and the accompanying SAB's U.S. and Third Country sales database for sales during the POR.

⁵⁶ *See Certain Oil Country Tubular Goods From the Republic of Turkey: Preliminary Affirmative determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination*, 79 FR 10484 (February 25, 2014), and the accompanying Preliminary Decision Memorandum at 24, unchanged in *Certain Oil Country Tubular Goods From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances, in Part*, 79 FR 41971 (July 18, 2014) (*OCTG from Turkey*).

in these preliminary results.⁵⁷

For a detailed description of our LOT methodology and a summary of respondent-specific LOT findings for these preliminary results, *see* Kokuyo Riddhi and SAB's calculation memorandum for these preliminary results, dated concurrently with this memorandum.

H. Cost of Production Analysis

In regard to Kokuyo Riddhi, in accordance with section 773(b) of the Act, because the Department disregarded below-cost sales in the most recently completed segment of the proceeding in which Kokuyo Riddhi's predecessor, Riddhi Enterprises, participated,⁵⁸ we have reasonable grounds to believe or suspect that comparison market sales of the foreign like product by Kokuyo Riddhi were made at prices below the COP during the POR, in accordance with section 773(b)(2)(A)(ii) of the Act.⁵⁹ Therefore, we required Kokuyo Riddhi to submit a response to section D of the Department's questionnaire.⁶⁰

We also required SAB to submit a response to Section D of the Department's questionnaire. However, SAB made no sales in the home market and its CM sales were not viable; therefore, there are no prices from SAB for which to test whether they are below cost and we are not conducting a sales below cost investigation of SAB.

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 (COM) and fabrication for the foreign like product, plus amounts for general and administrative expenses (G&A) and interest expenses. We have made no adjustments to Kokuyo Riddhi's reported costs for these preliminary results.

Based on the review of record evidence, Kokuyo Riddhi did not appear to experience significant changes in COM during the POR such that we might consider use of shorter averaging periods. Therefore, for Kokuyo Riddhi, 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) of the Act, we compared the weighted-average COP for Kokuyo Riddhi to its CM sales prices of the foreign like product to determine whether these sales had been made at prices below the COP within an extended period of time (*i.e.*, normally a

⁵⁷ See Memorandum to File titled "Preliminary Sales and Constructed Value Calculation Memorandum -- SAB International" dated concurrently with this memorandum (Preliminary Calculation Memorandum for SAB).

⁵⁸ See *Certain Lined Paper Products from India: Notice of Final Results of Antidumping Duty Administrative Review*, 77 FR 14729 (March 13, 2012).

⁵⁹ The Department's determination in this regard is consistent with the former provisions of section 773(b)(2)(A)(ii) of the Act, which have since been amended by the Trade Preferences Extension Act of 2015. However, because the Department issued the complete initial questionnaire to SAB and Kokuyo Riddhi prior to August 6, 2015, the recent amendment to section 773(b)(2) of the Act does not apply to these preliminary results. See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793, 46794-95 (August 6, 2015).

⁶⁰ There is no cost investigation for SAB in this review because there are no CM sales with which to test whether they are below cost.

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 CM prices, less any applicable movement charges, discounts, rebates, and direct and indirect selling expenses.

3. Results of COP Test

Section 773(b)(1) of the Act permits 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;⁶¹ 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.⁶²

As discussed in further detail in the preliminary calculation memorandum, we found that Kokuyo Riddhi made sales below cost and we disregarded such sales where appropriate. *See* Preliminary Calculation Memorandum for Kokuyo Riddhi, dated concurrently with this memorandum.

4. Calculation of Normal Value Based on Comparison Market Prices

For Kokuyo Riddhi, we based comparison market prices on packed prices to unaffiliated customers in Kokuyo Riddhi's third-country market, Panama. 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 NV for comparison to Kokuyo 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.

⁶¹ *See* sections 773(b)(2)(B) and (C) of the Act (defining "extended period of time" and "substantial quantities").

⁶² *See* section 773(b)(2)(D) (defining "recovery of costs").

5. Calculation of Normal Value Based on Constructed Value

In accordance with section 773(a)(4) of the Act, we based SAB's NV on CV because SAB had no viable CM.

For Kokuyo Riddhi, in accordance with section 773(a)(4) of the Act, we used constructed value CV as the basis for NV when there were no above cost sales of the foreign like product in the comparison market. We calculated CV in accordance with section 773(e) of the Act. We included the cost of materials and fabrication, SG&A expenses, U.S. packing expenses, and profit in the calculation of CV. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by Kokuyo Riddhi 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 CV in accordance with section 773(a)(8) of the Act, 19 CFR 351.410, and 19 CFR 351.412 for COS differences and LOT differences. For comparisons to EP, we made COS adjustments by deducting home market direct selling expenses from and adding U.S. direct selling expenses to CV.

In accordance with section 773(e) of the Act, we calculated CV based on the sum of SAB's cost of materials and fabrication employed in producing the subject merchandise, plus amounts for G&A, profit, interest expenses, and U.S. packing costs. We calculated the cost of materials and fabrication, G&A and interest based on information submitted by SAB in its original and supplemental questionnaire responses. Our approach in this regard is consistent with our practice.⁶³

In this review, selling expenses and profit cannot be calculated for SAB under the preferred method set forth in section 773(e)(2)(A) of the Act because SAB has no viable home market or third country market. In situations where we cannot calculate CV profit and selling expense under section 773(e)(2)(A) of the Act, section 773(e)(2)(B) of the Act establishes three alternative methods:

- (i) the use of the actual amounts incurred and realized by the specific exporter or producer in connection with the production and sale in the foreign country of merchandise that is in the same general category of products as the subject merchandise;
- (ii) the use of the weighted average of the actual amounts incurred and realized by exporters or producers (other than the respondent) in connection with the production and sale of the foreign like product, in the ordinary course of trade , for consumption in the foreign country; or
- (iii) based on any other reasonable method, except that the amount for profit may not exceed the amount realized by exporters or producers (other than the respondent) in connection with the sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise (*i.e.*, the "profit cap").

⁶³ See 2008-2009 CLPP from India, and accompanying Issues and Decision Memorandum at Comment 1.

The statute does not establish a hierarchy for selecting among the alternatives for calculating CV profit and selling expenses.⁶⁴ Moreover, as noted in the SAA, “the selection of an alternative will be made on a case by-case basis, and will depend, to an extent, on available data.”⁶⁵ Thus, the Department has discretion to select from any of the three alternative methods, depending on the information available on the record.

We are relying on the alternative under subsection (iii) *i.e.*, any other reasonable method to determine the appropriate data to use to calculate CV profit for the preliminary results. In choosing a reasonable method, we find the specific language of both the preferred and alternative methods indicates a preference that the profit and selling expenses reflect: (1) production and sales in the foreign country; and (2) the foreign like product, *i.e.*, the merchandise under consideration. As stated above, in this review we have on the record financial statement data for three companies from which to calculate CV ratios: Sundaram, Vata, and Navneet.

The financial statements of Sundaram and Vata reflect the production and sales of comparable merchandise, in the Indian Market, while the financial statements of Navneet reflect both comparable merchandise and significant amounts of non-comparable merchandise. In addition, the financial statements of Navneet includes significant sales outside of India.

Thus, in accordance with section 773(e)(2)(B)(iii) of the Act, we find that the 2013-14 financial statements of Sundaram and Vata constitute the best available surrogate data source for purposes of calculating the CV ratios. Therefore, for the preliminary results, we calculated the CV ratios used for SAB based on a simple average of the CV selling expense and profit ratios of Sundaram and Vata, which were calculated from the companies’ respective 2013-14 audited financial statements.⁶⁶

I. Margin for Company Not Selected for Individual Examination

Generally, when calculating margins for non-selected respondents in AD administrative reviews, the Department looks to section 735(c)(5) of the Act for guidance, which provides instructions for calculating the all-others margin in a less-than-fair-value investigation. Section 735(c)(5)(A) of the Act provides that when calculating the all-others margin, the Department will exclude any zero and *de minimis* weighted-average dumping margins, as well as any weighted-average dumping margins based entirely on facts available. Accordingly, the Department’s usual practice has been to weight average the margins for individually examined respondents, excluding margins that are zero, *de minimis*, or based entirely on facts available.⁶⁷

⁶⁴ See SAA at 840 (“At the outset, it should be emphasized, consistent with the Antidumping Agreement, new section 773(e)(2)(B) does not establish a hierarchy or preference among these alternative methods. Further, no one approach is necessarily appropriate for use in all cases.”)

⁶⁵ See SAA at 840.

⁶⁶ See SAB’s “Submission of factual information for Constructed Value Profit,” dated June 19, 2015; *see also* SAB’s “Rebuttal Comments to the CV Profit Information Submitted by the Petitioners,” dated June 26, 2015.

⁶⁷ See *Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part*, 73 FR 52823, 52824 (September 11, 2008), and accompanying Issues and Decision Memorandum at Comment 16.

In this review, we preliminarily calculated a weighted-average dumping margin for Kokuyo Riddhi and *de minimis* for SAB. Therefore, the Department assigned the weighted-average dumping margin, 11.77 percent, to the non-selected company, Navneet, in these preliminary results.

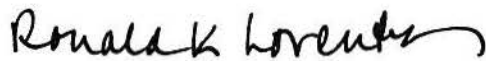
J. Currency Conversion

We made currency conversions in accordance with section 773A(a) of the Act and 19 CFR 351.415, based on the official exchange rates published by the Federal Reserve Bank.

V. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

☒ Agree Disagree



Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance



Date