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Administrative Review  
POR: 07/01/2014-06/30/2015  
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July 27, 2016

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

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

SUBJECT: Decision Memorandum for Preliminary Results and Partial  
Rescission of Antidumping Duty Administrative Review:  
Polyethylene Terephthalate Film, Sheet, and Strip from India;  
2014-2015

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### Summary

The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty (AD) order on polyethylene terephthalate film, sheet, and strip from India (PET Film). This review covers the mandatory respondents Jindal Poly Films Limited (Jindal) and SRF Limited (SRF), and the companies not selected for individual review, Garware Polyester Ltd. (Garware), and Vacmet India.<sup>1</sup>

The period of review (POR) is July 1, 2014, through June 30, 2015. We preliminarily find that both Jindal and SRF sold PET Film in the United States below normal value (NV).

### Background

Pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and in accordance with 19 CFR 351.213(b), Petitioners,<sup>2</sup> domestic interested parties Polyplex, USA LLC (Polyplex USA) and Flex Films (USA) Inc. (Flex USA), and respondents Jindal and SRF requested

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<sup>1</sup> See Memorandum to Edward Yang, "Administrative Review of the Antidumping Duty Order on Polyethylene Terephthalate Film, Sheet, and Strip from India: Selection of Respondents for Individual Examination," dated October 21, 2015.

<sup>2</sup> DuPont Teijin Films, Mitsubishi Polyester Film, Inc., and SKC, Inc. (collectively Petitioners).



administrative reviews between July 30, 2015 and July 31, 2015.<sup>3</sup> On September 2, 2015, the Department published a notice of initiation of administrative review of the AD order on PET Film from India.<sup>4</sup>

On September 15, 2015, we released U.S. Customs and Border Protection (CBP) import data to eligible parties under the Administrative Protective Order and invited interested parties to submit comments with respect to the selection of respondents for individual examination.<sup>5</sup> We received no comments from interested parties on the CBP import data. On October 21, 2015, the Department determined to limit the number of companies subject to individual examination, selecting Jindal and SRF as the mandatory respondents.<sup>6</sup>

On October 26, 2015, we issued the AD questionnaire to Jindal and SRF.<sup>7</sup> In November and December 2015, Jindal and SRF each timely submitted responses to our questionnaire.

As explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government.<sup>8</sup> All deadlines in this administrative review have been extended by four business days.<sup>9</sup> The original deadline for the preliminary determination of this administrative review was April 1, 2016, and the revised deadline as a result of the tolling is now April 7, 2016. On March 17, 2016, in accordance with section 751(a)(3)(A) of the Act, the Department extended the due date for the preliminary results by an

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<sup>3</sup> See letter from Petitioners “Polyethylene Terephthalate (PET) Film, Sheet, and Strip from India: Request for Antidumping Duty Administrative Review,” dated July 31, 2015; letter from Polyplex USA and Flex USA “Polyethylene Terephthalate (PET) Film, Sheet, and Strip from India: Request for Antidumping Duty Administrative Review,” dated July 30, 2015; letter from Jindal “Polyethylene Terephthalate (PET) Film from India/Request for Antidumping Admin Review/Jindal Poly Films Limited,” dated July 30, 2015; and letter from SRF “Polyethylene Terephthalate (PET) Film from India/Request for Antidumping Admin Review/ SRF Limited,” dated July 30, 2015.

<sup>4</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 80 FR 53106, dated September 2, 2015. In total, we initiated reviews for eight companies: Ester Industries Limited (Ester), Garware Polyester Ltd. (Garware), Jindal, MTZ Polyesters Ltd. (MTZ), Polyplex Corporation Ltd. (Polyplex), SRF, Vacmet, and Vacmet India Limited. Petitioners requested a review for six companies (Ester, Garware, Polyplex, SRF, Jindal, and Vacmet). Polyplex USA and Flex USA requested a review for eight companies (SRF, Jindal, Garware, Ester, MTZ, Vacmet India Limited, Polyplex, and Uflex). In addition, SRF and Jindal self-requested administrative reviews.

<sup>5</sup> See Memorandum to All Interested Parties regarding “Antidumping Duty Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip from India: U.S. Customs Entries,” dated September 15, 2015 (Import Data Letter).

<sup>6</sup> See Memorandum to Edward Yang regarding “Administrative Review of the Antidumping Duty Order on Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India: Selection of Respondents for Individual Examination,” dated October 21, 2015 (Respondent Selection Memorandum).

<sup>7</sup> See Letter from the Department to Jindal, dated October 26, 2015 at 2 (Jindal’s Initial Questionnaire); see also Letter from the Department to SRF, dated October 26, 2015, at 2 (SRF’s Initial Questionnaire).

<sup>8</sup> See Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement and Compliance, regarding “Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas,” dated January 27, 2016.

<sup>9</sup> *Id.*

additional 90 days to July 6, 2016.<sup>10</sup> On July 5, 2016, the Department further extended the due date for the preliminary results until July 18, 2016.

### Partial Rescission

On December 1, 2015, Polyplex USA and Flex USA timely withdrew its requests for MTZ, Polyplex, Uflex, and Ester.<sup>11</sup> On December 1, 2015, Petitioners withdrew their request for Ester, Garware, Polyplex, Jindal, and Vacmet.<sup>12</sup>

As all review requests for Ester, MTZ, Polyplex, Vacmet, and Uflex were timely withdrawn, we are rescinding this administrative review with respect to Ester, MTZ, Polyplex, Vacmet and Uflex pursuant to 19 CFR 351.213(d)(1).

Accordingly, the companies subject to the instant review are: SRF, Jindal, Garware and Vacmet India.

### Scope of the Order

The products covered by the AD order are all gauges of raw, pretreated, or primed PET Film, whether extruded or coextruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches thick. Imports of PET Film are currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3920.62.00.90. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the antidumping duty order is dispositive.

### Comparisons to Normal Value

Pursuant to section 773(a)(1)(B) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether Jindal's and SRF's sales of subject merchandise from India to the United States were made at less than NV, the Department compared the export price (EP) to the NV as described in the "Export Price" and "Normal Value" sections of this memorandum.

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<sup>10</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations entitled "Polyethylene Terephthalate Film, Sheet and Strip from India: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review – 2014-2015," dated March 17, 2016. *See also* Memorandum to Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations entitled "Polyethylene Terephthalate Film, Sheet and Strip from India: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review – 2014-2015," dated July 5, 2016.

<sup>11</sup> See Letter from Polyplex USA and Flex Films Inc., "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from India: Partial Withdrawal of Request for Antidumping Duty Administrative Review," dated December 1, 2015.

<sup>12</sup> See Letter from Petitioners to the Department, regarding "Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India, Withdrawal Request for Antidumping Duty Administrative Review," dated December 1, 2015.

#### A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1) (2012), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average EPs (or constructed export prices (CEP)) (the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, the Department examines whether to compare weighted-average NVs to the EP or CEP of individual U.S. sales (the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern 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.<sup>13</sup> In recent proceedings, the Department has applied a differential pricing analysis for determining whether application of average-to-transaction comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.<sup>14</sup> The Department finds that the differential pricing analysis used in those recent proceedings may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. The Department will 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 average-to-average method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of prices for comparable merchandise that differs significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The differential pricing 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 each respondent, purchasers are based on the reported customer codes. For both respondents, regions are defined using the reported destination code (*i.e.*, zip code) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR 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 export price and NV for the individual dumping margins.

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<sup>13</sup> See *Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012).

<sup>14</sup> See *Polyethylene Terephthalate Film, Sheet, and Strip From India: Preliminary Results of Antidumping Duty Administrative Review; 2013–2014*, 80 FR 46957 and accompanying Decision Memorandum at “Determination of Comparison Method” and “Results of Differential Pricing Analysis” (August 6, 2015) (*2013-2014 PET Film Preliminary Results*), unchanged in *Polyethylene Terephthalate Film, Sheet, and Strip From India: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 81 FR 7750 (February 16, 2016).

In the first stage of the differential pricing 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 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 significant, and the sales in the test group were found to have passed the Cohen’s *d* test, if the calculated Cohen’s *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

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

If both tests in the first stage (*i.e.*, the Cohen’s *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether using only the average-to-average 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 average-to-average method only. If the difference between the two calculations is meaningful, this demonstrates that the average-to-average 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 average-to-average method and the appropriate alternative method when both results 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 differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.

## B. Results of the Differential Pricing Analysis

### *Jindal*

For Jindal, based on the results of the differential pricing analysis, the Department preliminarily finds that the value of all U.S. sales passing the Cohen's *d* test is 59.42 percent, such that we should consider as a mixed alternative comparison method applying the average-to-average method to U.S. sales not passing the Cohen's *d* test, and the average-to-transaction method to sales passing the Cohen's *d* test.<sup>15</sup> Accordingly, the Department preliminarily determines to use the mixed alternative comparison method for all U.S. sales, to calculate the weighted-average margin of dumping for Jindal.

### *SRF*

For SRF, based on the results of the differential pricing analysis, the Department finds that 73.51 percent of SRF's U.S. sales pass the Cohen's *d* test, such that we should consider as an alternative comparison method applying the average-to-transaction method to its U.S. sales.<sup>16</sup> Further, the Department preliminarily determines that the average-to-average method cannot appropriately account for such differences because there is a meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and when using the alternative method, *i.e.*, the resulting weighted-average dumping margin using the average-to-transaction method moves across the de minimis threshold as compared to the average-to-average method. Accordingly, the Department preliminarily determines to use the average-to-transaction method for all U.S. sales to calculate the weighted-average dumping margin for SRF.

## Product Comparisons

In accordance with section 771(16) of the Act, we compared prices for products sold in the U.S. market with prices for products sold in the home market which were either identical or most similar in terms of the physical characteristics. In the order of importance, these physical characteristics are grade, specification, thickness, thickness category, and surface treatment. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product based on the characteristics listed above.

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<sup>15</sup> For additional details, *see* "Analysis Memorandum for Jindal Poly Films Limited" (Jindal Preliminary Analysis Memorandum) (dated concurrently with this Memorandum).

<sup>16</sup> For additional details, *see* "Analysis Memorandum for SRF Limited" (SRF Preliminary Analysis Memorandum) (dated concurrently with this Memorandum).

## Date of Sale

19 CFR 351.401(i) 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 are established.

### *Jindal*

Jindal reported the invoice date as the date of sale for its home market and U.S. sales.<sup>17</sup> For its U.S. sales, although Jindal stated no changes in price, quantity or other material terms took place once an order was issued to begin production, no other contract or document was issued prior to the issuance of the invoice.<sup>18</sup> Therefore, consistent with the regulations, we are preliminarily relying on the invoice date as the date of sale for Jindal's U.S. and home market sales.

### *SRF*

In the instant review, SRF reported invoice date as the date of sale for both its home market and U.S. sales.<sup>19</sup> Consistent with 19 CFR 351.401(i), we analyzed the information on the record and preliminarily determine that the reported invoice dates are the appropriate dates of sale for SRF's U.S. sales and home market sales.

## Export Price

### *Jindal*

We used the EP methodology for Jindal's U.S. sales, 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.<sup>20</sup> In accordance with sections 772(a) and (c) of the Act, we calculated EP based on packed prices. In accordance with 19 CFR 351.401(c), deductions were made from the starting price for discounts. We also made deductions from the starting price, where applicable, for movement expenses, including domestic inland freight and insurance, domestic brokerage and handling, international freight and marine insurance, and U.S. inland freight, in accordance with section 772(c)(2) of the Act and 19 CFR 351.401(e).<sup>21</sup>

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<sup>17</sup> See "PET Film from India: Initial Sections B and C Questionnaire Response of Jindal Poly Film Ltd." (December 9, 2015) (Jindal Sections B & C Questionnaire Response) at B-17 and C-15.

<sup>18</sup> *Id.* at B-18 and C-15.

<sup>19</sup> See "Polyethylene Terephthalate Film, Sheet and Strip from India /Antidumping Duty/SRF Limited/Response to Section A," at pp. 22 (November 23, 2015) (SRF Section A Questionnaire Response).

<sup>20</sup> See Jindal Sections B & C Questionnaire Response at section C page 3.

<sup>21</sup> See Jindal Preliminary Analysis Memorandum at "Net U.S. Price."

## *SRF*

We used the EP methodology for SRF's U.S. sales, 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.<sup>22</sup> In accordance with sections 772(a) and (c) of the Act, we calculated EP based on packed prices. In accordance with 19 CFR 351.401(c), deductions were made from the starting price for discounts. We also made deductions from the starting price, where applicable, for movement expenses, including domestic inland freight and insurance, domestic brokerage and handling, international freight and marine insurance, and U.S. inland freight, and commissions, in accordance with section 772(c)(2) of the Act and 19 CFR 351.401(e) and 19 CFR 351.402.<sup>23</sup>

### Normal Value

#### A. Home Market Viability as 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 compared the volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Based on this comparison, we determined that, pursuant to 19 CFR 351.404(b), both Jindal and SRF had a viable home market during the POR. Consequently, pursuant to section 773(a)(1)(B)(i) of the Act and 19 CFR 351.404(c)(1)(i), we based NV on home market sales.

#### B. Level of Trade

In accordance with section 773(a)(1)(B) of the Act and the Statement of Administrative Action accompanying the Uruguay Round Agreements Act,<sup>24</sup> to the extent practicable, the Department determines NV based on sales in the comparison market at the same level of trade (LOT) as the export price. Pursuant to 19 CFR 351.412(c)(1), the NV LOT is based on the starting price of the sales in the comparison market or, when NV is based on constructed value (CV), the starting price of the sales from which we derive the adjustments to constructed value for selling expenses and profit. For EP sales, the U.S. LOT is based on the starting price of the sales in the U.S. market, which is usually from the exporter to the importer.

To determine whether comparison market sales are at a different LOT than EP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer.<sup>25</sup> If the comparison market sales are at a different LOT and the difference affects price comparability, as manifested in a pattern of consistent price

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<sup>22</sup> See "Polyethylene Terephthalate Film, Sheet and Strip from India / Antidumping Duty / SRF Limited / Response to Sections B, C & D," at section C pp. 3 (December 14, 2015) (SRF Sections BCD Questionnaire Response).

<sup>23</sup> See Memorandum to the File: re "SRF Preliminary Analysis" Dated concurrently with this memorandum, at "Net U.S. Price." (SRF Preliminary Analysis Memorandum).

<sup>24</sup> See H.R. Doc. No. 316, 103d Cong., 2d Sess. 829-831 (1994).

<sup>25</sup> See 19 CFR 351.412(c)(2).



differences between the sales on which NV is based and the comparison market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act.

In this administrative review, we obtained information from both respondents regarding the marketing stages involved in making the reported foreign market and U.S. sales, including a description of the selling activities performed by each respondent for each channel of distribution. Company-specific LOT findings are summarized below.

### *Jindal*

Jindal reported that it sold to end-users and traders in its home market, and that most of its selling functions were performed at the same or similar levels of intensity in both channels of distribution.<sup>26</sup> Because the selling activities to Jindal's customers did not vary for sales in the home market through its two channels of distribution, we preliminarily determine that Jindal has one LOT in the home market.

Jindal reported that it made EP sales in the U.S. market through two channels of distribution, to end users and traders.<sup>27</sup> Jindal's selling functions were performed at the same or similar levels of intensity in both channels of distribution in the U.S. market.<sup>28</sup> Because the selling activities to Jindal's customers did not vary for sales in the United States through its two channels of distribution, we preliminarily determine that Jindal has one LOT in the U.S. market.

We find that Jindal provided the same or similar level of customer support services on their U.S. sales (all of which were EP) as they did on their home market sales, and that the minor differences that do exist do not establish a distinct and separate LOT.<sup>29</sup> Consequently, the record evidence supports a finding that in both markets Jindal performed essentially the same level of services. While we found minor differences between the home and U.S. markets,<sup>30</sup> we determine that for Jindal the EP and the starting price of home market sales represent the same stage in the marketing process, and are, thus, at the same LOT. For this reason, we find that a LOT adjustment for Jindal is not warranted in these preliminary results.

### *SRF*

SRF reported that it made sales through three different distribution channels (end user/convertor, dealer, and dealer attached customer) in the home market.<sup>31</sup> SRF performed most of the selling functions at the same or similar levels of intensity in all three channels of distribution.<sup>32</sup> Because the selling activities to SRF's customers did not vary for sales in the home market through its

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<sup>26</sup> See "PET Film from India: Initial Section A Questionnaire Response of Jindal Poly Film Ltd." (November 23, 2015) (Jindal Section A Questionnaire Response) at Exhibit A-5.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* See also Jindal's Section A Questionnaire Response at 15-23.

<sup>30</sup> *Id.*

<sup>31</sup> See Letter from SRF, Re: "Polyethylene Terephthalate Film, Sheet and Strip from India/Antidumping Duty/SRF Limited/ Response to Section A," dated November 23, 2015 at 16-17 (SRF Section A Response).

<sup>32</sup> *Id.*, at 16-21.

three channels of distribution, we preliminarily determine that SRF had one LOT in the home market.

With respect to the U.S. market, SRF reported that it made EP sales in the U.S. market to both unaffiliated end users and to unaffiliated traders.<sup>33</sup> SRF's selling functions were performed at the same or similar levels of intensity in both channels of distribution in the U.S. market.<sup>34</sup> Because the selling activities to SRF's customers did not vary for sales in the United States through its two channels of distribution, we preliminarily determine that SRF had one LOT in the U.S. market.

We find that SRF provided the same or similar level of customer support services on their U.S. sales (all of which were EP) as they did on their home market sales, and that the minor differences that do exist do not establish a distinct and separate LOT. Consequently, the record evidence supports a finding that in both markets SRF performed essentially the same level of services. While we found minor differences between the home and U.S. markets, we determine that for SRF the EP and the starting price of home market sales represent the same stage in the marketing process, and are, thus, at the same LOT. For this reason, we preliminarily find that a LOT adjustment for SRF is not warranted.

#### C. Cost of Production (COP) Analysis

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (TPEA), which made numerous amendments to the AD antidumping and countervailing duty law, including amendments to section 773(b)(2) of the Act, regarding the Department's requests for information on sales at less than cost of production.<sup>35</sup> The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for the TPEA to each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the ITC.<sup>36</sup> Section 773(b)(2)(A)(ii) of the Act controls all determinations in which the complete initial questionnaire has not been issued as of August 6, 2015. It requires the Department to request constructed value and cost of production information from respondent companies in all AD proceedings.<sup>37</sup> Accordingly, the Department requested this information from respondents Jindal and SRF.<sup>38</sup> We applied our standard methodology of using annual costs based on Jindal's and SRF's reported data, and we preliminarily determine that Jindal and SRF in fact made sales in the home market during the POR that were below Jindal and SRF's respective cost of production (COP).

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<sup>33</sup> *Id.*, at 18-21.

<sup>34</sup> *Id.*, at exhibit A-5.

<sup>35</sup> See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015).

<sup>36</sup> 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 (August 6, 2015) (Applicability Notice).

<sup>37</sup> *Id.*, 80 FR at 46794-95.

<sup>38</sup> The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>; see also Jindal's Initial Questionnaire at 2; see also SRF's Initial Questionnaire at 2.

### 1. Calculation of Cost of Production

We calculated the COP on a product-specific basis, based on the sum of the respondents' costs of materials and fabrication for the foreign like product plus amounts for general and administrative expenses, interest expenses, and the costs of all expenses incidental to preparing the foreign like product for shipment in accordance with section 773(b)(3) of the Act.

We relied on Jindal's and SRF's COP data submitted in their questionnaire responses.

### 2. Test of Comparison Market Sales Prices

On a product-specific basis, we compared the adjusted weight-averaged COP to the home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether the sale prices were below the COP. The prices were exclusive of any applicable billing adjustments, discounts and rebates, movement charges, and actual direct and indirect selling expenses. In determining whether to disregard home market sales made at prices less than their COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether such sales were made: (1) within an extended period of time in substantial quantities, and (2) at prices which permitted the recovery of all costs within a reasonable period of time.

### 3. Results of the Cost of Production Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of sales of a given product were made at prices less than the COP, we do not disregard below-cost sales of that product because we determine that the below-cost sales were not made in substantial quantities. Where 20 percent or more of the respondent's home market sales of a given product are at prices less than the COP, we disregard the below-cost sales because (1) they are made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act and (2) based on our comparison of prices to the weighted average of the COPs, they are at prices which would not permit the recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act. Because we are applying our standard annual weighted-average cost methodology in these preliminary results for both Jindal and SRF, we also applied our standard cost-recovery test with no adjustments.

Our cost tests for Jindal and SRF indicate that for home market sales of certain products, more than 20 percent for each company were sold at prices below the COP within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time. Thus, in accordance with section 773(b)(1) of the Act, we disregarded these below-cost sales in our analysis as outside of the ordinary course of trade and used the remaining sales to determine NV.<sup>39</sup>

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<sup>39</sup> See Jindal Preliminary Analysis Memorandum and SRF Preliminary Analysis Memorandum at "Sales Below Cost."

#### E. Calculation of Normal Value Based on Comparison Market Prices or Constructed Value

We based NV on the starting prices of Jindal's and SRF's sales to unaffiliated home market customers, pursuant to sections 773(a)(1)(A) and 773(a)(1)(B)(i) of the Act and, where appropriate, made deductions from NV for movement expenses (*i.e.*, inland freight and inland insurance) in accordance with section 773(a)(6)(B)(ii) of the Act. Also, in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(c), we made, where indicated, circumstance-of-sale adjustments for home market direct selling expenses, including imputed credit expenses, commissions, and for discounts and rebates. When applicable, we also made adjustments in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred on comparison-market or U.S. market sales where commissions were granted on sales in one market but not the other. Specifically, where commissions were granted in the U.S. market but not in the comparison market, we made a downward adjustment to NV for the lesser of (1) the amount of the commission paid in the U.S. market, and (2) the amount of indirect selling expenses incurred in the comparison market. If commissions were granted in the comparison market but not in the U.S. market, we made an upward adjustment to NV following the same method. In accordance with sections 773(a)(6)(A), (B) and (C)(ii) of the Act, we also deducted home market packing costs, added U.S. packing costs and made adjustments for differences in costs attributable to differences in physical characteristics of the merchandise.<sup>40</sup> In accordance with section 773(a)(4) of the Act, we used CV as the basis for NV when there were no above-cost contemporaneous sales of identical or similar merchandise in the comparison market. We calculated CV in accordance with section 773(e) of the Act.

#### Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A of the Act and 19 CFR 351.415, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. The exchange rates are available on the Enforcement and Compliance web site at <http://enforcement.trade.gov/exchange/index.html>.<sup>41</sup>

#### Companies Not Selected for Individual Review

With regard to determining an appropriate rate to be applied to the non-selected respondents Garware and Vacmet India, the statute and the Department's regulations do not directly address the establishment of a rate to be applied to companies not selected for individual examination where the Department limited its examination in an administrative review pursuant to section 777A(c)(2) of the Act. The Department's practice in cases involving limited selection of respondents has been to look for guidance in section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation. Consistent with that statutory provision, the Department generally weight-averages the rates calculated for the mandatory respondents, excluding zero and *de minimis* rates and rates based entirely on facts available, and

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<sup>40</sup> See Jindal Preliminary Analysis Memorandum; see also SRF Preliminary Analysis Memorandum.

<sup>41</sup> See Jindal Preliminary Analysis Memorandum at Attachment "Jindal's U.S. Market Sales and Margin Program Output and Log" and SRF Preliminary Analysis Memorandum at Attachment "SRF's U.S. Market Sales and Margin Program Output and Log."


applies that resulting weighted-average margin to non-selected respondents.<sup>42</sup> In this review, we have preliminarily calculated an above *de minimis* weighted-average dumping margin for both mandatory respondents Jindal and SRF. Accordingly, for these preliminary results, we are using a weighted average of 0.77 percent in this review for both of the non-selected respondents.

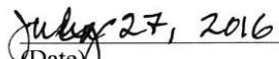
### Recommendation

We recommend that you approve the preliminary findings described above. If these recommendations are accepted, we will publish the preliminary results of the review in the *Federal Register*.

✓  
\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

  
\_\_\_\_\_  
Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

  
\_\_\_\_\_  
(Date)

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<sup>42</sup> See, e.g., *Wooden Bedroom Furniture From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Results of New Shipper Review and Partial Rescission of Administrative Review*, 73 FR 8273 (February 13, 2008), unchanged in *Wooden Bedroom Furniture from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review*, 73 FR 49162 (August 20, 2008).