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Administrative Review  
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March 13, 2017

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

**FROM:** Gary Taverman  
Associate Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**SUBJECT:** Certain Lined Paper Products from India: Issues and Decision  
Memorandum for the Final Results of the Antidumping Duty  
Administrative Review; 2014-2015

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## I. Summary

The Department of Commerce (the Department) preliminarily determined that Navneet Education Ltd. (Navneet) made sales of subject merchandise at less than normal value (NV) and Kokuyo Riddhi Paper Products Private Limited (Kokuyo Riddhi) did not.<sup>1</sup> Based on our analyses of the comments received from interested parties, these final results differ from the *Preliminary Results* with respect to the final weighted-average dumping margin calculated for Navneet but do not differ with respect to Kokuyo Riddhi. We recommend that you approve the positions set forth in the “Analysis of Comments” section of this memorandum. Below is the complete list of the issues in this review for which we received comments.

## II. List of Comments

### *Comments Concerning Navneet:*

Comment 1: Completeness and Accuracy of the Reported U.S. Sales Data  
Comment 2: Adjustment for the Beginning Date of U.S. Sales in the Margin Program  
Comment 3: Adjustment for Unreimbursed Excise Tax Credit

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<sup>1</sup> See *Certain Lined Paper Products from India: Preliminary Results of Antidumping Duty Administrative Review; 2014–2015*, 81 FR 71046 (October 14, 2016) (*Preliminary Results*) and accompanying Decision Memorandum (Preliminary Decision Memorandum).  
*Id.*



- Comment 4: Revision to Duty Drawback Denomination in the SAS Margin Program  
Comment 5: Revision to Incorrect Quantity (QTYH) in the SAS Comparison Market Program  
Comment 6: Revision to Importer-Specific Rates in the Liquidation Instructions

***Comment Concerning Kokuyo Riddhi:***

- Comment 7: Inclusion of a Customer Name in Kokuyo Riddhi's Liquidation Instructions

**III. Background**

On September 6, 2016, Petitioners submitted new factual information (NFI) based on Indian Customs data and PIERS data covering the September 1, 2014, through August 31, 2015, period of review (POR) and alleged that these data demonstrate that Navneet's reported U.S. sales are incomplete and inaccurate.<sup>2</sup> On September 27, 2016, the Department issued a letter to Petitioners stating that their NFI filing was untimely filed, but that the Department was choosing to exercise its discretion under 19 CFR 351.301(a) to accept the submission. The Department notified interested parties that, due to time constraints, it would examine the NFI Submission after the release of the *Preliminary Results*.<sup>3</sup> We also invited interested parties to submit comments and factual information to rebut, clarify or correct the NFI no later than October 24, 2016.

On October 14, 2016, the Department published the *Preliminary Results* in the *Federal Register*.<sup>4</sup> On October 24, 2016, Navneet submitted its NFI Rebuttal to the Petitioners' NFI Submission.<sup>5</sup> On November 3, 2016, Petitioner submitted response comments regarding the new factual information.<sup>6</sup> On November 14, 2016, Navneet, Kokuyo Riddhi, and Petitioners submitted their respective case briefs.<sup>7</sup> On November 21, 2016, Navneet and Petitioners submitted their rebuttal briefs.<sup>8</sup> On November 14, 2014, Petitioners also submitted a hearing request.<sup>9</sup> Petitioners subsequently requested a meeting *in lieu* of a hearing on December 15,

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<sup>2</sup> See Petitioners' letter, "Certain Lined Paper Products from India: General New Factual Information Submission," dated September 6, 2016 (NFI Submission). See also Petitioners' case brief at 3.

<sup>3</sup> See Letter titled, "New Factual Information Filed by the Association of American School Paper Suppliers (Petitioner) and Extension of Deadline to Submit Factual Information Pertaining to Navneet Education Ltd.'s (Navneet) Sales Reporting," dated September 27, 2016.

<sup>4</sup> See *Preliminary Results*.

<sup>5</sup> See Navneet's submission titled "Certain Lined Paper Products from India: Response of Navneet Education Limited to Non-Reported Sales Allegation" dated October 24, 2016 (NFI Rebuttal).

<sup>6</sup> See Petitioner's letter titled, "Certain Lined Paper Products from India: Response Comments to Navneet's New Factual Information Related to Unreported U.S. Sales; Extension Request for the Case Briefs," dated November 3, 2016.

<sup>7</sup> See the respective letters from Navneet, Kokuyo, and Petitioners, dated November 14, 2016 (Case Brief).

<sup>8</sup> See Navneet's and Petitioners' letters dated November 21, 2016 (Rebuttal Brief), respectively.

<sup>9</sup> See Petitioners' letter dated November 14, 2016.

2016.<sup>10</sup> On December 21, 2016, Petitioners' legal counsel met with Department officials to discuss the issues raised in their case and rebuttal briefs.<sup>11</sup>

#### **IV. 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 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;

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<sup>10</sup> See Memorandum to File, through Eric Greynolds, Program Manager, Office III, from Cindy Robinson, Case Analyst, "Certain Lined Paper Products from India: Request for a Meeting in Lieu of a Hearing," dated December 15, 2016.

<sup>11</sup> See Memorandum to File, through Erin Begnal, Director, Office III, from Cindy Robinson, Case Analyst, "Certain Lined Paper Products from India: Meeting with Interested Party," dated December 21, 2016.

- 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 Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS headings are provided for convenience and customs purposes; however, the written description of the scope of this order is dispositive.

## V. Analysis of Comments

### *COMMENTS CONCERNING NAVNEET*

#### **Comment 1: Completeness and Accuracy of the Reported U.S. Sales Data**

##### *Petitioners' Case Brief Arguments*

- A comparison of Indian Export data to Navneet's reported U.S. sales indicates that a very large amount of Navneet's exports to the United States do not appear in its U.S. sales database.<sup>12</sup> PIERS data also indicate that Navneet's entries of subject merchandise exceed the volumes reported in its U.S. sales database.<sup>13</sup>
- In the NFI Rebuttal,<sup>14</sup> Navneet argues that a substantial number of the shipments in the Indian Export data constitutes non-subject goods. However, Navneet's arguments in this regard are supported by documentation for a limited number of the sales in question.<sup>15</sup> Further, when confronted with the PIERS data, Navneet has chosen silence, which indicates that Navneet failed to report all of its U.S. sales of subject merchandise to the Department.<sup>16</sup>
- The description of goods that Navneet claimed as non-subject merchandise in various shipments is also used in the description for shipments that Navneet reported as subject.<sup>17</sup>
- In the absence of documentation to support Navneet's claims, the Department should conclude that the available evidence indicates that Navneet failed to make a complete and accurate reporting of its sales to the Department. The Department should therefore proceed to determine the company's margin on the basis of the facts available, pursuant to section 776(a)(1) of the Tariff Act of 1930, as amended (the Act).<sup>18</sup>
- Further, Navneet did not act to the best of its ability to comply with the Department's information in this review. Namely, Navneet failed to report all of its sales and otherwise failed to provide information that would show otherwise, even when given the opportunity to do so. Therefore, the Department should use an adverse inference by assigning the highest calculated dumping margin for any of Navneet's individual reported sales to Navneet's undocumented sales in determining Navneet's final margin, in accordance with section 776(a)(2) of the Act.<sup>19</sup>

##### *Navneet's Case Brief Arguments*

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<sup>12</sup> See Petitioners' Case Brief at 2-3. See also NFI submission at Exhibit 1.

<sup>13</sup> See Petitioners' Case Brief at 2-3. See also NFI submission at Exhibit 5.

<sup>14</sup> See NFI Rebuttal.

<sup>15</sup> See Petitioners' Case Brief at 1-3, which refers to the NFI Rebuttal at 6.

<sup>16</sup> See Petitioners' Case Brief at 3.

<sup>17</sup> See Petitioners' Rebuttal Brief at 2.

<sup>18</sup> *Id.* and Petitioners' Case Brief at 2-3.

<sup>19</sup> See Petitioners' Case Brief at 3, and Rebuttal Brief at 2.

- The Department should dismiss Petitioners’ assertions that Navneet failed to report all of its U.S. sales. Furthermore, Petitioners’ allegation was submitted after verification and, therefore, was untimely and should have been rejected.<sup>20</sup>
- Petitioners’ logic on which they base their claim is faulty: there simply is no way to determine from trade statistics contained in the NFI Submission whether a particular shipment contained subject merchandise. Such a determination requires a close examination of each and every product included in each and every sale with particular attention paid to comparing the dimensions, page count, printing/ruling, and binding of each item on the shipment against the scope of the CLPP order.<sup>21</sup>
- Petitioners’ assertion from PIERS data is even less informative, since it does not have any reference to invoice numbers that would enable the tracking of the allegedly missing sales.<sup>22</sup>
- Navneet carried out this exercise in preparing its sales files, and at verification the Department examined both the structure of the exercise and the resulting segregation between subject and non-subject products.<sup>23</sup>

#### *Petitioners Rebuttal Arguments*

- The information in the NFI Submission contains product descriptions that pertain to subject merchandise. In the NFI Rebuttal, Navneet nonetheless responded that the vast majority of these shipments were of non-subject goods, but it failed to provide sufficient supporting documentation.<sup>24</sup>

#### *Navneet’s Rebuttal Arguments*

- Contrary to Petitioners’ assertions that Navneet responded with “silence,” Navneet provided 65 pages of documentation in the NFI Rebuttal, which included supporting documents for a sample of six of the line items on Petitioners’ list of alleged “missing” sales. Navneet’s NFI Rebuttal demonstrates that the underlying logic of Petitioners’ claims was false.
- Petitioners assume that the Indian HTS codes reported in export statistics allow them to identify shipments that constitute subject merchandise, and that Navneet omitted these shipments from its U.S. sales files.<sup>25</sup> As stated in the NFI Rebuttal, any HTS code that includes subject merchandise may also describe various kinds of non-subject merchandise.
- It is not possible for Petitioners to be able to ascertain from export statistics whether a particular shipment that was assigned a particular HTS code included subject or non-subject merchandise. What the NFI Rebuttal indicated was that Navneet sold non-subject merchandise to the United States in the same shipments in which it sold subject merchandise.
- Petitioners’ attempt to flag “unreported” sales based on broad basket categories from HTS classifications, with no information about a particular product, is fatuous. As noted in the NFI Rebuttal, three of the Department’s “pre-selected” sales examined at verification appear

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<sup>20</sup> See Navneet’s Case Brief at 1-2, and 6.

<sup>21</sup> *Id.*, at 6.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> See Petitioners’ Rebuttal Brief at 1-2.

<sup>25</sup> See Navneet’s Rebuttal Brief at 2.

on the Petitioners' list of "missing" sales, and the Department fully verified that the non-reported line items on those shipments were non-subject merchandise.<sup>26</sup>

- Further, in Exhibit C-11 of Navneet's first section A-D supplemental response dated April 14, 2016, (SQR1), Navneet provided invoices that have sales of both subject and non-subject merchandise. These invoices also appear in Petitioners' missing sales list.<sup>27</sup>
- In addition, in preparing for submitting its sales files, Navneet closely examined each and every product in each and every sale, comparing the dimensions, page count, printing/ruling, and binding of each item on the shipment against the scope of the order.
- At verification, the Department examined the reasonableness and reliability of the segregation of subject and non-subject merchandise.<sup>28</sup> The Department also tested the completeness of Navneet's reported U.S. sales, which the verifiers, in turn, reconciled to Navneet's financial accounts.<sup>29</sup> Thus, Petitioners' alleged missing sales assertions are baseless, and there is no justification for any facts available component to the margin calculation.
- The PIERS data are even less informative, since they do not have any reference to invoice numbers to which one might track the allegedly missing sales. As noted in the NFI Rebuttal, PIERS data reflect private import listings based on vessel manifest information, are not derived from official Customs data, and relied on a separate collection of information. Thus, PIERS data have varying levels of precision and reliability.<sup>30</sup>
- The reliability of the quantity and value figures submitted by Petitioners in the NFI Submission are questionable. First, PIERS data cannot distinguish between subject and non-subject merchandise, so the existence of a difference between the value of total imports of all products, and the value of reported subject merchandise is neither surprising nor probative in any way.<sup>31</sup>
- Second, PIERS data are based on the entered data, whereas Navneet based its sales database on the purchase order date during the POR. PIERS data do not provide any information (*e.g.*, invoice number) that would make it possible to reconcile the shipments on which its figures are based with the shipments that make up Navneet's U.S. sales database.<sup>32</sup>
- According to Petitioners, the PIERS data indicate that the total value of Navneet's reported U.S. sales during the POR was significantly less than the entered value of subject merchandise. However, Navneet's reported total U.S. sales quantity is twice as much as the quantity in the PIERS data.<sup>33</sup> It is thus evident from this comparison that the PIERS data

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<sup>26</sup> *Id.*, at 5. See also Memorandum to the File titled, "Verification of the Sales Response of Navneet Education Ltd. (Navneet) in the Antidumping Administrative Review of Certain Lined Paper Products from India," dated August 16, 2016 (Navneet's Sales Verification Report) at 20 and Exhibit SVE 11.

<sup>27</sup> See Navneet's Rebuttal Brief at 5 and Exhibit 1 for a copy of Exhibit C-11, where SEQU number showing where the supposedly "missing" merchandise was reported on Navneet's sales file.

<sup>28</sup> *Id.*, at 5-6. See also Navneet's Sales Verification report at 10-11 and Exhibit SVE 6.

<sup>29</sup> *Id.*, at 3.

<sup>30</sup> *Id.*, at 6.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*



cannot be relied on to provide an accurate picture of Navneet's imports, because Navneet cannot be both under-reporting value while over-reporting quantity.

- The data from the NFI Submission also contain inaccuracies at the invoice level. Specifically, the invoice values in the PIERS data, as contained in the NFI Submission, overstate the invoice values listed in Navneet's U.S. sales database.<sup>34</sup>
- The inaccuracies in the NFI Submission, both at the aggregate and invoice level, demonstrate that Petitioners' allegations should be rejected.<sup>35</sup>
- It is not practicable, nor would it be reasonable to demand, that Navneet submit all of the shipping documents and perform a line-by-line analysis of each item on each of the hundreds of shipments included in the NFI Submission.<sup>36</sup>
- The Department does not demand that thousands of pages be submitted when an illustrative sample will do. It is absurd for Petitioners to claim that Navneet failed to cooperate with the review and impeded the Department's ability to conduct the review on the grounds that Navneet did not voluntarily provide the thousands of pages of documents in order to disprove, on an item-by-item basis, Petitioners' baseless accusation.<sup>37</sup>
- Therefore, the Department should dismiss Petitioners' ill-founded assertions regarding missing sales, and firmly reject their baseless demand for application of punitive adverse facts available in this case.

**Department's Position:** At the heart of Petitioners' allegation is the assumption that the HTS codes and their corresponding product descriptions, as contained in the Indian Customs and PIERS data, permit one to discern in-scope and out-of-scope products (hereinafter referred to as the HTS Codes Approach).<sup>38</sup> Based on this assumption, Petitioners linked the Indian Customs export data to Navneet's U.S. sales through the Customs invoice number and the invoice quantity using the Customs invoice number reported in Navneet's U.S. sales database in the field CINVNUMU.<sup>39</sup> Based on the HTS Codes Approach and their view that Customs invoice numbers can be used to link the two sales files, Petitioners developed a SAS program to identify a list of Navneet's alleged unreported sales of subject merchandise to the United States.<sup>40</sup> Petitioners also used the product description of the HTS codes from the PIERS entry data to identify several more alleged unreported export sales to the United States.<sup>41</sup>

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<sup>34</sup> See e.g., Exhibit C.10 of Navneet's SQR1.

<sup>35</sup> *Id.*

<sup>36</sup> See Navneet's Rebuttal Brief at 4.

<sup>37</sup> *Id.*, at 3

<sup>38</sup> See NFI submission at 4.

<sup>39</sup> *Id.* Petitioners explained that they used the description field in the Indian Customs data "to determine which descriptions pertained to entries that Navneet reported as U.S. sales to the Department."

<sup>40</sup> *Id.* at Exhibit 3 for the list of the alleged unreported sales, and see Exhibit 2 at 2 for the SAS program which explains that "/\* Database "subexports" shows all Customs data not directly matching to U.S. sales but which was exported to the United States and contained the exact same product description as subject merchandise sold to the United States and reported in the U.S. sales database."

<sup>41</sup> See NFI submission at Exhibits 4 and 5.

We find that Petitioners' HTS Codes Approach does not provide a meaningful basis to reconcile Navneet's reported U.S. sales data with the U.S. sales data in either the Indian Customs data or PERS data. The HTS codes in the Indian Customs data and the PERS data utilize broad descriptions that, due to the nature of the exclusions contained in the scope of the CLPP order, encompass both subject and non-subject products. For example, Petitioners point to sales of "notebooks," as listed in the Indian Customs and PERS data, as evidence that Navneet failed to report all of its U.S. sales. However, the notebooks in question are listed under HTS codes that include lined paper notebooks (which are subject to the order on CLPP) as well as un-ruled notebooks (which are not subject to the order).<sup>42</sup> Further, the HTS codes reflected in the Indian Customs and PERS data encompass notebooks with a variety of dimensions, bindings, and brand names and, therefore, do not separately identify notebooks whose size, binding, or trademark may render them outside the scope of the CLPP order.<sup>43</sup> Thus, the mere fact that the Indian Customs and PERS data include sales of notebooks whose HTS categories match the HTS categories listed in the CLPP order does not, by itself, demonstrate that Navneet failed to report all of its sales of subject merchandise to the United States.

Given the nature of the scope of the CLPP order, the verifiers closely examined the procedures Navneet utilized to identify its sales of subject merchandise in the home and U.S. markets. At verification, Navneet explained that it used a master list of all products it sold during the POR (which included product descriptions and specifications) as the basis for segregating subject and non-subject merchandise. At verification, the verifiers randomly selected products (both subject and non-subject, as well as sales to the United States and sales to non-U.S. destinations) from the master list and checked them against a spreadsheet that contained all of Navneet's reported sales of subject merchandise in the home and U.S. markets during the POR. The verifiers noted no discrepancies when performing these verification procedures.<sup>44</sup> Additionally, the verifiers traced the product characteristics for selected sales, as listed in the Department's verification outline, to their corresponding sales and financial records. The verifiers noted no discrepancies during these examination procedures.<sup>45</sup> Furthermore, the verifiers worked with Navneet to identify merchandise (*e.g.*, "case bound" and "un-ruled" notebooks) that were most similar to subject merchandise. The verifiers then conducted tracing exercises in order to ensure that these products were not included among the sales of subject merchandise listed in Navneet's home and U.S. sales databases.<sup>46</sup>

In the NFI Rebuttal, Navneet classified the alleged unreported U.S. sales into five categories: (1) non-subject merchandise with the same HTS category as subject merchandise; (2) duplicate shipping bills in the export database; (3) sales made to third countries; (4) sales claimed to be missing that actually are on the section C sales files; and (5) sales outside the POR.<sup>47</sup> For each of

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<sup>42</sup> See Petitioners' Rebuttal Brief at 2.

<sup>43</sup> See NFI Submission at Exhibits 4 and 5.

<sup>44</sup> See Sales Verification Report at 10.

<sup>45</sup> *Id.*, at 11.

<sup>46</sup> *Id.*

<sup>47</sup> See NFI Rebuttal at 5. For each of these five categories, Navneet provided a sample supporting document, including Exhibit N.2a (a sample invoice where both subject and non-subject have been exported under the same HTS code), Exhibit N.2b (a sample invoice where only non-subject products have been sold), Exhibit N.3 -Invoices

these five categories, Navneet provided sample supporting documents.<sup>48</sup> We compared the information in the NFI Rebuttal to Navneet's U.S. sales database, as well as to information collected at verification. Our comparison confirmed that U.S. sales invoices reviewed during Navneet's sales verification contained line items for both subject and non-subject merchandise.<sup>49</sup> Further, we were able to match the non-subject merchandise included in pre-selected U.S. sales invoices examined at verification to sales in the NFI Submission that Petitioners claim constitute unreported U.S. sales of subject merchandise.<sup>50</sup>

Further, concerning the PIERS data, Navneet, using the purchase order number and the invoice item number, was able to match one of the alleged unreported sales of subject merchandise to the U.S. sales file submitted to Department.<sup>51</sup> Additionally, concerning this particular sale, Navneet provided information indicating that PIERS data overstated the invoice value.<sup>52</sup> Based on our review of the PIERS data, Exhibit C-10 of Navneet's SQR1, and the invoice at issue, we confirmed that, contrary to Petitioners' claims, Navneet, in fact, included the sale in question in the U.S. sales reported to the Department. We further confirmed that the PIERS data overstated the invoice value for this particular sale.<sup>53</sup>

We disagree with Petitioners' argument that Navneet must submit documentation for every allegedly misreported U.S. sale.<sup>54</sup> As explained above, at verification, the Department closely examined the procedures and records Navneet utilized to determine which of its sales of lined paper products constituted subject merchandise, and the verifiers noted no discrepancies with regard to this aspect of the verification. Further, as previously explained, the NFI Rebuttal provides sample documentation, including information verified by the Department, to demonstrate that the Indian Customs and PIERS data lack the level of detail required to delineate between subject and non-subject merchandise.

Furthermore, the position advocated by Petitioners – that Navneet must supply sales information for every alleged unreported sale contained in the NFI Submission - contradicts the procedures the Department utilized at verification. In the verification outline, the Department identified several "pre-selected" sales in the home and U.S. markets for review during verification.<sup>55</sup> In addition, the verifiers examined the documentation for several more home and U.S. market sales

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with duplicate shipping bills, Exhibit N.4 -Invoices for shipment to third countries, and Exhibit N.5 -Non-POR sales documentation.

<sup>48</sup> *Id.*, and Navneet's Rebuttal Brief at 3.

<sup>49</sup> *Id.*, at 5, and *see* Navneet's Sales Verification Report at 20 and Exhibit SVE 11.

<sup>50</sup> *See* NFI Rebuttal at Exhibit N.1 at pages 10 and 23.

<sup>51</sup> *See* Navneet's Rebuttal Brief at 7, and *see* Navneet's SQR1 at Exhibit C.10 and NFI at Exhibit 4.

<sup>52</sup> *Id.*

<sup>53</sup> *See* Navneet's Rebuttal Brief at 7, and *see* Navneet's SQR1 at Exhibit C.10 and NFI at Exhibit 4.

<sup>54</sup> *See Torrington Co. v. United States*, 146 F. Supp. 2d 845, 897 (Ct. Int'l Trade, 2001) ("[A] verification is a spot check and is not intended to be an exhaustive examination of the respondent's business. {The Department} has considerable latitude in picking and choosing which {items} it will examine in detail.") (citations omitted).

<sup>55</sup> *See* the letter to Mr. Mark Davis, titled "Antidumping Duty Review of Certain Lined Paper Products from India (2014-2015): Verification Agenda for Sales Questionnaire Responses" dated June 14, 2016 ("Sales Verification Outlines").

that were not listed in the sales verification outline.<sup>56</sup> Thus, rather than examine all of Navneet's individual sales, the Department instead relied upon a sample of sales to test the accuracy of Navneet's sales information. The information in the NFI Rebuttal follows this same approach. Moreover, the NFI Rebuttal relies upon information examined by the Department at verification, or information which Navneet submitted on the record in the supplemental response, to demonstrate that the Indian Customs and PERS data lack the information necessary to discern between subject and non-subject merchandise.<sup>57</sup> Therefore, we find that Navneet has provided sufficient argument and sample documentation and, thus, it is not necessary for Navneet to provide supporting documentation for all of the sales at issue in the NFI Submission.<sup>58</sup>

On this basis, we determine that the allegations contained in the NFI Submission are not supported by the evidence on the record and, thus, we continue to find that Navneet properly reported all of its sales of subject merchandise to the United States during the POR. Further, we find that the application of adverse facts available is not warranted, as Navneet cooperated to the best of its ability in this administrative review.

## **Comment 2: Adjustment for the Beginning Date of U.S. Sales in the Margin Program**

### *Petitioners' Arguments*

- The Department should follow its practice to include in its margin calculations all export price (EP) sales with an entry date within the POR (or a shipment date within the POR if the entry date is unknown).<sup>59</sup>
- The notes included in the Department's standard margin calculation program indicate that it was the Department's intention to include all EP sales with entry or shipment dates during the POR in its dumping margin calculations.<sup>60</sup>

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<sup>56</sup> See Navneet's Sales Verification Report at 10-11, 14-15, Sales Verification Exhibits at SVEs 6a-6c, 8a-8d, and 11a-11c. 6c,

<sup>57</sup> See Navneet's Sales Verification Report at 20 and Exhibit SVE 11. See also Navneet's SQR1 at Exhibit C.10 and NFI at Exhibit 4.

<sup>58</sup> See NFI Rebuttal at Exhibits N 2.a, N.2.b, N.3, N.4, and N.5.

<sup>59</sup> See Petitioners' Case Brief at 4 (citing the following three cases: (1) *Certain Frozen Warmwater Shrimp from Thailand: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 50,933 (August 29, 2008) and the accompanying Issues and Decision Memorandum ("*Frozen Warmwater Shrimp from Thailand*") at Comment 4, which states, "{W}e have a longstanding practice of reviewing all entries during the POR where EP sales are involved."); (2) *Polyethylene Terephthalate Film, Sheet, and Strip from Taiwan: Final Results of Antidumping Duty Administrative Review; 2010-2011*, 78 FR 9,668 (February 11, 2013) and the accompanying Issues and Decision Memorandum ("*PET Film from Taiwan*") at Comment 5, which states, "Consistent with the Act, the Department's regulations, and our practice, we have determined Nan Ya's universe of sales based on entry date, when available, and shipment date when entry date was not available; and (3) *Certain Welded Carbon Steel Standard Pipes and Tubes from India: Final Results of Antidumping Duty Administrative Review*, 75 FR 69,626 (November 15, 2010) and the accompanying Issues and Decision Memorandum ("*Carbon Steel Pipes and Tubes From India*") at Comment 2, which states, "Where entry data are available, we have based the universe of sales on entry date in order to determine the EP and the dumping margin for each entry.")

<sup>60</sup> See Petitioners' Case Brief at 4, where they cite to the Department's SAS margin log at lines 107-118, which states that FOR REVIEWS: *Adjust BEGINDAY and ENDDAY to match the first day of the first month and the last day of the last month of the window period, respectively, covering all US sale dates.* Reported {constructed export price} sales usually include all sales during the POR. *For EP sales, they usually include all entries during the POR. Accordingly, there may be U.S. Sales transactions with sale dates prior to the POR.* For example, if the first EP

- In the case of Navneet, the *Preliminary Results* do not reflect this practice, because the Department selected purchase order date as Navneet's U.S. date of sale, which resulted in several sales that were ordered before, but shipped during the POR, being excluded.
- In the SAS margin program at line 128, the Department set the BEGINDAY to the first day of the POR. It should be reset to the first day of the month for Navneet's first U.S. sale,<sup>61</sup> based on the purchase order date.
- The Department encountered the same issue in *Pasta from Italy*. In response to this argument, the Department "reviewed all EP sales transactions reported by Rummo during the POR and calculated Rummo's dumping margin based on these EP sales that were entered during the POR."<sup>62</sup>
- The Department should correct the same error in Navneet's margin calculations by changing the SAS program in the final results.

#### *Navneet's Arguments*

- In the *Preliminary Results*, the Department calculated the margin by examining the universe of sales during the POR, *i.e.*, sales reported on the U.S. sales file with purchase order dates in the POR.<sup>63</sup> This methodology is consistent with the Department's practice in many previous reviews in which Navneet has been a respondent.<sup>64</sup>
- The entry date for Navneet's sales is not reported on the U.S. sales file, because the entry date is unknown. Navneet is not the importer and does not know the entry date for any particular sale.<sup>65</sup>
- Petitioners' proposed change to the analysis to compute the margin based on the U.S. sales whose entry date (rather than the purchase order date) is in the POR, is neither necessary nor appropriate. Such a change would be contrary to the Department's consistent past practice with respect to Navneet in this case.
- The standard programming instructions quoted in Petitioners' Case Brief describe the policy as optional, by stating that, with respect to the window period, "*For EP sales, they usually include all entries during the POR.*" A "usual" practice presumes the existence of exceptions. Thus, if the Department's existing calculation for Navneet is arguably contrary to the "usual" policy, it is certainly an acceptable alternative, one that has always been part of the Department's calculations for Navneet.<sup>66</sup>
- If the Department decides to depart from its historical treatment of Navneet's universe of sales, it should not adopt Petitioners' proposed SAS programming language without first modifying the SAS program to base the universe of sales on the entry date (or in the absence

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entry in the POR was in June (first month of POR) but that entry had a sale date back in April, the window period would have to include the three months prior to April. February would then be the beginning of the window period.

<sup>61</sup> See Petitioners' Case Brief at 6.

<sup>62</sup> See *Certain Pasta from Italy: Notice of Final Results of 15<sup>th</sup> Antidumping Duty Administrative review, Final no Shipment Determination and Revocation of Order, in part, 2010-2011*, 78 FR 9364 (February 8 2013) and Issues and the accompanying Issues and Decision Memorandum ("*Pasta from Italy*") at Comment 5.

<sup>63</sup> See Navneet's Rebuttal Brief at 8.

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*, at 9.

of entry date in Navneet's case, the shipment date). Modifying line 128 of the SAS program without also filtering the universe of sales used in the calculation would create a mishmash of two different universes of sale, with some sales included based on the purchase order date and some sales included based on shipment date, which would distort the computation of the margin.<sup>67</sup>

- In order to define accurately the universe of sales to those U.S. sales that had a shipment date during the POR, as intended, the Department should implement an additional filter at line 147.<sup>68</sup> It would then be correct to update the initial U.S. filter by setting BEGINDAY to the first day of the month in which Navneet made its first U.S. sale during the POR based on the purchase order date, as Petitioners suggest.<sup>69</sup>

**Department's Position:** At issue here are two separate and distinct issues: (1) the date field by which the Department filters the U.S. sales to be analyzed by the margin program for calculating a margin; and (2) the date of sale that the Department uses to match U.S. sales that entered or were shipped during the POR with home market sales.

Under 19 CFR 351.213(e)(1)(i), the Department conducts administrative reviews that "normally will cover all entries, exports, or sales of subject merchandise during the 12 months immediately preceding the most recent anniversary month." Accordingly, when the Department performs its margin calculations, it filters the respondent's U.S. sales database such that it captures the sales specified under 19 CFR 351.213(e)(1)(i). Further, when the entry date is not known to the respondent, which is often the case for EP sales, Petitioners correctly note that the Department's practice is to rely upon the shipment date as a proxy for entry date for purposes of filtering the U.S. sales database in its margin program.<sup>70</sup> Because Navneet reported all of its sales as EP sales and, because the entry date was not known to Navneet, the Department should have filtered Navneet's U.S. sales using the shipment date field.<sup>71</sup>

However, the margin program used in the *Preliminary Results* did not filter Navneet's U.S. sales in this manner.<sup>72</sup> Instead, the preliminary margin program did not activate an EP sales filter,

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<sup>67</sup> *Id.*, at 9-10.

<sup>68</sup> Navneet indicates that in line 147 of the SAS program, an additional filter for EP sales "FILTER\_EP" should be set to "YES" and that the date variable to be used to filter EP sales "EP\_DATE\_VAR" should be set to the shipment date, "SHIPDATU." See Navneet's Rebuttal Brief at 10.

<sup>69</sup> See Navneet's Rebuttal Brief at 10.

<sup>70</sup> See e.g., *PET Film from Taiwan* and accompanying Issues and Decision Memorandum at Comment 5, and see *Carbon Steel Pipes and Tubes From India* and accompanying Issues and Decision Memorandum at Comment 2; see also, the Department's initial questionnaire to Navneet, dated December 4, 2015, at C-37, where it instructed Navneet to report its U.S. sales as follows: "Report each U.S. sale of merchandise entered for consumption during the POR, except: (1) for EP sales, if you do not know the entry dates, report each transaction involving merchandise shipped during the POR; and (2) for CEP sales made after importation, report each transaction that has a date of sale within the POR. Do not report canceled sales. If you believe there is a reason to report your U.S. sales on a different basis, please contact the official in charge before doing so."

<sup>71</sup> See Navneet's section C questionnaire response dated February 1, 2016, at C-39.

<sup>72</sup> See Memorandum to the File, "," dated October 5, 2016 at Appendix II, SAS Margin Log, lines at 101-118 (Preliminary Calculation Memorandum).

which was contrary to the instructions provided in the margin program.<sup>73</sup> To correct for this inadvertent error, we have activated the EP sales filter in Bongsan's Final Margin Program.<sup>74</sup> In this manner, consistent with our practice,<sup>75</sup> we have relied on the shipment date for purposes of filtering Navneet's U.S. sales made during the POR.<sup>76</sup> Thus, under this approach, we avoid excluding from the margin calculation certain of Navneet's sales for which the dates of sale (as defined by the purchase order date) occurred prior to the POR but whose shipment dates occurred during the POR.

Having addressed the issue of how to properly filter Navneet's U.S. sales database such that it captures all shipments during the POR, we next address how to properly set the parameters in the margin program used to match the filtered U.S. sales to their corresponding home market sales. Working from the filtered U.S. database, the preliminary margin program correctly instructs us to enter the first day of the month of the earliest date of sale (which for this review is the purchase order date) into the BEGINDAY field, then enter the last day of the month of the last U.S. sale into the ENDDAY field, and finally enter the first day of the month of the first U.S. sale to set the beginning window period in the BEGINWIN field.<sup>77</sup> We have revised the margin program to adhere to these instructions. In this manner, we have properly established the parameters by which the Department will match Navneet's U.S. and home market sales. We have similarly adjusted the corresponding fields in the home market program to reflect these revised dates.<sup>78</sup>

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<sup>73</sup> See Preliminary Calculation Memorandum at Appendix II, SAS Margin Log, lines at 136 to 164.

<sup>74</sup> We activated the EP sales filter by setting the field variable "FILTER\_EP" in the margin program to "YES," and entered proper information for the following field variables: EP\_DATE\_VAR, BEGINDAY\_EP, and the ENDDAY\_EP. See Navneet's Final Margin Program at Part 1-B-ii. See also Memorandum to the File, titled "Final Sales and Cost of Production Calculation Memorandum for Navneet Education Limited (Navneet) Re: Final Results of Antidumping Duty Administrative Review of Certain Lined Paper Products from India (2014-2015)," dated concurrently with this memorandum (Navneet's Final Sales and Cost Calculation Memo).

<sup>75</sup> See, e.g., *PET Film from Taiwan* and accompanying Issues and Decision Memorandum at Comment 5, and see *Carbon Steel Pipes and Tubes from India* and accompanying Issues and Decision Memorandum at Comment 2.

<sup>76</sup> See Navneet's Final Margin Program at Part 1-B-ii. See also Navneet's Final Sales and Cost Calculation Memo.

<sup>77</sup> The window period applies only to administrative reviews, and it refers to the three-month period prior to the month of the first U.S. sale. See Navneet's Final Margin Program at Part 1-B. See also Navneet's Final Sales and Cost Calculation Memo.

<sup>78</sup> See Navneet's Final CM Program at Part 1-B. See also Navneet's Final Sales and Cost Calculation Memo.

### Comment 3: Adjustment for Unreimbursed Indian Excise Tax Credit

#### *Petitioners' Arguments*

- In the *Preliminary Results*, the Department lowered Navneet's home market prices by the amount of tax Navneet paid for raw materials used to make merchandise sold in the home market. The Department explained that it made this adjustment because "Navneet incurs an expense for selling in the home market (*i.e.*, the unreimbursed excise tax) which it does not incur on sales to the U.S. market."<sup>79</sup>
- There is no basis in the law or the Department's practice to grant a home market price adjustment under these circumstances. The only logical basis for a tax adjustment to home market prices is found in section 773(a)(6)(B)(iii) of the Act, which allows for a negative adjustment to normal value in "the amount of any taxes imposed directly upon the foreign like product or components thereof which have been rebated, or which have not been collected, on the subject merchandise, but only to the extent that such taxes are added to or included in the price of the foreign like product."<sup>80</sup>
- The Department explained that its preliminary decision for the downward adjustment to Navneet's home market price is to account for higher costs of production for some home market sales, *i.e.*, "in order to permit an accurate comparison of relative expenses and prices."<sup>81</sup>
- Under section 773 (a)(6)(B)(iii) of the Act, if taxes that a respondent paid on raw materials are rebated through the subsequent sale of subject merchandise, then they should be excluded from the home market (HM) sales price. If the taxes are not rebated, however, then no adjustment is warranted. Any additional adjustment of this kind should properly be dealt with through the duty drawback adjustment provided for under section 772(c)(1)(B) of the Act.<sup>82</sup>
- Navneet also claimed a duty drawback adjustment, and the Department should consider how that claim, and the resulting adjustment, affect the manner in which excise taxes should be treated.<sup>83</sup> Navneet's duty drawback claims "include customs and excise duties in respect of inputs ... used in the manufacture of the products exported."<sup>84</sup> The duty drawback adjustment is designed to counteract margins that would otherwise have been calculated solely on the basis of the duty drawback scheme.<sup>85</sup> Because the duty drawback adjustment already assumes that the HM includes the input taxes, the additional adjustment for excise duties negates the duty drawback adjustment.<sup>86</sup>

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<sup>79</sup> See Petitioners' Case Brief at 4-5, where Petitioners cite to the Preliminary Calculation Memorandum for Navneet at footnote 17, which made reference to Navneet's section B questionnaire response dated February 1, 2016 at pp. B-50-51, where Navneet explains the excise tax imposed in India.

<sup>80</sup> See Petitioners' Case Brief at 7.

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*, at 8.

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*, where Petitioners cite to the Department's Preliminary Calculation Memorandum at footnote 16, which made reference to the "Central Excise Duties and Service Tax Drawback (Amendment) Rules, 2006," under the Duty



### *Navneet's Arguments*

- The Department should continue its past practice by granting an adjustment to recognize that Navneet incurs a selling expense for excise tax on domestic sales that it does not incur for export sales.<sup>87</sup>
- Petitioners have objected to the excise adjustment in the past, but the Department has always recognized that it is a selling expense adjustment that is required to be made under the Department's antidumping law and methodology.
- The Indian excise tax is imposed on all goods that are manufactured in India for consumption in India. It is a levy that is normally paid by a producer to its supplier along with the invoice for the goods, and the supplier pays over that collected tax to the government. When the producer completes and sells the product, it charges the excise tax to its customer on the invoice, and after collection, it pays that portion of the revenue over to the government. As such, the producer at each stage is only liable for the portion of the tax related to the increased value of the product it has produced, and is not liable for the tax on the value of the raw materials it has purchased. However, raw materials purchased for the manufacture of products that will be exported are not subject to the excise tax.<sup>88</sup>
- School supplies which Navneet produced and sells are included in a class of products for which the Indian government does not allow the collection of the excise tax upon sale.<sup>89</sup> This means that while Navneet pays excise tax on its raw materials purchased for domestic production, for many of its products, it is not reimbursed for the excise payment when it sells to its home market.<sup>90</sup> This creates a situation where Navneet incurs an expense for selling in the home market (*i.e.*, the unreimbursed excise tax) which it does not incur on sales to the U.S. market. Navneet must increase its home market price to compensate for this additional expense borne with respect to home market sales.<sup>91</sup>
- Navneet demonstrated in great detail its calculation methodology with supporting documentation, and explained how it applied the excise adjustment in its response.<sup>92</sup>
- The Department has verified the documentation and methodology, and visited the warehouse where Navneet's raw materials are stored, segregated by export and domestic destination.<sup>93</sup>

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Draw Back Scheme in India, relief from customs and central excise duties otherwise to be imposed on inputs used in the manufacture of export products is allowed to the exporter, as submitted in Navneet's section C questionnaire response dated February 1, 2016, at C-40, and its SQR1 at 42-43.

<sup>87</sup> See Navneet's Rebuttal Brief at 13 where Navneet summarizes the previous reviews in which the Department granted adjustments to the unreimbursed excise, including, for example, *Certain Lined Paper Products from India: Final Results of Antidumping Duty Administrative Review*, 79 FR 26205 (May 7, 2014) (CLPP 2014) and *Certain Lined Paper Products from India: Notice of Final Results of Antidumping Duty Administrative Review*, 77 FR 14729 (March 13, 2012) (CLPP 2012), and the accompanying Issues and Decision Memorandum at Comment 6.

<sup>88</sup> See Navneet's section B questionnaire response dated February 1, 2016 ("BQR") at pp. B-50-51. See also Navneet's Rebuttal Brief at 11-12.

<sup>89</sup> *Id.*

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> See Navneet's first supplemental response at Exhibit B-29.

<sup>93</sup> See Navneet's Sales Verification Report at 12, 25.

- The drawback on export sales has nothing to do with Navneet's unreimbursed excise duty on home market sales. There is no excise duty paid on purchases of inputs used by Navneet in the production of domestic product.<sup>94</sup> There is no relationship or connection between the drawback credit, which is an Indian government program intended to account for unreimbursed import duties on imported raw materials, and the excise adjustment, which is a circumstance of sale adjustment required under the Department's rules to account for the fact that Navneet cannot pass on to its school supplies customers the excise tax it paid on domestically-sourced raw materials.<sup>95</sup>
- The Department has accepted the unreimbursed excise expense as an appropriate adjustment in each of Navneet's previous administrative reviews, and in its preliminary results of this review. Accordingly, the Department should continue to make the adjustment in the final results.

**Department's Position:** Pursuant to section 773(a)(6)(B)(iii) of the Act, the Department adjusts for the amount of any taxes imposed directly upon the foreign like product to the extent that such taxes are added to or included in the price of the foreign like product. The Department's regulations at section 351.410(b) clarifies that the Department "will make circumstances of sale adjustments under section 773(a)(6)(C)(iii) of the Act only for direct selling expenses and assumed expenses." "Direct selling expenses' are expenses, such as commissions, credit expenses, guarantees, and warranties, that result from, and bear a direct relationship to, the particular sale in question, and 'assumed expenses' are selling expenses that are assumed by the seller on behalf of the buyer, such as advertising expenses."<sup>96</sup>

We disagree with Petitioners' arguments that the Department should deny the adjustments for the unreimbursed excise tax because there is no basis in the law or the Department's practice to grant a HM price adjustment under these circumstances. We also disagree with Petitioners' contention that 773(a)(6)(B)(iii) of the Act does not provide a legal basis for a tax adjustment to HM prices.<sup>97</sup> Moreover, we disagree with Petitioners' arguments that the separate duty drawback adjustment granted in this review already accounts for the perceived cost difference.<sup>98</sup>

According to the Government of India's regulations, excise taxes paid on the purchase of raw material inputs are not allowed to be passed onto consumers who purchase school supplies, even though Navneet incurs this cost on its home market sales.<sup>99</sup> School supplies which Navneet produces and sells are included in a class of products for which the Indian government does not allow the collection of the excise tax upon sale.<sup>100</sup> As a result, Navneet increases its home

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<sup>94</sup> See Navneet's section D questionnaire response at D-7, first supplemental response at 34, and Cost Verification Report at 17-18. See also Navneet's Rebuttal Brief at 14.

<sup>95</sup> *Id.*

<sup>96</sup> See 19 CFR 351.410(c).

<sup>97</sup> See Petitioners' Case Brief at 7.

<sup>98</sup> *Id.*, at 8.

<sup>99</sup> See SQR1 at Exhibit B.29 at 7. (Notification No. 1/2011- Central Excise, Chapter 4820 of the Central Excise Exemption Table, dated March 1, 2011, the Government of India).

<sup>100</sup> See Navneet's section B questionnaire response dated February 1, 2016 ("BQR") at pp. B-50-51. See also Navneet's Rebuttal Brief at 11-12.

market sales price to include the unreimbursed excise tax expense it incurs for selling school supplies in the home market, which it does not incur on sales to the U.S. market.

The central excise tax is only paid in relation to products sold in the home market, and we observed at the cost verification that the average excise tax rate calculation worksheet lists only purchase orders for paper to be used in the production of merchandise sold in the home market.<sup>101</sup> Further, during our plant tour of Navneet's production facilities, we observed that raw materials to be used in home market production and raw materials to be used in export production are stored in separate warehouse locations and are labeled and tracked separately in Navneet's SAP inventory management module.<sup>102</sup> Moreover, during the cost verification, we noted that the excise tax rate was only applied to products sold in the home market.<sup>103</sup> Navneet also excluded the total amount of the central excise tax on foreign like products from the reported cost of manufacturing and reported the per-unit amount by product in a separate field in the cost of production/constructed value file.<sup>104</sup>

In this case, the record indicates that Navneet is able to segregate physically and electronically its consumption of raw materials for home market production and export market production of merchandise under review.<sup>105</sup> In addition, our verification findings demonstrate that Navneet's sales price of foreign like products is set higher than the sales price of subject merchandise to account for the unreimbursed excise tax.<sup>106</sup> Accordingly, Navneet has assumed the unreimbursed excise tax on behalf of the buyer for its sales of foreign like products. Therefore, in accordance with 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410, and consist with our past practice in this case,<sup>107</sup> we continue to grant Navneet the unreimbursed excise tax.

With respect to Petitioners' claim that the separate duty drawback adjustment granted in this review already accounts for the perceived cost difference, we disagree. As Navneet points out, the drawback credit is an Indian government program intended to account for unreimbursed import duties on imported raw materials, while the excise adjustment is a circumstance of sale adjustment required under the Department's regulations to account for the fact that Navneet cannot pass on to its customers of foreign like products the excise tax it paid on domestically-sourced raw materials used in the production of products sold in the home market.<sup>108</sup> Therefore, we find no relationship or connection exists between the drawback on export sales and Navneet's unreimbursed excise duty on home market sales.

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<sup>101</sup> See Memorandum to the File titled, "Verification of the Cost Response of Navneet Education Ltd. (Navneet) in the Antidumping Administrative Review of Certain Lined Paper Products from India," dated August 16, 2016. ("Cost Verification Report") at steps II.C.2 and II.B.1.d.

<sup>102</sup> *Id.*, at 11 and 17-18.

<sup>103</sup> *Id.*, at 17-18 and Cost Verification Exhibit CVE-15.

<sup>104</sup> *Id.*, at 17-18.

<sup>105</sup> *Id.*, at 11 and 17-18.

<sup>106</sup> *Id.*, at 17.

<sup>107</sup> See e.g., *CLPP 2014*, and *CLPP 2012*.

<sup>108</sup> See Navneet's section D questionnaire response at D-7, first supplemental response at 34, and Cost Verification Report at 17-18. See also Navneet's Rebuttal Brief at 14.

Accordingly, consistent with its past practice, the Department continues to grant Navneet an adjustment for the unreimbursed excise tax in the final results.

#### **Comment 4: Revision to Duty Drawback Denomination in the SAS Margin Program**

##### *Navneet's Arguments*

- The duty drawback credit (DTYDRAWU) is denominated in dollars, rather than Rupees. However, the Department, in its preliminary margin calculations, treated the drawback amount as though it were denominated in Rupees. The Department should correct this error in the final SAS margin program.

Petitioners did not comment on this issue.

**Department's Position:** We agree with Navneet, and have corrected the SAS margin program by applying the U.S. dollar denomination for the duty drawback credit, DTYDRAWU. *See* Navneet's Final Margin Program at Parts 1-E-ii and 4-A.

#### **Comment 5: Revision to Incorrect Quantity (QTYH) in the SAS Comparison Market Program**

##### *Navneet's Arguments*

- As required by the Department's questionnaire, Navneet has adjusted the quantity of the sales invoices to reflect returned merchandise.<sup>109</sup>
- The originally-invoiced quantity is reported in field QTYH, and the quantities returned are reported in fields, ADJQTYH1 and ADJQTYH2, and the adjusted quantity, accounting for returns, is reported in field NETQTYH2.<sup>110</sup>
- Navneet has followed the same methodology for accounting for returns in all of the past reviews in which it has participated, and the Department has always accepted and verified the legitimacy and accuracy of the methodology.<sup>111</sup>
- In the *Preliminary Results*, the Department, in its margin calculation program, ignored NETQTYH2 entirely and used, instead, QTYH.<sup>112</sup>
- In the final results, the Department should correct its calculation program to use NETQTYH2 as intended.<sup>113</sup>

Petitioners did not comment on this issue.

**Department's Position:** We agree with Navneet, and have corrected the SAS Comparison Market (CM) Program by applying the net quantity NETQTY2H as the home market sales

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<sup>109</sup> *See* Navneet's Case Brief at 3.

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*

<sup>112</sup> *Id.*, at 4.

<sup>113</sup> *Id.*

quantity.<sup>114</sup>

#### **Comment 6: Revision to Importer-Specific Rates in the Liquidation Instructions**

##### *Navneet's Arguments*

- It appears that the Department's draft liquidation instructions refer to an incorrect source for the importer-specific rates. Specifically, the Department appears to have applied the importer-specific rates calculated in the preliminary results under the "Average to Transaction" method.
- The Department correctly based Navneet's preliminary margin on the standard "Average to Average" method. Accordingly, the rates in the liquidation instructions should be derived from the standard methodology. The Department should ensure that the final liquidation instructions to the U.S. Customs and Border Protection (CBP) derive the importer-specific rates calculated under the correct methodology, *i.e.* the standard "Average to Average" margin methodology.

Petitioners did not comment on this issue.

**Department's Position:** We agree with Navneet. We will apply the importer-specific rate calculated under the standard "Average to Average" methodology in the final liquidation instructions to CBP.

#### ***COMMENT CONCERNING KOKUYO RIDDHI***

#### **Comment 7: Inclusion of a Customer Name in Kokuyo Riddhi's Liquidation Instructions**

##### *Kokuyo Riddhi's Arguments*

- On October 26, 2016, the Department issued draft liquidation instructions to interested parties to allow for comments in these final results. The Department omitted one customer name from the draft liquidation instructions that were issued regarding Kokuyo Riddhi. For the final results, the Department should correct the liquidation instructions to include the omitted customer name, as referenced in Kokuyo Riddhi's case brief.<sup>115</sup>

Petitioners did not comment on this issue.

**Department's Position:** We agree with Kokuyo Riddhi and will revise the liquidation instructions that will be issued to CBP to include the customer name that was inadvertently omitted in the Department's draft instructions.

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<sup>114</sup> See Navneet's Final CM Program at Part 1-E-ii.

<sup>115</sup> See Kokuyo Riddhi's Case Brief at 1-2, referencing Kokuyo Riddhi's Section A-D supplemental response, dated July 21, 2016, which lists all customer codes.

## VI. Recommendation

Based on our analysis of the comments received, we recommend adopting the above positions. If these recommendations are accepted, we will publish the final results of this review and the final weighted-average dumping margins in the *Federal Register*.



Agree

Disagree

3/13/2017

**X** 

Signed by: RONALD LORENTZEN

Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance