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MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

FROM: James Maeder
Senior Director
performing the duties of 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;
2015-2016

I. 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 mandatory respondents Jindal Poly Films Limited of India and SRF Limited. The period of review (POR) is July 1, 2015, through June 30, 2016. We preliminarily find that Jindal Poly Films Limited of India sold PET Film in the United States below normal value (NV) and that SRF Limited did not.

II. 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), DuPont Teijin Films, Mitsubishi Polyester Film Inc., and SKC, Inc. (the petitioners) requested reviews of Ester Industries Limited (Ester), Garware Polyester Ltd. (Garware), Polyplex Corporation Ltd. (Polyplex Ltd.), SRF Limited (SRF), Jindal Poly Films



Limited of India (Jindal),¹ and Vacmet.² Polyplex USA and Flex USA requested reviews of SRF, Jindal, Garware, Ester, MTZ Polyesters Ltd. (MTZ), Vacmet India Limited, Uflex Ltd. and Polyplex Ltd..³ Jindal and SRF each self-requested.⁴ Based on these timely requests, the Department initiated a review of ten companies in this proceeding.⁵

On December 9, 2016, Jindal and SRF each separately withdrew their self-requests for review.⁶ On December 12, 2016, the petitioners withdrew their requests for Ester, Garware, Polyplex and Vacmet.⁷ Also on December 12, 2016, Polyplex USA and Flex USA withdrew their request for SRF, Jindal, Garware, Ester, MTZ, Vacmet India Limited, Uflex Ltd., and Polyplex Corporation.⁸

On September 26, 2017, 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.⁹ We received no comments from interested parties on the CBP import data. On November 2, 2016, the Department determined to limit the number of companies subject to individual examination, selecting Jindal and SRF as the mandatory respondents.¹⁰ On November 4, 2016, we issued the

¹ On May 23, 2017, the Department sent Jindal Poly Films Ltd. (India) a supplemental questionnaire requesting clarification of its name. *See* Department Letter re: Jindal Poly Films Ltd. (India)'s Name, dated May 23, 2017. Based on Jindal Poly Films Ltd. (India)'s response, we have determined that it is the same company as Jindal Poly Films of India. *See* Jindal Poly Films Ltd. (India)'s May 25, 2017 Response to the Department. Accordingly, we will refer to Jindal Poly Films Ltd. (India) and Jindal Poly Films of India as "Jindal" for the remainder of this memorandum.

² *See* Petitioners' Letter, "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from India: Request for Antidumping Duty Administrative Review," dated August 1, 2016.

³ *See* Polyplex USA and Flex USA's Letter, "TITLE," dated July 29, 2016.

⁴ *See* Jindal's Letter, "Polyethylene Terephthalate (PET) Film from India: Requests for Administrative Review of the Antidumping Duty Order and Countervailing Duty Order," dated July 29, 2016; *see also* SRF's Letter, "Polyethylene Terephthalate (PET) Film from India/Request for Antidumping Admin Review/SRF Limited," dated July 30, 2016; *see also* SRF's Letter, "Polyethylene Terephthalate (PET) Film from India/Withdrawal of Request for Antidumping Admin Review/SRF Limited," dated December 9, 2016.

⁵ These companies were Ester, Garware, Jindal Poly Films Limited of India, Jindal Poly Films Ltd. (India), MTZ, Polyplex Corporation, SRF, Uflex Ltd., Vacmet, and Vacmet India Limited. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 62720, (September 12, 2016) (*Initiation Notice*).

⁶ *See* Jindal's Letter, "Polyethylene Terephthalate (PET) Film from India: Withdrawal of Requests for Administrative Review of the Antidumping Duty Order and Countervailing Duty Order," dated December 9, 2016; *see also* SRF's Letter, "Polyethylene Terephthalate (PET) Film from India/Withdrawal of Request for Antidumping Admin Review/SRF Limited," dated December 9, 2016.

⁷ *See* Petitioners' Letter, "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from India: Withdrawal of Request for Antidumping Duty Administrative Review," dated December 12, 2016.

⁸ *See* Polyplex USA and Flex USA's Letter, "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from India: Request for Withdrawal of Administrative Review," dated December 12, 2016.

⁹ *See* Memorandum, "Antidumping Administrative Review of the Antidumping Duty Order on Polyethylene Terephthalate Film, Sheet, and Strip from India: U.S. Customs Entries," dated September 26, 2016.

¹⁰ *See* Memorandum, "Administrative Review of the Antidumping Duty Order on Polyethylene Terephthalate Film, Sheet, and Strip from India: Selection of Respondents for Individual Examination," dated November 2, 2016 (Respondent Selection Memorandum).

AD questionnaire to Jindal and SRF.¹¹ In December 2016 and January 2017, Jindal and SRF timely filed responses to our questionnaire.¹²

On March 6, 2017, in accordance with in accordance with section 751(a)(3)(A) of the Act, the Department extended the due date for the preliminary results from April 3, 2017, by an additional 90 days. On June 29, 2017, in accordance with in accordance with section 751(a)(3)(A) of the Act, the Department extended the due date for the preliminary results from July 1, 2017, by an additional 30 days. The current deadline is July 31, 2017.

III. Partial Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), based on the timely withdrawal of the requests for review, we are rescinding this administrative review with respect to the following companies named in the *Initiation Notice*: Ester, Garware, MTZ, Polyplex Ltd., Uflex Ltd., Vacmet, and Vacmet India Limited.

IV. Scope of the Order

The products covered by this 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.

V. 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 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.

1. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates weighted-average dumping margins by comparing weighted-average normal values to weighted-average export prices (or constructed export prices) (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a situation. In less-than-fair-value investigations, the Department examines whether to compare weighted-average normal values with the export prices (or constructed export prices) of individual sales (*i.e.*, the average-to-transaction method)

¹¹ See Department Letter re: Antidumping Duty Questionnaire for Jindal, dated November 4, 2016 (Jindal's Initial Questionnaire); *see also* Department Letter re: Antidumping Duty Questionnaire for SRF, dated November 4, 2016 (SRF's Initial Questionnaire).

¹² See Jindal's December 12, 2016 Section A Questionnaire Response (Jindal December 12, 2016 AQR); *see also* Jindal's December 20, 2016 Sections B and C Questionnaire Response (Jindal December 20, 2016 B and C QR); *see also* Jindal's December 23, 2016 Section D Questionnaire Response (Jindal December 23, 2016 DQR).

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 less-than-fair-value investigations.¹³

In recent investigations, the Department applied a “differential pricing” analysis for determining whether application of the average-to-transaction method is appropriate in a situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.¹⁴ The Department finds that the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. 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 a respondent’s weighted-average dumping margin.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of export prices (or constructed export prices) for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchaser, region and time period to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. 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 period of review based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region and time period, that the Department uses in making comparisons between export price (or constructed export price) and normal value for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* coefficient is a generally recognized statistical measure of the extent of the difference between the mean (*i.e.*, weighted-average price) of a test group and the mean (*i.e.*, weighted-average price) of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser,

¹³ 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) and the accompanying Issues and Decision Memorandum at comment 1; see also *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (Ct. Int’l Trade 2014).

¹⁴ See, *e.g.*, *Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar From Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); or *Welded Line Pipe From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

region or time period each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen's *d* coefficient is used to evaluate the extent to which the prices to the particular purchaser, region or time period differ significantly from the prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen's *d* test: small, medium or large (0.2, 0.5 and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are found to pass the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

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

If both tests in the first stage (*i.e.*, the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, the Department examines 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 comparison method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two calculations is meaningful, then this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative comparison method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if 1) there is a 25 percent relative change in the weighted-average dumping margins between the average-to-average method and the appropriate alternative method where both rates are above the *de minimis* threshold, or 2) the resulting weighted-average dumping margins between the average-to-average method and the appropriate alternative method move across the *de minimis* threshold.

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

2. Results of the Differential Pricing Analysis

Jindal

For Jindal, based on the results of the differential pricing analysis, the Department preliminarily finds that 74.48 percent of the value of U.S. sales pass the Cohen's *d* test,¹⁵ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department preliminarily determines that the average-to-average method cannot account for such differences because the weighted-average dumping margin crosses the *de minimis* threshold when calculated using the average-to-average method and when calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, for these preliminary results, the Department is applying the average-to-transaction method to all U.S. sales to calculate the weighted-average dumping margin for Jindal.

SRF

For SRF, based on the results of the differential pricing analysis, the Department preliminarily finds that 71.54 percent of the value of U.S. sales pass the Cohen's *d* test,¹⁶ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, for these preliminary results, the Department is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for SRF.

VI. 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.

¹⁵ See Memorandum, "Analysis for the Preliminary Results of the Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip from India: Jindal Poly Films Limited (Jindal)," dated concurrently with this memorandum (Jindal Preliminary Analysis Memorandum) at 2.

¹⁶ See Memorandum, "Analysis for the Preliminary Results of the Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip from India: SRF," dated concurrently with this memorandum (SRF Preliminary Analysis Memorandum) at 2.

VII. Date of Sale

Section 351.401(i) of the Department's regulations states that the Department normally will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The regulation provides further that the Department may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established. The Department has a long-standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established.¹⁷

Jindal

Jindal reported the invoice date as the date of sale for its home market and U.S. sales.¹⁸ 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.¹⁹ 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.²⁰

SRF

In the instant review, SRF reported invoice date as the date of sale for both its home market and U.S. sales.²¹ 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.

VIII. 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.²² 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 where applicable. We also made deductions from the starting price, where applicable, for movement expenses, including domestic inland freight and

¹⁷ See *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 72 FR 52065 (September 12, 2007), and accompanying Issues and Decision Memorandum at Comment 11; see also *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002), and accompanying I&D Memo at Comment 2.

¹⁸ See Jindal December 20, 2016 B and C QR, at B-17 and C-15.

¹⁹ *Id.* at B-18 and C-15.

²⁰ See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090-1092 (CIT 2001).

²¹ See SRF's November 28, 2016 Section A Questionnaire Response (SRF November 28, 2016 AQR) at 21-23; see also SRF's January 3, 2017 Sections B, C, and D Questionnaire Response (SRF January 3, 2017 BCDQR) at 17-18 (Section B) and 15 (Section C).

²² See Jindal Sections B & C Questionnaire Response at C-3.

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).²³

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.²⁴ 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, where applicable. 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) and 19 CFR 351.402.²⁵

IX. Normal Value

1. 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.

2. 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,²⁶ 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.²⁷ If the comparison market sales are at a different LOT

²³ See Jindal Preliminary Analysis Memorandum at "Net U.S. Price."

²⁴ See SRF November 28, 2016 AQR at 3.

²⁵ See SRF Preliminary Analysis Memorandum at "Net U.S. Price."

²⁶ See H.R. Doc. No. 316, 103d Cong., 2d Sess. 829-831 (1994).

²⁷ See 19 CFR 351.412(c)(2).

and the difference affects price comparability, as manifested in a pattern of consistent price 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.²⁸ 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.²⁹ Jindal's selling functions were performed at the same or similar levels of intensity in both channels of distribution in the U.S. market.³⁰ 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.³¹ 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,³² 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.³³ SRF performed most of the selling functions at the same or similar levels of intensity in all three channels of distribution.³⁴ Because the selling activities to SRF's customers did not vary for sales in the home market through its three channels of distribution, we preliminarily determine that SRF had one LOT in the home market.

²⁸ See Jindal December 6, 2017 AQR, at 20-25 and Exhibit A-5.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ See SRF November 28, 2017 AQR at 18-19.

³⁴ *Id.*

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.³⁵ SRF's selling functions were performed at the same or similar levels of intensity in both channels of distribution in the U.S. market.³⁶ 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.

3. 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.³⁷ 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.³⁸ 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.³⁹ Accordingly, the Department requested this information from respondents Jindal and SRF.⁴⁰ 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 COP.

A. 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

³⁵ *Id.*

³⁶ *Id.* at Exhibit A-5.

³⁷ See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015).

³⁸ 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).

³⁹ *Id.* 80 FR at 46794-95.

⁴⁰ 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.

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 and made no changes to the reported costs of the two companies.

B. 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 in the normal course of trade.

C. 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 of SRF's sales 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 SRF's below-cost sales in our analysis as outside of the ordinary course of trade and used the remaining sales to determine NV.⁴¹

4. 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

⁴¹ See Jindal Preliminary Analysis Memorandum at "Sales Below Cost;" *see also* SRF Preliminary Analysis Memorandum at "Sales Below Cost."

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. Finally, in accordance with 19 CFR 351.401(c), we made adjustments 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.⁴² 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.

5. 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>.⁴³

⁴² See Jindal Preliminary Analysis Memorandum; *see also* SRF Preliminary Analysis Memorandum.

⁴³ See Jindal Preliminary Analysis Memorandum at Attachment “Jindal’s Margin Program Output and Log” and SRF Preliminary Analysis Memorandum at Attachment “SRF’s Margin Program Output and Log.”

X. 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

7/31/2017

X 

Signed by: GARY TAVERMAN

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the non-exclusive functions of the
Assistant Secretary for Enforcement and Compliance