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Administrative Review
9/1/2015 - 8/31/2016
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October 2, 2017

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 the Preliminary Results of
Antidumping Duty Administrative Review: Certain Lined Paper
Products from India; 2015-2016

I. SUMMARY

In response to requests from interested parties, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty (AD) order on certain lined paper products (CLPP) from India for the period of review (POR), September 1, 2015, through August 31, 2016. The Department preliminarily determines that Navneet Education Ltd. (Navneet) and SAB International (SAB) did not sell subject merchandise at less than normal value (NV) during the POR.

We intend to issue the final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act). Once we issue the final results, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of subject merchandise during the POR.

We initiated this review with respect to nine Indian producers/exporters of subject merchandise.¹ We preliminarily determine that Lodha Offset Limited (Lodha) and Marisa International (Marisa) had no sales of subject merchandise during the POR. Accordingly, this review covers the two mandatory respondents, Navneet and SAB, as well as five non-selected companies, as discussed below.

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 78778 (November 9, 2016) (*Initiation Notice*).



II. BACKGROUND

On September 28, 2006, the Department published in the *Federal Register* the *AD Order* on CLPP from India.² On September 8, 2016, the Department published a notice of opportunity to request an administrative review of the *AD Order* on CLPP from India.³

Pursuant to requests from interested parties, on November 9, 2016, the Department published in the *Federal Register* the *Initiation Notice*.⁴ The Department initiated this administrative review covering the following nine companies: Kokuyo Riddhi Paper Products Pvt. Ltd. (Kokuyo Riddhi), Lodha, Magic International Pvt. Ltd. (Magic), Marisa, Navneet, Pioneer Stationery Pvt Ltd. (Pioneer), SAB, SGM Paper Products, and Super Impex.

On December 8, 2016, the Department issued quantity and value questionnaires to all the companies for which a review was requested. On December 13 and 16, 2016, Lodha and Marisa reported, respectively, that they made no sales of subject merchandise to the United States during the POR.⁵ Pursuant to 19 CFR 351.213(d)(1), the deadline to timely file withdrawal of review requests was February 7, 2017. Super Impex filed a request to withdraw from the administrative review on February 7, 2017;⁶ however, the petitioners also requested a review of Super Impex, so we did not rescind the review with respect to Super Impex.⁷

On January 10, 2017, the Department selected Navneet and SAB as mandatory respondents, and issued initial questionnaires to both companies.⁸ Thus, we are conducting individual examinations of Navneet and SAB. For the remaining firms covered by this administrative review, which were not selected for individual examination, we have assigned to them the calculated weighted-average percentage margin, 0.00 percent.⁹ The firms receiving this non-selected rate are: Kokuyo Riddhi, Magic, Pioneer, SGM Paper Products, and Super Impex.

² See *Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from the People's Republic of China; Notice of Antidumping Duty Orders: Certain Lined Paper Products from India, Indonesia and the People's Republic of China; and Notice of Countervailing Duty Orders: Certain Lined Paper Products from India and Indonesia*, 71 FR 56949 (September 28, 2006) (*AD Order*).

³ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 81 FR 62096 (September 8, 2016).

⁴ See *Initiation Notice*.

⁵ See Lodha's letter re: Response to Quantity & Value Questionnaire, submitted on December 13, 2016 (Lodha's No Shipment Letter). See also Marisa's letter re: Certain Lined Paper Products from India: No export or sales of subject merchandise, dated December 16, 2016 (Marisa's No Shipment Letter).

⁶ See Super Impex's letter re: Certain Lined Paper Products from India: Withdrawal of Request for Anti-Duty Administrative Review of Super Impex, dated February 7, 2017.

⁷ See the petitioners' letter re: Certain Lined Paper Products from India: Request for Administrative Review, dated September 30, 2016.

⁸ See Memorandum, "Selection of Respondents for Individual Examination," dated January 9, 2017 (Respondent Selection Memo); see also Department Letter re: Sections A-D questionnaire, dated January 10, 2017.

⁹ See "Margin for Companies Not Selected for Individual Examination" section below for further discussion.

Navneet

In response to the Department's initial questionnaire dated January 10, 2017, Navneet submitted its section A response on February 3, 2017.¹⁰ Navneet submitted its response to sections B through D of the Department's initial questionnaire on March 3, 2017.¹¹

On May 16, 2017, the petitioners submitted comments on Navneet's response to sections A through D of the Department's initial questionnaire.¹²

On July 18, 2017, the Department issued a section A and C supplemental questionnaire to Navneet.¹³ Navneet provided its responses on August 1, 2017.¹⁴

SAB

In response to the Department's initial questionnaire dated January 10, 2017, SAB submitted its section A response on February 14, 2017.¹⁵ SAB submitted its responses to sections C and D of the Department's initial questionnaire on March 1, 2017,¹⁶ and March 6, 2017,¹⁷ respectively. On April 11 and June 14, 2017, the Department issued its first and second sections A through D supplemental questionnaires to SAB.¹⁸ SAB responded to the two supplemental questionnaires on May 12, and June 27, 2017, respectively.¹⁹

Because SAB did not make any sales of foreign like product in its home market during the POR, and its sales of foreign like product in the third countries during the POR also fell below the Department's five percent threshold for determining viability,²⁰ the Department relied on constructed value (CV) as NV for comparison to SAB's export price (EP) sales. Further, because SAB has no viable home market or third country market, we could not use SAB's own profit percentage from the comparison market (CM) sales, for purposes of the calculations of CV profit and selling expenses. Thus, the Department requested that SAB submit surrogate financial statements.²¹ SAB submitted the financial statements of the following five companies: (1) Biyani Paper Converters Private Limited (Biyani), (2) Keshav Publication Private Limited

¹⁰ See Navneet's letter re: Re: Certain Lined Paper Products from India: Response of Navneet Education Limited to Antidumping Questionnaire, Section A," dated February 3, 2017, (Navneet February 3, 2017 AQR).

¹¹ See Navneet's March 3, 2017 Section B, Section C, and Section D Questionnaire Responses (Navneet March 3, 2017 BQR, Navneet March 3, 2017 CQR, and Navneet March 3, 2017 DQR, respectively).

¹² See the petitioners' Letter re: Certain Lined Paper Products from India: Deficiency Comments on Navneet's Questionnaire Responses, dated May 16, 2017.

¹³ See Department Letter to Navneet re: First Supplemental Questionnaire, dated July 18, 2017 (Navneet First SQ).

¹⁴ See Navneet's August 1, 2017 Supplemental Questionnaire Response (Navneet August 1, 2017 SQR).

¹⁵ See SAB's February 14, 2017 Section A Questionnaire Response (SAB February 14, 2017 AQR).

¹⁶ See SAB's March 1, 2017 Section C Questionnaire Response (SAB March 1, 2017 CQR).

¹⁷ See SAB's March 6, 2017 Section D Questionnaire Response (SAB March 6, 2017 DQR).

¹⁸ See Department Letters to SAB re: First Supplemental Questionnaire, dated April 11, 2017 (SAB First SQ), and Second Supplemental Questionnaire, dated June 14, 2017 (SAB Second SQ).

¹⁹ See SAB June 27, 2017's May 12, 2017 First Supplemental Questionnaire Response (SAB May 12, 2017 SQR), and SAB's June 27, 2017 Second Supplemental questionnaire response (SAB June 27, 2017 SQR).

²⁰ See SAB February 14, 2017 AQR at 3-4 and Exhibit A-1.

²¹ See SAB Second SQ.

(Keshav), (3) Bhaskar Stationers Private Limited (Bhaskar), (4) Arora Gifts Private Limited (Arora), and (5) Vata Paper Limited (Vata).²²

On July 3, 2017, the Department issued both sales and cost verification outlines to SAB.²³ On July 14, 2017, the petitioners submitted pre-verification comments.²⁴ From July 19, 2017, through July 28, 2017, the Department conducted cost and sales verifications of SAB. On September 29, 2017, we issued both the sales and cost verification reports.²⁵

III. EXTENSION OF PRELIMINARY RESULTS

On May 15, 2017, the Department issued a memorandum extending the time period for issuing the preliminary results of the instant administrative review from June 2, 2017, to October 2, 2017.²⁶

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

²² See SAB June 27, 2017 SQR.

²³ See Department Letters to SAB re: Antidumping Duty Review of Certain Lined Paper Products from India (2015-2016): Verification Agenda for Sales Questionnaire Responses, dated July 3, 2017; *see also* Department’s Letters to SAB re: Antidumping Duty Review of Certain Lined Paper Products from India (2015-2016): Verification Agenda for Cost Responses, dated July 3, 2017.

²⁴ See the petitioners’ Letter re: Certain Lined Paper Products from India: Pre-Verification Comments on SAB’s Questionnaire Responses, dated July 14, 2017.

²⁵ See Memorandum, “2015-2016 Antidumping Duty Administrative Review of Certain Lined Paper Products from India: Verification of Sales Questionnaire Responses of SAB International” dated September 29, 2017 (SAB Sales Verification Report); *see also* Memorandum, “2015-2016 Antidumping Duty Administrative Review of Certain Lined Paper Products from India: Verification of Cost Questionnaire Responses of SAB International” dated September 29, 2017 (SAB Cost Verification Report).

²⁶ See Memorandum, “Certain Lined Paper Products from India: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review; 2015-2016,” dated May 15, 2017.

paper and/or cover are hole punched, drilled, perforated, and/or reinforced. Subject merchandise may contain accessory or informational items including but not limited to pockets, tabs, dividers, closure devices, index cards, stencils, protractors, writing implements, reference materials such as mathematical tables, or printed items such as sticker sheets or miniature calendars, if such items are physically incorporated, included with, or attached to the product, cover and/or backing thereto.

Specifically excluded from the scope of this order are:

- unlined copy machine paper;
- writing pads with a backing (including but not limited to products commonly known as “tablets,” “note pads,” “legal pads,” and “quadrille pads”), provided that they do not have a front cover (whether permanent or removable). This exclusion does not apply to such writing pads if they consist of hole-punched or drilled filler paper;
- three-ring or multiple-ring binders, or notebook organizers incorporating such a ring binder provided that they do not include subject paper;
- index cards;
- printed books and other books that are case bound through the inclusion of binders board, a spine strip, and cover wrap;
- newspapers;
- pictures and photographs;
- desk and wall calendars and organizers (including but not limited to such products generally known as “office planners,” “time books,” and “appointment books”);
- telephone logs;
- address books;
- columnar pads & tablets, with or without covers, primarily suited for the recording of written numerical business data;
- lined business or office forms, including but not limited to: pre-printed business forms, lined invoice pads and paper, mailing and address labels, manifests, and shipping log books;
- lined continuous computer paper;
- boxed or packaged writing stationery (including but not limited to products commonly known as “fine business paper,” “parchment paper”, and “letterhead”), whether or not containing a lined header or decorative lines;
- Stenographic pads (“steno pads”), Gregg ruled (“Gregg ruling” consists of a single- or double-margin vertical ruling line down the center of the page. For a six-inch by nine-inch stenographic pad, the ruling would be located approximately three inches from the left of the book.), measuring 6 inches by 9 inches.

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

- Fly™ lined paper products: A notebook, notebook organizer, loose or glued note paper, with papers that are printed with infrared reflective inks and readable only by a Fly™ pen-top computer. The product must bear the valid trademark Fly™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

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

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

V. DISCUSSION OF THE METHODOLOGY

Preliminary Determination of No Shipments

In the *Initiation Notice*, we instructed producers or exporters named in the notice that had no exports, sales, or entries during the POR to notify the Department within 30 days of publication of the notice of this fact.²⁷ As noted above, on December 13 and 16, 2016, Lodha and Marisa reported, respectively, that they made no sales of subject merchandise to the United States during the POR.²⁸ To confirm Lodha's and Marisa's no shipment claims, the Department issued a no-shipment inquiry to CBP requesting that it review Lodha's and Marisa's no-shipment claims.²⁹ CBP did not report that it had any information to contradict Lodha's and Marisa's claims of no shipments during the POR.

Given that Lodha and Marisa certified that they made no shipments of subject merchandise to the United States during the POR, and there is no information calling their claims into question, we preliminarily determine that Lodha and Marisa did not have any reviewable transactions during the POR. Consistent with the Department's practice, we will not rescind the review, in part, with respect to Lodha and Marisa but, rather, will complete the review and issue instructions to CBP based on the final results.³⁰ Should evidence contrary to these companies' no shipments claims arise, we will revisit this issue in the final results.

Date of Sale

Under 19 CFR 351.401(i) the Department normally will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The regulation provides further that the Department may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale (such as price and quantity) are established.

Navneet reported the commercial invoice date as the date of sale in the home market.³¹ For U.S.

²⁷ See *Initiation Notice*, 81 FR at 78779.

²⁸ See Lodha's No Shipment Letter and Marisa's No Shipment Letter.

²⁹ See No Shipments Inquiry for certain lined paper products from India Produced and/or Exported by Lodha Offset and Marisa International (A-533-843), message number 6365302 (December 30, 2016).

³⁰ See, e.g., *Certain Frozen Warmwater Shrimp From Thailand; Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Review, Preliminary Determination of No Shipments*; 2012-2013, 79 FR 15951, 15952 (March 24, 2014), unchanged in *Certain Frozen Warmwater Shrimp From Thailand: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Partial Rescission of Review*; 2012-2013, 79 FR 51306, 51306-51307 (August 28, 2014).

³¹ See Navneet February 3, 2017 AQR at 27-28, see also Navneet March 3, 2017 BQR at 24.

sales, Navneet reported the purchase order date as the date of sale because the quantity, price, and product specifications are set in the purchase order and are not subsequently changed.³² Nothing on the record suggests that a different date better reflects the date on which the material terms of sale are established. Thus, for Navneet, we are basing the date of sale on the commercial invoice date for home market sales, and the purchase order date for U.S. sales.

SAB reported the earlier of commercial invoice date, or excise invoice date (*i.e.*, shipment date) as the date of sale in the U.S. market.³³ We found nothing on the record to suggest that a different date better reflects the date on which the material terms of sale are established. Thus, for SAB, we are basing the date of sale on the earlier of commercial invoice date, or excise invoice date.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondents that are covered by the description contained in the “Scope of the Order” section above and were sold in the home market during the POR, to be foreign like product for purposes of determining the appropriate product on which to base NVs for comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product on the basis of the hierarchy of reported physical characteristics: (1) form, (2) paper volume, (3) brightness, (4) binding type, (5) cover material, (6) back material, (7) number of inserts, and (8) insert material.

Comparisons to Normal Value

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

A. 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 particular 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) 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

³² See Navneet February 3, 2017 AQR at 29-30; *see also* Navneet March 3, 2017 CQR at 23.

³³ See SAB February 14, 2017 AQR at 17. *See also* SAB March 1, 2017 CQR at 19.

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.³⁴

In recent investigations, the Department applied a “differential pricing” analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.³⁵ 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 customer codes for Navneet and SAB. Regions are defined using the reported destination codes (*i.e.*, zip codes for Navneet and states for SAB) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau.³⁶ Time periods are defined by the quarter within the POR 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 EP and NV 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.*,

³⁴ 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 accompanying Issues and Decision Memorandum at comment 1; see also *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (CIT 2014), *aff’d* 862 F.3d 1323 (Fed. Cir. 2017).

³⁵ See, *e.g.*, *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013) and accompanying Issues and Decision Memorandum at Comment 3; *Steel Concrete Reinforcing Bar From Mexico: Preliminary Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, and Postponement of Final Determination*, 79 FR 22802 (April 24, 2014), and accompanying Preliminary Decision Memorandum at 17-19, unchanged in *Final Determination*, 79 FR 54967 (September 15, 2014); and *Welded Line Pipe from the Republic of Turkey: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 80 FR 29617 (May 22, 2015) and accompanying Preliminary Decision Memorandum at 10-12, unchanged in *Final Determination*, 80 FR 61362, (October 13, 2015); see also *Differential Pricing Analysis; Request for Comments*, 79 FR 26720 (May 9, 2014).

³⁶ See Navneet March 3, 2017 CQR at 39. See also SAB February 14, 2017 AQR at 3-4 and Exhibit A-1.

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, 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 passes the Cohen's *d* test accounts for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that 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 (A-to-A) 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 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.

B. Results of the Differential Pricing Analysis

For Navneet, based on the results of the differential pricing analysis, the Department preliminarily finds that 43.63 percent of the value of U.S. sales pass the Cohen's *d* test,³⁷ 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 those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test. 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 Navneet.

For SAB, based on the results of the differential pricing analysis, the Department preliminarily finds that 89.29 percent of the value of U.S. sales pass the Cohen's *d* test,³⁸ 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 margins 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 SAB.³⁹

Export Price

For Navneet's and SAB's U.S. sales, we used the EP methodology, in accordance with section 772(a) of the Act, because the subject merchandise was sold by the producer or exporter of subject merchandise outside of the United States directly to the first unaffiliated purchaser in the

³⁷ See Memorandum, "Preliminary Results of Antidumping Duty Administrative Review of Certain Lined Paper Products from India (2015-2016): Calculation Analysis of Sales and Cost of Production for Navneet Education Ltd. (Navneet)," dated concurrently with this memorandum (Preliminary Calculation Memorandum for Navneet) for further details.

³⁸ See Memorandum, "Preliminary Results of Antidumping Duty Administrative Review of Certain Lined Paper Products from India (2015-2016): Calculation Analysis of Sales and Cost of Production for SAB International (SAB)," dated concurrently with this memorandum (Preliminary Calculation Memorandum for SAB) for further details.

³⁹ In these preliminary results, the Department applied the weighted-average dumping margin calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012). In particular, for Navneet, the Department compared monthly weighted-average EPs with monthly weighted-average NVs; for SAB, the Department compared monthly weighted-average EPs with SAB's CV. In addition, the Department granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

United States prior to importation. We based EP on packed prices to the first unaffiliated purchaser in the United States. When appropriate, we adjusted the EP prices to reflect discounts, rebates, and billing adjustments.

For Navneet and SAB, in accordance with section 772(c)(2)(A) of the Act, we made deductions, where appropriate, for movement expenses, inland freight, brokerage and handling, international freight, freight rebate revenue, and U.S. customs duties in accordance with section 772(c)(2)(A) of the Act. In addition, when appropriate, we increased EP by an amount equal to the countervailing duty (CVD) rate attributed to export subsidies in the most recently completed CVD administrative review, in accordance with section 772(c)(1)(C) of the Act.

Normal Value

A. Home Market Viability

In accordance with section 773(a)(1)(C) of the Act, 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 Navneet's and SAB's volumes of home market sales of the foreign like product to the volumes of U.S. sales of the subject merchandise. Based on this comparison, we found that the aggregate volume of Navneet's home market sales of foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise.⁴⁰ Therefore, we determined that Navneet's home market was viable, pursuant to section 773(a)(1)(B) of the Act and 19 CFR 351.404(b). Moreover, there is no evidence on the record supporting a particular market situation in the exporting companies' country that would not permit a proper comparison of home market and U.S. prices.

With respect to SAB, it reported no sales of foreign like product in the home market. Although SAB had sales of foreign like product to Canada, Mexico, and Guyana, we found that none of SAB's sales in these countries had volumes in excess of five percent of the volume of sales to the United States of subject merchandise.⁴¹ Section 773(a)(1)(C)(i) of the Act applies to the Department's determination of NV if the foreign like product is not sold (or offered for sale) for consumption in the exporting country. When sales in the home market are not viable, section 773(a)(1)(B)(ii) of the Act provides that sales to a particular third-country market may be utilized if: (1) the prices in such market are representative; (2) the aggregate quantity of the foreign like product sold by the producer or exporter in the third-country market is five percent or more of the aggregate quantity of the subject merchandise sold in or to the United States; and (3) the Department does not determine that a particular market situation in the third-country market prevents a proper comparison with the U.S. price.

In this case, neither SAB's sales to any third country nor the aggregate quantity of the foreign like product sold by SAB in the third-country markets is five percent or more of the aggregate quantity of the subject merchandise sold in or to the United States.⁴² Therefore, we based SAB's NV on CV in accordance with sections 773(a)(4) and 773(e) of the Act.

⁴⁰ See Navneet February 3, 2017 AQR at A-6 – A-8 and Exhibit A.1.

⁴¹ See SAB February 14, 2017 AQR at 3-4 and Exhibit A-1.

⁴² See SAB February 14, 2017 AQR Exhibit A-1.

B. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (LOT) as the EP or constructed export price (CEP). Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).⁴³ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.⁴⁴ In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the chain of distribution), including selling functions, class of customer (*i.e.*, customer category), and the level of selling expenses for each type of sale.

Pursuant to 19 CFR 351.412(c)(1), in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either home market or third-country prices), we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and CEP profit under section 772(d) of the Act.⁴⁵ Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling, general, and administrative (SG&A) expenses, and profit for CV, where possible.⁴⁶

When the Department is unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sales to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it practicable, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.*, no LOT adjustment was practicable), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.⁴⁷

We obtained information from the respondents, Navneet and SAB, regarding the marketing stages involved in making the reported comparison market and U.S. sales, including a description of the selling activities performed by each respondent for each channel of distribution.

Navneet

Navneet reported six channels of distribution for sales in the comparison market and one channel of distribution in the U.S. market in which all sales were EP sales.⁴⁸ Specifically, Navneet reported the following six channels of distribution in the home market: (channel one) full

⁴³ See 19 CFR 351.412(c)(2).

⁴⁴ See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732 (November 19, 1997) (*Plate from South Africa*).

⁴⁵ See *Micron Technology Inc. v. United States*, 243 F.3d 1301, 1314-1315 (Fed. Cir. 2001).

⁴⁶ See 19 CFR 351.412(c)(1).

⁴⁷ See *Plate from South Africa*, 62 FR at 61732-33.

⁴⁸ See Navneet February 3, 2017 AQR at 10-26, Exhibit A.5, and Exhibit A.6.

service sales of Navneet-branded products to distributors; (channel two) sales of limited service Boss-branded products; (channel three) sales to retail chains with their own distribution networks; (channel four) sales to institutional end-users who purchase materials for their own use; (channel five) sales to schools for end-use and for resale to students; and (channel seven) full service sales of Navneet-branded products to super-stockists who in turn sell to distributors.⁴⁹ Navneet stated that there is only one channel of distribution for the U.S. market (channel six).

In its home market, only two of Navneet's distribution channels are full service channels. In channel one (distributors with full-service merchandising), Navneet states that it designs and produces products on its own account, maintains the products in regional and clearing and forwarding (C&F) warehouses nationwide, delivers products to distributors from local warehouses and issues invoices to distributors, and actively participates in advertising at the retail and consumer levels.⁵⁰ In channel seven (full service sales of Navneet-branded products to super-stockists who then sell to distributors), Navneet states that it designs and produces products on its own account; sells to super-stockists, who maintain the products in their own warehouses; and actively participates in advertising at the retail and consumer levels.⁵¹ In both channels one and seven, Navneet states that it employs a large number of advertising personnel, called canvassers, to assist retailers with setting up advertising materials and introducing products at the retail and consumer levels.⁵² Navneet also provides printed advertising materials for retail displays to support the sales of products in channels one and seven.⁵³ Finally, Navneet hires marketing consultancy services who provide advice on product trends and advertising, primarily focused on the products sold through channels one and seven.⁵⁴

In channels three, four, and five (the Chain Store, Institutional, and School Channels), Navneet reported providing a medium-level of selling activities.⁵⁵ In channels one, three, four, five, and seven, Navneet reported providing print and digital advertising for its Navneet and Youva brands.⁵⁶ In channel two, the Limited-Service Channel, Navneet reported performing no downstream selling or promotional activities and no brand advertising for its generic Boss-branded products.⁵⁷ In channel three, Navneet reported providing a moderate level of downstream selling activities in the form of general brand advertising in print and digital media, which indirectly supports sales to retail chains through channel three, and by sending Navneet representatives to participate in their customers' promotional events.⁵⁸ For all home market channels, Navneet produces for its own account, and for all home market channels with the exception of channel seven, Navneet holds sales inventory in its own warehouses before shipping

⁴⁹ *Id.*

⁵⁰ *Id.* at 11-14.

⁵¹ *Id.* at 14-16.

⁵² *Id.* at 12.

⁵³ *See* Navneet August 1, 2017 SQR at 5.

⁵⁴ *Id.* at 3-4.

⁵⁵ *See* Navneet February 3, 2017 AQR at 18-21, *see also* Exhibit A.6.

⁵⁶ *See* Navneet August 1, 2017 SQR at 6-7.

⁵⁷ *Id.* at 7; *see also* Navneet February 3, 2017 AQR at 16-18.

⁵⁸ *Id.* at 18, *see also* Navneet August 1, 2017 SQR at 3 and 5.

products to its customers' warehouse.⁵⁹ In all cases, Navneet accepts and processes orders, issues invoices and shipping documents, and collects payment.⁶⁰

We preliminarily determine that the levels of selling activities for channels one and seven (full service sales to distributors and full service sales to super-stockists, respectively) in the home market are at a higher level of intensity than the levels of selling activities in the other channels of distribution in the home market. Therefore, we find that the home-market channels of distribution constitute two LOTs: (1) LOT1, which consists of channels one and seven; and (2) LOT2, which consists of channels two, three, four, and five, as reported by Navneet in its database.

In the U.S. market, Navneet made only EP sales of subject merchandise.⁶¹ There was a single channel of distribution for U.S. sales, sales to importers/distributors who distribute the products to retailers (channel six). Navneet manufactures products for the U.S. market to order, and ships them directly from the factory to the port for export, without holding them in an intermediate warehouse.⁶² After shipment, Navneet has no further involvement in the sale. Therefore, the U.S. Export/Distribution Channel has a low level of selling activities, with no downstream selling or promotional activities. All marketing, selling, and distribution activities are carried out by the importers/distributors for the U.S. market.⁶³

Based on our analysis of the selling activities in the home market and in the U.S. market, we find that Navneet's home market sales in LOT2 are at the same level of trade as the U.S. sales.

Therefore, we have compared U.S. sales to Navneet's reported LOT2 sales in its home market sales database. For more details, *see* Preliminary Calculation Memorandum for Navneet.⁶⁴

SAB

During the POR, SAB's sales to the United States were all made to trading companies. Our analysis of the selling activities in the U.S. market supports that there is only one level of trade for all sales in the U.S. market.⁶⁵ However, because SAB did not have viable comparison market sales, we did not make a LOT adjustment for SAB, pursuant to section 773(a)(1)(B)(i) of the Act and 19 CFR 351.412(c)(1). *See* Preliminary Calculation Memorandum for SAB.⁶⁶

C. Sales to Affiliated Customers

We exclude comparison market sales to affiliated customers that are not made at arm's-length prices from our margin analysis because we consider them to be outside the ordinary course of

⁵⁹ *Id.* at 14-15 and 25.

⁶⁰ *Id.* at 30.

⁶¹ *Id.* at 22.

⁶² *Id.*

⁶³ *Id.* at 22-23, *see also* Exhibit A.6.

⁶⁴ *See* Preliminary Calculation Memorandum for Navneet for further details.

⁶⁵ *See* SAB February 14, 2017 AQR at Exhibit A-3.

⁶⁶ *See* Preliminary Calculation Memorandum for SAB for further details.

trade.⁶⁷ Consistent with 19 CFR 351.403(c) and (d) and our practice, “the Department may calculate normal value based on sales to affiliates if satisfied that the transactions were made at arm’s length.”⁶⁸ To test if sales to affiliates were made at arm’s-length prices, we compare, on a model-specific basis, the starting prices of sales to affiliated and unaffiliated customers, net of all direct selling expenses, billing adjustments, discounts, rebates, movement charges, and packing (arm’s-length test). Where prices to the affiliated party are, on average, within a range of 98-to-102 percent of the price of identical or comparable merchandise to the unaffiliated parties, we determine that the sales made to the affiliated party are at arm’s length.⁶⁹

Navneet did not make any sales of foreign like product to affiliated companies during the POR.⁷⁰

SAB did not make any sales of foreign like product to affiliated companies during the POR. Based on our verification, SAB’s only affiliated company had been inactive since 2013, and it was dissolved during the POR.⁷¹

D. Cost of Production Analysis

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (TPEA), Public Law No. 114-27, which made numerous amendments to the antidumping and countervailing law, including amendments to section 773(b)(2)(A) of the Act, regarding the Department’s requests for information on sales at less than cost of production.⁷² 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 each amendment to the Act, except for amendments to section 771(7) of the act, which relate to determinations of material injury by the International Trade Commission.⁷³ 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 CV and cost of production (COP) information from respondent companies in all antidumping proceedings.⁷⁴ Because these amendments apply to this review, the Department requested this information from Navneet and SAB.

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated a weighted-average COP by model based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses (G&A) and interest expenses. For Navneet, we

⁶⁷ See 19 CFR 351.403(c).

⁶⁸ See *China Steel Corp. v. United States*, 264 F. Supp. 2d 1339, 1365 (CIT 2003).

⁶⁹ See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69194 (November 15, 2002).

⁷⁰ See Navneet February 3, 2017 AQR at 2, 10, and 30; see also Navneet March 3, 2017 BQR at Exhibit A.14.

⁷¹ See SAB Sales Verification Report at 3.

⁷² See Trade Preferences Extension Act of 2015, Pub. L. 114-27, 129 Stat. 362 (2015) (TPEA). The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

⁷³ 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*).

⁷⁴ *Id.* at 46794-95.

have made no adjustments to its reported costs for these preliminary results. For SAB, based on our cost verification findings, we have made certain adjustments to SAB's reported interest expenses and G&A for these preliminary results.

In addition, based on the review of record evidence, we find that both Navneet and SAB did not appear to experience significant changes in cost of manufacturing during the POR such that we might consider using shorter averaging periods. Therefore, for both Navneet and SAB, we followed our normal methodology of calculating a weighted-average cost for the POR. For Navneet, we relied on the reported annual data. For SAB, we relied on the reported annual data except for interest expenses and G&A, as noted above.

2. Test of Comparison Market Prices and COP

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

3. Results of COP Test

Section 773(b)(1) of the Act permits us to disregard below-cost sales where: (1) 20 percent or more of the respondent's sales of a given product during the POR were made at prices below the COP;⁷⁵ and (2) based on comparisons of prices to weighted-average COPs for the POR, below-cost sales of the product were at prices that would not permit recovery of all costs within a reasonable time period.⁷⁶

As discussed in further detail in the preliminary calculation memoranda, we found that Navneet made sales below cost, and we disregarded such sales where appropriate. *See* Preliminary Calculation Memorandum for Navneet.

E. Calculation of Normal Value Based on Comparison Market Prices

For those comparison products for which there were sales at prices above the COP for Navneet, we based NV on comparison market prices. In these preliminary results, we were able to match all U.S. sales to contemporaneous sales, made in the ordinary course of trade, of either an identical or a similar foreign like product, based on the matching characteristics identified in Appendix V of the original questionnaire. For Navneet, we based comparison market prices on packed prices to unaffiliated customers. Where appropriate, in accordance with section 773(a)(6)(B) of the Act, we deducted inland freight expenses from the starting price. Pursuant to 19 CFR 351.401(c), we made deductions from the starting price, when appropriate, for discounts and rebates. In accordance with sections 773(a)(6)(A) and (B) of the Act, we added U.S. packing costs and deducted comparison market packing, respectively. We also deducted comparison market movement expenses pursuant to section 773(a)(6)(B) of the Act. In addition,

⁷⁵ See sections 773(b)(2)(B) and (C) of the Act (defining "extended period of time" and "substantial quantities").

⁷⁶ See section 773(b)(2)(D) (defining "recovery of costs").

for comparisons made to EP sales, we made adjustments for differences in circumstances of sale (COS) pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(b). Specifically, we made adjustments to NV for comparison to Navneet's EP transactions by deducting direct selling expenses incurred for comparison market sales (*i.e.*, credit expenses) and adding U.S. direct selling expenses (*i.e.*, credit expenses) and U.S. commissions. *See* section 773(a)(6)(C)(iii) of the Act, and 19 CFR 351.410(c).

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

F. Calculation of Normal Value Based on Constructed Value

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

For SAB, because SAB had no viable comparison market, we based SAB's NV on CV, in accordance with section 773(a)(4) of the Act. Section 773(e) of the Act directs us to calculate CV based on the sum of SAB's cost of materials and fabrication employed in producing the subject merchandise, plus amounts for G&A, profit, interest expenses, and U.S. packing costs. We calculated the cost of materials and fabrication, G&A and interest based on information submitted by SAB in its original and supplemental questionnaire responses. Our approach in this regard is consistent with our practice.⁷⁷

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

- (i) the use of the actual amounts incurred and realized by the specific exporter or producer in connection with the production and sale in the foreign country of merchandise that is in the same general category of products as the subject merchandise;

⁷⁷ *See 2008-2009 CLPP from India*, and accompanying Issues and Decision Memorandum at Comment 1.

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

The statute does not establish a hierarchy for selecting among the alternatives for calculating CV profit and selling expenses. Moreover, as noted in the SAA,⁷⁸ “the selection of an alternative will be made on a case-by-case basis, and will depend, to an extent, on available data.”⁷⁹ Thus, the Department has discretion to select from any of the three alternative methods, depending on the information available on the record.

In weighing the alternative information and determining which source to use, we first determined which products fit within “the same general category of products as the subject merchandise.” The term “general category of products” is not defined in the statute. However, the SAA provides that the term “encompasses a category of merchandise broader than the foreign-like product.”⁸⁰

With each of the statutory alternatives in mind, we evaluated the data available and weighed each of the alternatives to determine which surrogate data source most closely fulfills the aim of the statute. We note that we could not rely on alternative (i), *i.e.*, profit for the same general category of products as subject merchandise, because the record evidence shows that SAB did not make any sales in the same general category during the POR.

We also note that we could not rely on alternative (ii), *i.e.*, profit for other exporters or producers subject to the review, because the production and sale of the foreign like product of Navneet, the other mandatory respondent in this review, are not in “the same general category of products as the subject merchandise.” In two of the previous reviews in this case, the Department determined not to rely on Navneet’s financial statements for purposes of calculating CV ratios, because the Department determined that Navneet’s production and sale of the foreign like product are not in “the same general category of products as the subject merchandise.”⁸¹

⁷⁸ See Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol 1 (1944) (SAA) at 840 (“At the outset, it should be emphasized, consistent with the Antidumping Agreement, new section 773(e)(2)(B) does not establish a hierarchy or preference among these alternative methods. Further, no one approach is necessarily appropriate for use in all cases.”)

⁷⁹ See SAA at 840.

⁸⁰ *Id.*

⁸¹ See *Certain Lined Paper Products from India: Final Results of Antidumping Duty Administrative Review; 2012–2013*, 80 FR 19278 (April 10, 2015) (*CLPP India Final 2012-2013*) and accompanying Issues and Decision Memorandum at Comment 1. See also *Certain Lined Paper Products from India: Notice of Preliminary Results of Antidumping Duty Administrative Review; 2013–2014*, 80 FR 60628 (October 7, 2015) and the accompanying Decision Memorandum, (unchanged in the no-comment final results, *Certain Lined Paper Products from India:*

In the instant review, the record submitted by Navneet continues to show that of Navneet's three divisions (Stationery, Publication, and the "Other" Divisions), only the Stationery Division produces paper and lined paper products, *i.e.*, subject merchandise.⁸² Specifically, Navneet's 2015-2016 financial statements submitted for this review indicate that its Stationery Division produces paper stationery products, including subject merchandise, and non-paper stationery products, such as pens and pencils;⁸³ whereas the Publication Division produces educational books (*e.g.*, children's books, and e-learning products), and the "Other" Division buys and sells bulk paper and runs wind power generation facilities, which produce and sell electricity to the national electrical grid.⁸⁴ In terms of Division-wise sales revenue, the sales revenue from the Stationery Division in FY 2015-2016 accounts for 43.0 percent of Navneet's total revenue, whereas the Publication and "Other" Divisions account for 56 and one percent, respectively.⁸⁵ As evidenced by Navneet's 2016 Financial Statements, 56.2 percent of Navneet's revenue is generated by the Publication Division, whereas 43.0 percent of the company's revenue is generated by the Stationery Division.⁸⁶ Moreover, some of the 43 percent revenue generated by Navneet's Stationery Division is attributable to sales of non-subject merchandise, *e.g.*, pens and pencils. Therefore, during the POR the actual sales of subject merchandise by Navneet as a whole is less than 43.0 percent. By contrast, SAB is a small firm which is only engaging in the manufacturing and sales of school note books and paper products.⁸⁷ Based on our review of SAB's sales and cost records and our plant tour during our sales and cost verifications of SAB, we confirmed that school note books and paper products are the only line of business in which SAB engaged during the POR.⁸⁸ Accordingly, we continue to determine that Navneet's financial statements are not an appropriate surrogate for SAB's CV ratios because the majority of production and sales of Navneet's foreign like products during the POR are not in "the same general category of products as the subject merchandise."

Because we continue to determine that Navneet's financial statements are not an appropriate surrogate for SAB's CV ratios, we are relying on the alternative under subsection (iii) of section 773(e)(2)(B) of the Act, *i.e.*, any other reasonable method to determine the appropriate data to use to calculate CV profit, for the preliminary results.

In choosing a reasonable method, we find the specific language of both the preferred and alternative methods indicates a preference that the profit and selling expenses reflect: (1) production and sales in the foreign country; and (2) the foreign like product, *i.e.*, the merchandise under consideration. In evaluating the different alternatives available under subsection (iii), we also followed the analysis established in *Pure Magnesium from Israel*.⁸⁹ In *Pure Magnesium*

Final Results of Antidumping Duty Administrative Review; 2013– 2014, 81 FR 5986 (February 4, 2016) (CLPP India Prelim and Final 2013-2014)).

⁸² See Navneet February 3, 2017 AQR at 4-5.

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.* at Exhibit A.11 at 108.

⁸⁶ *Id.*

⁸⁷ See SAB February 14, 2017 AQR.

⁸⁸ See SAB Sales Verification Report and SAB Cost Verification Report.

⁸⁹ See *Notice of Final Determination of Sales at Less Than Fair Value: Pure Magnesium from Israel*, 66 FR 49349 (September 27, 2001) (*Pure Magnesium from Israel*) and accompanying Issues and Decision Memorandum, at Comment 8.

from Israel, the Department set out three criteria for choosing among surrogate data under section 772(e)(2)(B)(iii) of the Act: 1) the similarity of the potential surrogate company's business operations and products to the respondent's business operations and products; 2) the extent to which the financial data of the surrogate company reflects sales in the home market and does not reflect sales to the United States; and, 3) the contemporaneity of the data to the POR. In *CTVs from Malaysia*, the Department added a fourth criterion - the extent to which the customer base of the surrogate and the respondent were similar (e.g., original equipment manufacturers versus retailers).⁹⁰ These criteria have since been adopted by the Department in recent cases for choosing among surrogate data under section 772(e)(2)(B)(iii) of the Act.⁹¹

As stated above, in this review we have on the record financial statement data for five companies from which to calculate CV ratios: Biyani, Keshav, Bhaskar, Arora, and Vata.⁹² The petitioners did not make any comments on the five surrogate financial statements. We find that all five surrogate companies are engaged in the business of manufacturing and sale of school and office stationery notebooks or paper products in India, i.e., merchandise in the same general category of the subject merchandise. We also find that either 100 percent or most of the revenue of these companies are from domestic sales of the merchandise in the same general category of the subject merchandise. Furthermore, the business operations and products are like those of SAB.⁹³

Thus, consistent with the Department's previous reviews of this case,⁹⁴ as noted above, we are relying on any other reasonable method to determine the appropriate data to use to calculate CV profit, for the preliminary results. In addition, we preliminarily determine that the 2015-2016 financial statements of all five companies — Biyani, Keshav, Bhaskar, Arora, and Vata — are contemporaneous and they also reflect the production and sales of comparable merchandise in the Indian Market.⁹⁵ Therefore, in accordance with section 773(e)(2)(B)(iii) of the Act, we find that the publicly available 2015-16 financial statements of Biyani, Keshav, Bhaskar, Arora, and Vata constitute the best available surrogate data source for purposes of calculating the CV ratios. Therefore, for the preliminary results, we calculated the CV ratios used for SAB based on a simple average of the CV selling expense and profit ratios of Biyani, Keshav, Bhaskar, Arora, and Vata, which were calculated using the companies' respective 2015-16 audited financial statements.⁹⁶

⁹⁰ See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Color Television Receiver from Malaysia*, 69 FR 20592 (April 16, 2004) (*CTVs from Malaysia*), and accompanying Issues and Decision Memorandum (*CTVs from Malaysia Decision Memo*), at Comment 26.

⁹¹ See, e.g., *Certain Oil Country Tubular Goods from the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances*, 79 FR 41983 (July 18, 2014) (*OCTG from Korea*), and accompanying Issues and Decision Memorandum, at Comment 1.

⁹² See SAB June 27, 2017 SQR at Exhibits S28.a-S28.c for Biyani, S29.a-S29.c for Keshav, S210.a-S210.c for Bhaskar, S211.a-S211.c for Arora, and S212.a-S212.c for Vata.

⁹³ *Id.*

⁹⁴ See *CLPP India Final 2012-2013* and accompanying Issues and Decision Memorandum at Comment 1; see also *CLPP India Prelim and Final 2013-2014*.

⁹⁵ See SAB June 27, 2017 SQR.

⁹⁶ *Id.* at Exhibits S28.a-S28.c for Biyani, S29.a-S29.c for Keshav, S210.a-S210.c for Bhaskar, S211.a-S211.c for Arora, and S212.a-S212.c for Vata.

Margin for Companies Not Selected for Individual Examination

In this review, there are five companies not selected for individual review. The statute and the Department's regulations do not directly address the establishment of a rate to be applied to individual companies not selected for examination when the Department limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. The Department's practice in calculating a rate for non-examined companies in cases involving limited selection based on exporters or producers accounting for the largest volumes of trade has been to look to section 735(c)(5) of the Act for guidance, which provides instructions for calculating the all-others rate in an administrative review.⁹⁷ Section 735(c)(5)(B) of the Act also provides that, where all rates are zero, *de minimis*, or based entirely on facts available, we may use "any reasonable method" for assigning the rate to all other respondents.

Consistent with the Court of Appeals for the Federal Circuit's decision in *Albemarle Corp. v. United States*, in this review, we have preliminarily determined that a reasonable method for determining the margin for the non-selected companies is to use the margins applied to the mandatory respondents (*i.e.*, Navneet and SAB) in this administrative review.⁹⁸ The *de minimis* margins of zero percent calculated for Navneet and SAB are the only margins calculated in this review for individual respondents and, thus, have been applied to the five non-selected companies under section 735(c)(5)(B) of the Act. Accordingly, we preliminarily assign to the non-selected companies a dumping margin of zero percent.

Currency Conversion

We made currency conversions in accordance with section 773A(a) of the Act and 19 CFR 351.415, based on the official exchange rates published by the Federal Reserve Bank.⁹⁹

⁹⁷ See, e.g., *Longkou Haimeng Mach. Co. v. United States*, 581 F.Supp.2d 1344, 1357-60 (CIT 2008).

⁹⁸ See *Albemarle Corp. v. United States*, 821 F.3d 1345 (Fed. Cir. 2016).

⁹⁹ The exchange rates are available on the Enforcement and Compliance website at <http://enforcement.trade.gov/exchange/index.html>.

VI. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.



Agree



Disagree

10/2/2017

X



Signed by: GARY TAVERMAN