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Administrative Review
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August 3, 2018

MEMORANDUM TO: Christian Marsh
Deputy Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results and Partial
Rescission of Antidumping Duty Administrative Review:
Polyethylene Terephthalate Film, Sheet, and Strip from India;
2016-2017

I. Summary

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty order on polyethylene terephthalate film, sheet, and strip (PET film) from India. This review covers two mandatory respondents Jindal Poly Films Ltd. (India) and SRF Limited of India. The period of review (POR) is July 1, 2016, through June 30, 2017. We preliminarily find that Jindal Poly Films Ltd. (India) did, and that SRF Limited of India did not, sell PET film in the United States below normal value (NV).

If these preliminary results are adopted in the final results of this review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these



preliminary results. Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), we will issue the final results no later than 120 days after the publication of these preliminary results.

II. Background

In July 2002, Commerce published in the *Federal Register* the antidumping duty order on PET film from India.¹ On July 3, 2017, Commerce published in the *Federal Register* a notice of opportunity to request an administrative review of the antidumping duty order on PET film from India, for the period July 1, 2016, through June 30, 2017.² In accordance with section 751(a)(1) of the Act and 19 CFR 351.213(b)(1), in July 2017, we received five filings requesting reviews. DuPont Teijin Films, Mitsubishi Polyester Film, Inc., and SKC, Inc. (collectively, the petitioners) requested reviews of Ester Industries Limited (Ester), Garware Polyester Ltd. (Garware), Polyplex Corporation Ltd. (Polyplex), SRF Limited, Jindal Poly Films Limited of India (Jindal),³ and Vacmet India Limited (Vacmet).⁴ Additionally, Polyplex USA LLC requested reviews for Ester, Garware, Jindal, MTZ Polyesters Ltd. (MTZ), Polyplex, SRF Limited, Uflex Ltd. (Uflex), and Vacmet.⁵ Finally, Chiripal Poly Films Limited (Chiripal), SRF Limited of India, and Jindal each self-requested to be reviewed in the instant review.⁶ On August 30, 2017, the petitioners clarified their review request with respect to SRF Limited, stating that they intended to request a review of SRF Limited of India (SRF).⁷

¹ See *Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India*, 67 FR 44175 (July 1, 2002).

² See *Antidumping or Countervailing Duty Order, Finding or Suspended Investigation; Opportunity to Request Administrative Review*, 82 FR 30833 (July 3, 2017).

³ We note that we have previously determined that Jindal Poly Films Limited of India is the same company as Jindal Poly Films Ltd. (India); see *Polyethylene Terephthalate Film, Sheet, and Strip from India: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review; 2015-2016*, 82 FR 36735 (August 7, 2017), and accompanying Preliminary Decision Memorandum at FN 1 (unchanged in *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Antidumping Duty Administrative Review; 2015-2016*, 83 FR 6162 (February 13, 2018)). We will refer to the company as Jindal for the remainder of this memorandum..

⁴ See the Petitioners' Letter, "Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India, Request for Antidumping Duty Administrative Review," dated July 31, 2017. See also the Petitioners', "Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India, Amended Request for Antidumping Duty Administrative Review," dated August 11, 2017. See also the Petitioners' Letter, "Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India, Amended Request for Antidumping Duty Administrative Review," dated August 30, 2017.

⁵ See Polyplex USA LLC's Letter, "Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India: Request for Antidumping Duty Administrative Review," dated July 28, 2017. See also Polyplex's Letter, "Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India: Request for Antidumping Duty Administrative Review," dated August 29, 2017.

⁶ See SRF Limited of India's Letter, "Polyethylene Terephthalate Film, (PET Film) from India/Request for Antidumping Admin Review/SRF Limited," dated July 31, 2017; see also Jindal Poly Films Ltd. (India)'s Letter, "Polyethylene Terephthalate Film, (PET Film) from India/Request for Antidumping Admin Review/Jindal Poly Films Limited," dated July 27, 2017; see also Chiripal's Letter, "Polyethylene Terephthalate (PET) Film, Sheet and Strip from India: Request for Administrative Review of Anti-Dumping Duty of Chiripal Poly Films Limited," dated July 31, 2017.

⁷ See the Petitioners' Letter, "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from India: Amended Request for Antidumping Administrative Review," dated August 30, 2017. We note that although SRF Limited of India self-requested a review, the company identified itself as SRF Limited in its review withdrawal request. The

Subsequently, on September 13, 2017, in accordance with 19 CFR 351.222(c)(1)(i), Commerce published a notice of initiation of an administrative review of the antidumping duty order on PET Film from India.⁸

On September 27, 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 On October 3, 2017, SRF submitted comments.¹⁰

On November 20, 2017, Commerce determined to limit the number of companies subject to individual examination in this administrative review, and we selected Jindal and SRF as mandatory respondents.¹¹

We issued our initial questionnaires to Jindal and SRF on November 24, 2017, and November 27, 2017, respectively. On December 11, 2017, Jindal and SRF each separately withdrew their self-requests for review.¹² Polyplex USA also withdrew its request for reviews of SRF, Jindal, Garware, Ester, MTZ, Vacmet, and Uflex.¹³ The deadline for withdrawal requests was December 12, 2017.¹⁴

company certifications in the review request and in the subsequent withdrawal were on “SRF” letterhead and had a company stamp identifying “SRF Limited India.” See SRF Limited of India’s Letter, “Polyethylene Terephthalate Film, (PET Film) from India/Request for Antidumping Admin Review/SRF Limited,” dated July 31, 2017; see also SRF Limited’s Letter, “Polyethylene Terephthalate Film, (PET Film) from India/Withdrawal of Request for Antidumping Duty Admin Review/SRF Limited,” dated December 11, 2017. Similarly, SRF Limited of India submitted its questionnaire responses on SRF letterhead while identifying itself as “SRF Limited.” The company certifications for its questionnaire responses are also on “SRF” letterhead and had a company stamp identifying “SRF Limited India.” See e.g., SRF Limited of India’s January 2, 2018 Section A Questionnaire Response. Thus, SRF Limited of India has also identified itself as SRF Limited and SRF during this administrative review, sometimes in the same document. As such, we are treating SRF Limited of India, SRF Limited and SRF as the same company for the purposes of this review. We will refer to the company as SRF for the remainder of this memorandum.

⁸ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 42974 (September 13, 2017) (*Initiation Notice*).

⁹ See Memorandum, “Antidumping Duty Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip (PET) Film from India: U.S. Customs Entries, dated September 27, 2017.

¹⁰ See SRF Limited’s Letter, “Polyethylene Terephthalate (PET) Film from India/SRF Limited/ Comments on Customs Data Release,” dated October 3, 2017.

¹¹ 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 20, 2017 (Respondent Selection Memorandum).

¹² See Jindal’s Letter, “Polyethylene Terephthalate Film, (PET Film) from India: Withdraw Requests for Administrative Review of Antidumping Duty Order and Countervailing Duty Order,” dated December 11, 2017.

¹³ See Polyplex USA’s Letter, “Polyethylene Terephthalate (PET) Film, Sheet, and Strip from India: Request for Withdrawal of Anti-dumping Administrative Review,” dated December 12, 2017.

¹⁴ See 19 C.F.R. 351.213(d)(1).

Jindal and SRF each timely submitted questionnaire responses between January 2, 2018, and January 16, 2018.¹⁵ On July 16, 2018, we issued a supplemental questionnaire to Jindal.¹⁶ Jindal filed its response on July 19, 2018.¹⁷

On March 22, 2018, in accordance with section 751(a)(3)(A) of the Act, and 19 CFR 351.213(h)(2), Commerce extended the due date for the preliminary results by an additional 60 days, from April 5, 2018, to June 4, 2018.¹⁸ On June 1, 2018, in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2), Commerce extended the due date for the preliminary results by an additional 60 days. The current deadline is August 3, 2018.¹⁹

III. Partial Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), based on the timely withdrawal of all requests for review, we are partially rescinding this administrative review with respect to the following companies named in the *Initiation Notice*: MTZ and Uflex. Accordingly, the companies that remain subject to the instant review are: Chiripal; Ester; Garware, Jindal, Polyplex, SRF; and Vacmet.

IV. Scope of the Order

The products covered by the antidumping duty order are all gauges of raw, pretreated, or primed PET film, whether extruded or coextruded. Excluded are metalized 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 polyethylene terephthalate film, sheet, and strip 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. Product Comparisons

In accordance with section 771(16) of the Act, we compared Jindal and SRF's 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

¹⁵ See SRF's January 2, 2018 Section A Questionnaire Response (SRF's January 2, 2018 AQR); *see also* Jindal's January 5, 2018 Section A Questionnaire Response (Jindal's January 5, 2018 AQR); *see also* SRF's January 16, 2018 Sections B, C, and D Questionnaire Response (SRF's January 16, 2018 BCDQR); *see also* Jindal's January 16, 2018 Sections B, C, and D Questionnaire Response (Jindal's January 16, 2018 BCDQR).

¹⁶ See Commerce's Letter, "2016-2017 Administrative Review of Polyethylene Terephthalate (PET) Film Sheet and Strip from India: Supplemental Section B Questionnaire for Jindal Poly Films Ltd." dated July 16, 2018.

¹⁷ See Jindal's July 19, 2018, Supplemental Section B Questionnaire Response (Jindal's July 19, 2018 SBQR).

¹⁸ See Memorandum "Polyethylene Terephthalate Film, Sheet and Strip from India: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review (2016-2017)," dated March 22, 2018.

¹⁹ See Memorandum, "Polyethylene Terephthalate Film from Taiwan: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review (2016-2017)," dated June 1, 2018.

to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product based on the characteristics listed above.

VI. Comparisons to Normal Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether Jindal or SRF's sales of subject merchandise from India to the United States were made at less than NV, Commerce 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(b) and (c)(1), Commerce calculates dumping margins by comparing weighted-average NVs to weighted-average EPs (or constructed export prices (CEP)) (the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, Commerce examines whether to compare weighted-average NVs to the EP or CEP of individual U.S. sales (the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern Commerce's examination of this question in the context of administrative reviews, Commerce nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in antidumping duty investigations.²⁰

In recent proceedings, Commerce applied a "differential pricing" analysis for determining whether application of average-to-transaction comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act. Commerce finds that the differential pricing analysis used in those recent proceedings may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review.²¹ Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and on Commerce's additional experience with addressing the potential masking of dumping that can occur when Commerce uses the average-to-average method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods.²² If such a pattern is found, then the differential pricing analysis

²⁰ 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 *CP Kelco Oy v. United States*, 978 F. Supp. 2d 1315, 1324 (CIT 2014).

²¹ 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; see also *Certain Activated Carbon from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013*, 79 FR 70163 (November 25, 2014), and accompanying Issues and Decision Memorandum at Comment 2.

²² See *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33350 (June 4, 2013), and the accompanying Issues and Decision Memorandum at Comment 3; and *Hardwood*

evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. For the respondent, purchasers are based on the reported customer codes for Jindal and SRF. Regions are defined using the reported destination code (*i.e.*, zip code) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region and time period, that Commerce uses in making comparisons between EP (or CEP) 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* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s *d* coefficient is used to evaluate the extent to which the net prices to a particular purchaser, region or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen’s *d* test: small, medium or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant, and the sales in the test group were found to have passed the Cohen’s *d* test, if the calculated Cohen’s *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

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

and Decorative Plywood from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 58273 (September 23, 2013), and the accompanying Issues and Decision Memorandum at Comment 3.

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

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

2. Results of the Differential Pricing Analysis

Jindal

For Jindal, based on the results of the differential pricing analysis, Commerce preliminarily finds that the value of all U.S. sales passing the Cohen's *d* test is 87.58 percent, and confirms the existence of a pattern of prices that differ significantly among purchasers, regions or time periods.²³ Commerce preliminarily determines that there is a meaningful difference between the weighted-average margin calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Accordingly, Commerce preliminarily determines to apply the average-to-transaction alternative method for all U.S. sales to calculate the weighted-average dumping margin for Jindal.²⁴

SRF

For SRF, based on the results of the differential pricing analysis, Commerce preliminarily finds that the value of all U.S. sales passing the Cohen's *d* test is 76.52 percent, and confirms the existence of a pattern of prices that differ significantly among purchasers, regions or time periods.²⁵ Commerce preliminarily determines that there is no meaningful difference between

²³ See Memorandum, "Analysis Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip from India: Jindal Poly Films Ltd. (India)", dated concurrently with this memorandum (Jindal Prelim Analysis Memorandum) at 5.

²⁴ *Id.*

²⁵ See Memorandum, "Analysis Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip from India: SRF Limited (SRF)", dated concurrently with this memorandum (SRF Prelim Analysis Memorandum) at 5.

the weighted-average margin calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Accordingly, Commerce preliminarily determines to apply the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for SRF.²⁶

3. Date of Sale

Section 351.401(i) of Commerce's regulations states that, in identifying the date of sale of the subject merchandise or foreign like product, Commerce will normally use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business. Additionally, under that regulation, Commerce may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.²⁷ In addition, Commerce's long-standing practice is to rely on shipment date where it precedes invoice date as the date of sale.²⁸ Therefore, we preliminarily used the earlier of the invoice date or the shipment date as the date of sale in both markets, in accordance with our practice.²⁹

Jindal

Jindal reported the invoice date as the date of sale for its home market and U.S. sales.³⁰ 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 Jindal's U.S. sales and home market sales because the invoice dates are the same as the shipment dates for all sales in both markets.³¹

SRF

SRF reported invoice date as the date of sale for both its home market and U.S. sales.³² 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

²⁶ *Id.*

²⁷ See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090-1092 (CIT 2001) (*Allied Tube & Conduit Corp.*) ("As elaborated by Department practice, a date other than invoice date 'better reflects' the date when 'material terms of sale' are established if the party shows that the 'material terms of sale' undergo no meaningful change (and are not subject to meaningful change) between the proposed date and the invoice date.").

²⁸ See, e.g., *Seamless Refined Copper Pipe and Tube from Mexico: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 33482 (June 12, 2015) (*Copper Pipe and Tube from Mexico*), and accompanying Issues and Decision Memorandum at Comment 1; *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*, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10.

²⁹ *Id.*

³⁰ See Jindal's January 16, 2018 BCDQR, at B-22-23 and C-18.

³¹ See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090-1092 (CIT 2001).

³² See SRF's January 16, 2018 BCDQR at B 17-20 and at C 17-18.

and home market sales because the invoice dates are the same as the shipment dates for all sales in both markets.

4. Export Price

For sales to the United States, we calculated both Jindal and SRF's EP in accordance with section 772(a) of the Act, because the merchandise was sold prior to importation by the exporter or producer outside the United States to the first unaffiliated purchaser in the United States. We calculated EP based on packed prices to customers in the United States.

For both Jindal and SRF, we made deductions from U.S. price for domestic inland freight from plant to port of exportation, various brokerage and handling charges incurred in the country of manufacture and the United States, trade promotion fees, and marine insurance, in accordance with section 772(c)(2)(A) of the Act.³³

5. Normal Value

A. Home Market Viability as Comparison Market

To determine whether there was a sufficient volume of sales of PET film in the home market to serve as a viable basis for calculating NV, Commerce compared the volume of Jindal and SRF's home market sales of the foreign like product to their volume of U.S. sales of the subject merchandise in accordance with section 773(a) of the Act. Pursuant to section 773(a)(1)(B) of the Act, because the aggregate volumes of home market sales of the foreign like product for Jindal and SRF were greater than five percent of their aggregate volumes of U.S. sales of the subject merchandise, we determined that the home market was viable for comparison purposes for both Jindal and SRF.³⁴

B. Level of Trade

In accordance with section 773(a)(1)(B) of the Act, and the Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA),³⁵ to the extent practicable, Commerce determines NV based on sales in the comparison market at the same level of trade (LOT) as the EP. 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 CV 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

³³ See Jindal Prelim Analysis Memorandum; *see also* SRF Prelim Analysis Memorandum.

³⁴ See Jindal's January 5, 2018 AQR at 1-2 and Exhibit A-1; *see also* SRF's January 2, 2018 AQR at 2 and Exhibit A-1.

³⁵ See H.R. Doc. No. 316, 103d Cong., 2d Sess. 829-831 (1994).

producer and the unaffiliated customer.³⁶ If the comparison market sales are at a different LOT 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 a LOT adjustment under section 773(a)(7)(A) of the Act.

Jindal

In the home market, Jindal reported that it sells merchandise under consideration through two channels of distribution, to resellers, and to end users.³⁷ According to Jindal, it performed the following selling functions for sales to all home market customers: packing, freight, transit insurance, and delivery.³⁸ In addition, Jindal reported that it provides visits by sales representatives and correspondence with customers, along with customer visits for certain sales.³⁹ Finally, Jindal notes that it does not record the degree or extent to which there are differences in the functions performed for different categories of customers, or for different channels of distribution.⁴⁰

With respect to the U.S. market, Jindal reported that it made sales through two channels of distribution, *i.e.*, direct sales to end-users, and sales to a trading company.⁴¹ Jindal reported that it performed the following selling functions for sales to all U.S. customers: inland freight (in India) and transit insurance.⁴² In some instances, Jindal noted that it acted as the importer of record for some sales, and therefore handled customs clearance and paid U.S. customs duties.⁴³

We compared the U.S. LOT to the home market LOT and found that the selling functions Jindal performed for its U.S. and home market customers are similar for both markets except for some additional functions for its U.S. sales.⁴⁴ However, these differences are not significant to be considered at a different level of trade. Therefore, we preliminarily determine that sales to the United States and home market during the POR were made at the same LOT and, as a result, no LOT adjustment is warranted.

SRF

In the home market, SRF reported that it sells merchandise under consideration through three channels of distribution, to resellers, to resellers with an attached customer, and to end users.⁴⁵ According to SRF, it performed the following selling functions for sales to all home market customers: communication with customers, customer visits, freight (for most sales), and transit

³⁶ See 19 CFR 351.412(c)(2).

³⁷ See Jindal's January 16, 2018 BCDQR at B 21.

³⁸ See Jindal's January 5, 2018 AQR at 21.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ See Jindal's January 16, 2018 BCDQR at C 17.

⁴² See Jindal's January 5, 2018 AQR at 20.

⁴³ *Id.*

⁴⁴ See Jindal's January 16, 2018 BCDQR at Exhibit A-5.

⁴⁵ See SRF's January 16, 2018 BCDQR at B 18.

insurance.⁴⁶ SRF notes that it does not record the degree or extent to which there are differences in the functions performed for different categories of customers, or for different channels of distribution.⁴⁷

With respect to the U.S. market, SRF reported that it made sales through two channels of distribution, *i.e.*, direct sales to end-users, and sales to a trader or end-user.⁴⁸ SRF reported that it performed the following selling functions for sales to all U.S. customers: inland freight (in India), ocean freight, customs clearance, and delivery to customer in the United States.⁴⁹ SRF notes that it does not have any other major selling functions, except for routine sales negotiations, order processing, customer visits, etc.⁵⁰

We compared the U.S. LOT to the home market LOT and found that the selling functions SRF performed for its U.S. and home market customers are similar for both markets except for some additional functions for its home market sales.⁵¹ However, these differences are not significant to be considered at a different level of trade. Therefore, we preliminarily determine that sales to the United States and home market during the POR were made at the same LOT and, as a result, no LOT adjustment is warranted.

C. Cost of Production Analysis

Section 773(b)(2) of the Act requires Commerce to request constructed value (CV) and cost of production (COP) information from respondent companies in all AD proceedings. Accordingly, Commerce requested this information from Jindal and SRF.⁵² We preliminarily determine that Jindal and SRF in fact made sales in the home market during the POR that were below the costs of production in its home market.

D. Cost of Production Test

We calculated the COP on a product-specific basis, based on the sum of Jindal and SRF's costs of materials and fabrication for the foreign like product plus amounts for general and administrative expenses, interest expenses, and the costs of all expenses incidental to preparing the foreign like product for shipment in accordance with section 773(b)(3) of the Act.⁵³

We relied on Jindal and SRF's COP/CV data submitted as part of their questionnaire responses to Commerce's original questionnaire.

⁴⁶ See SRF's January 2, 2018 AQR at 18.

⁴⁷ *Id.*

⁴⁸ See SRF's January 16, 2018 BCDQR at C 17.

⁴⁹ See SRF's January 2, 2018 AQR at 18

⁵⁰ *Id.*

⁵¹ See SRF's January 2, 2018 BCDQR at Exhibit A-5.

⁵² See Commerce's Letter to SRF, dated November 24, 2017 (SRF's Initial Questionnaire) at 2.

⁵³ See Jindal Prelim Analysis Memorandum; *see also* SRF Prelim Analysis Memorandum.

E. Test of Comparison Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP for the POR to the per-unit price of the comparison market sales of the foreign like product to determine whether these sales by Jindal and SRF had been made at prices below the COP. In particular, in determining whether to disregard home market sales made at prices below their COP, we examined whether such sales were made within an extended period of time in substantial quantities and at prices which permitted the recovery of all costs within a reasonable period of time, in accordance with section 773(b) of the Act.⁵⁴ We determined the net comparison market prices for the below-cost test by adjusting the gross unit price for all applicable movement charges, discounts, rebates, billing adjustments, direct and indirect selling expenses, and packing expenses excluding all adjustments for imputed expenses.⁵⁵

F. 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 at prices less than the COP, we did not disregard below-cost sales of that product because we determined 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 were at prices less than the COP, we disregarded the below-cost sales because: (1) they were 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 were 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, we also applied our standard cost-recovery test with no adjustments.

Our cost test for Jindal and SRF indicated that for home market sales of certain products, more than 20 percent were sold at prices below the COP within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time. Thus, in accordance with section 773(b)(1) of the Act, we disregarded these below-cost sales in our analysis as outside of the ordinary course of trade and used the remaining sales to determine NV.⁵⁶

6. Calculation of Normal Value Based on Comparison Market Prices

We based NV on the starting prices of Jindal and SRF's sales to unaffiliated home market customers, pursuant to sections 773(a)(1)(A) and 773(a)(1)(B)(i) of the Act, and, where appropriate, made deductions from NV for movement expenses (*i.e.*, inland freight) in accordance with section 773(a)(6)(B)(ii) of the Act. In accordance with 19 CFR 351.401(c), we made adjustments for discounts and rebates. Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410, we made, where appropriate, circumstance-of-sale adjustments (*i.e.*, credit and warranty expenses). When applicable, we also made adjustments in accordance with

⁵⁴ See Jindal Prelim Analysis Memorandum; *see also* SRF Prelim Analysis Memorandum.

⁵⁵ *Id.*

⁵⁶ *Id.*

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. We also made adjustments for differences in domestic and export packing expenses in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act.⁵⁷

When comparing U.S. sale prices with NVs based on comparison market sale prices of similar, but not identical, merchandise, we also made adjustments for physical differences in 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 manufacturing for the foreign like products and the subject merchandise.⁵⁸

7. 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>.

VII. Companies Not Selected

With regard to determining an appropriate rate to be applied to the non-selected respondents Ester, Garware, Polyplex, and Vacmet India, the statute and Commerce's regulations do not directly address the establishment of a rate to be applied to companies not selected for individual examination where Commerce limited its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Commerce's practice in cases involving limited selection of respondents has been to look for guidance in section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation. Consistent with that statutory provision, Commerce generally weight-averages the rates calculated for the mandatory respondents, excluding zero and *de minimis* rates and rates based entirely on facts available, and applies that resulting weighted-average margin to non-selected respondents.⁵⁹ In this review, we have preliminarily calculated an above *de minimis* weighted-average dumping margin of 5.50 percent for mandatory respondent Jindal, and a *de minimis* weighted-average dumping margin

⁵⁷ *Id.*

⁵⁸ See 19 CFR 351.411(b).

⁵⁹ See, e.g., *Wooden Bedroom Furniture from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Results of New Shipper Review and Partial Rescission of Administrative Review*, 73 FR 8273 (February 13, 2008), unchanged in *Wooden Bedroom Furniture from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review*, 73 FR 49162 (August 20, 2008).

for SRF.⁶⁰ Accordingly, for these preliminary results, we are using Jindal's weighted average margin of 5.50 percent in this review for the four non-selected respondents.

VIII. Recommendation

We recommend applying the above methodology for these preliminary results.



Agree



Disagree

8/3/2018

X



Signed by: CHRISTIAN MARSH