



A-533-883
Investigation
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MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

FROM: James Maeder
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 Determination in the
Less-Than-Fair-Value Investigation of Glycine from India

I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that glycine from India is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act).

II. BACKGROUND

On March 28, 2018, Commerce received an antidumping duty (AD) petition covering imports of glycine from India,¹ which was filed in proper form by GEO Specialty Chemicals, Inc. and Chattem Chemicals, Inc. (the petitioners). Commerce initiated this investigation on April 17, 2018.²

In the *Initiation Notice*, Commerce notified the public that Commerce intended to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of glycine from India during the period of investigation (POI) under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the

¹ See the Petitions for the Imposition of Antidumping Duties on Imports of Glycine from India, Japan, and Thailand; and Countervailing Duties on Imports from the People's Republic of China, dated March 28, 2018 (the Petition).

² See *Glycine from India, Japan, and Thailand: Initiation of Less-Than-Fair-Value Investigations*, 83 FR 17995 (April 25, 2018) (*Initiation Notice*).

investigation.³ Accordingly, on April 27, 2018, Commerce released the CBP entry data to all interested parties under an administrative protective order, and requested comments regarding the data and respondent selection.⁴ On May 4, 2018, Commerce received comments on the CBP data from the petitioners.⁵ On May 31, 2018, we selected two companies, (*i.e.*, Kumar Industries, India (Kumar) and Paras Intermediates Private Limited (Paras)), as mandatory respondents in this investigation.⁶

Also in the *Initiation Notice*, Commerce notified parties of an opportunity to comment on the scope of the investigation, as well as the appropriate physical characteristics of glycine to be reported in response to Commerce's AD questionnaire.⁷ In May 2018, Ajinomoto Health and Nutrition North America, Inc. (AHN) and Novus International, Inc. (Novus), domestic companies that use glycine in their products, submitted comments on the scope of the investigation,⁸ and the petitioners submitted rebuttal scope comments.⁹ In August 2018, Commerce preliminarily determined that no changes were necessary to the scope of this investigation.¹⁰

Also, in May 2018, the petitioners submitted comments regarding the physical characteristics of the merchandise under consideration to be used for reporting purposes.¹¹ Yuki Gosei Kogyo Co., Ltd. (Yuki Gosei), a Japanese producer and exporter of glycine, Kumar Industries and Avid Organics Pvt. Ltd. (Avid Organics) and Paras Intermediates Private Limited (Paras), Indian producers and exporters of glycine, and the petitioners filed rebuttal comments.¹² After

³ See *Initiation Notice*, 83 FR at 17999.

⁴ See Memorandum from Commerce, "Investigation of Glycine from India; Correction of April 25, 2018 Letter Regarding Glycine from India – Release of Customs Data," dated April 27, 2018 (Revised CBP Data Release Memo).

⁵ See Letter from petitioners, "Glycine from India: Comments on CBP Data and Respondent Selection," dated May 4, 2018.

⁶ See Memorandum from Commerce, "Respondent Selection for the Antidumping Duty Investigation of Glycine from India," dated May 31, 2018.

⁷ See *Initiation Notice*, 83 FR at 17996.

⁸ See AHN's letter, "Comments on the Proposed Scope of the Investigation," dated May 7, 2018; and Novus's letter, "Comments on Scope Investigation," dated May 7, 2018.

⁹ See Petitioners' letter, "Rebuttal to Ajinomoto Health and Nutrition North America, Inc.'s Comments on the Scope of the Less-Than-Fair-Value and Countervailing Duty Investigations," dated May 17, 2018; and the Petitioners' letter, "Rebuttal to Novus International, Inc.'s Comments on the Scope of the Less-Than-Fair-Value and Countervailing Duty Investigations," dated May 17, 2018.

¹⁰ See Memorandum, "Glycine from India, Japan, the People's Republic of China and Thailand: Scope Comments Decision Memorandum for the Preliminary Determinations," dated August 27, 2018 (Scope Preliminary Decision Memorandum).

¹¹ See the Petitioners' letter, "Glycine from India, Japan, and Thailand: Comments on Product Characteristics for Antidumping Duty Questionnaires," dated May 7, 2018.

¹² See Paras's letter, "Glycine from the People's Republic of {China}, India, Japan, and Thailand: Rebuttal Comments to Petitioners Comments dated May 7, 2018 on Product Characteristics to be used in Anti-Dumping Duty Questionnaire," dated May 14, 2018; Yuki Gosei's letter, "Glycine from Japan: Rebuttal Comments on Product Characteristics Rebuttal Comments," dated May 14, 2018; Avid Organics's letter, "Glycine from India: Rebuttal Comments on Product Characteristics," dated May 14, 2018; and the Petitioners' letter, "Glycine from India, Japan, and Thailand: Reply to Interested Parties' Rebuttal Comments to Petitioners' Identification of Product Characteristics," dated June 7, 2018.

analyzing the comments and rebuttals, Commerce determined the physical characteristics to use in the investigation.¹³

On May 11, 2018, the U.S. International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of glycine from Thailand.¹⁴ We issued the AD questionnaire to Newtrend on May 14, 2018.¹⁵

In June 2018, the petitioners requested that the date for the issuance of the preliminary determination in this investigation be extended until 190 days after the date of initiation.¹⁶ Based on the request, Commerce published a postponement of the preliminary determination until no later than October 24, 2018.¹⁷

In June and July 2018, Kumar submitted its responses to Commerce's AD questionnaire.¹⁸ Kumar submitted supplemental questionnaire responses from August 2018 through September 2018, in response to our supplemental questionnaires.¹⁹

In June and July 2018, Paras submitted its responses to Commerce's AD questionnaire.²⁰ Paras submitted supplemental questionnaire responses from July 2018 through October 2018, in response to our supplemental questionnaires.²¹

¹³ See Commerce's letter, "Product Characteristics for the Antidumping Duty Investigation of Glycine from Thailand," dated June 18, 2018.

¹⁴ See *Glycine from China, India, Japan, and Thailand*, and *Glycine from China, India, Japan, and Thailand: Investigation Nos. 701-TA-603-6055 and 731-TA-1413-1415 (Preliminary)*, Publication 4786, May 2018 (ITC Publication 4786); see also *Determinations; Glycine from China, India, Japan, and Thailand*, 83 FR 23300 (May 18, 2018).

¹⁵ See Commerce's Antidumping Duty Questionnaire, dated May 14, 2018 (AD Questionnaire).

¹⁶ See Petitioners' letter, "Glycine from India, Japan and Thailand: Request to Extend Deadline for Preliminary Determinations," dated June 28, 2018.

¹⁷ See *Glycine from India, Japan, and Thailand: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 83 FR 42259 (August 21, 2018).

¹⁸ See Letter from Kumar, "Certain Glycine from India (A-533-883) Section A response with Q&V," dated June 27, 2018 (Kumar AQR); Letter from Kumar, "Certain Glycine from India (A-533-883) Section B&C Response," dated July 16, 2018 (Kumar B and CQR); and Letter from Kumar, "Certain Glycine from India (A-533-883) Section D Response," dated July 20, 2018 (Kumar DQR).

¹⁹ See Letter from Kumar, "Certain Glycine from India (A-533-883) Response to Supplemental Questionnaire for Section D," dated August 21, 2018 (Kumar First SQRD); Letter from Kumar, "Certain Glycine from India (A-533-883) Response to Supplemental Questionnaire for Section A," dated August 28, 2018 (Kumar First SQRA); Letter from Kumar, "Certain Glycine from India (A-533-883) Response to 2nd Supplemental Questionnaire for Section D," dated September 21, 2018 (Kumar Second SQRD); and Letter from Kumar, "Certain Glycine from India (A-533-883) Response to Supplemental Questionnaire for Section ABC," dated September 25, 2018 (Kumar SQRA-C).

²⁰ See Letter from Paras, "Glycine from India: Paras Intermediates Private Limited's Response to Section A of Original Antidumping Duty Questionnaire," dated June 21, 2018 (Paras AQR); Letter from Paras, "Glycine from India: Paras Intermediates Private Limited's Response to Section B & C of Original Antidumping Duty Questionnaire," dated July 23, 2018 (Paras B and CQR); and Letter from Paras, "Glycine from India: Paras Intermediates Private Limited's Response to Section D of Original Antidumping Duty Questionnaire," dated July 26, 2018 (Paras DQR).

²¹ See Letter from Paras, "Glycine from India: Paras Intermediates Private Limited's Response to Section A Supplemental of Original Antidumping Duty Questionnaire," dated August 6, 2018 (Paras First SQR); Letter from Paras, "Glycine from India: Paras Intermediates Private Limited's Response to 2nd Supplemental Section D

On August 21, 2018, and pursuant to section 733(c)(2) of the Act, and 19 CFR 351.205(f)(1), Commerce published in the *Federal Register* a postponement of the preliminary determination until no later than October 24, 2018.²²

The petitioners also submitted comments for consideration in the preliminary determination on September 28, 2018, and October 5, 2018.²³

We are conducting this investigation in accordance with section 733(b) of the Act.

III. PERIOD OF INVESTIGATION

The POI is January 1, 2017, through December 31, 2017. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was March 2018.²⁴

IV. POSTPONEMENT OF FINAL DETERMINATION AND EXTENSION OF PROVISIONAL MEASURES

On September 19, 2018, pursuant to 19 CFR 351.210(b)(2)(ii) and 19 CFR 351.210(e)(2), Paras requested that, contingent upon an affirmative preliminary determination of sales at LTFV, Commerce postpone the final determination, and that provisional measures be extended to a period not to exceed six months.²⁵ On September 21, 2018, Kumar requested that Commerce postpone the final determination and that provisional measures be extended from four months to six months.²⁶ In addition, on September 14, 2018, the petitioners also requested that we fully postpone the deadline of the final determination in the instant investigation.²⁷ In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, we will make our final

Questionnaire,” dated August 21, 2018 (Paras Second SQR); Letter from Paras, “Glycine from India: Paras Intermediates Private Limited’s Response to 3rd Supplemental Section A, B & C Questionnaire,” dated September 14, 2018 (Paras Third SQR); and Letter from Paras, “Glycine from India: Paras Intermediates Private Limited’s Response to 4th Supplemental Section B, C & D Questionnaire,” dated October 4, 2018 (Paras Fourth SQR).

²² See *Glycine from India, Japan, and Thailand: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 83 FR 42259 (August 21, 2018).

²³ See Petitioners’ letter, “Glycine from India: Pre-Preliminary Determination Comments,” dated September 28, 2018; and Petitioners’ letter, “Glycine from India: Supplemental Pre-Preliminary Determination Comments,” dated October 3, 2018.

²⁴ See 19 CFR 351.204(b)(1).

²⁵ See Letter from Paras, “Glycine from India: Request for postponement of final determination and extension of provisional measures,” dated September 19, 2018.

²⁶ See Letter from Kumar, “Certain Glycine from India: Request for postponement of final determination and extension of provisional measures,” dated September 21, 2018.

²⁷ See Letter from the petitioners, “Glycine from Thailand, Japan, and India: Request to Extend the Final Determinations in Glycine from Thailand, Japan, and India,” dated September 14, 2018.

determination no later than 135 days after the date of publication of this preliminary determination.

V. SCOPE COMMENTS

In accordance with the *Preamble* to Commerce's regulations,²⁸ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope), and we stated that all such comments must be filed within 20 calendar days of publication of the *Initiation Notice*.²⁹ On May 7, 2018, Commerce received scope comments from AHN, requesting an exclusion for glycine specifically used as a pharmaceutical ingredient in intravenous therapy (dual-certified IV-grade glycine).³⁰ On the same day, Novus submitted scope comments to Commerce requesting that certain metal compounds that use glycine as an input be excluded from the scope.³¹ On May 17, 2018, the petitioners submitted rebuttal comments to both AHN and Novus, arguing that the exclusion requests are unwarranted and are based on hypothetical situations; thus, Commerce should deny both exclusion requests.³²

After analyzing these comments, on August 27, 2018, Commerce preliminarily found no basis for altering the scope language from what appeared in the *AD Initiation Notice* and the *CVD Initiation Notice*.³³ In the Preliminary Scope Decision Memorandum, we set a separate briefing schedule on scope issues for interested parties, and since the issuance of the Preliminary Scope Decision Memorandum, certain parties submitted scope comments and rebuttal comments.³⁴ We will issue a final scope decision on the records of the glycine investigations after considering these comments.

VI. APPLICATION OF FACTS AVAILABLE AND USE OF ADVERSE INFERENCE

As stated above, Kumar filed timely responses to Commerce's AD Questionnaire and four supplemental questionnaires. However, Kumar did not disclose its affiliation to its U.S. affiliate in its initial questionnaire response and, thus, we find that application of facts available is necessary under section 776(a) of the Act because Kumar withheld information that had been requested, failed to provide information by the deadlines established, and significantly impeded the proceeding. Furthermore, we find that Kumar failed to act to the best of its ability in providing Commerce with information about this affiliation, within the meaning of section 776(b) of the Act. For these reasons, detailed below, we determine that the use of total facts otherwise available with an adverse inference is appropriate for the preliminary determination with respect to Kumar.

²⁸ See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

²⁹ See *Initiation Notice*, 83 FR at 17996.

³⁰ See AHN Scope Comments.

³¹ See Novus Scope Comments.

³² See Petitioners' Rebuttal Comments to AHN and Petitioners' Rebuttal Comments to Novus.

³³ See Scope Preliminary Decision Memorandum.

³⁴ See Letter from AHN, "Glycine from the People's Republic of China, India, Japan, and Thailand: Comments on the Scope of the Investigation," dated October 4, 2018; see also Letter from petitioners, "Glycine from India, Japan, the People's Republic of China and Thailand: Petitioners' Rebuttal to Ajinomoto Health and Nutrition North America, INC.'s Comments on the Scope of the Less-Than-Fair-Value and Countervailing Duty Investigations," dated October 8, 2018.

A) Application of Facts Available

Sections 776(a)(1) and 776(a)(2)(A)-(D) of the Act provide that, if necessary information is not available on the record, or if an interested party: (1) withholds information requested by Commerce; (2) fails to provide such information by the deadlines for submission of the information, or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act; (3) significantly impedes a proceeding; or (4) provides such information but the information cannot be verified as provided in section 782(i) of the Act, Commerce shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. Section 782(c)(1) of the Act states that Commerce shall consider the ability of an interested party to provide information upon a prompt notification by that party that it is unable to submit the information in the form and manner required, and that party also provides a full explanation for the difficulty and suggests an alternative form in which the party is able to provide the information. Where Commerce determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that Commerce will so inform the party submitting the response and will, to the extent practicable, provide that party an opportunity to remedy or explain the deficiency. If the party fails to remedy or satisfactorily explain the deficiency within the applicable time limits, subject to section 782(e) of the Act, Commerce may disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act in particular states further that Commerce shall not decline to consider submitted information if all of the following requirements are met: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

In its initial response to Section A of the AD Questionnaire, dated June 27, 2018, Kumar identified eight companies with which it was affiliated during the period of investigation.³⁵ Kumar stated that none of these companies were involved in the production, sale, or distribution of glycine during the POI.³⁶ These affiliates did not include the company that Kumar identified as its U.S. customer in its July 16, 2018, response to Sections B and C of the AD Questionnaire.³⁷ Furthermore, in this response, Kumar denied making sales through affiliates in the U.S. market.³⁸ However, on July 17, 2018, the petitioners submitted information concerning Kumar's reported U.S. customer that suggested an affiliation existed between Kumar and this customer.³⁹

In an August 10, 2018, supplemental questionnaire, we asked Kumar for detailed information concerning its affiliates.⁴⁰ Specifically, we asked the company to "provide a detailed description of each of {Kumar's} units that are involved in the development, production, sale and/or

³⁵ See Kumar AQR at 6-9 and Exhibit A-3.

³⁶ *Id.*

³⁷ See Kumar B and CQR at C-2 (print-out of the U.S. sales database).

³⁸ *Id.* at C-14 and C-15.

³⁹ Letter from petitioners, "Glycine from India: Comments on Kumar Industries, India's Section A Questionnaire Response," dated July 17, 2018 (Petitioner's July 17 Comments), at Attachment 3.

⁴⁰ See Kumar Second Supplemental Questionnaire at 4-5.

distribution of the merchandise under investigation” and to “describe how each of these units fit into the overall structure of the company.”⁴¹ Additionally, we requested that Kumar fully describe the history of its relationship with its reported U.S. customer.⁴²

On August 28, 2018, Kumar responded that it had failed to identify the U.S. customer as an affiliate in its initial questionnaire responses.⁴³ The discussion concerning its affiliation is proprietary in nature and addressed in a separate memorandum.⁴⁴ Kumar stated in its August 28, 2018, response that it desired to cooperate fully with Commerce in the investigation and to furnish all required documents and information requested by Commerce.⁴⁵

Based on these findings, we preliminarily find that Kumar withheld information Commerce requested and that, by doing so, it significantly impeded the proceeding. By failing to divulge the affiliation with its reported U.S. customer in its initial responses, and not until its first supplemental questionnaire response, Kumar impeded the investigation. We also find that Kumar did not provide information by Commerce’s deadlines. Furthermore, because Kumar withheld this information, the record is also missing necessary information, such as the U.S. sales process information, the financial reports for the U.S. affiliate, and a sales database that reflects the sales between the affiliated U.S. customer and the first unaffiliated U.S. customer. This is key information that Commerce would have obtained in Kumar’s initial responses to the antidumping questionnaire had Kumar disclosed its U.S. affiliate in these responses. Accordingly, pursuant to sections 776(a)(1) and 776(a)(2)(A), (B), and (C) of the Act, we are relying upon facts otherwise available to determine Kumar’s preliminary dumping margin.

B) *Use of Adverse Inference*

Section 776(b)(1) of the Act provides that, if Commerce finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information, Commerce may use an inference adverse to the interests of that party in selecting the facts otherwise available.⁴⁶ In so doing, Commerce is not required to determine, or make any adjustments to, a weighted-average dumping margin based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information.⁴⁷ In addition, the Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA) explains that Commerce may employ an adverse inference “to ensure that the party does not obtain a more favorable result by failing to cooperate

⁴¹ *Id.* at 4.

⁴² See Kumar Second Supplemental Questionnaire at 5.

⁴³ See Kumar First SQRA at 1-2.

⁴⁴ See Memorandum to the File, “Less-Than-Fair-Value Investigation of Glycine from India: Additional Analysis Regarding Preliminary Determination to Apply Adverse Facts Available to Kumar Industries, India, dated October 24, 2018.

⁴⁵ See Kumar First SQRA at 1-2.

⁴⁶ See 19 CFR 351.308(a); see also *Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023, 54025-26 (September 13, 2005); and *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794-96 (August 30, 2002).

⁴⁷ See section 776(b)(1)(B) of the Act.

than if it had cooperated fully.”⁴⁸ Furthermore, affirmative evidence of bad faith on the part of a respondent is not required before Commerce may make an adverse inference.⁴⁹ It is Commerce’s practice to consider, in employing adverse inferences, the extent to which a party may benefit from its own lack of cooperation.⁵⁰

We preliminarily find that Kumar has not acted to the best of its ability to comply with Commerce’s requests for information. After receiving Commerce’s clear request for Kumar’s affiliates, Kumar failed to report its affiliation to its U.S. customer in its initial questionnaire responses to Sections A and C and only reported this information after the petitioners submitted evidence suggesting the affiliation. Furthermore, in response to Commerce’s August 10, 2018, supplemental questionnaire requesting additional Section A information regarding affiliations, Kumar identified its U.S. customer as an affiliate but took no steps to remedy its oversight, such as providing the financial reports for this affiliate or sample documentation of a sale between the U.S. affiliate and its unaffiliated customer. Kumar could have taken the additional steps at this point to provide information missing from its initial Section A response to remedy the oversight.

Although “the best-of-its-ability standard requires that Commerce examine respondent’s abilities, efforts, and cooperation in responding to Commerce’s requests for information,” we note that the Court of Appeals for the Federal Circuit in *Nippon Steel* also stated that the standard “does not condone inattentiveness, carelessness, or inadequate record keeping.”⁵¹ Kumar should have been able to provide information regarding the status of its U.S. affiliate at the outset of the investigation, had it made the appropriate effort when receiving Commerce’s initial section A questionnaire and the supplemental questionnaire asking for this information. It is, therefore, reasonable for Commerce to expect that Kumar would have been more forthcoming with this information. Thus, we find that Kumar failed to cooperate to the best of its ability to comply with requests for information by Commerce.

Based on the above, in accordance with section 776(b) of the Act and 19 CFR 351.308(a), Commerce preliminarily determines to use an adverse inference when selecting from among the

⁴⁸ See, Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA), H.R. Doc. 103-316, Vol. 1 (1994) at 870; *Certain Polyester Staple Fiber from Korea: Final Results of the 2005-2006 Antidumping Duty Administrative Review*, 72 FR 69663, 69664 (December 10, 2007).

⁴⁹ See, e.g., *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003); *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985 (July 12, 2000); *Preamble*, 62 FR at 27340.

⁵⁰ See, e.g., *Steel Threaded Rod from Thailand: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances*, 78 FR 79670 (December 31, 2013), and accompanying Issues and Decision Memorandum at 4, unchanged in *Steel Threaded Rod from Thailand: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances*, 79 FR 14476 (March 14, 2014).

⁵¹ See *Nippon Steel*, 337 F.3d at 1382.

facts otherwise available.⁵²

Although we preliminarily determine to apply AFA to Kumar, we have issued a supplemental questionnaire to provide Kumar with a final opportunity to remedy its deficient reporting prior to verification and the final determination in this investigation. Accordingly, on October 19, 2018, Commerce issued a supplemental questionnaire to Kumar concerning its responses to Sections A and C of the AD questionnaire.⁵³

C) *Selection and Corroboration of the AFA Rate*

Section 776(b)(2) of the Act states that Commerce, when employing an adverse inference, may rely upon information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record.⁵⁴ In selecting a rate based on adverse facts available (AFA), Commerce selects a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.⁵⁵ Commerce's practice is to select, as an AFA rate, the higher of: (1) the highest dumping margin alleged in the petition, or (2) the highest calculated rate of any respondent in the investigation.⁵⁶

When using facts otherwise available, section 776(c) of the Act provides that, where Commerce relies on secondary information (such as the petition) rather than information obtained in the course of an investigation, it must corroborate, to the extent practicable, information from independent sources that are reasonably at its disposal. Secondary information is defined as information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.⁵⁷ The SAA clarifies that "corroborate" means that Commerce will satisfy itself that the secondary information to be used has probative value.⁵⁸ To corroborate secondary information, Commerce will, to the extent practicable, examine the

⁵² See, e.g., *Non-Oriented Electrical Steel from Germany, Japan, and Sweden: Preliminary Determinations of Sales at Less Than Fair Value, and Preliminary Affirmative Determinations of Critical Circumstances, in Part*, 79 FR 29423 (May 22, 2014), and accompanying Preliminary Decision Memorandum at 7-11, unchanged in *Non-Oriented Electrical Steel from Germany, Japan, the People's Republic of China, and Sweden: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determinations of Critical Circumstances, in Part*, 79 FR 61609 (October 14, 2014); see also *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR at 42985, 42986 (July 12, 2000) (where the Department applied total AFA when the respondent failed to respond to the antidumping questionnaire).

⁵³ See Letter from Commerce, "Less-Than-Fair-Value Investigation of Glycine from India: Supplemental Questionnaire for Sections A and C," dated October 19, 2018.

⁵⁴ See also 19 CFR 351.308(c).

⁵⁵ See SAA, at 870.

⁵⁶ See *Welded Stainless Pressure Pipe from Thailand: Final Determination of Sales at Less Than Fair Value*, 79 FR 31093 (May 30, 2014) and accompanying Issues and Decision Memorandum at Comment 3.

⁵⁷ See SAA, at 870.

⁵⁸ *Id.*; see also 19 CFR 351.308(d).

reliability and relevance of the information to be used.⁵⁹ Further, Commerce is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party.⁶⁰ Finally, under section 776(d) of the Act, Commerce may use any dumping margin from any segment of a proceeding under an antidumping order when applying an adverse inference, including the highest of such margins.⁶¹

The AFA rate Commerce has preliminarily used for Kumar is the highest (and only) dumping margin alleged in the Petition, and, thus, is secondary information subject to the corroboration requirement. In order to determine the probative value of the dumping margin alleged in the petition for assigning an AFA rate, we examined the information on the record. When we compared the Petition dumping margin of 80.49 percent to the range of individual, transaction-specific dumping margins for Paras, we found a transaction-specific margin above the Petition rate.⁶² Therefore, we find that the rate alleged in the Petition is within the range of transaction-specific margins calculated for this preliminary determination. Accordingly, we preliminarily find the 80.49 percent rate to be both reliable and relevant and, thus, that it has probative value.

VII. ALL-OTHERS RATE

Section 735(c)(5)(A) of the Act provides that the estimated “all-others” rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any rates that are zero, *de minimis*, or determined entirely under section 776 of the Act. Pursuant to section 735(c)(5)(B) of the Act, if the estimated weighted-average dumping margins established for all exporters and producers individually examined are zero, *de minimis*, or determined entirely under section 776 of the Act, Commerce may use any reasonable method to establish the estimated weighted-average dumping margin for all other producers or exporters.

As indicated above, Paras and Kumar are mandatory respondents in this investigation. However, as Kumar’s dumping margin is preliminarily based on total AFA under section 776 of the Act, pursuant to section 735(c)(5)(B) of the Act, Commerce’s practice under these circumstances has been to assign Paras’ individually calculated dumping margin, as the “all-others” rate.⁶³

⁵⁹ See, e.g., *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan*; *Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan*; *Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).

⁶⁰ See sections 776(d)(3)(A) and (B) of the Act.

⁶¹ See section 776(d)(1)-(2) of the Act.

⁶² See Paras Analysis Memorandum.

⁶³ See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany*, 73 FR 21909, 21912 (April 23, 2008), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany*, 73 FR 38986, 38987 (July 8, 2008), and accompanying Issues and Decision Memorandum at Comment 2.

Consistent with its practice, Commerce is therefore using Paras' dumping margin as the "all-others" rate for entities not individually examined in this investigation.⁶⁴ This rate is 10.86 percent.

VIII. DISCUSSION OF THE METHODOLOGY

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 Paras' sales of subject merchandise from India to the United States were made at LTFV, Commerce compared the export price (EP), as appropriate, to the normal value (NV), as described in the "Export Price," and "Normal Value" sections of this memorandum.

A) Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1) and (d), we calculate weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs, *i.e.*, using the average-to-average method, unless the Secretary determines that another method is appropriate in a particular situation. In LTFV investigations, we examine whether to compare weighted-average NVs with the EPs 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.

In prior investigations, we have 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 consistent with section 777A(d)(1)(B) of the Act.⁶⁵ We find that the differential pricing analysis used in prior investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this investigation. We will continue to develop our approach in this area based on comments received in this and other proceedings, and on our additional experience with addressing the potential masking of dumping that can occur when we use the average-to-average method in calculating a respondent's weighted-average dumping margin.

The differential pricing analysis used in this preliminary determination examines whether there exists a pattern of EPs for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. If such a pattern

⁶⁴ See *Certain Oil Country Tubular Goods from Thailand: Preliminary Determination of Sales at Less Than Fair Value, and Postponement of Final Determination*, 79 FR 10487 (February 25, 2014), and accompanying Preliminary Decision Memorandum, unchanged in *Certain Oil Country Tubular Goods from India, the Republic of Korea, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Antidumping Duty Orders; and Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam: Amended Final Determination of Sales at Less Than Fair Value*, 79 FR 53691 (September 10, 2014).

⁶⁵ 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); *Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); and *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination code, *i.e.*, zip code, and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POI 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 we use 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.*, 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 pass the Cohen’s *d* test account for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen’s *d* test as an alternative to the average-to-average method, and application of the average-to-average method to those sales identified as not passing the Cohen’s *d* test. If 33 percent or less of the value of total sales passes the Cohen’s *d* test, then the results of the Cohen’s *d* test do not support consideration of an alternative to the average-to-average method.

If both tests in the first stage, *i.e.*, the Cohen’s *d* test and the ratio test, demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether

using only the average-to-average method can appropriately account for such differences. In considering this question, we test whether using an alternative comparison method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two calculations is meaningful, then this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative comparison method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if 1) there is a 25 percent relative change in the weighted-average dumping margins between the average-to-average method and the appropriate alternative method where both rates are above the *de minimis* threshold, or 2) the resulting weighted-average dumping margins between the average-to-average method and the appropriate alternative method move across the *de minimis* threshold.

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

B) *Results of the Differential Pricing Analysis*

For Paras, based on the results of the differential pricing analysis, Commerce preliminarily finds that 99.83 percent of the value of U.S. sales pass the Cohen's *d* test,⁶⁶ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, we preliminarily determine that there is a meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, for this preliminary determination, Commerce is applying the average-to-transaction method for all U.S. sales to calculate the weighted-average dumping margin for Paras.

IX. DATE OF SALE

Section 19 CFR 351.401(i) of Commerce's regulations states that, in identifying the date of sale of the merchandise under consideration or foreign like product, Commerce normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business. Additionally, Commerce may use a date other than the date of invoice if it is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.⁶⁷ Commerce has a long-standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established.⁶⁸

⁶⁶ See Memorandum, "Preliminary Determination Margin Calculation for Paras Intermediates Private Limited," dated concurrently with this memorandum (Paras Preliminary Analysis Memo).

⁶⁷ See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)).

⁶⁸ See, e.g., *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; see also *Notice of Final*

For both its home-market and U.S. sales, Paras reported tax invoice date as the date of sale. Paras explained that there are no further changes to the agreed price and quantity once the tax invoice is issued.⁶⁹ Additionally, Paras demonstrated that there were changes after the issuance of the purchase order.⁷⁰ We reviewed sales and shipment documentation submitted by Paras and have confirmed that the material terms of sale are set at the tax invoice date.⁷¹ Therefore, we preliminarily determine that the tax invoice date is the most appropriate selection for the date of sale for sales in both the home and U.S. markets.

X. PRODUCT COMPARISONS

In accordance with section 771(16) of the Act, we considered all products that Paras produced in India and sold in the third country during the POI that fit the description in the “Scope of Investigation” section of the accompanying *Federal Register* notice to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales of foreign like product made in the home market, where appropriate.⁷² Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign-like product in terms of physical characteristics made in the ordinary course of trade, as appropriate.

In making product comparisons, we matched foreign like products, based on the physical characteristics reported by the respondents, in the following order of importance: type and actual grade.

XI. EXPORT PRICE

Section 772(a) of the Act defines EP as “the price at which subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States,” as adjusted under section 772(c) of the Act. Paras reported having only EP sales during the POI.⁷³ In accordance with section 772(a) of the Act, we calculated EP for all of Paras’ U.S. sales, because the subject merchandise was first sold to an unaffiliated purchaser in the United States prior to importation. The constructed export price (CEP) methodology was not otherwise warranted based on the facts of the record.

We calculated EP based on packed prices to unaffiliated purchasers in the United States. We made deductions, where appropriate, for movement expenses, *i.e.*, foreign inland freight, brokerage and handling expenses incurred in the home market, international freight, and marine

Determination of Sales at Less Than Fair Value: Structural Steel Beams From Germany, 67 FR 35497 (May 20, 2002), and accompanying Issues and Decision Memorandum at Comment 2.

⁶⁹ See Paras AQR at 20.

⁷⁰ See Paras First SQR at 8-9, Exhibit S1-2(a) and Exhibit S1-2(b); See also Paras Third SQR at 5, and Exhibit S3-3(c).

⁷¹ *Id.*

⁷² See our discussion for Liang Hah Heng and U. Yong in section XI.A., “Home Market Viability.”

⁷³ See Paras AQR at 20.

insurance, in accordance with section 772(c)(2)(A) of the Act.

XII. NORMAL VALUE

A) Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), we compared the volume of Paras' home market sales of the foreign like product to the volume of its U.S. sales of subject merchandise, in accordance with section 773(a) of the Act and 19 CFR 351.404.

Based on this comparison, we determined that, pursuant to 19 CFR 351.404(b), Paras had a viable home market during the POI because the volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise. Consequently, pursuant to section 773(a)(1)(B)(i) of the Act and 19 CFR 351.404(c)(1)(i), we based NV on its home market sales.

B) Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, Commerce will calculate NV based on sales at the same level of trade (LOT) as the U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).⁷⁴ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.⁷⁵ In order to determine whether the comparison market sales are at different stages in the marketing process than the U.S. sales, we examine the distribution system in each market (*i.e.*, the chain of distribution), including selling functions and class of customer (customer category).

Pursuant to section 773(a)(1)(B)(i) of the Act, 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.⁷⁶

When Commerce is unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the EP, Commerce may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP sales at a different LOT in the comparison market, where available data make it possible, we make a LOT adjustment under section 773(a)(7)(A) of the Act.

⁷⁴ See 19 CFR 351.412(c)(2).

⁷⁵ *Id.*; see also *Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not to Revoke Antidumping Duty Order in Part*, 75 FR 50999 (August 18, 2010), and accompanying Issues and Decision Memorandum at Comment 7 (*OJ from Brazil*).

⁷⁶ 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. See 19 CFR 351.412(c)(1).

In this investigation, we obtained information from Paras regarding the marketing stages involved in making its reported home market and U.S. sales, including a description of the selling activities performed by each respondent for each channel of distribution. Our LOT findings are summarized below.

In the home market, Paras reported that it made sales through two channels of distribution: sales to end-users (Channel 1) and sales to traders (Channel 2).⁷⁷ Paras reported that it performed certain selling functions for sales to home market customers.⁷⁸

Selling activities can be generally grouped into four selling function categories for analysis: (1) sales and marketing; (2) freight and delivery services; (3) inventory maintenance and warehousing; and (4) warranty and technical support.⁷⁹ Because Paras performed the same selling functions at the same relative level of intensity for all of its home market sales, we determine that all home market sales are at the same LOT.

With respect to the U.S. market, Paras reported that it made sales through two channels of distribution: sales to end users (Channel 1) and sales to traders (Channel 2).⁸⁰ Paras reported that it performed certain selling functions for its sales through these channels.⁸¹ We found that Paras' selling activities fall into the same four categories as the home market selling activities. Because Paras performed the same selling functions at the same relative level of intensity for its U.S. sales in Channels 1 and 2, we determine that U.S. sales in these channels are at the same LOT (EP LOT).

We compared the EP LOT to the home market LOT and found that the selling functions Paras performed for its home market customers are virtually the same as those performed for its U.S. customers. Therefore, based on the totality of the facts and circumstances, we preliminarily determine that sales to the home market during the POI were made at the same LOT as EP sales. Consequently, we matched EP sales to home market sales at the same LOT, and no LOT adjustment was warranted.

C) *Cost of Production Analysis*

In accordance with section 773(b)(2)(A)(ii) of the Act, Commerce requested constructed value (CV) and cost of production (COP) information from Paras. We examined Paras' cost data and determined that our quarterly cost methodology is not warranted, and therefore, we are applying our standard methodology of using annual costs based on Paras' reported data.

⁷⁷ See Paras AQR at Exhibit A-5.

⁷⁸ *Id.*; See also Paras Preliminary Analysis Memo.

⁷⁹ See, e.g., *OJ from Brazil*, 75 FR at 50999, and accompanying Issues and Decision Memorandum at Comment 7; See also Paras Preliminary Analysis Memo.

⁸⁰ Paras AQR at Exhibit A-5; See also Paras Preliminary Analysis Memo.

⁸¹ *Id.*

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of costs of materials and fabrication for the foreign like product, plus amounts for general and administrative (G&A) expenses and interest expenses.

We relied on the COP data submitted by Paras except as follows:⁸²

- Paras excluded from its G&A expenses an expenditure that is related to its Corporate Social Responsibility (CSR) as noted in its audited financial statement for the 2017-18 fiscal year.⁸³ We have adjusted Paras' G&A expenses to include the contributions made by Paras to its CSR in the numerator of the G&A expense ratio.⁸⁴

2. Test of Comparison Market Sales Prices

On a product-specific basis, pursuant to section 773(b) of the Act, we compared the adjusted weighted-average COP to the home market sales prices of the foreign like product, in order to determine whether the sales prices were below the COP within an extended period of time in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. For purposes of this comparison, we used COP exclusive of selling and packing expenses. The prices were exclusive of any applicable billing adjustments, movement charges, direct and indirect selling expenses, and packing expenses.

3. Results of the COP Test

In determining whether to disregard comparison market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether: (1) within an extended period of time, such sales were made in substantial quantities; and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. In accordance with sections 773(b)(2)(B) and (C) of the Act, where less than 20 percent of the respondent's comparison market sales of a given product are at prices less than the COP, we do not disregard any below-cost sales of that product because we determine that in such instances the below-cost sales were not made within an extended period of time and in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we disregard the below-cost sales when: (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 COPs for the POI, 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.

⁸² See Memorandum from Commerce, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination - Paras Intermediates Private Limited," dated concurrently with this memorandum (Paras Preliminary Cost Calculation Memo).

⁸³ See Paras Second SQR at 2.

⁸⁴ See Paras Preliminary Cost Calculation Memo at 1.

We found that, for certain products, more than 20 percent of Paras' home market sales during the POI were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

D) Calculation of NV Based on Comparison-Market Prices

We calculated NV based on delivered or ex-factory prices to unaffiliated customers in the home market. We made deductions, where appropriate, from the starting price for certain movement expenses, *i.e.*, inland freight and inland insurance, and for certain warehouse expenses, under section 773(a)(6)(B)(ii) of the Act.

We deducted home market packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act, and we deducted home market credit expenses pursuant to 773(a)(6)(C) of the Act.

When comparing U.S. sales with home market sales of similar merchandise, we also made adjustments for differences in costs attributable to differences in the physical characteristics of 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 manufacturing for the foreign like product and subject merchandise.⁸⁵

⁸⁵ See 19 CFR 351.411(b); See also Paras Preliminary Analysis Memo.

XIII. CURRENCY CONVERSION

We made currency conversions into U.S. dollars in accordance with section 773A of the Act and 19 CFR 351.415(a), based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

XIV. CONCLUSION

We recommend applying the above methodology for this preliminary determination.

☒

☐

Agree

Disagree

10/24/2018

X



Signed by: GARY TAVERMAN

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