



A-533-838

AR: 12/01/2016-11/30/2017

Public Document

AD/CVD VIII: GA

DATE: December 11, 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 Preliminary Results of Antidumping
Duty Administrative Review: Carbazole Violet Pigment 23 from
India; 2016-2017

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on carbazole violet pigment 23 (CVP 23) from India. The review covers one producer/exporter of the subject merchandise, Pidilite Industries Limited (Pidilite). The period of review (POR) is December 1, 2016, through November 30, 2017. We preliminarily determine that Pidilite did not make sales below normal value (NV) during this POR.

II. BACKGROUND

In response to Commerce's notice of opportunity to request an administrative review on CVP 23 from India,¹ on December 4, 2017, Pidilite timely requested an administrative review of the AD order on CVP 23 from India with respect to its exports of subject merchandise to the United States during the POR.² On February 23, 2018, in accordance with 19 CFR 351.221(c)(1)(i), we published a notice of initiation of an administrative review of the AD order on CVP 23 from India.³

¹ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 82 FR 57219 (December 4, 2017).

² See Pidilite's letter, "Carbazole Violet Pigment 23 from India: Requests for Administrative Review." dated December 4, 2017.

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 8058 (February 23, 2018).



On February 26, 2018, we issued the AD questionnaire to Pidilite.⁴ In March and April 2018, Pidilite timely submitted its responses to our questionnaire.⁵ From April 2018 through August 2018, we issued supplemental questionnaires to Pidilite, to which it timely responded from May 2018 through August 2018.⁶

III. DISCUSSION OF THE METHODOLOGY

We are conducting this administrative review of the order in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213.

A. 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 Pidilite's sales of CVP 23 from India to the United States were made at less than NV, Commerce compared the constructed export price (CEP) to the NV as described in the "Constructed Export Price" and "Normal Value" sections of this memorandum.

1. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average export prices (EPs) (or CEPs) (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, Commerce examines whether to compare weighted-average NVs with the EPs (or CEPs) of individual sales (*i.e.*, the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern 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 less-than-fair-value investigations.⁷

⁴ See Commerce's letter, "Request for Information, Antidumping Duty Administrative Review," dated February 26, 2018.

⁵ See Pidilite's letters, "Carbazole Violet Pigment 23 from India – Pidilite Section A Questionnaire Response," dated March 29, 2018 (Pidilite SAQR), "Carbazole Violet Pigment 23 from India – Pidilite Section B and C Questionnaire Response," dated April 19, 2018 (Pidilite SBCQR), and "Carbazole Violet Pigment 23 from India – Pidilite Section D Questionnaire Response," dated April 19, 2018 (Pidilite SDQR).

⁶ See Pidilite's letters, "Carbazole Violet Pigment 23 from India – Pidilite Section A Supplemental Questionnaire Response," dated May 3, 2018 (Pidilite Supp SAQR), "Carbazole Violet Pigment 23 from India – Pidilite Section A-D Supplemental Questionnaire Response," dated June 11, 2018 (Pidilite Supp SADQR), and "Carbazole Violet Pigment 23 from India – Pidilite 2nd Supplemental Questionnaire Response," dated August 24, 2018 (Pidilite Second Supp QR).

⁷ See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012), and the accompanying Issues and Decision Memorandum (IDM) at Comment 1; see also *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (Ct. Int'l Trade 2014); see also *JBF RAK LLC v. United States*, 790 F.3d 1358, 1363–65 (Fed. Cir. 2015) ("the fact that the statute is silent with regard to administrative reviews does not preclude Commerce from filling gaps in the statute to properly calculate and assign antidumping duties") (*citations omitted*).

In certain investigations, Commerce applied a “differential pricing” analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.⁸ Commerce finds that the differential pricing analysis used in certain investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. 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 a respondent’s weighted-average dumping margin.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of EPs (or CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchaser, region and time period to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination code (*i.e.*, zip code) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the period of review based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region and time period, that Commerce uses in making comparisons between EPs (or CEPs) 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

⁸ 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); or *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

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 accounts for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen's *d* test as an alternative to the average-to-average 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, Commerce examines whether using only the average-to-average method can appropriately account for such differences. In considering this question, Commerce tests whether using an alternative comparison method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two calculations is meaningful, then this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative comparison method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if: 1) there is a 25 percent relative change in the weighted-average dumping margins between the average-to-average method and the appropriate alternative method where both rates are above the *de minimis* threshold; or 2) the resulting weighted-average dumping margins between the average-to-average method and the appropriate alternative method move across the *de minimis* threshold.

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

2. Results of the Differential Pricing Analysis

For Pidilite, based on the results of the differential pricing analysis, Commerce preliminarily finds that 33.47 percent of the value of U.S. sales pass the Cohen's *d* test,⁹ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test. Thus, for these preliminary results, Commerce is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Pidilite.

B. 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 normally will use the date of invoice, as recorded in the producer or exporter'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.¹⁰ Finally, Commerce has a long-standing practice of finding that, where the shipment date precedes the invoice date, the shipment date better reflects the date on which the material terms of sale are established.¹¹

For its home market sales, Pidilite reported the invoice date as the date of sale, and for its U.S. sales, Pidilite reported the invoice date as the date of sale.¹² However, for certain U.S. sales, the reported shipment date preceded the reported invoice date.¹³ Therefore, in accordance with our practice, we preliminarily used the earlier of the invoice date or the shipment date as the date of sale for those U.S. sales at issue.

C. Product Comparisons

For the purposes of determining an appropriate product comparison to the U.S. sale, in accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the scope of the order that were in the ordinary course of trade. In making the product comparisons, we matched foreign like products to the products sold in the United States based on the physical characteristics. In order of importance, these physical characteristics are product type, form, stability, dispersion, and tone.

⁹ See Memorandum, "Preliminary Results Margin Calculation for Pidilite Industries Limited," dated concurrently with this memorandum (Pidilite Preliminary Calculation Memo) at 2.

¹⁰ 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)).

¹¹ See, e.g., *Certain Frozen Warmwater Shrimp from Thailand: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 52065 (September 12, 2007), and accompanying IDM at Comment 11; see also *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002) (*Steel Beams from Germany*), and accompanying IDM at Comment 2.

¹² See Pidilite SAQR at 12; Pidilite SBCQR at B-10 and C-10.

¹³ See Pidilite SBCQR at C-10-11.

Pursuant to 19 CFR 351.414(f), we compared U.S. sales of CVP 23 to home market sales of CVP 23 within the contemporaneous window period, which extends from three months prior to the month of the first U.S. sale until two months after the month of the last U.S. sale. 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, according to section 771(16)(B) of the Act, we compared U.S. sales of CVP 23 to sales of the most similar foreign like product in the ordinary course of trade.

D. Constructed Export Price

In accordance with section 772(a) of the Act, we calculated CEP for those sales where the subject merchandise was first sold or agreed to be sold in the United States before or after the date of importation by or for the account of the producer or exporter or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter. We based CEP on packed prices to unaffiliated purchasers in the United States. In accordance with 19 CFR 351.401(c), we adjusted the starting prices for billing adjustments and rebates, where appropriate. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act, which included, where appropriate, domestic inland freight, domestic insurance, domestic brokerage, U.S. brokerage, international freight, marine insurance, U.S. inland freight, and U.S. customs duty. In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we deducted selling expenses associated with economic activities occurring in the United States, including direct selling expenses (*i.e.*, imputed credit expenses and bank fees) and indirect selling expenses (including inventory carrying costs). We also deducted from CEP an amount for profit in accordance with section 772(d)(3) of the Act. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Alpha Chem Inc., Pidilite's U.S. affiliate,¹⁴ on its sales of the subject merchandise in the United States and the profit associated with those sales.

Section 772(c)(1)(B) of the Act states that CEP shall be increased by “the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the subject merchandise to the United States.” In determining whether a respondent is entitled to duty drawback, Commerce traditionally uses (and the United States Court of International Trade (CIT) has sustained)¹⁵ a “two-pronged” test. The first element is that the import duty and its rebate or exemption be directly linked to, and dependent upon, one another (or the exemption from import duties is linked to the exportation of subject merchandise). We do not require that the imported material be traced directly from importation through exportation. The second element is that the company must demonstrate that there were sufficient imports of the imported raw material to account for the duty drawback or exemption granted upon the export of the subject merchandise.¹⁶

¹⁴ See *Carbazole Violet Pigment 23 from India: Final Results of Antidumping Duty Administrative Review*; 2015-2016, 83 FR 15788 (April 12, 2018), and accompanying IDM at 5-8.

¹⁵ See, *e.g.*, *Saha Thai Steel Pipe (Public) Co. v. United States*, 635 F.3d 1335, 1340-41 (Fed. Cir. 2011).

¹⁶ See, *e.g.*, *Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Notice of Final Results of Antidumping Duty Administrative Review*, 71 FR 7513 (February 13, 2006), and accompanying IDM at Comment 2; see also *Certain Welded Carbon Steel Pipe and Tube from Turkey: Final Results of Antidumping Duty*

Pidilite claimed an adjustment to CEP for duty drawback under two programs, the Duty Draw Back Scheme (DDBS) and the Merchandise Exports Incentive Scheme (MEIS), under the Foreign Trade Policy of India (FTP 2015-20).¹⁷ We preliminarily determine that a duty drawback adjustment for Pidilite is warranted for the DDBS program because it satisfies the criteria above. Pidilite provided the rules from the Government of India describing the program and the schedule of rates for exported goods.¹⁸ Additionally, Pidilite identified the raw materials imported for which it paid an import duty, provided worksheets detailing how it calculated the duty drawback on a transaction-specific basis, as well as worksheets linking the raw materials to the production of CVP 23, and worksheets demonstrating Pidilite imported sufficient volumes of raw materials to account for the duty drawback received on its U.S. sales.¹⁹ Therefore, based on these supporting documents, we preliminarily determine that Pidilite's duty drawback claim under the DDBS program meets the two-prong test, and we preliminarily determine to make a duty drawback adjustment to U.S. price, pursuant to section 772(c)(1)(B) of the Act. Consistent with our practice, we considered the import duty cost embedded in the material costs of producing CVP 23 in determining the appropriate duty drawback adjustment, so as not to introduce distortion into our calculation, and to ensure a balanced comparison between U.S. price and NV.²⁰ We adjusted CEP for the CONNUM-specific per-unit amount of duty drawback reported in the cost of production (COP) database.²¹

With regard to the MEIS program, Pidilite reported that "there is no link between the MEIS duty credit scrips provided to Pidilite and the import of raw material inputs for CVP 23 during the POR."²² Because there is no linkage between the exports of CVP 23 and the imported inputs and any associated duties that have been exempted or rebated, Pidilite has not satisfied the first prong of Commerce's "two-pronged" test for the MEIS program. Accordingly, we are preliminarily not granting a duty drawback adjustment to Pidilite for this program.

E. Normal Value

Administrative Review, 70 FR 73447 (December 12, 2005), and accompanying IDM at Comment 7; and *Federal-Mogul Corp. v. United States*, 862 F. Supp. 384, 410 (CIT 1994).

¹⁷ See Pidilite SBCQR at C-26.

¹⁸ See Pidilite Supp SADQR at Exhibit SC1-9.

¹⁹ *Id.* at 17-19 and Exhibits SC1-5, SC1-6, SC1-7, and SC1-8; see also Pidilite Second Supp QR at 2-3.

²⁰ See *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 81 FR 47355 (July 21, 2016), and accompanying IDM at Comment 2; and *Certain Cold-Rolled Steel Flat Products from India: Final Determination of Sales at Less Than Fair Value*, 81 FR 49938 (July 29, 2016), and accompanying IDM at Comment 1 ("applying a duty drawback adjustment based solely on respondent's claimed adjustment, without consideration of import duties included in the respondent's cost of materials, may result in an imbalance in the comparison of EP and NV.").

²¹ See Pidilite Preliminary Calculation Memo at 2.

²² See Pidilite Supp SADQR at 21.

1. Home Market Viability and Selection of Comparison Market

To determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404. Based on this comparison, we determine that, pursuant to 19 CFR 351.404(b), Pidilite had a viable home market during the POR because the volume of Pidilite's 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 home market sales.

2. Level of Trade (LOT)

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, Commerce will calculate NV based on sales of the foreign like product at the same LOT as U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).²³ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.²⁴ To determine whether the comparison market sales were at different stages in the marketing process than the U.S. sales, we review the distribution system in each market (*i.e.*, the chain of distribution), including selling functions, class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (*i.e.*, where NV is based on either home market or third country prices),²⁵ we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.²⁶

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 or CEP sale, Commerce may compare the U.S. sales to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it possible, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP sale and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.*, no LOT adjustment is possible), Commerce shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act and 19 CFR 351.412(f).²⁷

²³ See 19 CFR 351.412(c)(2).

²⁴ *Id.*; see also *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732 (November 19, 1997) (*Plate from South Africa*).

²⁵ Where NV is based on constructed value (CV), we determine the NV LOT based on the LOT of the sales from which we derive selling, general and administrative expenses, and profit for CV, where possible. See 19 CFR 351.412(c)(1).

²⁶ See *Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314 (Fed. Cir. 2001).

²⁷ See *Plate from South Africa*, 62 FR at 61732-33.

In this administrative review, we obtained information from Pidilite regarding the marketing stages involved in making its reported home market and U.S. sales, including a description of the selling activities performed by the respondent for each channel of distribution. During the POR, Pidilite reported that it made only CEP sales in the U.S. market through one channel of distribution, sales from its U.S. affiliate, Alpha Chem Inc., to the end user. Pidilite reported that it performed the following selling activities for its U.S. sales: sales forecasting, strategic/economic planning, sales promotion, advertising, inventory maintenance, order input/processing, direct sales personnel, sales/marketing support, market research, packing, and freight and delivery. These activities can be grouped generally into three selling function categories for analysis: 1) sales and marketing, 2) freight and delivery, and 3) inventory maintenance and warehousing. As there is only one channel of distribution for the CEP sales, we preliminarily determine that there is one LOT in the U.S. market.

With respect to home market, Pidilite reported that it made sales through the following three channels of distribution: 1) sales to direct customers/end-users, 2) sales to unaffiliated distributors, and 3) sales to customers/end-users with a commission paid to an unaffiliated distributor. Pidilite reported that it performed the following selling activities in the home market: sales forecasting, strategic/economic planning, sales promotion, advertising, inventory maintenance, order input/processing, direct sales personnel, sales/marketing support, market research, provision of cash discounts, payment of commissions, packing, and freight and delivery. These activities can be grouped generally into three selling function categories for analysis: 1) sales and marketing, 2) freight and delivery, and 3) inventory maintenance and warehousing. Based on these three selling function categories, we found that Pidilite performed sales and marketing, freight and delivery, and inventory maintenance and warehousing for all three channels of distribution. Although Pidilite performed certain sales and marketing activities (*i.e.*, sales/marketing support, provision of cash discounts, and payment of commissions) for only one channel of distribution each, we determined that these activities alone are not sufficient to warrant a separate LOT in the home market. Therefore, we preliminarily determine that there is only one LOT in the home market.

In comparing the home market LOT to the U.S. LOT, we found that the selling activities performed by Pidilite for its CEP sales were essentially the same to those performed for its home market sales. For example, in both markets, Pidilite provided sales forecasting, strategic/economic planning, sales promotion, advertising, order input/processing, direct sales personnel, market research, and packing at the same levels of intensity. As a result, we preliminarily determine that the CEP LOT is the same as the NV LOT. Therefore, we matched Pidilite's CEP sales to its home market sales at the same LOT without making a LOT adjustment.

F. Cost of Production Analysis

In accordance with Section 773(b)(2)(A)(ii) of the Act,²⁸ Commerce requested COP information from Pidilite. We examined Pidilite's cost data and determined that our quarterly cost methodology is not warranted; therefore, we are applying our standard methodology of using annual costs based on the reported data.

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated the respondent's COP based on the sum of its costs of materials and fabrication for the foreign like product, plus amounts for general and administrative (G&A) expenses and interest expenses (*see* "Test of Comparison Market Sales Prices" section, below, for treatment of home market selling expenses). We revised the G&A expense ratio to exclude certain offsets related to prior period provisions and revised the cost of goods sold (COGS) denominator of the G&A expense ratio and financial expense (INTEX) ratio to exclude certain costs which were excluded from cost of manufacturing (COM).²⁹

2. Test of Comparison Market Sales Prices

On a product-specific basis, pursuant to section 773(b) of the Act, we compared the 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. For purposes of this comparison, we used COP exclusive of selling and packing expenses. The prices (inclusive of billing adjustments, where appropriate) were exclusive of any applicable movement charges, direct and indirect selling expenses, and packing expenses.

3. Results of the COP Test

In determining whether to disregard home 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 home 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

²⁸ See *Trade Preferences Extension Act of 2015*, Pub. L. No. 114-27, 129 Stat. 362 (2015) (TPEA). The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>. See also *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015).

²⁹ See Memorandum, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results - Pidilite," dated concurrently with this memorandum.

the POR, 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.

In this case, we found that less than 20 percent of Pidilite's sales were at prices less than the COP. Therefore, we used all of Pidilite's home market sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

G. Calculation of NV Based on Comparison Market Prices

We based NV for Pidilite on packed prices to unaffiliated customers in the home market. We adjusted, where appropriate, the starting price for billing adjustments, late payment fees, and other discounts, in accordance with 19 CFR 351.401(c). We made deductions, where appropriate, from the starting price for movement expenses, including inland freight and inland insurance, under section 773(a)(6)(B)(ii) of the Act. Pursuant to section 773(a)(6)(C) of the Act and 19 CFR 351.410, we made deductions for direct selling expenses (*i.e.*, imputed credit and commissions), as appropriate. Because Pidilite incurred commissions on home market sales but not on U.S. sales, we made an adjustment to NV for a commission offset pursuant to 19 CFR 351.410(e).

Furthermore, when comparing U.S. sales with home market sales of similar merchandise, we 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.³⁰ We also made adjustments for differences in home market and U.S. packing expenses, in accordance with sections 773(a)(6)(A) and (B) of the Act.

H. 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.

³⁰ See 19 CFR 351.411(b); see also *Stainless Steel Bar from France: Final Results of Antidumping Duty Administrative Review*, 70 FR 46482 (August 10, 2005), and accompanying IDM at Comment 8.

V. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.



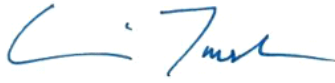
Agree



Disagree

12/11/2018

X



Signed by: CHRISTIAN MARSH

Christian Marsh
Deputy Assistant Secretary
for Enforcement and Compliance