



A-533-824
Administrative Review
POR: 07/01/2017 - 06/30/2018
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March 10, 2020

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

FROM: Scot Fullerton
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Results of
Antidumping Duty Administrative Review: Polyethylene
Terephthalate Film from India; 2017-2018

I. SUMMARY

The Department of Commerce (Commerce) analyzed the case brief submitted by an interested party in the administrative review of the antidumping duty (AD) order on polyethylene terephthalate film, sheet, and strip (PET Film) from India.¹ This review covers mandatory respondents Jindal Poly Films Ltd. (India) (Jindal) and SRF Limited (SRF), and four non-selected companies.² As a result of this analysis, we made changes to Jindal's calculations since the *Preliminary Results*.³ We did not make any changes to SRF's calculation since the *Preliminary Results*.⁴ We continue to find that Jindal sold PET Film in the United States below normal value, but that SRF did not. We recommend that you approve the positions described in the "Discussion of Comments" section of this memorandum.

II. LIST OF ISSUES

Below is the complete list of the issues in this administrative review for which we received comments from interested parties:

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

² The non-selected companies are: Ester Industries Limited, Garware Polyester Ltd., Polyplex Corporation Ltd., and Vacmet India Limited.

³ See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review; 2017-2018*, 84 FR 48123 (September 12, 2019) (*Preliminary Results*).

⁴ *Id.*



Comment 1: Commerce Should Continue to Grant All of Jindal's Post-Sale Price Adjustments
Comment 2: Whether to Revise Jindal's Home Market and Margin Programs

III. BACKGROUND

On September 12, 2019, Commerce published the *Preliminary Results* for the period of review (POR) of July 1, 2017 through June 30, 2018.⁵ On October 7, 2019, Commerce issued a supplemental questionnaire (SQR) to Jindal; Jindal submitted its response on October 25, 2019.⁶ On November 19, 2019, Commerce issued an SQR to SRF; SRF submitted its response to this SQR on December 6, 2019.⁷ Jindal submitted its case brief on December 23, 2019.⁸ No other party submitted a case or rebuttal brief for this administrative review. On December 30, 2019, we extended the deadline for the *Final Results* from January 10, 2020 until March 10, 2020.⁹

IV. SCOPE OF THE ORDER

The products covered by the order are all gauges of raw, pretreated, or primed PET Film, whether extruded or coextruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches thick. Imports of PET Film are currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3920.62.00.90. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the order is dispositive.

V. CHANGES MADE SINCE THE *PRELIMINARY RESULTS*

Based on our analysis of the comments received from Jindal, we made certain changes to Jindal's home market and U.S. margin calculations.¹⁰ We also revised the export subsidies for SRF.¹¹

⁵ See *Preliminary Results*.

⁶ See Commerce's Letter, "2017-2018 Administrative Review of Polyethylene Terephthalate (PET) Film Sheet and Strip from India First Supplemental Questionnaire," dated October 7, 2019; see also Jindal's October 25, 2019 Supplemental Questionnaire Response (Jindal's October 25, 2019 SQR).

⁷ See Commerce's Letter, "2017-2018 Administrative Review of Polyethylene Terephthalate (PET) Film Sheet and Strip from India Second Supplemental Questionnaire," dated November 19, 2019; see also SRF's December 6, 2019 Supplemental Questionnaire Response (SRF's December 6, 2019 SQR).

⁸ See Jindal's Case Brief, "Polyethylene Terephthalate Film, Sheet, and Strip from India: Case Brief," dated December 23, 2019 (Jindal's Case Brief).

⁹ See Memorandum, "Polyethylene Terephthalate Film, Sheet and Strip from India: Extension of Deadline for Final Results of Antidumping Duty Administrative Review," dated December 30, 2019.

¹⁰ See Comment 2 below; see also Memorandum, "Calculation Memorandum for the Final Results of the Antidumping Duty Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip from India: Jindal Poly Films Ltd. (India)(Jindal)," dated concurrently with this memorandum (Jindal Final Calculation Memo).

¹¹ See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review; 2017*; see also *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review; 2017*, dated March 6, 2020; see also Jindal Final Calculation Memo; and Memorandum, "Calculation Memorandum for the Final Results of the Antidumping

VI. DISCUSSION OF ISSUES

Comment 1: Whether Commerce Should Continue to Grant All of Jindal's Post-Sale Price Adjustments

Jindal's Case Brief

- Commerce should continue to grant all of Jindal's post-sale price adjustments¹² based of the information that Jindal submitted in its Section B-C response as well as its supplemental questionnaire response.¹³

No other party commented on this issue.

Commerce's Position:

We are continuing to grant all of Jindal's post-sale price adjustments – both discounts and rebates – as we did in the *Preliminary Results*.¹⁴ In Jindal's preliminary calculation memorandum, we stated that “{W}here we need to obtain additional information; we intend to send out additional questions requesting explanation and/or supporting documentation to Jindal to confirm that that post-sale price adjustments meet the criteria set forth in the *Final Modification*.”¹⁵

In our supplemental questionnaire, we asked Jindal to address the criteria from *Modification of Regulations Regarding Price Adjustments in Antidumping Duty Proceedings*:

- (1) Whether the terms and conditions of the adjustment were established and/or known to the customer at the time of sale and whether this can be demonstrated through documentation;
- (2) how common such post-sale price adjustments are for the company and/or industry;
- (3) the timing of the adjustment;
- (4) the number of such adjustments in the proceeding; and
- (5) any other factors tending to reflect on the legitimacy of the claimed adjustment.¹⁶

Duty Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip from India: SRF Limited (SRF),” dated concurrently with this memorandum (SRF Final Calculation Memo).

¹² See Jindal's Case Brief at 1 (Jindal details that it reported the following post-sale price adjustments in the home market: (1) Early Payment Discount (EARLYPYH); (2) Quantity Discount (REBATE1H); (3) VAT/CST/SGS Discount (REBATE2H); (4) EDD Dealer (REBATE4H); (5) E-Bid (Electronic Sales) Discount (REBATE5H); Regional Discount (REBATE6H); and (7) Other Discounts (REBATE7H). In the U.S. market, the only post-sale price adjustment reported was the Cash Discount (EARLYPYU)).

¹³ See Jindal's April 29, 2019 Sections B and C Questionnaire Response (Jindal's April 29, 2019 BCQR); see also Jindal's October 25, 2019 SQR.

¹⁴ See *Preliminary Results*.

¹⁵ See Memorandum, “Antidumping Duty Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip from India; Preliminary Results Margin Calculation for Jindal Poly Films Ltd. India (Jindal),” dated September 6, 2019 (Jindal Prelim Calc Memo).

¹⁶ See *Modification of Regulations Regarding Price Adjustments in Antidumping Duty Proceedings*, 81 FR 15641 (March 24, 2016) (*Final Modification*); see also Section 351.401(c) of Commerce's Regulations.

We have determined that Jindal has provided information for us to determine that it has met the criteria set forth in the *Final Modification*.

Early Payment Discount (EARLYPYH)

Jindal offers its customers an early payment discount to encourage its customers to pay immediately.¹⁷ The early payment discount is reported per kilogram and on a transaction-specific basis. Jindal provided supporting documentation to show that this was paid to its customers and to show how it was calculated.¹⁸

With respect to the first and third criteria, we determine that this adjustment is known to the buyer at the time of purchase as well as invoicing. This is supported by Jindal's "Discount and Rebates Sales Policy."¹⁹ With respect to the second criterion, Jindal stated in its SQR that "{t}he early payment discounts are generally common in the PET Film industry in India."²⁰

With respect to the fourth criterion, we have analyzed the data and determined that Jindal offers this frequently. With respect to the fifth criterion, there are no factors that reflect negatively on the legitimacy of this adjustment.

Quantity Discount (REBATE1H)

Jindal has a policy of giving discounts on a per-kilogram basis to a customer or group of companies in a particular quarter; these were reviewed periodically based on market conditions.²¹ With respect to the first and third criteria, we determine that this adjustment is known to the buyer at the time of purchase as well as invoicing. Jindal allocated the credit notes for each customer based on the actual quantity purchased by the customer in the particular quarter.²²

With respect to the fourth criterion, we have analyzed the data and determined that Jindal offers this frequently. With respect to the fifth criterion, there are no factors that reflect negatively on the legitimacy of this adjustment.

VAT/CST/SGS Discount (REBATE2H)

Jindal gave an additional discount on the tax invoice value.²³ With respect to the first and third criteria, Jindal's customers are aware of the eligibility for this discount at the time the invoice is issued; this adjustment is known to the buyer at the time of purchase as well as invoicing.²⁴ Jindal also explained that it has provided this discount for the past eight years on a continuous

¹⁷ See Jindal's April 29, 2019 BCQR at B-31-32.

¹⁸ *Id.* at B-31-32 and Exhibits B-16 and B-17.

¹⁹ *Id.* at B-31-32.

²⁰ See Jindal's October 25, 2019 SQR at 5.

²¹ See Jindal's April 29, 2019 BCQR at B-35-37 and Exhibits B-19 and B-20.

²² *Id.*

²³ *Id.*

²⁴ See Jindal's October 25, 2019 SQR at 5.

basis, which establishes that this was common practice for the company, and goes to the second criterion.²⁵

With respect to the fourth criterion, we have analyzed the data and determined that Jindal offers this frequently. With respect to the fifth criterion, there are no factors that reflect negatively on the legitimacy of this adjustment.

Monthly Rebate (REBATE3H)

Jindal provides a monthly rebate, which is passed on to customers on a quarterly basis; this is a long-standing policy and is designed to encourage customers to purchase more. While the rebate fluctuates, it is based on a pre-determined policy and is well-known to customers prior to invoicing.²⁶ These facts, which are outlined in the Domestic Sales and Marketing Policy, meet the first, second and third criterion.²⁷ With respect to the fourth criterion, we have analyzed the data and determined that Jindal offers this frequently. With respect to the fifth criterion, there are no factors that reflect negatively on the legitimacy of this adjustment.

EDD Dealer (REBATE4H)

Jindal issued credit notes for other discounts based on a memorandum of understanding (Exclusive Dealer Discount) with a few customers. These discounts have been reported on transaction-by-transaction basis.²⁸ With respect to the first and third criteria, this information makes clear that the terms and conditions of this discount were established and known to the customer at the time of sale. Jindal explained that “The said discount is generally common in PET Film industry, but Jindal does not have exact knowledge under what name other companies in PET Film Industry provides {sic} discount to its customers.”²⁹

With respect to the fourth criterion, we have analyzed the data and determined that Jindal offers this frequently. With respect to the fifth criterion, there are no factors that reflect negatively on the legitimacy of this adjustment.

E-Bid (Electronic Sales) Discount (REBATE5H)

Jindal offers a discount of 0.10 rupees per kilogram to customers who make sales through E-Sales and an additional 0.10 rupees per kilogram to customers who purchase through its website.³⁰ These discounts have been reported on transaction-by-transaction basis.³¹ With respect to the first and third criteria, this information makes clear that the terms and conditions of this discount were established and known to the customer at the time of sale. With regard to the second criterion, Jindal “confirms that it started offering E-BID discounts as of 2015.” These

²⁵ *Id.* at 6.

²⁶ *Id.* at 6-7.

²⁷ See Jindal’s April 29, 2019 BCQR at Exhibit B-18.

²⁸ *Id.* at Exhibit B-38.

²⁹ See Jindal’s October 25, 2019 SQR at 6-7.

³⁰ See Jindal’s April 29, 2019 BCQR at B-39.

³¹ *Id.* at B-38.

discounts are given to encourage customers to place orders via Jindal's E-sales portal as "a new mechanism to serve customers better with more transparency and ease of purchase."³²

With respect to the fourth criterion, we have analyzed the data and determined that Jindal offers this frequently. With respect to the fifth criterion, there are no factors that reflect negatively on the legitimacy of this adjustment.

Regional Discount (REBATE6H)

Jindal also offers credit notes for other discounts based on market conditions, based on a customers' geographic location (North, South, East, West) and the type of coating; these discounts are known at the time of invoicing, which goes to the first and third criteria.³³ These discounts are reported on a transaction-specific basis.³⁴ Jindal has been giving this discount for six years, which goes to the second criterion.³⁵ With respect to the fourth criterion, we have analyzed the data and determined that Jindal offers this rebate frequently. With respect to the fifth criterion, there are no factors that reflect negatively on the legitimacy of this adjustment.

Other Discounts (REBATE7H)

With respect to the first criterion and third criterion, Jindal also offers credit notes depending on market conditions, which it states, "are known to the customer at the time of invoicing."³⁶ Jindal provided a sample calculation along with a credit note.³⁷ In its SQR, Jindal showed each of these discounts and the year in which it started giving these discounts.³⁸

With respect to the fourth criterion, we have analyzed the data and determined that Jindal offers this rebate frequently. With respect to the fifth criterion, there are no factors that reflect negatively on the legitimacy of this adjustment.

U.S. MARKET

Discount in the U.S. Market (EARLPYU)

Jindal offers a discount off the gross unit price if the customer makes a certain percentage payment prior to the delivery of the goods.³⁹ With respect to the first criterion and third criterion, given that the entire amount must be paid in full at the time of purchase, this must be known to the buyer both at the time of purchase and at the time of invoice.⁴⁰ With respect to the second criterion, Jindal states that it has consistently provided this cash discount for six years.⁴¹

³² See Jindal's October 25, 2019 SQR at 8.

³³ See Jindal's April 29, 2019 BCQR at B-39-40.

³⁴ *Id.*

³⁵ See Jindal's October 25, 2019 SQR at 9-10.

³⁶ See Jindal's April 29, 2019 BCQR at B-40.

³⁷ *Id.* and *Id.* at Exhibit B-27 and B-28.

³⁸ See Jindal's October 25, 2019 SQR at 10-11.

³⁹ See Jindal's April 29, 2019 BCQR at C-24 ("The customer pays the net amount after deducting this discount.").

⁴⁰ *Id.*

⁴¹ See Jindal's October 25, 2019 SQR at 13.

With respect to the fourth criterion, we have analyzed the data and determined that Jindal offers this frequently. With respect to the fifth criterion, there are no factors that reflect negatively on the legitimacy of this adjustment.

Comment 2: Whether to Revise Jindal's Home Market and Margin Programs

Jindal's Case Brief

- Commerce should deduct the excess billing adjustment (BILLADJ2H)⁴² from net price instead of adding it as Commerce stated it was doing in the *Preliminary Results*.⁴³ Excess billing adjustments are due to errors in billing.⁴⁴
- Commerce should convert inventory carrying cost (INVCARU) from Indian rupees into U.S. dollars.⁴⁵
- Commerce should not convert indirect selling expenses (incurred in India) DINDIRSU from Indian rupees into U.S. dollars.⁴⁶
- Commerce should not add the variable for indirect selling expenses (INDIRSU) twice.⁴⁷

No other party commented on this issue.

Commerce's Position: After reviewing the administrative record, we agree with Jindal. For these *Final Results*, we have: (1) deducted BILLADJ2H from the net price; (2) not converted INVCARU from Indian rupees into U.S. dollars; (3) not converted indirect selling expenses (incurred in the United States) DINDIRSU from Indian rupees into U.S. dollars; and (4) deducted INDIRSU once.⁴⁸

⁴² See Jindal's April 29, 2019 BCQR at B-31 ("Jindal issues credit notes to customers for such excess billing. These excessively billed amounts have been reported on a transaction-by-transaction basis in this field.").

⁴³ See *Preliminary Results*.

⁴⁴ See Jindal's Case Brief at 2-3.

⁴⁵ *Id.* at 2.

⁴⁶ *Id.* at 3.

⁴⁷ See Jindal Final Calculation Memo.

⁴⁸ *Id.*

VII. RECOMMENDATION

We recommend adopting the above positions. If these recommendations are accepted, we will publish the *Final Results* of this administrative review in the *Federal Register*.



Agree

Disagree

3/10/2020

X



Signed by: CHRISTIAN MARSH

Christian Marsh
Deputy Assistant Secretary
for Enforcement and Compliance