A-533-824
Administrative Review
POR: 07/01/2018-06/30/2019
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November 17, 2020

MEMORANDUM TO: Joseph A. Laroski Jr.
Deputy Assistant Secretary
for Policy and Negotiations

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India; 2018-2019

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty order on polyethylene terephthalate film, sheet, and strip (PET film) from India. This review covers Jindal Poly Films Limited of India (Jindal). The period of review (POR) is July 1, 2018 through June 30, 2019. We preliminarily find that Jindal did not sell subject merchandise in the United States below normal value (NV). We are also rescinding the review on seven companies where timely requests for withdrawals were filed by all parties that requested the reviews.

II. BACKGROUND

In July 2002, Commerce published in the *Federal Register* an antidumping duty order on PET film from India.[1] Subsequently, on July 1, 2020, Commerce published in the *Federal Register* a notice of opportunity to request an administrative review of the antidumping duty order on PET film from India for the period July 1, 2018 through June 30, 2019.[2] In accordance with section

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[1] *See Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India*, 67 FR 44175 (July 1, 2002).
[2] *See Antidumping or Countervailing Duty Order, Finding or Suspended Investigation; Opportunity to Request Administrative Review*, 84 FR 31295 (July 1, 2019).

751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b)(1), in July 2019, we received four requests for administrative reviews of PET Film from India. The petitioners requested a review of Ester Industries Limited (Ester); Garware Polyester Ltd. (Garware); Jindal Poly Films Ltd. (India) (Jindal); Polyplex Corporation Ltd. (Polyplex); SRF Limited of India (SRF); and Vacmet India Limited (Vacmet).[3] Additionally, Polyplex USA LLC, a domestic interested party, requested reviews for: Ester; Garware; Jindal; MTZ Polyesters Ltd. (MTZ); Polyplex; SRF, Uflex Ltd. (Uflex); and Vacmet.[4] Finally, SRF and Jindal each self-requested an administrative review.[5] Subsequently, on September 9, 2019, in accordance with 19 CFR 351.222(c)(1)(i), Commerce published a notice of initiation of administrative review of the antidumping duty order on PET Film from India.[6]

On September 27, 2019, we released U.S. Customs and Border Protection (CBP) import data to eligible parties under the Administrative Protective Order and invited interested parties to submit comments with respect to the selection of respondents for individual examination by Commerce.[7] No parties filed comments. On November 29, 2019, Commerce determined to limit the number of companies subject to individual examination and selected Garware and Jindal as the two mandatory respondents.[8]

On December 6, 2020, the petitioners submitted a timely letter withdrawing its request to review Ester, Garware, Polyplex, SRF, Jindal, and Vacmet.[9] Also on December 6, 2020, Polyplex USA LLC submitted a timely letter withdrawing its request to review Ester, Garware, Jindal, MTZ, Polyplex, SRF, Uflex, and Vacmet.[10] SRF also filed a timely request for withdrawal.[11]

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[3] The petitioners are DuPont Teijin Films, Mitsubishi Polyester Film, Inc., and SKC, Inc. *See* Petitioners' Letter, "Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India, Request for Antidumping Duty Administrative Review," dated July 15, 2019.

[4] *See* Polyplex USA LLC's Letter, "Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India: Polyplex USA LLC's Request for AD Administrative Review," dated July 18, 2019.

[5] *See* SRF Limited's Letter, "Polyethylene Terephthalate Film, (PET Film) from India: Request for Administrative Review of the Antidumping Duty Order," dated July 26, 2019; *see also* Jindal Poly Films Limited of India's Letter, "Polyethylene Terephthalate Film, (PET Film) from India: Request for Administrative Review," dated July 31, 2019.

[6] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 47242 (September 9, 2019) (*Initiation Notice*).

[7] *See* Memorandum, "Antidumping Duty Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip (PET) Film from India: U.S. Customs Entries," dated September 27, 2019.

[8] *See* Memorandum, "Administrative Review of Antidumping Duty Order on Polyethylene Terephthalate Film, (PET Film) from India: Selection of Respondents for Individual Examination (Respondent Selection Memo)," dated November 29, 2019.

[9] *See* Petitioners' Letter, "Polyethylene Terephthalate Film, Sheet and Strip from India: Request for Withdrawal of Antidumping Administrative Review," dated December 6, 2019.

[10] *See* Polyplex USA LLC's Letter, "Polyethylene Terephthalate Film, Sheet and Strip from India: Request for Withdrawal of Anti-dumping Administrative Review," dated December 6, 2019.

[11] *See* SRF Limited's Letter, "Polyethylene Terephthalate Film, Sheet and Strip from India/Withdrawal of Request for Antidumping Duty Admin Review of SRF Limited (SRF)," dated December 7, 2019.

Jindal remains subject to this administrative review as its request for withdrawal of this review was not timely submitted.[12] We issued Jindal its questionnaire on December 9, 2019.[13] On February 6, 2020, Jindal submitted its questionnaire response.[14]

On March 23, 2020, Commerce issued an extension memorandum, which extended the deadline of the preliminary results of this review until July 7, 2020.[15] Shortly thereafter, on April 24, 2020, Commerce issued a memorandum tolling all deadlines for this administrative review by 50 days.[16] On July 21, 2019, we issued another memorandum tolling all deadlines by a total of 60 days.[17] On October 21, 2020, Commerce issued another extension memorandum, which extended the deadline until November 17, 2020.[18]

III. SCOPE OF THE ORDER

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

IV. PARTIAL RESCISSION OF ADMINISTRATIVE REVIEW

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

V. COMPARISONS TO NORMAL VALUE

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether Jindal's sales of subject merchandise from India to the United States were made at less than normal value (NV), Commerce compared the export price (EP) to the NV as described in the "Export Price" and "Normal Value" sections of this memorandum.

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[12] *See* Memorandum, "Deadline of Withdrawal Review Request," dated January 24, 2020*; see also* Jindal's Letter, "Polyethylene Terephthalate Film, Sheet and Strip from India: Withdrawal of Request for Administrative Review," dated December 17, 2019. The deadline for the withdrawal of review requests was December 9, 2019.
[13] *See* Commerce's Letter, "Initial Questionnaire for Jindal," dated December 9, 2019 (Jindal Initial Questionnaire).
[14] *See* Jindal's February 6, 2020 Section ABCD Questionnaire Response.
[15] *See* Memorandum, "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from India: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review (2018-2019)," dated March 23, 2020.
[16] *See* Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews," dated April 24, 2020.
[17] *See* Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews," dated July 21, 2020.
[18] *See* Memorandum, "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from India: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review (2018-2019)," dated October 21, 2020.

A. Product Comparisons

In accordance with section 771(16) of the Act, we compared prices for products sold in the U.S. market with prices for products sold in the home market which were either identical or most similar in terms of the physical characteristics. In the order of importance, these physical characteristics are grade, specification, thickness, thickness category, and surface treatment. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product based on the characteristics listed above.

B. Determination of Comparison Method

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

In recent proceedings, Commerce applied a "differential pricing" analysis for determining whether application of average-to-transaction comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act. Commerce finds that the differential pricing analysis used in those recent proceedings may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review.[20] Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and on Commerce's additional experience with addressing the potential masking of dumping that can occur when Commerce uses the average-to-average method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods.[21] If such a pattern is found, then the differential pricing analysis

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[19] *See Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum (IDM) at Comment 1*; see also CP Kelco Oy v. United States*, 978 F. Supp. 2d 1315, 1324 (CIT 2014).

[20] *See, e.g.*, *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013), and accompanying IDM at Comment 3; *see also Certain Activated Carbon from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013,* 79 FR 70163 (November 25, 2014), and accompanying IDM at Comment 2.

[21] *See Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33350 (June 4, 2013), and accompanying IDM at Comment 3; and *Hardwood and Decorative Plywood from*

evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. For the respondent, purchasers are based on the reported customer codes for Jindal. Regions are defined using the reported destination code (*i.e.*, zip code) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region and time period, that Commerce uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the "Cohen's *d* test" is applied. The Cohen's *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen's *d* coefficient is calculated when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen's *d* coefficient is used to evaluate the extent to which the net prices to a particular purchaser, region or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen's *d* test: small, medium or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant, and the sales in the test group were found to have passed the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

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

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the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 58273 (September 23, 2013), and accompanying IDM at Comment 3.

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

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

C. Results of the Differential Pricing Analysis

For Jindal, based on the results of the differential pricing analysis, Commerce preliminarily finds that the value of all U.S. sales passing the Cohen's *d* test is 0.69 percent, and confirms that there is not a pattern of prices that differ significantly among purchasers, regions or time periods.[22] Accordingly, Commerce preliminarily determines to apply the standard method for all U.S. sales to calculate the weighted-average dumping margin for Jindal.[23]

VI. 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, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business. Additionally, under that regulation, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or

[22] *See* Memorandum, "Analysis Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip from India: Jindal, dated concurrently with this memorandum (Jindal's Prelim Analysis Memorandum) at 9.
[23] *Id.*

producer establishes the material terms of sale.[24] In addition, Commerce's long-standing practice is to rely on shipment date where it precedes invoice date as the date of sale.[25]

Jindal reported the invoice date as the date of sale for its home market sales to both traders and end-users.[26] The record of this review indicates that invoice date is the date when price and quantity terms are set.[27] Therefore, we have preliminarily used invoice date as the date of sale for Jindal's home market sales.

For its U.S. sales, Jindal has reported two invoice dates – one is the date on which all terms are set for its U.S. sales ("the pro-forma invoice date") and the second ("the commercial invoice date") is the date on which the sales are recorded in Jindal's financial accounting system.[28] The record of this review indicates that "the pro-forma invoice date" is the appropriate date of sale since that is the date on which price and quantity are established and they do not change after that date.[29] Therefore, we preliminarily used "the pro-forma invoice date" as the date of sale for Jindal's U.S. sales.[30]

VII. EXPORT PRICE

Section 772(a) of the Act defines EP as "the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of 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 subsection (c)." Section 772(b) of the Act defines CEP as "the price at which the subject merchandise is 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 of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d)." As explained below, we based the U.S. price on EP for Jindal.

We based EP on the price to the fist unaffiliated purchaser in the United States. We made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act, which included, where appropriate, foreign inland freight, foreign brokerage and handling, U.S. brokerage and handling, international freight, and marine insurance.

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

[25] *See, e.g.*, *Seamless Refined Copper Pipe and Tube from Mexico: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 33482 (June 12, 2015), and accompanying IDM at Comment 1; and *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 IDM at Comment 10.

[26] *See* Jindal's February 6, 2020 Section A Questionnaire Response at 21.

[27] *Id*.

[28] Jindal's February 6, 2020 Section C Questionnaire Response at 15.

[29] *Id*.

[30] *Id*.

VIII. NORMAL VALUE

A. Home Market Viability as Comparison Market

To determine whether there was a sufficient volume of sales of PET film in the home market to serve as a viable basis for calculating NV, Commerce compared the volume of Jindal's home market sales of the foreign like product to their volume of U.S. sales of the subject merchandise in accordance with section 773(a) of the Act. Pursuant to section 773(a)(1)(B) of the Act, because its aggregate 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, we determined that the home market was viable for comparison purposes for Jindal.[31]

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. According to 19 CFR 351.412(c)(2), sales are made at different LOTs if they are made at different marketing stages (or their equivalent), and substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.[32] In order to determine whether the home market sales are at different marketing stages than the U.S. sales, we examine the distribution chain in each market, including selling functions and customer categories, and the level of selling activities for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs, we consider the starting price before adjustments for EP and home market sales,[33] and the starting price as adjusted under section 772(d) of the Act for CEP sales.[34]

When Commerce is unable to match U.S. sale to sales in the home market at the same LOT as the EP or CEP, Commerce may compare the U.S. sale to sales at a different LOT in the home market. In comparing EP or CEP sales at a different LOT in the home 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 CEP but the data available do not provide a basis to determine whether the difference in LOTs is demonstrated to affect price comparability (*i.e.*, no LOT adjustment is possible), Commerce will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.[35]

In this administrative review, we obtained information from Jindal regarding the marketing stages involved in making their reported home market and U.S. sales, including a description of

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[31] *See* Jindal's November 6, 2020 at 1-2 and Exhibit A-1.
[32] *See Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administration Review and Notice of Intent Not to Revoke Antidumping Duty Order in Part*, 75 FR 50999 (August 18, 2010) (*OJ Brazil*), and accompanying IDM at Comment 7.
[33] 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 expenses, and profit for CV, where possible. *See* 19 CFR 351.412(c)(1).
[34] *See Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).
[35] *See OJ Brazil* IDM at Comment 7.

the selling activities performed for each channel of distribution. Our LOT findings are summarized below.

Jindal reported that it sold to end-users and traders in its home market, and that most of its selling functions were performed at the same or similar levels of intensity in both channels of distribution.[36] Because the selling activities to Jindal's customers did not vary for sales in the home market through its two channels of distribution, we preliminarily determine that Jindal has one LOT in the home market.

Jindal reported that it both made EP and CEP sales in the U.S. market through two channels of distribution, to end users and traders.[37] Jindal's selling functions were performed at the same or similar levels of intensity in both channels of distribution in the U.S. market.[38] Because the selling activities to Jindal's customers did not vary for sales in the United States through its channels of distribution, we preliminarily determine that Jindal has one LOT in the U.S. market.

We find that Jindal provided the same or similar level of customer support services on its U.S. sales as it did on their home market sales, and that the minor differences that do exist do not establish a distinct and separate LOT.[39] Consequently, the record evidence supports a preliminary finding that in both markets Jindal performed essentially the same services at a similar level of intensity. While there are some small differences between the home and U.S. markets,[40] we determine that for Jindal the EP or CEP sales and the starting price of home market sales represent the same stage in the marketing process, and are, thus, at the same LOT. For this reason, we find that a LOT adjustment for Jindal is not warranted in these preliminary results. Because Jindal's home market LOT is not at a more advanced stage of distribution than its U.S. LOT, a CEP offset is not warranted.

C. Cost of Production Analysis

Commerce requests constructed value (CV) and cost of production (COP) information from respondent companies in all AD proceedings.[41] We preliminarily determine that Jindal in fact made sales in the home market during the POR that were below the cost of production in its home market.

1. Cost of Production Test

We calculated the COP on a product-specific basis, based on the sum of Jindal's costs of materials and fabrication for the foreign like product plus amounts for general and administrative expenses, interest expenses, and the costs of all expenses incidental to preparing the foreign like

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[36] *See* Jindal's February 6, 2020 AQR at 19-21 and Exhibit A-16.
[37] *Id.*
[38] *Id.*
[39] *Id.*
[40] *Id.*
[41] *See* Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat 362 (2015); *see also* the 2015 amendments may be found at https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl; and Jindal Initial Questionnaire.

product for shipment in accordance with section 773(b)(3) of the Act.[42] We relied on Jindal's COP/CV data submitted as part of its questionnaire responses to Commerce's original questionnaire.

2. Test of Comparison Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP for the POR to the per-unit price of the comparison market sales of the foreign like product to determine whether these sales by Jindal had been made at prices below the COP. In particular, in determining whether to disregard home market sales made at prices below their COP, we examined whether such sales were made within an extended period of time in substantial quantities and at prices which permitted the recovery of all costs within a reasonable period of time, in accordance with section 773(b) of the Act.[43] We determined the net comparison market prices for the below-cost test by adjusting the gross unit price for all applicable movement charges, discounts, rebates, billing adjustments, direct and indirect selling expenses, and packing expenses excluding all adjustments for imputed expenses.[44]

3. Results of the Cost of Production Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of sales of a given product were at prices less than the COP, we did not disregard below-cost sales of that product because we determined that the below-cost sales were not made in substantial quantities. Where 20 percent or more of the respondent's home market sales of a given product were at prices less than the COP, we disregarded the below-cost sales because: (1) they were made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act, and (2) based on our comparison of prices to the weighted average of the COPs, they were at prices which would not permit the recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act. Because we are applying our standard annual weighted-average cost methodology in these preliminary results, we also applied our standard cost-recovery test with no adjustments.

Our cost test for Jindal indicated that for home market sales of certain products, more than 20 percent were sold at prices below the COP within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time. Thus, in accordance with section 773(b)(1) of the Act, we disregarded these below-cost sales in our analysis as outside of the ordinary course of trade and used the remaining sales to determine NV.[45]

D. Calculation of Normal Value Based on Comparison Market Prices

We based NV on the starting prices of Jindal's sales to unaffiliated home market customers, pursuant to sections 773(a)(1)(A) and 773(a)(1)(B)(i) of the Act and, where appropriate, made

[42] *See* Jindal's Prelim Analysis Memorandum at Attachments I and II.
[43] *Id.*
[44] *Id.*
[45] *Id.* at Attachments I and II.

deductions from NV for movement expenses (*i.e.*, inland freight) in accordance with section 773(a)(6)(B)(ii) of the Act. In accordance with 19 CFR 351.401(c), we made adjustments for discounts and rebates. Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410, we made, where appropriate, circumstance-of-sale adjustments (*i.e.*, credit and warranty expenses). When applicable, we also made adjustments in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred on comparison-market or U.S. market sales where commissions were granted on sales in one market but not the other. Specifically, where commissions were granted in the U.S. market but not in the comparison market, we made a downward adjustment to NV for the lesser of (1) the amount of the commission paid in the U.S. market, and (2) the amount of indirect selling expenses incurred in the comparison market. If commissions were granted in the comparison market but not in the U.S. market, we made an upward adjustment to NV following the same method. We also made adjustments for differences in domestic and export packing expenses in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act.[46]

When comparing U.S. sale prices with NVs based on comparison market sale prices of similar, but not identical, merchandise, we also made adjustments for physical differences in merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like products and the subject merchandise.[47]

IX. CURRENCY CONVERSION

We made currency conversions into U.S. dollars in accordance with section 773A of the Act and 19 CFR 351.415, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. The exchange rates are available on the Enforcement and Compliance web site at http://enforcement.trade.gov/exchange/index.html.

X. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

☒ ☐

Agree Disagree

11/17/2020

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Signed by: JOSEPH LAROSKI

Joseph A. Laroski Jr.
Deputy Assistant Secretary
for Policy and Negotiations

[46] *Id.*
[47] *See* 19 CFR 351.411(b).