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

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

SUBJECT: Issues and Decision Memorandum for the Final Results of the
Antidumping Duty Order on Certain Lined Paper Products from
India; 2018-2019

I. SUMMARY

We analyzed the case and rebuttal briefs of interested parties in the above-referenced administrative review of the antidumping duty (AD) order on certain lined paper products from India. Based on a review of the record and comments received from interested parties, we made changes to Navneet Education Limited's interest expense ratio and the calculation of the indirect selling expense ratio used in Super Impex's margin analysis. We recommend that you approve the positions described in the "Analysis of Comments" section of this memorandum. Below is the complete list of the issues in this review for which we received comments from parties:

Navneet Education Ltd. (Navneet)

- Comment 1: Whether Commerce Should Adjust Navneet's Interest Expense Ratio
- Comment 2: Whether Commerce Should Allocate Certain Navneet Trust Expenses to Navneet Education Ltd.

Super Impex

- Comment 3: Whether Commerce Should Use the Financial Statements of Arora Gifts Private Limited to Calculate Super Impex's Profit Ratio and Indirect Selling Expense Ratio
- Comment 4: Whether Commerce Should Adjust the Calculation of Arora Gifts Private Limited's Indirect Selling Expense Ratio



II. BACKGROUND

On September 28, 2006, Commerce published the *Order* in the *Federal Register*.¹ On January 19, 2021, Commerce published the *Preliminary Results* of the administrative review of certain lined paper products from India.² We invited parties to comment on the *Preliminary Results*. On February 18, 2021, we received case briefs from the Association of American School Paper Suppliers and its individual members (the petitioners) and Super Impex.³ On February 25, 2021, we received rebuttal briefs from the petitioners and Navneet.⁴

III. SCOPE OF THE ORDER

The scope of the *Order* includes certain lined paper products, typically school supplies (for purposes of this scope definition, the actual use of or labeling these products as school supplies or non-school supplies is not a defining characteristic), composed of or including paper that incorporates straight horizontal and/or vertical lines on ten or more paper sheets (there shall be no minimum page requirement for looseleaf filler paper), including but not limited to such products as single- and multi-subject notebooks, composition books, wireless notebooks, looseleaf or glued filler paper, graph paper, and laboratory notebooks, and with the smaller dimension of the paper measuring 6 inches to 15 inches (inclusive) and the larger dimension of the paper measuring 8-3/4 inches to 15 inches (inclusive). Page dimensions are measured size (not advertised, stated, or “tear-out” size), and are measured as they appear in the product (*i.e.*, stitched and folded pages in a notebook are measured by the size of the page as it appears in the notebook page, not the size of the unfolded paper). However, for measurement purposes, pages with tapered or rounded edges shall be measured at their longest and widest points. Subject lined paper products may be loose, packaged or bound using any binding method (other than case bound through the inclusion of binders board, a spine strip, and cover wrap). Subject merchandise may or may not contain any combination of a front cover, a rear cover, and/or backing of any composition, regardless of the inclusion of images or graphics on the cover, backing, or paper. Subject merchandise is within the scope of the *Order* whether or not the lined paper and/or cover are hole punched, drilled, perforated, and/or reinforced. Subject merchandise may contain accessory or informational items including but not limited to pockets, tabs, dividers, closure devices, index cards, stencils, protractors, writing implements, reference materials such as mathematical tables, or printed items such as sticker sheets or miniature calendars, if such items are physically incorporated, included with, or attached to the product, cover and/or backing thereto.

¹ See *Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from the People’s Republic of China; Notice of Antidumping Duty Orders: Certain Lined Paper Products from India, Indonesia and the People’s Republic of China; and Notice of Countervailing Duty Orders: Certain Lined Paper Products from India and Indonesia*, 71 FR 56949 (September 28, 2006) (*Order*).

² See *Certain Lined Paper Products from India: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2018-2019*, 86 FR 5132 (January 19, 2021) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (*LPP India 2018-19 PDM*).

³ See Petitioners’ Letter, “Case Brief and Request to Participate in Hearing if Held,” dated February 18, 2021 (Petitioners’ Case Brief); see also Super Impex’s Letter, “Case Brief of Super Impex,” dated February 18, 2021 (Super Impex’s Case Brief).

⁴ See Petitioners’ Letter, “Rebuttal Brief,” dated February 25, 2021 (Petitioners’ Rebuttal Brief); see also Navneet’s Letter, “Rebuttal Brief of Navneet Education Limited,” dated February 25, 2021 (Navneet’s Rebuttal Brief).

Specifically excluded from the scope of the *Order* are:

- unlined copy machine paper;
- writing pads with a backing (including but not limited to products commonly known as “tablets,” “note pads,” “legal pads,” and “quadrille pads”), provided that they do not have a front cover (whether permanent or removable). This exclusion does not apply to such writing pads if they consist of hole-punched or drilled filler paper;
- three-ring or multiple-ring binders, or notebook organizers incorporating such a ring binder provided that they do not include subject paper;
- index cards;
- printed books and other books that are case bound through the inclusion of binders board, a spine strip, and cover wrap;
- newspapers;
- pictures and photographs;
- desk and wall calendars and organizers (including but not limited to such products generally known as “office planners,” “time books,” and “appointment books”);
- telephone logs;
- address books;
- columnar pads & tablets, with or without covers, primarily suited for the recording of written numerical business data;
- lined business or office forms, including but not limited to: pre-printed business forms, lined invoice pads and paper, mailing and address labels, manifests, and shipping log books;
- lined continuous computer paper;
- boxed or packaged writing stationery (including but not limited to products commonly known as “fine business paper,” “parchment paper”, and “letterhead”), whether or not containing a lined header or decorative lines;
- Stenographic pads (“steno pads”), Gregg ruled (“Gregg ruling” consists of a single- or double-margin vertical ruling line down the center of the page. For a six-inch by nine-inch stenographic pad, the ruling would be located approximately three inches from the left of the book.), measuring 6 inches by 9 inches.

Also excluded from the scope of the *Order* are the following trademarked products:

- Fly™ lined paper products: A notebook, notebook organizer, loose or glued note paper, with papers that are printed with infrared reflective inks and readable only by a Fly™ pen-top computer. The product must bear the valid trademark Fly™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- Zwipes™: A notebook or notebook organizer made with a blended polyolefin writing surface as the cover and pocket surfaces of the notebook, suitable for writing using a specially-developed permanent marker and erase system (known as a Zwipes™ pen). This system allows the marker portion to mark the writing surface with a permanent ink. The eraser portion of the marker dispenses a solvent capable of solubilizing the permanent ink allowing the ink to be removed. The product must bear the valid

trademark Zwipes™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

- FiveStar®Advance™: A notebook or notebook organizer bound by a continuous spiral, or helical, wire and with plastic front and rear covers made of a blended polyolefin plastic material joined by 300 denier polyester, coated on the backside with PVC (poly vinyl chloride) coating, and extending the entire length of the spiral or helical wire. The polyolefin plastic covers are of specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). Integral with the stitching that attaches the polyester spine covering, is captured both ends of a 1" wide elastic fabric band. This band is located 2-3/8" from the top of the front plastic cover and provides pen or pencil storage. Both ends of the spiral wire are cut and then bent backwards to overlap with the previous coil but specifically outside the coil diameter but inside the polyester covering. During construction, the polyester covering is sewn to the front and rear covers face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. The flexible polyester material forms a covering over the spiral wire to protect it and provide a comfortable grip on the product. The product must bear the valid trademarks FiveStar®Advance™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- FiveStar Flex™: A notebook, a notebook organizer, or binder with plastic polyolefin front and rear covers joined by 300 denier polyester spine cover extending the entire length of the spine and bound by a 3-ring plastic fixture. The polyolefin plastic covers are of a specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). During construction, the polyester covering is sewn to the front cover face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. During construction, the polyester cover is sewn to the back cover with the outside of the polyester spine cover to the inside back cover. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. Each ring within the fixture is comprised of a flexible strap portion that snaps into a stationary post which forms a closed binding ring. The ring fixture is riveted with six metal rivets and sewn to the back plastic cover and is specifically positioned on the outside back cover. The product must bear the valid trademark FiveStar Flex™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

Merchandise subject to the *Order* is typically imported under headings: 4811.90.9035, 4811.90.9080, 4820.30.0040, 4810.22.5044, 4811.90.9050, 4811.90.9090, 4820.10.2010, 4820.10.2020, 4820.10.2030, 4820.10.2040, 4820.10.2050, 4820.10.2060, and 4820.10.4000 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS headings are provided for convenience and customs purposes; however, the written description of the scope of the *Order* is dispositive.

IV. ANALYSIS OF COMMENTS

Comment 1: Whether Commerce Should Adjust Navneet's Interest Expense Ratio

*Petitioners' Case Brief:*⁵

- In the *Preliminary Results*, Commerce correctly found that an account that Navneet included in its interest expenses when calculating the company's interest expense (INTEX) ratio "does not represent actual income or expenses," and, therefore, should be excluded from the INTEX ratio calculation.⁶
- The method in which Commerce removed this account from the INTEX ratio calculation, however, was incorrect and should be revised for the final results.⁷

No other party commented on this issue.

Commerce Position: The petitioners argue that a certain expense be removed from Navneet's INTEX ratio. We re-examined the calculation worksheet that Navneet submitted in its response to section D of the initial questionnaire, which shows all the accounts related to interest expense and interest income that were included in the company's calculation of its INTEX ratio.⁸ The expense that the petitioners argue should be removed from Navneet's interest expenses was not included in Navneet's calculation of its INTEX ratio. Therefore, in the *Preliminary Results* it was not necessary for Commerce to remove this expense from Navneet's interest expenses. Accordingly, for the final results, we have applied the INTEX ratio that Navneet reported in its section D response with no adjustments.⁹

Comment 2: Whether Commerce Should Allocate Certain Navneet Trust Expenses to Navneet Education Ltd.

*Petitioners' Case Brief:*¹⁰

- Commerce should allocate general and administrative (G&A) expenses from Navneet Trust, a holding company controlled by the Gala family that owns 39.72 percent of Navneet's stock, to Navneet in accordance with Commerce's normal practice.¹¹

⁵ See Petitioners' Case Brief at 2.

⁶ *Id.* at 2 (citing Memorandum, "Preliminary Results of Antidumping Duty Administrative Review of Certain Lined Paper Products from India (2018-2019): Calculation Analysis of Sales and Cost of Production for Navneet Education Ltd. (Navneet)," dated January 7, 2021 (Navneet Preliminary Calculation Memorandum) at 6).

⁷ The petitioners' discussion of their proposed adjustment to Navneet's INTEX ratio contains Navneet's business proprietary information. See Petitioners' Case Brief at 2; see also Memorandum, "Certain Lined Paper Products from India (2018-2019): Sales and Cost of Production Calculation Memorandum for the Final Results of Navneet Education Ltd.," dated concurrently with this memorandum (Navneet Final Calculation Memorandum) at 2-3.

⁸ See Navneet's Letter, "Response of Navneet Education Limited to Antidumping Questionnaire, Sections B, C, and D.," dated February 14, 2020 at Exhibit D-18b at 1.

⁹ For further discussion of the proprietary details of Navneet's INTEX ratio, see Navneet Final Calculation Memorandum at 2-3.

¹⁰ See Petitioners' Case Brief at 3-4.

¹¹ *Id.* at 3 (citing Navneet's Letter, "Response of Navneet to Antidumping Questionnaire, Section A," dated January 15, 2020 (Navneet AQR) at Exhibit A.4).

- Navneet reported that Navneet Trust holds a controlling interest only in Navneet and that its only other investments are in publicly listed companies and mutual funds where Navneet Trust is a passive minority investor.¹²
- In the *Preliminary Results*, Commerce explained that its normal practice is “to allocate a parent company’s G&A expenses to its subsidiary when the parent company provided services to the subsidiary or incurred expenses on its behalf of the subsidiary,” yet it decided not to include Navneet Trust’s operating expenses in Navneet’s G&A despite evidence that Navneet Trust does not have its own operations and that its only purpose is to hold Navneet’s stock as well as make passive investments to the benefit of the Gala family.¹³
- Commerce should allocate certain expenses that Navneet Trust incurred on behalf of Navneet to Navneet’s G&A expenses.¹⁴

*Navneet’s Rebuttal Brief:*¹⁵

- Commerce’s practice is to derive the G&A expense of the respondent based on its own financial statement, not including the G&A of its parent, while only the calculation of the interest expense ratio relies on the consolidated financial statement.
- Commerce’s initial questionnaire, which requests that respondents “{i}nclude in your reported G&A expenses an amount for administrative services performed on your company’s behalf by its parent company or other affiliated party,” clearly states that a parent company’s administrative expenses is only relevant to a respondent’s G&A if the parent company provided services to the respondent.
- As a minority shareholder in Navneet, Navneet Trust is not considered a holding company under Indian law; therefore, Navneet Trust’s accounts are not consolidated with those of Navneet Education Limited, and there is no reason to employ a consolidated G&A.
- Navneet Trust does not provide any services to Navneet, nor does it incur any expenses on Navneet’s behalf.
- Commerce examined this question in an on-site verification in the previous review and concluded that there was no “evidence that Navneet Trust incurred any expenses on behalf of Navneet or that there were any transactions between Navneet Trust and Navneet,” and this remains true for the POR of the instant review.¹⁶
- The petitioners rely on unfounded speculation that certain “donations” that appear in Navneet Trust’s books might have been donations that Navneet wanted to make, but that Navneet Trust made instead.¹⁷
- Navneet has its own significant charitable contribution expenses, which are recorded in its own books, and there is no basis in the petitioners’ unsupported allegation that Navneet shifted donations to a minority shareholder.

¹² *Id.* (citing Navneet’s Letter, “Response of Navneet Education Limited to First Supplemental Antidumping Questionnaire,” dated June 22, 2020 (Navneet SQR1) at 4).

¹³ *Id.* (citing Navneet Preliminary Calculation Memorandum at 7; and Navneet SQR1 at 4).

¹⁴ The petitioners’ comments regarding this issue contain Navneet’s business proprietary information. *See* Petitioners’ Case Brief at 3-4; *see also* Navneet Final Calculation Memorandum at 3-4.

¹⁵ *See* Navneet’s Rebuttal Brief at 2-4.

¹⁶ *Id.* at 3 (citing *Certain Lined Paper Products from India: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2017-2018*, 85 FR 19434 (April 7, 2020), and accompanying Issues and Decision Memorandum (IDM) (*LPP India 2017-18 IDM*) at 18).

¹⁷ *Id.* (citing Petitioners’ Case Brief at 4).

- The petitioners also incorrectly allege that Navneet Trust does not have any operations of its own and is only a passive investor whose sole purpose is to hold Navneet's stock when, in fact, Navneet Trust earns interest income from financing activities, such as providing loans, in addition to earning dividend income from investments in Navneet and other companies.¹⁸
- While there is no justification for adding Navneet Trust's expenses to Navneet's G&A, if Commerce were to add Navneet Trust's expenses to the numerator of Navneet's G&A ratio, then the denominator would also have to include the cost of sales of Navneet Trust and its other subsidiaries, which is information that is not on the record of this review.

Commerce Position: We disagree with the petitioners. Section 773(b)(3)(B) of the Tariff Act of 1930, as amended (the Act) provides that, for purposes of calculating cost of production, Commerce shall include "an amount for selling, general and administrative expenses based on actual data pertaining to the production and sales of the foreign like product by the exporter in question." The Act does not define what constitutes G&A expenses or prescribe a specific methodology for calculating G&A expenses. Section 773(f)(1)(a) of the Act further provides that Commerce will calculate costs based on a respondent's normal books and records and that Commerce "shall consider all available evidence on the proper allocation of costs." Commerce's practice is to allocate a parent company's G&A expenses to its subsidiary in situations where the parent company provided services to the subsidiary or incurred expenses on its behalf.¹⁹

Navneet reported that Navneet Trust did not incur any expenses on behalf of Navneet and that there were no transactions between Navneet Trust and Navneet during the POR.²⁰ We find no record evidence that contradicts Navneet's claim. Additionally, the record evidence demonstrates that Navneet Trust is engaged in financial activities and earns interest income on loans, which contradicts the petitioners' argument that Navneet Trust acts only as a parent company and does not have any operations of its own.²¹ Accordingly, because Navneet Trust did not provide services to Navneet or incur expenses on its behalf, we are not making any adjustments to Navneet's G&A expense ratio for the purposes of the final results.

Comment 3: Whether Commerce Should Use the Financial Statements of Arora Gifts Private Limited to Calculate Super Impex's Profit Value Ratio and Indirect Selling Expense Ratio

*Super Impex's Case Brief:*²²

- When selecting financial statements for constructed value (CV) and indirect selling expense (ISE) ratios, Commerce relies on the standard outlined in *Pure Magnesium from Israel* and *CTVs from Malaysia*, in which it considers: (1) the similarity between a potential surrogate's

¹⁸ *Id.* (citing Navneet AQR at Exhibit A.15b; and *LPP India 2017-18* IDM at 18).

¹⁹ *See, e.g., Silicon Metal from Norway: Affirmative Final Determination of Sales at Less Than Fair Value, Final Determination of No Sales, and Final Negative Determination of Critical Circumstances*, 83 FR 9829 (March 8, 2018), and accompanying IDM at Comment 3; *Brass Sheet and Strip from Canada: Final Results of Antidumping Duty Administrative Review*, 65 FR 37520 (June 15, 2000), and accompanying IDM at Comment 2; and *Certain Steel Concrete Reinforcing Bars from Turkey: Final Results and Rescission of Antidumping Duty Administrative Review in Part*, 71 FR 65082 (November 7, 2006), and accompanying IDM at Comment 8.

²⁰ *See* Navneet SQR1 at 4.

²¹ *Id.* at 4-5; *see also* Navneet AQR at Exhibit A.15b.

²² *See* Super Impex's Case Brief at 4-7.

business operations and products and the products and operations of the respondent; (2) the extent to which a potential surrogate has sales in the United States and the home market; (3) the contemporaneity of the surrogate data; and (4) the similarity of the customer base between a potential surrogate and the respondent.²³

- Sundaram and Gopi, two of the three surrogate companies that Commerce relied on in the *Preliminary Results* to calculate CV and ISE ratios, fully satisfy the above criteria, whereas the third surrogate company, Arora Gifts Private Limited (Arora) does not.²⁴
- The name “Arora Gifts Private Limited” suggests that Arora mainly produces and sells gifts, whereas the main products produced and sold by both Sundaram and Gopi are notebooks intended for use by students.²⁵
- The financial statements for Sundaram and Gopi cover fiscal year ending March 31, 2019, which overlaps with seven months of the POR, and the financial statements do not provide any indication that either company exported.²⁶
- The petitioners improperly focused on drawing similarities between Arora and Navneet in terms of business and product lines, rather than making comparisons to Super Impex.²⁷

*Petitioners’ Rebuttal Brief:*²⁸

- Commerce correctly determined in the *Preliminary Results* that the record evidence shows that Arora meets the criteria for selecting surrogate data that Commerce laid out in *Pure Magnesium Israel* and *CTVs Malaysia*: (1) Arora is an Indian company that manufactures and sells merchandise, including notebooks, in the same general category of the subject merchandise; (2) Arora’s sales reflect domestic sales of merchandise in the same general category as the subject merchandise; and (3) its financial statements are contemporaneous as they overlap with seven months of the POR.²⁹
- Super Impex points to no evidence to the contrary, effectively conceding that Arora’s data meets Commerce’s criteria, and instead focuses on raising claims that are baseless or immaterial.
- Super Impex’s argument that the word “Gifts” in Arora’s name indicates that it mainly produces and sells gift products is speculative and does not preclude Arora from producing and selling products in the same general category of subject merchandise.

²³ *Id.* at 5-6 (citing *Notice of Final Determination of Sales at Not Less Than Fair Value: Certain Color Television Receivers From Malaysia*, 69 FR 20592 (April 16, 2004) (*CTVs Malaysia*), and accompanying IDM at Comment 26; and *Notice of Final Determination of Sales at Less Than Fair Value: Pure Magnesium from Israel*, 66 FR 49349 (September 27, 2001) (*Pure Magnesium Israel*), and accompanying IDM at Comment 8).

²⁴ *Id.* at 5-6 (citing Petitioners’ Letter, “Submission of Other Factual Information – CV Profit and Selling Expense Information,” dated November 23, 2020 (Arora Financial Statements) at Exhibits 3 to 6; and Super Impex’s Letter, “Super Impex Response to Supplemental Antidumping Questionnaire,” dated June 23, 2020 (Super Impex SQR1) at Exhibits S1-2.d, S1-2.f, and S1-2.g).

²⁵ *Id.* at 4-5 (citing Arora Financial Statements at Exhibits 3 to 6).

²⁶ *Id.* at 67 (citing Super Impex SQR1 at Exhibits S1-2.d and S1-2.e).

²⁷ *Id.* at 5 (citing Petitioners’ Letter, “Pre-Preliminary Comments,” dated December 18, 2020 (Petitioners’ Pre-Preliminary Comments)).

²⁸ See Petitioners’ Rebuttal Brief at 3-6.

²⁹ *Id.* (citing Arora Financial Statements at Exhibits 1-6; Petitioners’ Pre-Preliminary Comments at 7-8; and *LPP India 2018-19 PDM* at 22-23).

- Arora’s information indicates that it sells “stationery,” which is how the other surrogate companies describe their merchandise.³⁰
- Super Impex’s argument that Arora is not an appropriate surrogate company because it produces and/or sells products other than notebooks is immaterial because Sundaram and Gopi produce and/or sell a variety of lined paper products that are outside the dimensions covered by the scope.³¹
- Super Impex points to an inadvertent reference to Navneet, rather than to Super Impex, in the petitioners’ pre-preliminary comments, but it is clear from the overall context of those comments that the petitioners intended to refer to Super Impex, and Commerce did not base its decision in the *Preliminary Results* to use Arora’s data on the surrogate’s similarities with Navneet, but rather on its similarities with Super Impex.³²
- Commerce correctly found in the *Preliminary Results* that “the business operations and products” of Arora “are like those of Super Impex,” and Super Impex has not argued or shown otherwise.³³

Commerce Position: Super Impex did not have a viable home or third-country market during the POR; therefore, Super Impex did not have home or third-country market sales to serve as a basis for normal value (NV). Instead, we based NV on constructed value (CV). With no viable home or third-country market, we are unable to calculate CV profit and selling expenses for Super Impex using the preferred method under section 773(e)(2)(A) of the Act, *i.e.*, based on the respondent’s own home market or third country sales made in the ordinary course of trade.

In situations where Commerce cannot calculate CV profit under section 773(e)(2)(A) of the Act, section 773(e)(2)(B) of the Act sets forth three alternatives:

“(i) the actual amounts incurred and realized by the specific exporter or producer being examined in the investigation or review . . . for profits, in connection with the production and sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise, (ii) the weighted average of the actual amounts incurred and realized by exporters or producers that are subject to the investigation or review (other than the exporter or producer described in clause (i)) . . . for profits, in connection with the production and sale of a foreign like product, in the ordinary course of trade, for consumption in the foreign country, or (iii) the amounts incurred and realized . . . for profits, based on any other reasonable method, except that the amount allowed for profit may not exceed the amount normally realized by exporters or producers (other than the exporter or producer described in clause (i)) in connection with the sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise.”

³⁰ *Id.* at 5 (citing Super Impex’s Letter, “Super Impex Response to Supplemental Antidumping Questionnaire,” dated June 23, 2020 (Super Impex SQR1) at Exhibit S1-2.d at 18 and 79 and Exhibit S1-2.f.).

³¹ *Id.* at 5 (citing Super Impex SQR1 at Exhibit S1-2 f at 4 (showing the range of Sundaram’s merchandise) and Exhibit 1-2.g at 10 (showing the range of Sundaram’s and Gopi’s merchandise, including out-of-scope A5 and A3 paper products)).

³² *Id.* 5-6 (citing *LPP India 2018-19* PDM at 22; and Petitioners’ Pre-Preliminary Comments at 7-8).

³³ *Id.* at 6 (citing *LPP India 2018-19* PDM at 22).

The statute does not establish a hierarchy for selecting among the alternatives for calculating CV profit.³⁴ Moreover, as noted in the Statement of Administrative Action (SAA), “the selection of an alternative will be made on a case-by-case basis, and will depend, to an extent, on available data.”³⁵ Thus, Commerce has discretion to select from any of the three alternative methods, depending on the information available on the record. With regard to section 773(e)(2)(B)(i) of the Act, we note that Super Impex did not sell subject merchandise in the home market during the POR, and it did not have a viable third country market.³⁶ Therefore, we determine that Super Impex’s own home market sales or third country sales of the general category of merchandise do not constitute a proper basis for CV profit and selling expenses. Further, we find that we cannot calculate CV profit and selling expenses based on alternative (ii), *i.e.*, the profit for other exporters or producers subject to this administrative review, because we find that the majority of the production and sales of Navneet’s foreign like products during the POR consist of educational books, children’s books, general books, and non-paper stationery products and thus are not in “the same general category of products as the subject merchandise.”³⁷ Therefore, we are left with the available alternatives under option (iii), *i.e.*, any other reasonable method.

For the *Preliminary Results*, in accordance with section 773(e)(2)(B)(iii) of the Act, we used a simple average of the profit and ISE ratios derived from three financial statements on the record, those of Arora, Sundaram Multi Pap Limited (Sundaram), and Gopi Paper Mart (Gopi).³⁸ For the reasons below, we have continued this approach for the final results.

Super Impex argues that Arora mainly produces and sells gifts and non-paper stationery products that are not comparable to subject merchandise. Regarding this argument, we find that Commerce’s analysis in *Oman Nails 18-19* of potential surrogate companies is informative.³⁹ In that proceeding, Commerce found that the company in question, which produced screws, bolts, nuts and other fasteners, but did not produce subject merchandise, could serve as a suitable surrogate company:

“... these products (*i.e.*, fasteners) {are} comparable to steel nails because they are used in similar applications (*e.g.*, the fastening of wood in building homes), have a similar production process to that of steel nails, and thereby, have similar cost structures as well as marketplaces subject to the same pricing conditions.”⁴⁰

³⁴ See Statement of Administrative Action (SAA), H.R. Doc. 103-316 (1994), *reprinted in* 1994 U.S.C.C.A.N. 4040 *et seq.*, at 840 (“At the outset, it should be emphasized, consistent with the Antidumping Agreement, new section 773(e)(2)(B) does not establish a hierarchy or preference among these alternative methods. Further, no one approach is necessarily appropriate for use in all cases.”)

³⁵ See SAA at 840.

³⁶ See Super Impex’s Letter, “Super Impex’s Response to Section A of the Original Antidumping Questionnaire,” dated January 23, 2020 at A-2 and Exhibit A-1.

³⁷ See *LPP India 2018-19* PDM at 21.

³⁸ *Id.* at 19-23; see also Memorandum, “Certain Lined Paper Products from India (2018-2019): Sales and Cost of Production Calculation Memorandum for the Preliminary Results of Super Impex,” dated January 7, 2021 (Super Impex Preliminary Calculation Memorandum) at 3.

³⁹ See *Certain Steel Nails from the Sultanate of Oman: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018-2019*, 86 FR 14309 (March 15, 2021) (*Oman Nails 18-19*), and accompanying IDM at Comment 2.

⁴⁰ See *Oman Nails 18-19* IDM at Comment 2.

Consistent with *Oman Nails 18-19*, record evidence indicates that Arora produces and/or sells paper stationery items, such as note pads, notebooks, wire notebooks, exercise books, project books, and sticky notes.⁴¹ Thus, even if these products do not fall within the scope of the *Order*, consistent with *Oman Nails 18-19*, we find that these paper stationery products are comparable to subject merchandise because they are used in similar applications, have a similar production process, and thereby, have similar cost structures as well as markets subject to the same pricing conditions.⁴² Accordingly, we find that Arora's products include a number of paper stationery products (*e.g.*, note pads and notebooks) that are in the same general category as the subject merchandise.

Super Impex argues that while merchandise produced and/or sold by Sundaram and Gopi includes mainly notebooks intended for use by students, which are similar to the subject merchandise produced by Super Impex, the merchandise produced by Arora, such as corporate and office stationery, cannot be classified as merchandise in the same general class as subject merchandise. We disagree. Super Impex argues that its merchandise is comparable to Gopi and Sundaram but not to Arora's, yet Gopi, Sundaram, and Arora all produce office and corporate stationery products.⁴³ Further, the scope of the *Order* does not contemplate the end use of subject merchandise; therefore, whether a paper stationery product is labeled as a school supply product, a corporate stationery product, or a corporate gift is irrelevant.⁴⁴ The relevant issue is whether the surrogate company's products are comparable to subject merchandise (*i.e.*, lined paper products), and as we explained above, we find that Arora produces and/or sells a number of paper products that fit this criterion.

Regarding Super Impex's argument that the majority of the products that Arora produces and/or sells are non-paper stationery items, such as scissors, adhesive tape, pen holders, binder clips, and thus are not comparable to subject merchandise, we find that this conclusion is not supported by record evidence. The financial statements and other documents regarding Arora on the record do not indicate the proportion of Arora's business that consists of paper stationery products versus non-paper stationery products. Further, while the proportion of manufacturing dedicated to paper stationery merchandise versus non-paper stationery and other office or school supplies is unclear for all three surrogate companies, we find them all comparable to one another in level of detail presented in the financial statements. For example, the financial statements of all three surrogate companies report "revenue from operations" and "other income," without providing a more detailed breakdown of revenue by product type, and expenses are broken down to a similar level of detail (*i.e.*, cost of materials, employee benefits, finance costs, depreciation and amortization, and other expenses).

⁴¹ See Arora Financial Statements at Exhibit 3 at 1-3, Exhibit 4 at 1-3, Exhibit 5 at 1, 3-4, Exhibit 6 at 1-2, 4, 9-11 and 14.

⁴² See *Oman Nails 18-19* IDM at Comment 2.

⁴³ Gopi's website lists product categories for "OFFICE-DIARY," "CONFERENCE-PAD-OFFICE," and "VOUCHER-BOOK-OFFICE." See Super Impex SQR1 at Exhibit S1-2.G at 1-2. Sundaram's FY 2018-2019 financial statements state that the company manufactures "office/corporate station products." *Id.* at Exhibit S1-2.d at 30, 41, and 69.

⁴⁴ See "III. SCOPE OF THE ORDER" ("The scope of the Order includes certain lined paper products, typically school supplies (for purposes of this scope definition, the actual use of or labeling these products as school supplies or non-school supplies is not a defining characteristic)...").

Therefore, we find that the three surrogate companies' financial statements are equally comparable to one another as they all produce and/or sell products comparable to subject merchandise, have the same home country market (*i.e.*, India), are contemporaneous with the POR (the fiscal year 2018-2019 financial statements of Arora, Gopi, and Sundaram overlap with seven months of the POR), and are similar in terms of the geographic composition of their sales (100 percent of Sundaram's and Gopi's sales are in India and over 80 percent of Arora's sales revenue is earned in India).⁴⁵ Thus, we conclude that the three surrogate companies have similar: (1) business operations, products, and customer bases to those of Super Impex; (2) sales in India; and (3) contemporaneity with the instant POR, as specified in sections 773(e)(2)(A) and (B) of the Act.

For the final results, we continue to find that all three surrogate companies for which we have financial statement data meet the first criterion under Commerce's practice as they are engaged in the business of manufacturing and sale of school and office stationery notebooks or paper products in India, *i.e.*, merchandise in the same general category of the subject merchandise.⁴⁶

Under the second criterion established in *Pure Magnesium from Israel*, we find that the sales of the surrogate companies reflect domestic sales of merchandise in the same general category of the subject merchandise because either all or a majority of their revenue is from domestic sales of the merchandise in the same general category of the subject merchandise.⁴⁷ Additionally, all three surrogate companies base their manufacturing in India, all three surrogate companies are subject to similar market conditions, including pricing conditions and cost structures, as Super Impex, and therefore, all three financial statements are reasonably similar to the profitability experience of Super Impex during the POR.⁴⁸ Therefore, we find their business operations and products to be comparable to that of Super Impex.⁴⁹

Therefore, consistent with previous segments of this proceeding,⁵⁰ we are relying on any other reasonable method to determine the appropriate data to use to calculate CV profit, for the final results. In accordance with section 773(e)(2)(B)(iii) of the Act, we find that the publicly available 2018-19 financial statements of Arora, Gopi, and Sundaram constitute the best available surrogate data source for purposes of calculating the CV ratios. For the final results, we calculated the CV ratios used for Super Impex based on a simple average of the CV selling

⁴⁵ See Super Impex's SQR1 at Exhibits S1-2.b and S1-2.c; *see also* Arora Financial Statements at Exhibit 1.

⁴⁶ See *Pure Magnesium from Israel* IDM at Comment 8.

⁴⁷ See Super Impex's SQR1 at Exhibit S1-2.b and S1-2.c; *see also* Arora Financial Statements at Exhibits 3, 4, 5, and 6.

⁴⁸ See Super Impex's SQR1 at Exhibit S1-2.b and S1-2.c; *see also* Arora Financial Statements at Exhibits 3, 4, 5, and 6.

⁴⁹ See Super Impex's SQR1 at Exhibit S1-2.b and S1-2.c; *see also* Arora Financial Statements at Exhibits 3, 4, 5, and 6.

⁵⁰ See *Certain Lined Paper Products from India: Final Results of Antidumping Duty Administrative Review; 2012–2013*, 80 FR 19278 (April 10, 2015), and accompanying IDM at Comment 1; *see also* *Certain Lined Paper Products from India, Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments: 2015-2016*, FR 82 46764 (October 6, 2017), and accompanying PDM, unchanged in *Certain Lined Paper Products from India, Final Results of Antidumping Duty Administrative Review: 2015-2016*, FR 83 16054 (April 13, 2018).

expense and profit ratios of Arora, Gopi, and Sundaram, which were calculated using each companies' 2018-19 audited financial statements.⁵¹

Comment 4: Whether Commerce Should Adjust the Calculation of Arora Gifts Private Limited's Indirect Selling Expense Ratio

*Super Impex's Case Brief:*⁵²

- Should Commerce continue to use the financial statements of Arora to calculate CV ratios, then Commerce must adjust the calculation of Arora's ISE ratio.
- The calculation of the ISE ratio in the *Preliminary Results* included certain direct selling expenses, such as "Discount Allowed," "Insurance Charges," "Carriage Outward," and "Commission on sales," and after removing these expenses, the ISE ratio for Arora is 2.48 percent.⁵³

*Petitioners' Rebuttal Brief:*⁵⁴

- When calculating CV profit and selling expenses ratio, the petitioners included Arora's selling expenses without differentiating between direct and indirect selling expenses given that Commerce's practice is to include all types of selling expenses that are added to profit for purposes of calculating the combined CV profit and selling expenses ratios.⁵⁵
- Super Impex argues that certain expense items (*i.e.*, "Discount Allowed," "Insurance Charges," "Carriage Outward," and "Commission on sales") are "direct selling expenses in nature" and should be excluded from Arora's indirect selling expenses ratio.⁵⁶ However, Super Impex ignores that Arora's calculated selling expenses ratio makes no distinction between direct and indirect selling expenses and ignores that both direct and indirect selling expenses are ultimately added to calculate the combined CV ratio.⁵⁷
- Super Impex fails to provide any support for its claim that these four expense items were direct rather than indirect expenses or that they were related to specific sales.⁵⁸

Commerce's Position: In the *Preliminary Results*, we treated the following expenses as indirect selling expenses when calculating ISE ratios using data from the surrogate companies' financial statements:

⁵¹ See Super Impex SQR1 at Exhibit S1-2.b for Sundaram and Exhibit S1-2.c for Gopi; see also Super Impex SQR1 at Exhibit S1-2.a for Super Impex's summary sheet of the CV profit calculation; and Arora Financial Statements at Exhibits 1 and 2 for Arora's 2018-2019 financial statements and summary sheet of the CV profit calculation.

⁵² See Super Impex's Case Brief at 7-8.

⁵³ *Id.* at 7-8 (citing Arora Financial Statements at Exhibit 2).

⁵⁴ See Petitioners' Rebuttal Brief at 7-8.

⁵⁵ *Id.* at 7 (citing Arora Financial Statements at Exhibit 2; and Memorandum, "Certain Lined Paper Products from India (2018-2019): Sales and Cost of Production Calculation Memorandum for the Preliminary Results of Super Impex," dated January 7, 2020 (Super Impex Preliminary Calculation Memorandum) at 2-3 and Appendix I).

⁵⁶ *Id.* (citing Super Impex's Case Brief at 7-8; and Arora Financial Statements at Exhibit 2).

⁵⁷ *Id.* (citing to *Oil Country Tubular Goods, Other Than Drill Pipe, from Korea: Final Results of Antidumping Duty Administrative Review*, 73 FR 14439 (March 18, 2008), and accompanying IDM at Comment 1 ("{T}he denominator for Husteel's CV profit ratio is SeAH's cost of goods sold plus direct selling expenses, indirect selling expenses, G&A expense, and interest."; and *CTVs Malaysia* IDM at Comment 18 ("{W}e have adjusted the calculation of CV profit to account for direct and indirect selling expenses for purposes of the final determination").

⁵⁸ *Id.* at 7-8 (citing Super Impex's Case Brief at 7-8; and Arora Financial Statements at Exhibit 1).

- Arora: Discount Allowed, Insurance Charges, Travelling & Conveyance, Bank Charges, Misc Expenses, Cartage Outward, Business Promotion, Commission on sales
- Gopi: Advertisement, Sales Promotion, Exhibition
- Sundaram: Sales Promotion & Advertisement Expenses⁵⁹

In the *Preliminary Results*, we did not include certain selling expenses in the calculation of Gopi's and Sundaram's ISE ratio because we determined that they were direct selling expenses:

- Gopi: Packing & Forwarding charges, Office Sale Staff, Sales supervision, Storage charges, and Carriage outward
- Sundaram: Commission Expenses, Tempo Expenses, Freight Clearing & Forwarding⁶⁰

Super Impex argues that the expenses labeled "Discount Allowed," "Insurance Charges," "Cartage Outward," and "Commission on sales" in Arora's financial statements are related to specific sales and should be excluded from the calculation of Arora's ISE ratio.

After re-examining the record, we find that certain expenses in Arora's financial statements are more appropriately treated as direct selling expenses. Specifically, we find that the "Cartage Outward" expense represents freight expenses, and similar to the shipping and handling expenses in Gopi's and Sundaram's financial statements (*i.e.*, "Packing & Forwarding charges" and "Carriage outward" in Gopi's financial statements and "Freight Clearing & Forwarding" in Sundaram's financial statements), we find that these freight-related expenses are direct selling expenses and, thus, for the final results, we have removed the "Cartage outward" expense from the calculation of Arora's ISE ratio.⁶¹

We also find that Arora's "Commission on sales" expense is a direct selling expense and, similar to our treatment of Sundaram's "Commission Expenses," for the final results, we are not including commissions in Arora's ISE ratio.⁶² Regarding "Insurance Charges" and "Bank Charges," we find that these expenses are direct selling expenses that are typically charged on specific sales, and therefore, we have removed them from the calculation of Arora's ISE ratio.⁶³

With the changes described above, for the final results, we are including the following expenses in the calculation of Arora's ISE ratio: "Discount Allowed," "Business Promotion," "Travelling & Conveyance," and "Misc Expenses." The business promotion expense is similar to the "Sales Promotion" expenses in Gopi's and Sundaram's financial statements, which we find to be an indirect expense. Similarly, discounts can be applied on a volume basis to customers and used as sales promotion strategy; therefore, we find the "Discount Allowed" expense to be an indirect selling expense. Finally, there is no evidence on the record that the "Travelling & Conveyance"

⁵⁹ See Super Impex Preliminary Calculation Memorandum at 3; *see also LPP India 2018-19 PDM* at 19-23; Super Impex SQR1 at Exhibits S1-2.a, S1-2.b, and S1-2.c; and Arora Financial Statements at Exhibits 1 and 2.

⁶⁰ See Super Impex SQR1 at Exhibits S1-2.a, S1-2.b, and S1-2.c.

⁶¹ See Memorandum, "Certain Lined Paper Products from India (2018-2019): Sales and Cost of Production Calculation Memorandum for the Final Results of Super Impex," dated concurrently with this memorandum at 3 and Attachment 5.

⁶² *Id.*

⁶³ *Id.*

expense and “Misc Expenses” are related to specific sales; therefore, we determine that they are indirect selling expenses.⁶⁴

V. RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting the above positions. If these recommendations are accepted, we will publish the final results of this review and the final weighted-average dumping margins in the *Federal Register*.



Agree

Disagree

5/19/2021

X



Signed by: CHRISTIAN MARSH
Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance

⁶⁴ *Id.*