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Administrative Review
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June 17, 2021

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
Administrative Review: Finished Carbon Steel Flanges from
India; 2018-2019

I. SUMMARY

The Department of Commerce (Commerce) analyzed the case and rebuttal briefs submitted by interested parties in the administrative review of the antidumping duty (AD) order on finished carbon steel flanges (flanges) from India.¹ The period of review (POR) is August 1, 2018, through July 31, 2019. This review covers mandatory respondents Norma Group² and R.N. Gupta & Co. Ltd. (Gupta), and 34 non-selected companies. As a result of this analysis, we have made certain changes since the *Preliminary Results*.³

¹ See *Finished Carbon Steel Flanges from India and Italy: Antidumping Duty Orders*, 82 FR 40136 (August 24, 2017) (*Order*).

² In the less-than-fair-value investigation, we determined that Norma (India) Limited, USK Exports Private Limited (USK), Uma Shanker Khandelwal & Co. (UMA), and Bansidhar Chiranjilal (BDCL) were affiliated, and should be collapsed and treated as a single entity. See *Finished Carbon Steel Flanges from India: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 82 FR 9719 (February 8, 2017), and accompanying Preliminary Decision Memorandum (PDM) at 4-5; *unchanged in Finished Carbon Steel Flanges from India: Final Determination of Sales at Less Than Fair Value*, 82 FR 29483 (June 29, 2017). In this administrative review, Norma has presented evidence that the factual basis on which Commerce made its prior determination has not changed. See Norma Group's July 23, 2020 Supplemental Questionnaire Response (Norma Group July 23, 2020 SQR) at 2-9. Therefore, for purposes of this administrative review, we continue to collapse these four entities, and treat them as a single entity that we refer to as "Norma Group" throughout these final results.

³ See *Finished Carbon Steel Flanges from India: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2018–2019*, 85 FR 83051 (December 21, 2020) (*Preliminary Results*), and accompanying PDM.



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

Comment 1: Adjustments to Gupta's Costs

Comment 2: Gupta's Reported Freight Revenues

Comment 3: Constructed Value Profit and Selling Expense Rates for Norma Group

II. BACKGROUND

On December 21, 2020, Commerce published the *Preliminary Results* of this administrative review.⁴ In accordance with 19 CFR 351.309(c)(ii), we invited parties to comment on the *Preliminary Results*. We received case briefs from the petitioners⁵ and Norma Group.⁶ On January 21, 2021,⁷ the petitioners requested a hearing, which they subsequently withdrew.⁸ In January, we also received rebuttal briefs from the petitioners⁹ and Gupta.¹⁰ On March 30, 2021, Commerce extended the deadline for these final results, until June 18, 2021.¹¹

III. SCOPE OF THE ORDER

The scope of the *Order* covers finished carbon steel flanges. Finished carbon steel flanges differ from unfinished carbon steel flanges (also known as carbon steel flange forgings) in that they have undergone further processing after forging, including, but not limited to, beveling, bore threading, center or step boring, face machining, taper boring, machining ends or surfaces, drilling bolt holes, and/or de-burring or shot blasting. Any one of these post-forging processes suffices to render the forging into a finished carbon steel flange for purposes of this order. However, mere heat treatment of a carbon steel flange forging (without any other further processing after forging) does not render the forging into a finished carbon steel flange for purposes of this order.

While these finished carbon steel flanges are generally manufactured to specification ASME B16.5 or ASME B16.47 series A or series B, the scope is not limited to flanges produced under those specifications. All types of finished carbon steel flanges are included in the scope regardless of pipe size (which may or may not be expressed in inches of nominal pipe size), pressure class (usually, but not necessarily, expressed in pounds of pressure, *e.g.*, 150, 300, 400,

⁴ *Id.*

⁵ See Petitioners' Case Brief, "Finished Carbon Steel Flanges from India: Case Brief – Weldbend Corporation and Boltex Manufacturing Co., L.P.," dated January 21, 2021 (Petitioners' Case Brief). The petitioners are Weldbend Corporation and Boltex Manufacturing Co., L.P.

⁶ See Norma Group's Case Brief, "Finished Carbon Steel Flanges from India: Norma's Comments on the Preliminary Results," dated January 21, 2021 (Norma Group's Case Brief).

⁷ See Petitioners' Letter, "Finished Carbon Steel Flanges from India: Request for Hearing," dated January 21, 2021.

⁸ See Petitioners' Letter, "Finished Carbon Steel Flanges from India: Withdrawal of Request for Hearing," dated February 5, 2021.

⁹ See Petitioners' Rebuttal Brief, "Finished Carbon Steel Flanges from India: Petitioners' Rebuttal Brief," dated January 27, 2021 (Petitioners' Rebuttal Brief).

¹⁰ See Gupta's Rebuttal Brief, "Finished Carbon Steel Flanges from India: Rebuttal Brief of R.N. Gupta & Company Limited," dated January 28, 2021 (Gupta's Rebuttal Brief).

¹¹ See Memorandum, "Finished Carbon Steel Flanges from India: Extension of Deadline for Final Results of Antidumping Duty Administrative Review," dated March 30, 2021.

600, 900, 1500, 2500, *etc.*), type of face (*e.g.*, flat face, full face, raised face, *etc.*), configuration (*e.g.*, weld neck, slip on, socket weld, lap joint, threaded, *etc.*), wall thickness (usually, but not necessarily, expressed in inches), normalization, or whether or not heat treated. These carbon steel flanges either meet or exceed the requirements of the ASTM A105, ASTM A694, ASTM A181, ASTM A350 and ASTM A707 standards (or comparable foreign specifications). The scope includes any flanges produced to the above-referenced ASTM standards as currently stated or as may be amended. The term “carbon steel” under this scope is steel in which:

- (a) iron predominates, by weight, over each of the other contained elements;
- (b) the carbon content is 2 percent or less, by weight; and
- (c) none of the elements listed below exceeds the quantity, by weight, as indicated:
 - (i) 0.87 percent of aluminum;
 - (ii) 0.0105 percent of boron;
 - (iii) 10.10 percent of chromium;
 - (iv) 1.55 percent of columbium;
 - (v) 3.10 percent of copper;
 - (vi) 0.38 percent of lead;
 - (vii) 3.04 percent of manganese;
 - (viii) 2.05 percent of molybdenum;
 - (ix) 20.15 percent of nickel;
 - (x) 1.55 percent of niobium;
 - (xi) 0.20 percent of nitrogen;
 - (xii) 0.21 percent of phosphorus;
 - (xiii) 3.10 percent of silicon;
 - (xiv) 0.21 percent of sulfur;
 - (xv) 1.05 percent of titanium;
 - (xvi) 4.06 percent of tungsten;
 - (xvii) 0.53 percent of vanadium; or
 - (xviii) 0.015 percent of zirconium.

Finished carbon steel flanges are currently classified under subheadings 7307.91.5010 and 7307.91.5050 of the Harmonized Tariff Schedule of the United States (HTSUS). They may also be entered under HTSUS subheadings 7307.91.5030 and 7307.91.5070. The HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope is dispositive.

IV. CHANGES FROM THE *PRELIMINARY RESULTS*

1. We revised the calculation of Gupta’s general and administrative (G&A) ratio. *See* Comment 1A.
2. We revised Gupta’s interest expense ratio. *See* Comment 1B.
3. We applied a cap to Gupta’s freight revenue. *See* Comment 2.

V. DISCUSSION OF THE ISSUES

Comment 1: Adjustments to Gupta's Costs

A. G&A Expenses

*Petitioners' Case Brief*¹²

- According to Exhibit D-16, Part 2, of Gupta's February 14, 2020 DQR, Gupta excluded from the reported costs a certain amount.¹³ Commerce generally includes such items in the G&A expenses.¹⁴
- As Gupta has not justified this exclusion, Commerce should add the aforementioned item to Gupta's G&A expenses for purposes of its final results.

No other interested parties commented on this issue.

Commerce's Position: We find that Gupta has not justified the exclusion from its reported costs the certain amount referenced above. Accordingly, consistent with Commerce's practice,¹⁵ for these final results, Commerce has revised the G&A expense ratio calculation to add the aforementioned item to Gupta's G&A expenses.¹⁶ For a full analysis of the proprietary information, *see* the Final Results Analysis Memorandum for Gupta.

B. Loans from Affiliated Parties

*Petitioners' Case Brief*¹⁷

- Gupta obtained financing from affiliated parties.¹⁸ Interest on financing obtained from affiliated parties is subject to the "transactions disregarded" rule under section 773(f)(2) of the Tariff Act of 1930, as amended (the Act).¹⁹

¹² *See* Petitioners' Case Brief at 1-2.

¹³ The description and the amount are considered business proprietary information. *See* Gupta's Letter, "R. N. Gupta & Company Limited ("RNG")'s Response to Section B, C and D of Original Antidumping Duty Questionnaire," dated February 14, 2020 (Gupta February 14, 2020 DQR) at Exhibit D-16. For additional details, *see* Memorandum, "Analysis for the Final Results of the Second Administrative Review of the Antidumping Duty Order on Finished Carbon Steel Flanges from India: R.N. Gupta & Co. Ltd.," dated concurrently with this memorandum (Final Results Analysis Memorandum for Gupta).

¹⁴ *See* Petitioners' Case Brief at 1 (citing *Stainless Steel Wire Rod from Korea; Final Results of Antidumping Duty Administrative Review*, 67 FR 6685, (February 13, 2002), and accompanying Issues and Decision Memorandum (IDM) at Comment 4B).

¹⁵ *See, e.g., Stainless Steel Wire Rod from Korea; Final Results of Antidumping Duty Administrative Review*, 67 FR 6685 (February 13, 2002) (*Stainless Steel Wire Rod from Korea*), and accompanying IDM at Comment 4B.

¹⁶ *See* Final Results Analysis Memorandum for Gupta.

¹⁷ *See* Petitioners' Case Brief at 1-3.

¹⁸ *Id.* at 2 (citing Gupta's Letter, "R.N. Gupta & Company Limited ("RNG")'s Response to Section A of Original Antidumping Duty Questionnaire," dated January 24, 2020 (Gupta January 24, 2020 AQR) at 9).

¹⁹ *Id.* (citing *Certain Steel Nails from the Sultanate of Oman: Final Results of Antidumping Duty Administrative Review; 2016–2017*, 83 FR 58231 (November 19, 2018), and accompanying IDM at Comment 5).

- Certain financing obtained from affiliated parties was interest-free or at a below market rate. Based on the information in the financial statements, there is no apparent reason for the interest rate on the loans from Melinex or other affiliates to be lower than the loans obtained from the directors and members of the Gupta family. The amounts of the loans are comparable, and the terms of the loans are similar.
- Commerce should adjust Gupta's reported interest expense by adding an additional interest expense amount as calculated by the petitioners.²⁰

No other interested parties commented on this issue.

Commerce's Position: Pursuant to section 773(f)(2) of the Act, transactions between affiliated parties may be disregarded if they do not fairly reflect the amount usually reflected in the market under consideration. Gupta reported that certain financing obtained from affiliated parties was interest-free or at below-market rates.²¹ We examined the information in Gupta's financial statements and find that there is no reason that the interest rate on the loans from Melinex and an interest-free loan from Gupta's affiliate would be at interest rates that are lower than the interest rates on loans obtained from the directors and from members of the Gupta family, because the amounts and terms of the loans are comparable.²² In our analysis, we examined Gupta's loans and calculated an imputed interest expense for Gupta's affiliated party loans in the calculation of Gupta's financial expense ratio. Because there are no comparable loans obtained from unaffiliated lenders, we based the transactions disregarded adjustment on the interest rate charged on the loans from directors and members of the Gupta family.²³ Based on our analysis, we find that the interest expenses on the affiliated party loans do not reflect the amount usually incurred in the market under consideration, resulting in an understatement of the financial expense, as reported. Accordingly, for purposes of these final results, we have included in the calculation of Gupta's financial expense ratio an imputed interest expense for Gupta's affiliated party loans.²⁴

C. Interest Income Offset

*Petitioners' Case Brief*²⁵

- Gupta claimed its entire interest income as an offset to its interest expenses. However, under Commerce's practice, only interest income generated by current assets can be claimed as an offset.²⁶
- Gupta failed to provide any support for the short-term nature of its interest income offset and the underlying interest-bearing assets. The record facts on this issue are essentially the same

²⁰ See Petitioners' Case Brief at 3 and Attachment 1.

²¹ See Gupta January 24, 2020 AQR at 9; and Gupta's Letter, "R. N. Gupta & Company Limited ("RNG")'s Response to Section D of Original Antidumping Duty Questionnaire," dated February 14, 2020 (Gupta February 14, 2020 DQR) at Exhibit D-4.

²² *Id.* at 9.

²³ See Final Results Analysis Memorandum for Gupta.

²⁴ *Id.*

²⁵ See Petitioners' Case Brief at 3.

²⁶ *Id.* at 3-4 (citing *Silicomanganese from Australia: Final Determination of Sales at Less Than Fair Value*, 81 FR 8682 (February 22, 2016) (*Silicomanganese from Australia*), and accompanying IDM at Comment 7).

as those present in *Silicomanganese from Australia*. Therefore, for purposes of these final results, Commerce should disallow the claimed interest income offset.

*Gupta's Rebuttal Brief*²⁷

- Gupta has earned income from fixed deposit receipts (FDR) which are deposited in the bank as short-term assets. The interest earned on such deposits is short term in nature and consequently Gupta has offset such income while calculating financial ratio. Commerce should continue to allow Gupta's interest offset.
- Gupta's cash flow statement identifies the amount at issue under the caption, "Interest Received on FDRs," which confirms that Gupta has earned income from FDRs. These deposits are maintained with the bank as short-term assets, which is supported by note 2.14 "Cash & Cash Equivalents" at page 18 of Exhibit A-9(b) in which it is written as "Other bank Balances of {a certain amount}²⁸ are FDRs held as margin money against SBLC, Import LC and Bank guarantee facilities," which is required to be kept in the normal course of business for working capital facilities like import letters of credit (LC) and bank guarantees. In the normal course of business, Gupta is required to deposit money with the bank as a fixed deposit, specifically as margin money for various LCs required by Gupta. Thus, the FDRs were made to meet the short-term working capital requirements.
- Thus, interest earned on such deposits is short term in nature. Accordingly, Gupta has offset such income in calculating its financial ratio.

Commerce's Position: We agree with Gupta. Gupta demonstrated that its claimed offset was generated by current assets. Specifically, Gupta has provided support through its cash flow statement which shows that its FDRs were made to meet Gupta's short-term working capital requirements.²⁹

Additionally, we find the petitioners' reliance on *Silicomanganese from Australia* to be inapposite. Specifically, in *Silicomanganese from Australia*, Commerce explained that BHP Billiton's 2014 audited financial statements appeared to indicate that all of the group's interest-bearing assets and resulting interest income were, in fact, long-term in nature and not related to working capital.³⁰ Here, Gupta has demonstrated that the FDRs at issue were made by Gupta to meet the short-term working capital requirements.³¹ Therefore, for purposes of these final results, we have continued to grant an interest income offset in the calculation of Gupta's interest expense ratio.³²

²⁷ See Gupta's Rebuttal Brief at 3-4.

²⁸ This amount is business proprietary in nature. See Gupta's Rebuttal Brief at 3.

²⁹ See Gupta January 24, 2020 AQR at Exhibit A-9(b).

³⁰ See *Silicomanganese from Australia* IDM at Comment 7.

³¹ See Gupta January 24, 2020 AQR at Exhibit A-9(b).

³² See Final Results Analysis Memorandum for Gupta.

Comment 2: Gupta's Reported Freight Revenues

*Petitioners' Case Brief*³³

- Commerce's practice is to cap the amount of freight revenues received by the relevant freight expenses incurred.³⁴
- Gupta did not provide the information necessary for Commerce to accurately apply a freight cap, therefore Commerce should not make any adjustments for Gupta's U.S. freight revenues.
- Gupta reported that its freight revenues are associated with either brokerage and handling (B&H), (DBROKU), or ocean freight (INTNFRU), which means it would significantly overstate the cap, effectively adjusting for the full amount of freight revenues reported as if no cap were applied.

*Gupta's Rebuttal Brief*³⁵

- In the *Preliminary Results*, Commerce accepted Gupta's reporting of freight revenue.
- The petitioners' argument that Commerce did not cap Gupta's reported freight revenue amounts misstates how Commerce accounted for those amounts. Although the freight and B&H invoices which Gupta paid did not separately break out the amounts for U.S. inland freight expenses, the amounts reported in the freight revenue (FRTREVU) field did separately break out the amounts for U.S. inland freight expenses.
- Commerce's treatment of Gupta's freight revenue was correct and is consistent with Gupta's explanation in its Section C questionnaire response and its reporting in the immediately preceding review.
- Having accepted the amounts reported by Gupta in the FRTREVU field, and having considered those amounts in the calculation of net U.S. price, Commerce effectively capped the freight revenue adjustment at the precise amounts reported in the FRTREVU field with no different effect than if those same FRTREVU amounts had been separately stated in the invoices for ocean freight and B&H, and as if there was an instruction in the margin program to cap FRTREVU at that amount.
- The petitioners have not challenged the accuracy of the amounts reported by Gupta as FRTREVU. Because there is no basis on the record to dispute those amounts, Commerce's treatment of those amounts as an adjustment to U.S. price was correct.

Commerce's Position: It is Commerce's established practice to cap the amount of freight revenues received by the relevant freight expenses incurred.³⁶ In the *Preliminary Results*, we inadvertently omitted programming language to cap the amount of freight revenues that Gupta

³³ See Petitioners' Case Brief at 4-6.

³⁴ *Id.* at 4 (citing *Wooden Bedroom Furniture from the People's Republic of China: Final Results and Final Rescission in Part*, 76 FR 49729 (August 11, 2011) (*Wooden Bedroom Furniture*), and accompanying IDM at Comment 4).

³⁵ See Gupta's Rebuttal Brief at 4-6.

³⁶ See, e.g., *Wooden Bedroom Furniture* IDM at Comment 4.

received by the associated freight expenses incurred.³⁷ Additionally, we disagree with the petitioners' assertion that Gupta did not provide the information necessary for Commerce to accurately apply a freight revenue cap. Indeed, contrary to the petitioners' claim, Gupta reported its expenses for B&H, domestic inland freight, and marine insurance under the respective fields, DBROKU, USBROKU, DINLFTPU, and MARNINU.³⁸ Accordingly, consistent with Commerce's established practice, we have applied a cap to these data fields for purposes of these final results, thereby capping the amount of freight revenues received by the relevant freight expenses incurred. This methodology is also consistent with the freight revenue cap applied to Gupta in the immediately preceding administrative review of the *Order*.³⁹

Comment 3: Constructed Value Profit and Selling Expense Rates for Norma Group

In the *Preliminary Results*, because Norma Group had no viable home or comparison market, Commerce valued Norma Group's CV profit and selling expenses using ratios derived from the financial statement of an Indian producer of carbon steel flanges.⁴⁰ Specifically, Commerce used the financial statement of the Indian flange producer Tirupati Forge Limited (Tirupati), which was submitted by the petitioners.⁴¹ Norma Group had submitted the financial statements of eleven other Indian companies,⁴² which Commerce did not use.⁴³

*Norma Group's Case Brief*⁴⁴

- Tirupati's financial statement is not a suitable surrogate with which to calculate CV profit and selling expenses because Tirupati is engaged primarily in the export of flanges and forgings rather than in domestic sales. The CV profit statute (section 773(e)(2)(B)(i)-(ii) of the Act) provides three methods of calculating profit for CV when a respondent's home market is not viable. The first two of them provide for calculations based on home market sales. However, Tirupati's financial statement indicates that the majority of its sales (51.25 percent) were to the export market. Furthermore, the Court of International Trade has stated that the purpose of the antidumping statute is to approximate the home market profit experience of a respondent.⁴⁵
- The Tirupati financial statement reflects the highest profit rate for any financial statement submitted to the record for financial ratio purposes. Of the eleven financial statements submitted by Norma Group, the highest profit ratio is two percent, and the average was 1.84

³⁷ See Memorandum, "Finished Carbon Steel Flanges from India: Analysis Memo for R.N. Gupta & Co. Ltd.," at Attachment II, Margin Program Log at line 9046 (December 15, 2020).

³⁸ See Gupta's Letter, "R. N. Gupta & Company Limited ("RNG")'s Response to Section B, C and D of Original Antidumping Duty Questionnaire," dated February 14, 2020 at C-44 to C-49; see also Final Results Analysis Memorandum for Gupta.

³⁹ See *Finished Carbon Steel Flanges from India: Final Results of Antidumping Duty Administrative Review; 2017–2018*, 85 FR 21391 (April 17, 2020), and accompanying IDM.

⁴⁰ See *Preliminary Results* PDM at 14.

⁴¹ See Petitioners' Letter "Finished Carbon Steel Flanges from India: Constructed Value Profit and Selling Expenses Comments," dated June 3, 2020 (Petitioners' CV Submission) at Exhibit 2.

⁴² See Norma Group Letter, "Finished Carbon Steel Flanges from India: Submission of Constructed Value Profit and Indirect Selling Expense Information," dated June 3, 2020 (Norma Group CV Submission).

⁴³ See *Preliminary Results* PDM at 14.

⁴⁴ See Norma Group's Case Brief at 2-5.

⁴⁵ *Id.* at 3 (citing *Maverick Tube Corporation v. United States*, 107 F. Supp. 3d 1318 (CIT 2015)).

percent. The profit ratio that Commerce calculated from Tirupati's financial statement was 16.68 percent. Commerce has previously recognized that "the sales used as the basis of CV profit should not lead to irrational or unrepresentative results."⁴⁶ Commerce's selection of the highest CV profit rate, although more appropriate surrogate financial statements are available, is unsupported by substantial evidence and is otherwise contrary to law.

- Tirupati's manufacturing experience is not as comparable to Norma Group as the experience of the eleven producers whose financial statements Norma Group submitted to the record. While Norma Group predominantly manufactures finished carbon steel flanges, Tirupati also produces forged products, as well as other products that are not comparable to Norma Group's production, such as stainless steel and bearing steel flanges, forged pipe fittings, and fully assembled hammer unions.⁴⁷ In contrast, each of the eleven companies whose financial statements Norma Group submitted to the record are Norma Group's industry competitors. The product catalogues of those companies demonstrate that they have similar production operations to Norma Group and manufacture comparable merchandise. Accordingly, the eleven producers' average CV profit rate best approximates Norma Group's home market profit experience.

*Petitioners' Rebuttal Brief*⁴⁸

- The petitioners previously placed comments on the record explaining why none of the eleven financial statements Norma Group placed on the record were suitable for calculating CV profit and selling expense ratios.⁴⁹ If Norma Group really wanted Commerce to use one (or all) of those financial statements, it was incumbent on the Norma Group to address those comments. The fact that it did not do so can only be reasonably interpreted as recognition that the Norma Group could not rebut those comments. Otherwise, it would have addressed the petitioners' comments.
- None of the eleven financial statements Norma Group placed on the record is suitable for use in valuing CV profit or selling expenses. All of them are unsuitable or disqualified for use for one or more of the following reasons:
 - They evidence receipt of export subsidies Commerce has found to be countervailable;
 - The record does not establish what products the company produces;
 - The company does not produce flanges;
 - The company's product mix is unclear;
 - The profit calculation shows a negative profit;
 - The company is predominantly an export-oriented company; and
 - The financial statement is incomplete or is illegible.
- Commerce correctly used the financial statement of Tirupati to calculate Norma Group's CV profit and selling expenses.

⁴⁶ *Id.* at 4 (citing *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27360 (May 19, 1997)).

⁴⁷ *Id.* (citing Norma Group's Letter, "Finished Carbon Steel Flanges from India: Submission of Norma's Constructed Value Profit and Indirect Selling Expense Rebuttal Comments," dated June 17, 2020 at Exhibit 2).

⁴⁸ See Petitioners' Rebuttal Brief at 1-10.

⁴⁹ *Id.* at 1 (citing Petitioners' Letter, "Finished Carbon Steel Flanges from India: Constructed Value Profit and Selling Expenses – Rebuttal Comments," dated June 17, 2020).

- Almost half of Tirupati's turnover is related to domestic sales. Given that Norma Group is itself a significant exporter to the United States, Tirupati is representative of Norma Group's experience.
- With respect to Tirupati's profit rate being higher than the rates from the financial statements Norma Group placed on the record, there is no record evidence to demonstrate that Tirupati's rate is aberrational. While Norma Group argues that Tirupati's profit percentage is high compared to the eleven financial statements that Norma Group placed on the record, Norma Group did not make any comparison to the various financial statements that the petitioners placed on the record.
- Regardless of the relevance of the argument, Norma Group has failed to demonstrate that Tirupati's manufacturing experience "is not as comparable" to Norma Group as the experience of the eleven producers whose financial statements Norma Group placed on the record.

Commerce Position: In the *Preliminary Results*, for purposes of calculating the CV profit and selling expenses of Norma Group under section 773(e)(2)(B)(iii) of the Act, Commerce used the 2019 audited financial statements of Tirupati.⁵⁰ After further consideration of the record evidence and the arguments presented by the interested parties in their case and rebuttal briefs, we continue to find that use of Tirupati's 2019 audited financial statements constitutes a reasonable method, within the meaning of section 773(e)(2)(B)(iii) of the Act, for purposes of calculating the CV profit and selling expenses of Norma Group.

As explained in the *Preliminary Results*, Norma Group did not have a viable home or third-country market during the POR to serve as a basis for NV.⁵¹ Accordingly, for Norma Group, we preliminarily based NV on CV consistent with section 773(a)(4) of the Act.⁵² Likewise, absent a viable home or third-country market, we are unable to calculate CV profit and selling expenses 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.⁵³

In situations where we cannot calculate CV profit and selling expenses under section 773(e)(2)(A) of the Act, section 773(e)(2)(B) of the Act establishes 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

⁵⁰ See *Preliminary Results* PDM at 14.

⁵¹ *Id.*

⁵² *Id.*

⁵³ See, e.g., *Wood Mouldings and Millwork Products from Brazil: Final Negative Determination of Sales at Less Than Fair Value*, 86 FR 70 (January 4, 2021) (*Wood Mouldings from Brazil*), and accompanying PDM at 20.

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 a foreign country, of merchandise that is in the same general category of products as the subject merchandise.

The statute does not establish a hierarchy for selecting among the alternatives for calculating CV profit and selling expenses.⁵⁴ Moreover, as noted in the SAA, “the selection of an alternative will be made on a case-by-case basis, and will depend, to an extent, on available data.”⁵⁵ Thus, Commerce has the discretion to select from any of the three alternative methods, depending on the information available on the record.

The specific language of both the preferred and alternative methods appears to show a preference that the profit and selling expenses reflect: (1) production and sales in the foreign country; and, (2) the foreign like product, *i.e.*, the merchandise under consideration. However, when selecting a profit rate from available record evidence, we may not be able to find a source that reflects both factors. In addition, there may be varying degrees to which a potential profit source reflects the foreign like product. Consequently, we must weigh the quality of the data against these factors. For example, we may have profit information that reflects production and sales in the foreign country of merchandise that is similar to the foreign like product, but also includes significant sales of completely different merchandise, or profit information that reflects production and sales of the foreign like product, but no sales in the foreign country. Determining how specialized the foreign like product is, what percentage of sales are of the foreign like product or general category of merchandise, what portion of sales are to which markets, *etc.*, judged against the above criteria, help to determine which profit source to use.⁵⁶

Norma Group argues that we should rely on the average of the eleven financial statements it placed on the record to calculate its CV profit and indirect selling expense ratios. However, we agree with the petitioners that Tirupati’s financial statement is superior to any of the eleven financial statements for which Norma Group argues.

First, six of the financial statements placed on the record by Norma Group show receipt of subsidies Commerce has found countervailable. Specifically, the financial statements of Ginter Forging Pvt., Ltd., (Ginter),⁵⁷ LAL Metal Forge Ltd. (LAL),⁵⁸ MS Fitting Manufacturing

⁵⁴ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103-316, vol. 1, 103d Cong. (1994) (SAA) 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.”).

⁵⁵ *Id.*

⁵⁶ See, e.g., *Wood Mouldings from Brazil* IDM at Comment 2A.

⁵⁷ See Norma Group CV Submission, Exhibit CV-4(a) at Note XVI.

⁵⁸ *Id.* at Exhibit CV-5(a) at Note 18.

Company, Ltd. (M.S. Fitting),⁵⁹ Bhandari Precision Forgings Pvt., Ltd. (Bhandari),⁶⁰ Balkrishna Steel Forge Private Limited (Balkrishna),⁶¹ and Kisaan Engineering Works Pvt. Limited (Kisaan)⁶² all evidence receipt of duty drawback, which Commerce has found to be countervailable.⁶³ Commerce's practice is not to rely on the financial statements of companies receiving subsidies it has found countervailable.⁶⁴ Therefore, we do not find any of these six financial statements suitable sources for valuing Norma Group's CV profit rate and selling expense ratios.

Second, with respect to Creative Forgings Pvt. Ltd. (Creative Forgings),⁶⁵ the record does not contain information showing the merchandise this company produces. The product brochure Norma Group submitted with respect to this company is actually the product brochure of a company with the similar name "Creative Forge Pvt. Ltd.,"⁶⁶ which has a different company address than the address of Creative Forgings.⁶⁷ Because of these differences (*i.e.*, different names and addresses), there appear to be two different companies. Because the administrative record lacks any information regarding the merchandise produced by Creative Forgings, we are unable to determine the suitability of this financial statement for calculating CV profit rate and selling expense ratios.

With respect to the remaining four companies (*i.e.*, Maso Automotives (Pvt.) Limited (Maso),⁶⁸ Pioneer NF Forgings India Private Limited (Pioneer),⁶⁹ Silver Forge Private Limited (Silver),⁷⁰ and Vishnu Forge Industries Limited (Vishnu))⁷¹, the administrative record does not establish that they produce foreign like product. Specifically, the product brochures of Maso, Pioneer, and Silver each indicate that they produce forgings, but not flanges.⁷² Vishnu's product brochure indicates that it produces flanges, but gives no additional information about the kind or type it produces, other than a photograph of a type of flange not subject to the *Order*.⁷³ Therefore, we cannot determine that Vishnu is a producer of foreign like product.

In calculating CV profit and selling expense ratios, Commerce prefers to use the financial statements of producers of identical merchandise. In *Steel Nails from Oman*, Commerce preliminarily used the financial statement of Astrotech Steels Private Limited (Astrotech), a

⁵⁹ *Id.* at Exhibit CV-6(a) at Note 19.

⁶⁰ *Id.* at Exhibit CV-11(a) at Note 21.

⁶¹ *Id.* at Exhibit CV-12(a) at Note 3.6.

⁶² *Id.* at Exhibit CV-13(a) at Note 16.

⁶³ *See, e.g., Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Final Affirmative Countervailing Duty Determination*, 82 FR 58172 (December 11, 2017), and accompanying IDM at Comment 2.

⁶⁴ *See, e.g., Utility Scale Wind Towers from Indonesia: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances*, 85 FR 40231 (July 6, 2020), and accompanying IDM at Comment 7 (rejecting the financial statements of two companies that evidenced receipt of countervailable subsidies).

⁶⁵ *See* Norma Group CV Submission, Exhibit CV at Exhibit CV-(3)(a).

⁶⁶ *Id.* at Exhibit CV3-(b).

⁶⁷ *Id.* at Exhibit CV-3(a) and CV-3(b).

⁶⁸ *Id.* at Exhibit CV-7(a).

⁶⁹ *Id.* at Exhibit CV-8(a).

⁷⁰ *Id.* at Exhibit CV-9(a).

⁷¹ *Id.* at Exhibit CV-10(a).

⁷² *Id.* at Exhibits CV-8(b), CV-9(b), and CV-10(b).

⁷³ *Id.* at Exhibit CV-10(b).

producer of identical merchandise, to calculate CV profit and selling expense ratios.⁷⁴ In its comments on the preliminary results, the respondent in that case argued that Commerce should have used the financial statements of the other companies who produced comparable merchandise. Commerce responded:

{C}ommerce does not find that it should use the data from other third-country producers of comparable merchandise to either calculate CV profit and selling expenses or to average those data with Astrotech. Astrotech is a producer of identical merchandise. It is for this reason that Commerce finds it appropriate to solely use Astrotech's financial statement for calculating profit and selling expenses and does not find it necessary to average other financial data with Astrotech.⁷⁵

Consistent with *Steel Nails from Oman*, we find that for purposes of these final results, because Tirupati is a producer of identical merchandise, it is not necessary to use the financial statements of producers of comparable merchandise.

Furthermore, we do not find Norma Group's criticisms of Tirupati's financial statement to be persuasive. First, Tirupati's financial statement indicates that 48.75 percent of its sales value was from sales in the domestic market.⁷⁶ Based on this percentage, we find, as we found in the *Preliminary Results*,⁷⁷ that Tirupati has a significant home market sales base, and that Tirupati's financial statement is sufficiently reflective of its home market sales and cost experience to serve as the basis for calculating CV profit and selling expense ratios.

Second, that Tirupati's profit ratio is higher than the profit ratio of the other financial statements on the record does not mean it is unrepresentative of a producer of flanges. As discussed above, the other financial statements on the record are all of companies who received subsidies we have found countervailable or are from companies of which record evidence does not establish that they produce flanges. Thus, comparing their profit ratios to those of Tirupati is not a valid comparison for determining what is representative of the industry.

Third, we are unconvinced that Tirupati's manufacturing experience is not as comparable to Norma's experience as is the experience of the eleven companies whose financial statements Norma Group claims we should use. Norma Group states that the product catalogues of the eleven companies show that they have similar production operations as Norma Group and manufacture comparable merchandise.⁷⁸ However, the fact that Norma Group and Tirupati manufacture flanges, suggests that Tirupati would also have production operations similar to that of Norma Group's.⁷⁹ Furthermore, although Tirupati produces non-subject merchandise in

⁷⁴ See *Certain Steel Nails from the Sultanate of Oman: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review; 2014-2016*, 82 FR 36738 (August 7, 2017), and accompanying PDM at 15-19.

⁷⁵ See *Certain Steel Nails from the Sultanate of Oman: Final Results of Antidumping Duty Administrative Review; 2014-2016*, 83 FR 4030 (January 29, 2018) (*Steel Nails from Oman*), and accompanying IDM at Comment 2.

⁷⁶ See Petitioners' CV Submission, Exhibit 2 at 129.

⁷⁷ See *Preliminary Results* and accompanying PDM at 14.

⁷⁸ See Norma Group Case Brief at 4-5.

⁷⁹ See Petitioners' CV Submission at Exhibit 3; Norma Group's Letter, "Finished Carbon Steel Flanges from India: Submission of Section A Response of Norma(India) Limited" dated January 27, 2020 at Exhibit A-20.

addition to subject merchandise, there is no record evidence that the volume of that non-subject merchandise is any more than the volume of non-subject merchandise that Norma produces. Thus, there is no record evidence that the volume of that non-subject merchandise sales would render Tirupati's financial statement unsuitable for calculating CV profit and selling expense rates.

Based on the above, we find that Tirupati's financial statement constitutes not only a "reasonable method" within the meaning of section 773(e)(2)(B)(iii) of the Act, but also the best information on the record of this proceeding for purposes of calculating CV profit and selling expense ratios. This determination is consistent with that in the immediately preceding administrative review of the *Order*, where we calculated financial ratios using only the financial statement of an Indian producer of identical merchandise.⁸⁰

VI. RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting the above positions. If accepted, we will publish the final results of review in the *Federal Register*.

☒

Agree

☐

Disagree

6/17/2021

X 

Signed by: CHRISTIAN MARSH

Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance

⁸⁰ See *Finished Carbon Steel Flanges from India: Preliminary Results of Antidumping Duty Administrative Review; 2017–2018*, 84 FR 57848 (October 29, 2019), and accompanying PDM; unchanged in *Finished Carbon Steel Flanges from India: Final Results of Antidumping Duty Administrative Review; 2017–2018*, 85 FR 21391 (April 17, 2020).