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July 29, 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:** Decision Memorandum for Preliminary Results and Partial  
Rescission of Antidumping Duty Administrative Review;  
Polyethylene Terephthalate Film, Sheet, and Strip from India;  
2019-2020

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## **I. SUMMARY**

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on polyethylene terephthalate film, sheet, and strip (PET film) from India. This review covers two companies: Jindal Poly Films Ltd. (Jindal) and SRF Limited of India (SRF). The period of review (POR) is July 1, 2019, through June 30, 2020. We preliminarily find that neither Jindal nor SRF sold PET film in the United States below normal value (NV).

## **II. BACKGROUND**

On July 1, 2020, Commerce published in the *Federal Register* a notice of opportunity to request an administrative review of the AD order on PET film from India.<sup>1</sup> On July 27, 2020, Polyplex USA LLC (Polyplex USA), a domestic producer and interested party, requested reviews of eight companies: (1) Ester Industries Ltd. (Ester); (2) Garware Polyester Ltd. (Garware); (3) Jindal

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<sup>1</sup> See *Antidumping or Countervailing Duty Order, Finding or Suspended Investigation; Opportunity to Request Administrative Review*, 85 FR 39531 (July 1, 2020).



Poly Films Ltd., (Jindal); (4) MTZ Polyesters Ltd. (MTZ); (5) Polyplex Corporation (Polyplex). (6) SRF Ltd. (SRF); (7) Uflex Ltd. (Uflex); and (8) Vacmet India Ltd. (Vacmet).<sup>2</sup> On July 30, 2020, the petitioners<sup>3</sup> requested reviews of five companies: (1) Ester, (2) Garware; (3) Polyplex; (4) SRF; and (5) Vacmet.<sup>4</sup> Jindal self-requested an administrative review on July 27, 2020.<sup>5</sup>

On September 3, 2020, in accordance with 19 CFR 351.221(c)(1)(i), Commerce published a notice of initiation of administrative review of the AD order on PET Film from India.<sup>6</sup> Commerce initiated on: (1) Ester; (2) Garware; (3) Jindal; (4) Polyplex; (5) SRF Ltd.; (6) SRF Limited of India (7) Vacmet India Limited; (8) MTZ; and (9) Uflex Ltd.<sup>7</sup> On November 24, 2020, Commerce released U.S. Customs and Border Protection (CBP) data for respondent selection.<sup>8</sup> SRF filed comments on November 30, 2020, arguing that SRF should be selected as a mandatory respondent despite CBP releasing reports SRF's data under two different names.<sup>9</sup> On November 28, 2020, Jindal withdrew its self-request for a review.<sup>10</sup> On December 2, 2020, the petitioners withdrew their request for: (1) Ester; (2) Garware; (3) Polyplex; (4) SRF; and (5) Vacmet.<sup>11</sup> On December 2 2020, Polyplex USA withdrew its request for six companies: (1) Ester; (2) Garware; (3) MTZ; (4) Polyplex; (5) Uflex; and (6) Vacmet,<sup>12</sup> As stated in the *Initiation Notice*, Commerce's regulations state that a party that has requested a review may withdraw the request within 90 days of the date of publication of the notice of initiation of the requested review.<sup>13</sup> As both the petitioners and Polyplex USA withdrew their requests for six

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<sup>2</sup> See Polyplex USA's Letter "Request for AD Administrative Review," dated July 27, 2020.

<sup>3</sup> The petitioners consist of DuPont Teijin Films, Mitsubishi Polyester Film, Inc., and SKC, Inc.

<sup>4</sup> See Petitioners' Letter, "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from India: Request for Antidumping Duty Administrative Review," dated July 30, 2020. Note that the petitioners' request lists slightly different company names than Polyplex USA's request. Ester Industries Limited (versus Ester Industries Ltd.); Polyplex Corporation Ltd. (versus Polyplex Corporation); SRF Limited of India (versus SRF Ltd.); and Vacmet India Limited (versus Vacmet India Ltd).

<sup>5</sup> See Jindal's Letter, "Polyethylene Terephthalate (PET) Film from India: Request for an Administrative Review of the Antidumping Order," dated July 27, 2020.

<sup>6</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 54983 (September 3, 2020) (*Initiation Notice*).

<sup>7</sup> See *Initiation Notice* at 54985. The companies are: (1) Ester Industries; (2) Garware Polyester Ltd.; (3) Jindal Poly Films Limited; (4) Polyplex Corporation Ltd.; (5) SRF Ltd.; (6) SRF Limited of India; (7) Vacmet India Limited; (8) MTZ Polyesters Ltd.; and (9) Uflex Ltd. SRF's submissions identify itself as "SRF Limited of India," but the stationery just says SRF Limited. For purposes of this review, when we refer to the formal company name, we will use SRF Limited of India.

<sup>8</sup> See Memorandum, "Administrative Review of the Antidumping Duty Order on Polyethylene Terephthalate Film, Sheet, and Strip (PET) Film from India: U.S. Customs Entry Data for Respondent Selection," dated November 24, 2020.

<sup>9</sup> See SRF's Letter, "Polyethylene Terephthalate (PET) Film, Sheet and Strip from India/SRF Limited/Comments on U.S. Customs and Border Protection (CBP) Data Release," dated November 30, 2020 (SRF's Comments on CBP Data Release). In this filing, SRF states that one of the names shown in the CBP release is actually the name of an unincorporated business division of SRF Limited, which is the name of the company. SRF also states that "{t}here is only one SRF producing the subject merchandise ... SRF Limited."

<sup>10</sup> See Jindal's Letter, "Polyethylene Terephthalate (PET) Film from India: Withdrawal of Request for Administrative Review of the Antidumping Duty Order filed by Jindal Poly Films Ltd.," dated November 26, 2020; filed on November 28, 2020.

<sup>11</sup> See Petitioners' Letter, "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from India: Withdrawal of Request for Antidumping Duty Administrative Review," dated December 2, 2020.

<sup>12</sup> See Polyplex's Letter, "Request for AD Administrative Review," dated December 2, 2020.

<sup>13</sup> See 19 CFR 352.213(d)(1).

companies within the 90 days of the publication of the *Initiation Notice*, we are rescinding our review of: (1) Ester; (2) Garware; (3) MTZ; (4) Polyplex; (5) Uflex; and (6) Vacmet. We are continuing the review of Jindal and SRF given that Polyplex USA did not withdraw its request for these companies.

For two remaining companies under review, Jindal and SRF, Commerce issued its initial questionnaire to these companies on December 22, 2020.<sup>14</sup> On January 22, 2021, Jindal and SRF each submitted questionnaire responses to section A of Commerce's Initial AD Questionnaire.<sup>15</sup>

On February 18, 2021, Jindal and SRF each submitted questionnaire responses for sections B, C, and D.<sup>16</sup> On June 24, 2021, Commerce issued a supplemental questionnaire to Jindal for section D.<sup>17</sup> On July 16, 2021, Jindal submitted its supplemental questionnaire response to section D.<sup>18</sup>

On March 30, 2021, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.213(h)(2), Commerce extended the due date for the preliminary results by 60 days (from April 2, 2021, to July 1, 2021).<sup>19</sup> On June 17, 2021, we extended the deadline by an additional 28 days.<sup>20</sup> The deadline for the preliminary results of this review is now July 29, 2021.

### **III. 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 rescinding this administrative review with respect to the following companies named in the *Initiation Notice*: (1) Ester; (2) Garware; (3) MTZ; (4) Polyplex; (5) Uflex; and (6) Vacmet.

### **IV. SCOPE OF THE ORDER**

The products covered by the AD 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

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<sup>14</sup> See Commerce's Letter, "Antidumping Duty Questionnaire," dated December 22, 2020 (Initial AD Questionnaire).

<sup>15</sup> See Jindal's Letter, "Administrative Review of Antidumping Duty Order on PET Films from India: Response to Section A of the AD Questionnaire," dated January 22, 2021 and SRF's Letter, "Polyethylene Terephthalate (PET) film from India: Submission of Section A Response of Anti-Dumping Admin Review Questionnaire," dated January 22, 2021 (SRF's Section A QR).

<sup>16</sup> See Jindal's Letter, "Polyethylene Terephthalate (PET) Film from India: Submission of BCD Response Anti-Dumping Admin Review Questionnaire," dated February 18, 2021 (Jindal's Section BCD QR); see also SRF's letter, "Polyethylene Terephthalate (PET) Film from India: Submission of BCD response of Anti-Dumping Admin Questionnaire," dated February 18, 2021.

<sup>17</sup> See Commerce's Letter, "2019-2020 Administrative Review of the Antidumping Duty Order on Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India: Supplemental Questionnaire," dated June 24, 2021.

<sup>18</sup> See Jindal's Letter, "2019-2020 Administrative Review of the Anti-Dumping Duty Order on Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India: Supplemental Questionnaire Response," dated July 16, 2021 Supplemental Questionnaire Response.

<sup>19</sup> See Memorandum, "Polyethylene Terephthalate (PET) Film, Sheet and Strip from India: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review – 2019-2020," dated March 30, 2021.

<sup>20</sup> See Memorandum, "Polyethylene Terephthalate (PET) Film, Sheet and Strip from India: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review – 2019-2020," dated June 17, 2021.

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 AD order is dispositive.

## **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 and SRF's sales of subject merchandise from India to the United States were made at less than NV, Commerce compared the export price (EP) to the NV as described in the "Export Price" and "Normal Value" sections of this memorandum.

### **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.<sup>21</sup> 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 (CEPs)) (*i.e.*, the average-to-average method) unless Commerce 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 EPs (or CEPs) of individual U.S. sales (*i.e.*, the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern Commerce's examination of this question in the context of administrative reviews, Commerce nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in AD investigations.<sup>22</sup>

In numerous AD investigations and administrative reviews, 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

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<sup>21</sup> See Initial AD Questionnaire at B-8 to B-10 and at E-7 to E-9.

<sup>22</sup> 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 *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286, 1322 (CIT 2014), *aff'd*, 862 F.3d 1337 (Fed. Cir. 2017); and *JBF RAK LLC v. United States*, 790 F.3d 1358, 1363–65 (Fed. Cir. 2015) ("the fact that the statute is silent with regard to administrative reviews does not preclude Commerce from filling gaps in the statute to properly calculate and assign antidumping duties.") (citations omitted).

777A(d)(1)(B) of the Act.<sup>23</sup> Commerce finds that the differential pricing analysis is instructive for purposes of examining whether to apply an alternative comparison method in this administrative review.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of prices for comparable merchandise that differs significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchaser, region, and time period to determine whether a pattern of prices that differ significantly exists. If such a pattern of price is found, then the differential pricing analysis evaluates whether such differences can be considered when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. For the respondent, purchasers are based on the reported (consolidated) customer codes for Jindal and SRF. 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 CEPs) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* 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

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<sup>23</sup> See *Xanthan Gum from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); see also *Steel Concrete Reinforcing Bars from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); see also *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

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.

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.<sup>24</sup>

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<sup>24</sup> The Court of Appeals for the Federal Circuit (CAFC) has affirmed much of Commerce's differential pricing methodology. *See, e.g., Dillinger France S.A. v. United States*, 981 F.3d 1318 (Fed. Cir. 2020); and *Apex Frozen Foods v. United States*, 862 F. 3d 1322 (Fed. Cir. 2017). We ask that interested parties present only arguments on issues which have not already been decided by the CAFC.

## C. Results of the Differential Pricing Analysis

### *Jindal*

For Jindal, based on the results of the differential pricing analysis, Commerce preliminarily finds that the value of U.S. sales passing the Cohen's *d* test is 73.30 percent, such that we should consider an alternative comparison method applying the average-to-transaction method to U.S. sales.<sup>25</sup> However, we preliminarily find that there is no meaningful difference between the weighted-average dumping margins calculated using the average-to-average method and the alternative method, *i.e.*, the resulting weighted-average dumping margin using either method remains below *de minimis* or there is no meaningful difference. Accordingly, Commerce preliminarily determines to use the average-to-average method for all U.S. sales, to calculate the weighted-average margin of dumping for Jindal.

### *SRF*

For SRF, based on the results of the differential pricing analysis, Commerce finds that 60.30 percent of U.S. sales passing the Cohen's *d* test, such that we should consider an alternative comparison method applying the average-to-transaction method to its U.S. sales.<sup>26</sup> However, we preliminarily find that there is no meaningful difference between the weighted-average dumping margins calculated using the average-to-average method and the alternative method, *i.e.*, the resulting weighted-average dumping margin using either method remains below *de minimis*. Accordingly, Commerce preliminarily determines to use the average-to-average method for all U.S. sales, to calculate the weighted-average margin of dumping for SRF.

## VI. DATE OF SALE

Section 351.401(i) of Commerce's regulations states that, in identifying the date of sale of the merchandise under consideration 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 producer establishes the material terms of sale.<sup>27</sup> In addition, Commerce's long-standing practice is to rely on shipment date where it precedes invoice date as the date of sale.<sup>28</sup>

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<sup>25</sup> For additional detail, *see* Memorandum, "Analysis Memorandum for Jindal Poly Films, Ltd.," (Jindal Preliminary Analysis Memorandum), dated concurrently with this memorandum.

<sup>26</sup> For additional detail, *see* Memorandum, "Analysis Memorandum for SRF Limited," (SRF Preliminary Analysis Memorandum), dated concurrently with these preliminary results.

<sup>27</sup> *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 "Commerce" 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.").

<sup>28</sup> *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; *see also* *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.

Therefore, we preliminarily used the earlier of the invoice date or the shipment date as the date of sale in both markets, in accordance with our practice.<sup>29</sup>

### *Jindal*

Jindal reported invoice date as the date of sale for its home market sales because the invoice contains the final price for the sale. The invoice date is also the date on which the sales are recorded in Jindal's accounting system.<sup>30</sup> The record of this review indicates that the invoice date is the date when Jindal sets the price and quantity.<sup>31</sup> Therefore, we have preliminarily used the invoice date as the date of sale for Jindal's home market. Jindal also reported the invoice date as the date of sale for its U.S. sales.<sup>32</sup> Jindal states that there were no changes in price, quantity or other material terms once an order was issued to begin production.<sup>33</sup> The record of this review indicates that the *pro-forma* invoice date is the appropriate date to use for the U.S. sale date because that is when price and quantity are set. Consistent with Commerce's regulations, we are preliminarily using the invoice date (or shipment date if earlier) in the home market and the *pro-forma* invoice date as the date of sale in the U.S. market.

### *SRF*

SRF reported the commercial invoice date as the date of sale for its home market sales.<sup>34</sup> The record shows that the commercial invoice date is the appropriate date to use as the date of sale for the home market since this is the date on which price and quantity are set. For its U.S. sales, SRF reported that the commercial invoice date is the date when there is the final agreement on price and quantity for the sale.<sup>35</sup> The record of this review shows that the commercial invoice date is the appropriate date of sale to use for SRF's U.S. sales, because this is the date on which the price and quantity are set; neither price nor quantity changes from that point forward. Consistent with Commerce's regulations, we are preliminarily relying on the invoice date (or shipment date if earlier) as the date of sale for SRF's home market and U.S. sales.

## **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

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<sup>29</sup> *Id.*

<sup>30</sup> See Jindal's Section BCD QR at 20.

<sup>31</sup> See Jindal's Section A QR at 13 and Jindal's Section BCD QR at 20.

<sup>32</sup> *Id.* at 66.

<sup>33</sup> See Jindal's Section A QR at 15.

<sup>34</sup> See SRF's BQR at 21.

<sup>35</sup> See SRF's CQR at 17.



under subsections (c) and (d).” As explained below, we based the U.S. price on EP for Jindal and SRF.

### *Jindal*

We used the EP methodology for Jindal’s U.S. sales in accordance with 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation.<sup>36</sup> In accordance with sections 772(a) and (c), we calculated EP based on packed prices. We made deductions from U.S. price, where applicable, for domestic inland freight from plant to port of exportation, brokerage and handling charges incurred in the country of manufacture, trade promotion fee, and marine insurance, in accordance with section 772(c)(2)(A) of the Act and 19 CFR 351.402.<sup>37</sup>

### *SRF*

We used the EP methodology for SRF’s U.S. sales in accordance with 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation.<sup>38</sup> In accordance with 772(a) and (c) of the Act, we based EP on packed prices to customers in the United States for Jindal. We made deductions from U.S. price, where applicable, for domestic inland freight from plant to port of exportation, brokerage and handling charges incurred in the country of manufacture, trade promotion fee, and marine insurance, in accordance with section 772(c)(2)(A) of the Act and 19 CFR 351.402.<sup>39</sup>

## **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 both respondents’ 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 both Jindal and SRF.

### **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

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<sup>36</sup> See Jindal’s Section A QR at 12-15.

<sup>37</sup> See Jindal’s Analysis Memorandum.

<sup>38</sup> See SRF’s Section A QR at 20-23.

<sup>39</sup> See SRF’s Analysis Memorandum.

sufficient, condition for determining that there is a difference in the stages of marketing.<sup>40</sup> 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,<sup>33</sup> and the starting price as adjusted under section 772(d) of the Act for CEP sales.<sup>41</sup>

When Commerce is unable to match a 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 an 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 sales 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.<sup>42</sup>

### *Jindal*

Jindal reported that it sold to two home market channels of distribution (*i.e.*, end-users and traders) and that it performed most of its selling functions at the same or similar levels of intensity in both channels of distribution.<sup>43</sup> 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 there is one LOT in the home market.

Similarly, Jindal reported two channels of distribution in the U.S. market for sales made to importers and traders. Jindal also reported performing selling functions in both channels of distribution at the same or similar levels of intensity. Therefore, we preliminarily find that there is one LOT in the U.S. market.<sup>44</sup>

We find that Jindal provided mostly similar levels of customer support services on their U.S. sales (all of which were EP) as it did on its home market sales, and that the minor differences in levels of intensity that do exist do not establish distinct and separate LOTs.<sup>45</sup> The record evidence supports a preliminary finding that in both markets Jindal performed essentially the same services at a similar level of intensity.<sup>46</sup> While there are some small differences between

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<sup>40</sup> 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.

<sup>41</sup> Where NV is based on CV, we determine the NV LOT based on 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). Where NV is based on CV, we determine the NV LOT based on 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).

<sup>42</sup> See *OJ Brazil* IDM at Comment 7.

<sup>43</sup> See Jindal's Section A at Exhibit A-7 (List of Selling Activities in Home Market as well as US Market).

<sup>44</sup> *Id.* at Exhibit A-7.

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

the home and U.S. markets, we determine that for Jindal, the EP sales and the starting price of home market sales represent the same stage in the marketing process, and are, thus, at the same LOT.

Thus, we determine that for Jindal, the EP 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 preliminarily find that an LOT adjustment for Jindal is not warranted.

### *SRF*

SRF reported that it made sales through three different distribution channels (end user/convertor, dealer, and dealer attached customer) in the home market.<sup>47</sup> SRF performed most of the selling functions at the same or similar levels of intensity in all three channels of distribution. Because the record shows that the selling activities to SRF's customers did not vary for sales in the home market through its three channels of distribution, we preliminarily determine that there is one LOT in the home market.<sup>48</sup>

With respect to the U.S. market, SRF reported that it made EP sales in the U.S. market to both unaffiliated end users and to unaffiliated traders.<sup>49</sup> SRF's selling functions were performed at the same or similar levels of intensity in both channels of distribution in the U.S. market.<sup>35</sup> Because the record shows that selling activities to SRF's customers did not vary for sales in the United States through its two channels of distribution, we preliminarily determine that there is one LOT in the U.S. market.

The record supports a finding that in both markets SRF performed essentially the same level of services.<sup>50</sup> While we found minor differences between the home and U.S. markets, we determine that for SRF, the EP and the starting price of home market sales represent the same stage in the marketing process, and are, thus, at the same LOT.<sup>51</sup> For this reason, we preliminarily find that an LOT adjustment for SRF is not warranted.

### C. Cost of Production Analysis

In accordance with section 773(b)(2)(A) of the Act, we requested CV and cost of production (COP) information from Jindal and SRF to determine if there were reasonable grounds to believe or suspect that sales of foreign like product had been made at prices less than the COP of the product. We preliminarily determine that neither Jindal nor SRF made sales in the home market during the POR that were below the COP in its home market.

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<sup>47</sup> See SRF's Section A QR at 16-20.

<sup>48</sup> *Id.* at Exhibit A-5.

<sup>49</sup> See SRF's Section A QR at 16-20.

<sup>50</sup> *Id.* at Exhibit A-5.

<sup>51</sup> See SRF's Section A QR at 16-20 and Exhibit A-5.

### 1. Calculation of Cost of Production Test

We calculated the COP on a product-specific basis, based on the sum of the respondent'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 product for shipment in accordance with section 773(b)(3) of the Act.

### 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 and SRF 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.<sup>52</sup> 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.<sup>53</sup>

### 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.

We found that, for certain products, more than 20 percent of Jindal and SRF's home market sales during the POR were sold at prices below the COP and, in addition, such sales were at prices which would not permit the recovery of all costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act. We did not base NV on constructed value for either company in these preliminary results.

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<sup>52</sup> See Jindal's Preliminary Analysis Memorandum and SRF's Preliminary Analysis Memorandum.

<sup>53</sup> *Id.*

#### D. Calculation of Normal Value Based on Comparison Market Prices

We based NV on the starting prices of Jindal or SRF'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 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.<sup>54</sup>

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.<sup>55</sup>

#### 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>.<sup>56</sup>

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<sup>54</sup> *Id.*

<sup>55</sup> See 19 CFR 351.411(b).

<sup>56</sup> See Jindal's Preliminary Analysis Memorandum and SRF's Preliminary Analysis Memorandum both at Attachment 2 "U.S. Market Sales and Margin Program Output and Log."

**X. RECOMMENDATION**

We recommend applying the above methodology for these preliminary results.

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Agree

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\_\_\_\_\_  
Disagree

7/29/2021

X



Signed by: CHRISTIAN MARSH

\_\_\_\_\_  
Christian Marsh  
Acting Assistant Secretary  
for Enforcement and Compliance