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Investigation
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February 24, 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 the Preliminary Affirmative
Determination in the Less-Than-Fair-Value Investigation of
Methionine from Spain

I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that methionine from Spain is being, or is likely to be, sold in the United States at less-than-fair-value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated weighted-average dumping margins are shown in the “Preliminary Determination” section of the accompanying *Federal Register* notice.

II. BACKGROUND

On July 29, 2020, Commerce received an antidumping duty (AD) petition concerning imports of methionine from Spain, filed in proper form by Novus International Inc. (the petitioner), a domestic producer of methionine.¹ On August 18, 2020, Commerce initiated an LTFV investigation on methionine from Spain.²

In the *Initiation Notice*, Commerce stated that the petitioner had identified only one producer and exporter of methionine in Spain, Adisseo España S.A. (Adisseo España), yet the petitioner was

¹ See Petitioner’s Letter “Petitions for the Imposition of Antidumping Duties: Methionine from France, Japan, and Spain,” dated July 29, 2020 (Petition).

² See *Methionine from France, Japan, and Spain: Initiation of Less-Than-Fair-Value Investigations*, 85 FR 52324 (August 25, 2020) (*Initiation Notice*).



not able to certify that Adisseo España represented all exporters of the merchandise under consideration. Accordingly, on August 17, 2020,³ Commerce released to all interested parties under an administrative protective order the U.S. Customs and Border Protection (CBP) entry data under the appropriate Harmonized Tariff Schedule of the United States subheadings listed in the Appendix of the accompanying *Federal Register* notice, and requested comments regarding the CBP data and respondent selection.⁴ Commerce notified the public that, where appropriate, it intended to select respondents based on the CBP entry data.⁵ On August 28, 2020, the petitioner and Adisseo España submitted comments on the CBP entry data and respondent selection.⁶

On September 14, 2020, Commerce selected for individual examination one exporter and producer that accounted for the largest volume of entries of the subject merchandise into the United States during the period of investigation (POI), Adisseo España.⁷ Accordingly, we issued the AD questionnaire to Adisseo España.⁸

On September 14, 2020, the U.S. International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of methionine from France, Japan, and Spain.⁹

In the *Initiation Notice*, Commerce notified parties of an opportunity to comment on the scope of the investigation, as well as on the appropriate physical characteristics of methionine to be reported in response to Commerce's AD questionnaire.¹⁰ On September 8, 2020, we received timely-filed comments from interested parties regarding the physical characteristics of the merchandise under consideration to be used for reporting purposes.¹¹ On September 18, 2020, we received timely-filed rebuttal product characteristics comments from interested parties.¹² On September 25, 2020, Commerce determined the product characteristics applicable to this

³ See Memorandum, "Petition for the Imposition of Antidumping Duties on the Imports of Methionine from Spain: Release of Customs Data from U.S. Customs and Border Protection," dated August 17, 2020.

⁴ See Memorandum, "Petition for the Imposition of Antidumping Duties on Imports of Methionine from France: Release of Customs Data from U.S. Customs and Border Protection," dated August 17, 2020.

⁵ *Id.*, 85 FR 52324.

⁶ See Petitioner's Letter, "Methionine from Spain: Respondent Selection Comments," dated August 28, 2020; *see also* Adisseo España's Letter, "Methionine from Spain: Respondent Selection Comments," dated August 28, 2020.

⁷ See Memorandum, "Less-Than-Fair-Value Investigation of Methionine from Spain: Respondent Selection," dated September 14, 2020.

⁸ See Commerce's Letter, dated September 15, 2020.

⁹ See *Methionine from France, Japan, and Spain; Determinations*, 85 FR 58385 (September 18, 2020); *see also* *Methionine from France, Japan, and Spain*, Investigation No. 731-TA-1534-1536 (Preliminary), U.S. ITC Publication 5121 (September 2020) (U.S. ITC Determination).

¹⁰ See *Initiation Notice*, 85 FR at 52324.

¹¹ See Sumitomo Chemical Company, Ltd. and Sumitomo Chemical America, Inc (Sumitomo)'s Letter, "Methionine from Japan; Product Characteristic Comments," dated September 8 2020 (Sumitomo's September 8, 2020 Product Characteristics Comments); *see also* Adisseo France and Adisseo España's Letter, "Methionine from France, Japan and Spain: Comments on Product Characteristics," dated September 8, 2020; *see also* Petitioner's Letter, "Methionine from France, Japan and Spain: Comments on Product Characteristics," dated September 8, 2020.

¹² See Sumitomo's Letter, "Methionine from France, Japan, and Spain; Rebuttal Comments on Product Characteristics," dated September 18, 2020; *see also* Adisseo France and Adisseo España's Letter, "Methionine from France, Japan and Spain: Rebuttal Comments on Product Characteristics," dated September 18, 2020; *see also* Petitioner's Letter, "Methionine from France, Japan and Spain: Rebuttal Comments on Product Characteristics," dated September 18, 2020.

investigation.¹³ We did not receive comments concerning the scope of the investigation from interested parties.¹⁴

On December 1, 2020, we received a request from the petitioner to postpone the preliminary determination of this investigation.¹⁵ On December 14, 2020, Commerce postponed the preliminary determination of this investigation by 50 days, to February 24, 2021, pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e).¹⁶

Adisseo España submitted timely responses to Section A of Commerce's AD questionnaire, *i.e.*, the section relating to general information, in October 2020.¹⁷ On November 2, 2020, Adisseo España responded to sections B, C, and D of Commerce's AD questionnaire, *i.e.*, the sections relating to home market sales, U.S. sales, and cost of production (COP), respectively.¹⁸

From November 2020 through February 2021, we issued supplemental questionnaires to Adisseo España. We received responses to these supplemental questionnaires between December 2020 and February 2021.¹⁹ The petitioner submitted comments on Adisseo España's questionnaire

¹³ See Commerce's Letter, "Product Characteristics for Use in Sections B and C Questionnaire Responses of Methionine from Spain," dated September 25, 2020 (Final Product Characteristics Memo).

¹⁴ Sumitomo's September 8, 2020 Product Characteristics Comments pertain to the product characteristics, and not the scope of the investigation.

¹⁵ See Petitioner's Letter "Methionine from France, Spain and Japan: Request to Extend Preliminary Determinations," dated December 1, 2020.

¹⁶ See *Methionine from France, Japan and Spain: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 85 FR 80774 (December 14, 2020).

¹⁷ See Adisseo España's Letter, "Antidumping Investigation of Methionine from Spain: Response to Section A of the Department's Initial Questionnaire," dated October 16, 2020 (Adisseo España October 16, 2020 AQR).

¹⁸ See Adisseo España's Letter, "Response of Adisseo España S.A. of Section B Questionnaire Response in Methionine from Spain," dated November 2, 2020; Adisseo España's Letter, "Response of Adisseo España S.A. of Section C Questionnaire Response in Methionine from Spain," dated November 2, 2020; and Adisseo España's Letter, "Response of Adisseo España S.A. of Section D Questionnaire Response in Methionine from Spain," dated November 2, 2020.

¹⁹ See Adisseo España's Letter, "Methionine from Spain: Supplemental Response to Question 1 of Supplemental Section A Questionnaire," dated December 2, 2020; *see also* Adisseo España's Letter, "Antidumping Investigation of Methionine from Spain: Response to Supplemental Section A of the Department's Questionnaire," dated December 2, 2020 (Adisseo España's December 2, 2020 Section A SQR); Adisseo España's Letter, "Antidumping Investigation of Methionine from Spain: Response to Department's Supplemental Section B Questionnaire," dated December 18, 2020 (Adisseo España's December 18, 2020 Section B SQR); Adisseo España's Letter, "Antidumping Investigation of Methionine from Spain: Response to Department's Second Supplemental Section A Questionnaire," dated December 23, 2020 (Adisseo España's December 23, 2020 Section A SQR); Adisseo España's Letter, "Antidumping Investigation of Methionine from Spain: Response to Department's Supplemental Section C Questionnaire," dated December 23, 2020 (Adisseo España's December 23, 2020 Section C SQR); Adisseo España's Letter, "Antidumping Investigation of Methionine from Spain: Response to Department's Supplemental Section D Questionnaire," dated January 11, 2021; Adisseo España's Letter, "Antidumping Investigation of Methionine from Spain: Responses to Department's Second Supplemental Section B&C Questionnaires," dated January 26, 2021 (Adisseo España January 26, 2021 Second BC SQR); Adisseo España's Letter, "Antidumping Investigation of Methionine from Spain: Responses to Department's Third Supplemental Section B&C Questionnaires," dated February 2, 2021 (Adisseo España's February 2, 2021 Third Section BC SQR); and Adisseo España's Letter, "Antidumping Investigation of Methionine from Spain: Response to Department's Fourth Supplemental Section B&C Questionnaire," dated February 10, 2021; and Adisseo España's Letter, "Antidumping Investigation of Methionine from Spain: Responses to Department's Fifth Supplemental Section B&C Questionnaire," dated February 17, 2021. Adisseo España's February 17, 2021 Second Section D SQR was received too late to be considered for the preliminary determination.

responses from December 2020 through February 2021.²⁰

On January 26, 2021, the petitioner timely alleged, that critical circumstances exist with respect to imports of the subject merchandise from Spain.²¹

On February 1, 2021, the petitioner and Adisseo España submitted comments for consideration in the preliminary determination.²²

On February 5, 2021, we received a request from the respondent to postpone the final determination of this investigation.²³

Commerce is conducting this investigation in accordance with section 733(b) of the Act.

III. PERIOD OF INVESTIGATION

The POI is July 1, 2019, through June 30, 2020. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the Petition, which was filed on July 29, 2020.²⁴

IV. SCOPE OF THE INVESTIGATION

The product covered by this investigation is methionine from Spain. For a full description of the scope of the investigation, *see* the accompanying preliminary determination *Federal Register* notice at Appendix I.

V. CRITICAL CIRCUMSTANCES

Allegation

On January 26, 2021, the petitioner timely alleged, pursuant to section 733(e)(1) of the Act and 19 CFR 351.206(c)(1), that critical circumstances exist with respect to imports of the subject merchandise from Spain.²⁵ Specifically, the petitioner contends that based on the dumping margin alleged in the Petition for Spain, importers knew or should have known that imports of

²⁰ See Petitioner's Letter "Methionine from Spain: Comments on Adisseo's Section A Comments," dated October 29, 2020; Petitioner's Letter, "Methionine from Spain: Comments on Adisseo's Section B, C, and D Response," dated November 13, 2020 (Petitioner's November 13, 2020 Section BCD Comments); Petitioner's Letter "Methionine from Spain: Comments on Adisseo's Supplemental Section A Response," dated December 11, 2020; Petitioner's Letter "Methionine from Spain: Comments on Adisseo's Supplemental Section C Response," dated January 8, 2021; and Petitioner's Letter "Methionine from Spain: Comments on Adisseo's Supplemental Section D Response," dated January 20, 2021.

²¹ See Petitioner's Letter, "Methionine from Spain: Allegation of the Existence of Critical Circumstances," dated January 26, 2021 (Critical Circumstances Allegation).

²² See Petitioner's Letter, "Methionine from Spain: Petitioner's Pre-Preliminary Comments," dated February 1, 2021 (Petitioner's Pre-Preliminary Comments); and Adisseo España's Letter, "Methionine from Spain: Pre-Preliminary Comments," dated February 1, 2021.

²³ See Adisseo España's Letter, "Methionine from Spain: Request for Postponement of Final Determination and Provisional Measures Period," dated February 5, 2021.

²⁴ See 19 CFR 351.204(b)(1).

²⁵ See Critical Circumstances Allegation.

methionine from Spain were being sold at less than fair value and that there was likely to be material injury to the U.S. methionine industry.²⁶ The petitioner further alleges that the ITC's affirmative determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of methionine from Spain (among other countries) is sufficient to impute knowledge of the likelihood of material injury.²⁷ Finally, the petitioner contends that there have been massive increases in imports of the subject merchandise from Spain over a relatively short period.²⁸ No party rebutted the allegation.

Legal Framework

In accordance with 19 CFR 351.206(c)(2)(i), when a critical circumstances allegation is submitted more than 20 days before the scheduled date of the preliminary determination, Commerce must issue a preliminary finding of whether there is a reasonable basis to believe or suspect that critical circumstances exist by no later than the date of the preliminary determination.

Section 733(e)(1) of the Act provides that Commerce, upon receipt of a timely-filed allegation of critical circumstances, will preliminarily determine that critical circumstances exist in AD investigations if there is a reasonable basis to believe or suspect that: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at LTFV and that there was likely to be material injury by reason of such sales, and (B) there have been "massive imports" of the subject merchandise over a relatively short period.

Section 351.206(h)(2) of Commerce's regulations provides that, generally, imports must increase by at least 15 percent during the "relatively short period" to be considered "massive," and section 351.206(i) defines a "relatively short period" as normally being the period beginning on the date the proceeding begins (i.e., the date the petition is filed)²⁹ and ending at least three months later.³⁰ Commerce's regulations also provide, however, that, if Commerce finds that importers, or exporters or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, Commerce may consider a period of not less than three months from that earlier time.³¹

Analysis

Commerce's normal practice in determining whether critical circumstances exist pursuant to the statutory criteria under section 733(e) of the Act has been to examine evidence available to Commerce, such as: (1) the evidence presented in petitioners' critical circumstances allegation,

²⁶ *Id.* at 4.

²⁷ *Id.* at 4-5.

²⁸ *Id.* at 5.

²⁹ See 19 CFR 351.102(b)(40) (providing that a proceeding begins on the date of the filing of a petition).

³⁰ See 19 CFR 351.206(h)(2) and (i).

³¹ See 19 CFR 351.206(i).

(2) import statistics released by the ITC, and (3) shipment information submitted to Commerce by the respondents selected for individual examination.³²

History of Dumping and Material Injury/Knowledge of Sales Below Fair Value and Material Injury

To determine whether there is a history of dumping pursuant to section 733(e)(1)(A)(i) of the Act, Commerce generally considers current or previous U.S. AD orders on the subject merchandise from the country in question and current AD orders imposed by other countries with regard to imports of the same merchandise.³³ The current investigation marks the first instance that Commerce has examined whether sales of the subject merchandise have been made at LTFV in the United States from Spain. Accordingly, Commerce previously has not imposed an AD order on the subject merchandise from Spain. Moreover, Commerce is not aware of an AD order on the subject merchandise from Spain imposed by another country. Therefore, Commerce finds no history of injurious dumping of the subject merchandise pursuant to section 733(e)(1)(A)(i) of the Act.

To determine whether importers knew or should have known that exporters were selling the subject merchandise at LTFV pursuant section 733(e)(1)(A)(ii) of the Act, we typically consider the magnitude of dumping margins, including dumping margins alleged in the petition.³⁴

³² See, e.g., *Certain Carbon and Alloy Steel Wire Rod from the Russian Federation and the United Arab Emirates: Affirmative Preliminary Determinations of Sales at Less Than Fair Value, and Affirmative Preliminary Determination of Critical Circumstances for Imports of Certain Carbon and Alloy Steel Wire Rod from the Russian Federation*, 82 FR 42794 (September 12, 2017), and accompanying Preliminary Decision Memorandum (PDM) at 11, unchanged in *Certain Carbon and Alloy Steel Wire Rod from the Russian Federation and the United Arab Emirates: Affirmative Final Determinations of Sales at Less Than Fair Value, and Partial Affirmative Finding of Critical Circumstances*, 82 FR 56214 (November 28, 2017); and *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China*, 73 FR 31970, 31972-73 (June 5, 2008) (CWP from China).

³³ See, e.g., CWP from China, 73 FR at 31972-73; and *Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances: Small Diameter Graphite Electrodes from the People's Republic of China*, 74 FR 2049, 2052-53 (January 14, 2009).

³⁴ See, e.g., *Antidumping and Countervailing Duty Investigations of Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Preliminary Determinations of Critical Circumstances*, 80 FR 68504 (November 5, 2015) (CORE Critical Circumstances Prelim); *Certain Corrosion-Resistant Steel Products from India: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances*, 81 FR 35329 (June 2, 2016) (CORE India Final); *Certain Corrosion-Resistant Steel Products from Italy: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*, 81 FR 35320 (June 2, 2016) (CORE Italy Final); *Certain Corrosion-Resistant Steel Products from the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 81 FR 35303 (June 2, 2016) (CORE Korea Final); *Certain Corrosion-Resistant Steel Products from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 35316 (June 2, 2016) (CORE China Final); *Certain Corrosion-Resistant Steel Products from Taiwan: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*, 81 FR 35313 (June 2, 2016) (CORE Taiwan Final); *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the People's Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 35308 (June 2, 2016) (CORE China CVD Final); *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from Taiwan: Final Negative Countervailing Duty Determination*, 81 FR 35299 (June 2, 2016) (CORE Taiwan CVD Final); *Countervailing Duty*

Commerce has found that dumping margins of 15 percent or more for constructed export price (CEP) sales, or dumping margins of 25 percent or more for export price (EP) sales to be sufficient for this purpose.³⁵ For this preliminary determination, Commerce determines that the estimated weighted-average dumping margin is 31.98 percent for Adisseo España as well as for all other producers and exporters. Accordingly, exporters knew, or should have known, that sales of methionine from Spain were priced at LTFV.³⁶

To determine whether importers knew, or should have known, that there was likely to be material injury caused by reason of such imports pursuant to section 733(e)(1)(A)(ii) of the Act, Commerce normally will look to the preliminary injury determination of the ITC.³⁷ If the ITC finds a reasonable indication of material injury (rather than the threat of injury) to the relevant U.S. industry, Commerce will normally determine that a reasonable basis exists to impute to importers sufficient knowledge of injury by such imports. The ITC preliminarily found that there is a “reasonable indication” of material injury to the domestic industry because of the imported subject merchandise from Spain.³⁸ Therefore, the ITC’s preliminary injury determination is sufficient to impute knowledge to importers of the likelihood of material injury. Thus, we preliminarily determine that importers knew, or should have known, that there was likely to be material injury caused by reason of such imports, pursuant to section 733(e)(1)(A)(ii) of the Act.

Investigation of Certain Corrosion-Resistant Steel Products from Italy: Final Affirmative Determination and Final Affirmative Critical Circumstances, in Part, 81 FR 35326 (June 2, 2016) (CORE Italy CVD Final); *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the Republic of Korea: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 35310 (June 2, 2016) (CORE Korea CVD Final); *Notice of Preliminary Determinations of Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products from Australia, the People’s Republic of China, India, the Republic of Korea, the Netherlands, and the Russian Federation*, 67 FR 19157, 19158 (April 18, 2002), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Australia*, 67 FR 47509 (July 19, 2002); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from the People’s Republic of China*, 67 FR 62107 (October 3, 2002); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from India*, 67 FR 47518 (July 19, 2002); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Korea*, 67 FR 62124 (October 3, 2002); *Notice of Final Determination of Sales at Less Than Fair Value and Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products from the Netherlands*, 67 FR 62112 (October 3, 2002); and *Notice of the Final Determination Sales at Less Than Fair Value and Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products from the Russian Federation*, 67 FR 62121 (October 3, 2002).

³⁵ *Id.*; *Preliminary Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the People’s Republic of China*, 62 FR 31972, 31978 (June 11, 1997), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the People’s Republic of China*, 62 FR 61964 (November 20, 1997); see also *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 42672 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004).

³⁶ See Memorandum “Methionine from Spain: Preliminary Analysis Memorandum for Adisseo España S.A.,” dated concurrently with this memorandum (Preliminary Analysis Memo).

³⁷ See, e.g., *Certain Potassium Phosphate Salts from the People’s Republic of China: Preliminary Affirmative Determination of Critical Circumstances in the Antidumping Duty Investigation*, 75 FR 24572, 24573 (May 5, 2010), unchanged in *Certain Potassium Phosphate Salts from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value and Termination of Critical Circumstances Inquiry*, 75 FR 30377 (June 1, 2010).

³⁸ See U.S. ITC Determination.

Massive Imports

As noted above, the “relatively short period” that we examine to determine whether there have been massive imports normally begins on the date the petition is filed and ends at least three months later. Commerce’s practice is to consider a “relatively short period” beginning with the filing of the petition and ending with the preliminary determination.³⁹ We typically compare this period (the comparison period) to a period of equal duration immediately prior to the filing of the petition (the base period) to determine whether imports have been “massive” over a relatively short period of time.⁴⁰ Commerce typically determines whether or not to include the month in which the petition was filed in the base or comparison period depending on whether the petition was filed in the first half of the month (included in the comparison period) or the second half of the month (included in the base period).⁴¹ The petition was filed on July 29, 2020, *i.e.*, the second half of the month, so we have included July 2020 in the base period with the comparison period beginning with August 2020. Imports will normally be considered massive when imports during the comparison period have increased by 15 percent or more compared to imports during the base period.

We compared the quantity of Adisseo España’s shipments of subject merchandise to the United States during the period February 2020 through July 2020 to the quantity of its shipments of subject merchandise to the United States from August 2020 through January 2021 (the most recent data available prior to the month in which we issued this preliminary determination) to determine whether imports have been massive. This comparison shows that there has not been an increase of 15 percent or more of imports over the comparison period. Therefore, we preliminarily find that there were not “massive imports” of subject merchandise from Adisseo España into the United States over a relatively short period pursuant to section 733(e)(1)(B) of the Act and 19 CFR 351.206(h).⁴²

To determine whether there have been “massive imports” of subject merchandise into the United States over a relatively short period from all other producers and exporters of methionine from Spain, consistent with Commerce’s practice, we compared the quantity of imports into the United States under the Harmonized Tariff Schedule subheadings listed in the scope of this investigation, as reported by Global Trade Atlas (GTA) for the period April 2020 through July 2020 and August 2020 through November 2020 less the quantity of shipments of subject merchandise to the United States reported by Adisseo España for those periods.⁴³ We find no

³⁹ See, e.g., *Prestressed Concrete Steel Wire Strand from Indonesia: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, Postponement of Final Determination, and Extension of Provisional Measures*, 85 FR 73676 (November 19, 2020) (*PC Strand from Indonesia Prelim*), and accompanying PDM; *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from India*, 69 FR 76916 (December 23, 2004).

⁴⁰ See, e.g., *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances*, 77 FR 31309, 31312 (May 25, 2012) (*Solar Products from China LTFV*).

⁴¹ *Id.*

⁴² See, e.g., *PC Strand from Indonesia Prelim*; *Solar Products from China LTFV*.

⁴³ See *CORE Critical Circumstances Prelim*; *CORE India Final*; *CORE Italy Final*; *CORE Korea Final*; *CORE*

evidence to support a determination that a surge (*i.e.*, an increase of 15 percent or more of imports over the comparison period) existed for all other producers and exporters.⁴⁴ Therefore, we have based the preliminary finding that there were no “massive imports” for all other producers and exporters on the experiences of Adisseo España.

Critical Circumstances Determination

Based on the criteria and analysis discussed above, we preliminarily determine that critical circumstances do not exist with respect to imports of subject merchandise from Adisseo España and all other producers and exporters.

VI. SCOPE COMMENTS

In accordance with the *Preamble* to Commerce’s regulations,⁴⁵ in the *Initiation Notice* Commerce set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁴⁶ As noted above, we did not receive comments from interested parties concerning the scope of the investigation as it appeared in the *Initiation Notice*. Therefore, for this preliminary determination, Commerce is not modifying the scope language as it appeared in the *Initiation Notice*.

VII. DISCUSSION OF THE METHODOLOGY

A. Comparisons to Normal Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether Adisseo España’s sales of methionine from Spain to the United States were made at LTFV, we compared the CEP to the normal value (NV), as described in the “Constructed Export Price” and “Normal Value” sections of this memorandum, below.

1. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates a weighted-average dumping margin by comparing weighted-average NV to weighted-average EP or CEP, *i.e.*, the average-to-average method, unless Commerce determines that another method is appropriate in a particular situation. In an LTFV investigation, Commerce examines whether to compare weighted-average NV with the EP or CEP of individual 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.

In numerous investigations, Commerce has applied a “differential pricing” analysis for determining whether application of the average-to-transaction method is appropriate in a

China Final; CORE Taiwan Final; CORE China CVD Final; CORE Taiwan CVD Final; CORE Italy CVD Final; and CORE Korea CVD Final; see also Critical Circumstances Memorandum.

⁴⁴ See 19 CFR 351.206(h)(2).

⁴⁵ See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁴⁶ See *Initiation Notice*, 85 FR at 52325.

particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.⁴⁷ Commerce finds that the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this investigation. Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and on Commerce's additional experience with addressing the potential masking of dumping that can occur when Commerce uses the average-to-average method in calculating a respondent's weighted-average dumping margin.

The differential pricing analysis used in this preliminary determination examines whether there exists a pattern of prices for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all U.S. sales by purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account 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. Purchasers are based on the reported consolidated customer codes. 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 POI based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region, and time period, that Commerce uses in making comparisons between EP or CEP and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the "Cohen's *d* test" is applied. The Cohen's *d* coefficient is a generally recognized statistical measure of the extent of the difference between the mean, *i.e.*, weighted-average price, of a test group and the mean *i.e.*, weighted-average price, of a comparison group. First, for comparable merchandise, the Cohen's *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region, or time period 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 prices to the particular purchaser, region, or time period differ significantly from the 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 (0.2, 0.5 and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are found to pass the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large, *i.e.*, 0.8, threshold.

⁴⁷ See, e.g., *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); and *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

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 pass the Cohen’s *d* test account for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass 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, Commerce examines whether using only the average-to-average method can appropriately account for such differences. In considering this question, Commerce tests whether using an alternative comparison 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, then this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative comparison 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 margins between the average-to-average method and the appropriate alternative method where both rates are above the *de minimis* threshold; or (2) the resulting weighted-average dumping margins between the average-to-average method and the appropriate alternative method move across the *de minimis* threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in this preliminary determination, including arguments for modifying the group definitions used in this proceeding.⁴⁸

2. Results of the Differential Pricing Analysis

For Adisseo España, based on the results of the differential pricing analysis, Commerce preliminarily finds that 30.93 percent of the value of U.S. sales pass the Cohen’s *d* test which does not confirm the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods.⁴⁹ Thus, the results of the Cohen’s *d* and ratio tests do not support consideration of an alternative to the average-to-average method. Accordingly, Commerce

⁴⁸ The Court of Appeals for the Federal Circuit (CAFC) in *Apex Frozen Foods v. United States*, 862 F.3d 1337 (Fed. Cir. 2017) affirmed much of Commerce’s differential pricing methodology. We ask that interested parties present only arguments on issues which have not already been decided by the CAFC.

⁴⁹ See Preliminary Analysis Memo.

preliminarily determines to apply the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Adisseo España.

B. Product Comparisons

As stated above, Commerce gave parties an opportunity to comment on the appropriate hierarchy of physical characteristics used to define each product, including for model matching purposes, within a certain deadline.⁵⁰ We considered the comments that were submitted and established the appropriate product characteristics to use as a basis for defining the product control numbers of methionine in this LTFV investigation. Commerce identified three criteria for the physical characteristics of the subject merchandise: (1) type; (2) form; and (3) concentration level of methionine content.⁵¹ We instructed Adisseo España to use these product characteristics in their responses to the initial questionnaire issued in this investigation.⁵²

In accordance with section 771(16) of the Act, we considered all products produced and sold by Adisseo España in Spain during the POI that fit the description in the “Scope of Investigation” section of the accompanying *Federal Register* notice to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sale prices to NVs based on sale prices made in the home market for identical merchandise as defined by the three product characteristics noted above. Where we could find no identical or similar matches, we made comparisons to U.S. sales based on constructed value (CV).

C. Date of Sale

Section 351.401(i) of Commerce’s regulations states that, in identifying the date of sale of the subject merchandise or foreign like product, Commerce normally will use the date of invoice, as recorded in the exporter’s or producer’s records kept in the ordinary course of business. Additionally, Commerce may use a date other than the date of invoice if it is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.⁵³ Finally, Commerce has a long-standing practice of finding that, where the shipment date precedes the invoice date, the shipment date better reflects the date on which the material terms of sale are established.⁵⁴

Adisseo España reported the invoice date as the date of sale for its home market sales.⁵⁵ Adisseo España reported that the final terms for sales made pursuant to long-term contracts and purchase

⁵⁰ See *Initiation Notice*, 85 FR at 52325.

⁵¹ See Final Product Characteristics Memo.

⁵² *Id.*

⁵³ See 19 CFR 351.401(i); and *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)).

⁵⁴ See, e.g., *Certain Polyester Staple Fiber from the Republic of Korea: Preliminary Results of the 2007/2008 Antidumping Duty Administrative Review*, 74 FR 27281, 27283 (June 9, 2009), unchanged in *Certain Polyester Staple Fiber from the Republic of Korea: Final Results of the 2007-2008 Antidumping Duty Administrative Review*, 74 FR 65517 (December 10, 2009).

⁵⁵ See Adisseo España’s October 16, 2020 AQR at A-20 and A-24; Adisseo España’s December 18, 2020 Section B SQR at 6 and SB-6a; Adisseo España’s February 2, 2021 Third Section BC SQR at 1-3 and Exhibits 3SB-1a and 3SB-1b. Adisseo España reports its SAP system processes its invoices overnight. The posting date was used to report the date of invoice.

orders are not established until the invoice date, and changes to terms occur between shipment date and invoice date.⁵⁶ Adisseo España reported that invoices are issued either the same day as shipment or within one business day afterwards.⁵⁷ Adisseo España did not submit supporting information to the record indicating that any essential terms of sale change between the invoice date and shipment date.⁵⁸ Because the invoice date occurs either the same day as shipment or a day after, Adisseo España did not have sales records supporting that material terms of sale can change after shipment and prior to invoicing for its home market sales. Moreover, for one of Adisseo España's customer categories, Adisseo España invoices the customer once at the end of the month for all shipments made during the month.⁵⁹ For these sales, there are no changes to the essential terms of sale from shipment and date of invoice.⁶⁰ Because the material terms of sale to this customer are final on the date of shipment, and do not change prior to invoicing, we also find the earlier of the shipment date or invoice date to be the appropriate date of sale for these sales. Thus, Commerce's practice of finding the shipment date to be the appropriate date of sale when that date precedes the invoice date, is applicable to all of Adisseo España's home market sales.

Adisseo España reported the invoice date as the date of sale for its U.S. market sales.⁶¹ Adisseo España reported that the essential terms of sale, specifically the quantity, may change from the date of shipment from the warehouse and the invoice date.⁶² Adisseo España reported that on the date of shipment, merchandise is weighed when it leaves the warehouse by weighing the truck.⁶³ The product is delivered to the customer, and the truck tank may not be completely emptied at the customer's location. Adisseo España reported that the customer weighs the product when it is received.⁶⁴ The invoice reflects the amount actually received by the customer, and Adisseo España issues the invoice at the time that the merchandise is delivered to the customer. Accordingly, Adisseo España concludes that the invoice date is the date on which the material terms of sale, specifically the sale quantity, is established.⁶⁵ Thus, Adisseo España has submitted information that material terms of sale change between the shipment date and the invoice date, that the invoice reflects the set material terms, and that the invoice date is the appropriate date of sale for Adisseo España's U.S. sales, based on Adisseo España's reported information.

Therefore, consistent with 19 CFR 351.401(i) and Commerce's practice, we preliminarily used the earlier of Adisseo España's shipment date or invoice date as the date of sale in the home market, and Adisseo España's invoice date as the date of sale in the U.S. market.

⁵⁶ *Id.*

⁵⁷ *Id.*; see also Adisseo España's October 16, 2020 AQR at A-21.

⁵⁸ See Adisseo España's December 18, 2020 Section B SQR at 6 and SB-6a; Adisseo España's February 2, 2021 Third Section BC SQR at 1-3 and Exhibits 3SB-1a and 3SB-1b

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ See Adisseo España's December 23, 2020 Section C SQR at 10; Adisseo España's February 2, 2021 Third Section BC SQR at 4 and Exhibit 3SC-1.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ See Adisseo España's February 2, 2021 Third Section BC SQR at 4 and Exhibit 3SC-1

D. Constructed Export Price

Section 772(b) of the Act defines CEP as “price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d).”

Adisseo España reported only CEP sales in their U.S. sales data. In accordance with section 772(d)(1) of the Act, we deducted movement expenses from the starting price, where appropriate, in accordance with section 772(c)(2)(A) of the Act. In accordance with section 772(d)(1) of the Act, we also deducted from the starting price of CEP sales selling expenses associated with economic activities occurring in the United States, which include direct selling expenses (*i.e.*, commissions, credit, technical service expense, technical service repair expense, and other direct selling expenses), indirect selling expenses (*i.e.*, indirect selling expenses incurred in the country of manufacture and incurred in the United States, inventory carrying costs incurred in the country of exportation, incurred in shipment, and incurred in the United States). Finally, we made an adjustment for profit allocated to the selling expenses associated with U.S. economic activities in accordance with section 772(d)(3) of the Act.

The petitioner contends certain sales should be excluded from the dumping analysis because they are not covered by the scope.⁶⁶ Adisseo España reported these sales as merchandise under consideration and maintains that these sales are covered by the scope. We preliminarily find that there is no compelling evidence to support the petitioner’s claim that these products are not covered by the scope. Moreover, Adisseo España’s product description lists characteristics of the products that are covered by the scope. Therefore, for the preliminary determination, we have included these U.S. sales in our margin calculation.⁶⁷

E. Normal Value

1. Comparison Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, *i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales, we normally compare the respondent’s volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with sections 773(a)(1)(A) and (B) of the Act. If we determine that no viable home market exists, we may, if appropriate, use a respondent’s sales of the foreign like product to a third country market as the basis for comparison market sales, in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404.

In this investigation, we preliminarily determined that the aggregate volume of home market sales of the foreign like product for Adisseo España was more than five percent of the aggregate

⁶⁶ See Petitioner’s November 13, 2020 BCD Comments at 11-12 and Exhibit 1 and Preliminary Analysis Memo.

⁶⁷ See Preliminary Analysis Memo.

volume of its U.S. sales of the subject merchandise. Based on our analysis of information on the record, we preliminarily determine that Adisseo España's home market of Spain is viable. Therefore, we used home market sales in Spain as the basis for NV for Adisseo España in accordance with section 773(a)(1)(A) and (B) of the Act.

Adisseo España claims that certain sales are outside the ordinary course of trade because the sales process is different than the sales process of merchandise under investigation to other customers in the home market. Thus, these sales should be excluded from the home market data.⁶⁸ The petitioner contends these sales are within Adisseo España's ordinary course of trade because they are done on a regular and continuous basis.⁶⁹ We preliminarily find that Adisseo España has not adequately supported its claim that the sales in question are outside of the ordinary course of trade, and we have therefore preliminarily included these sales in the calculation of the NV.⁷⁰

2. 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. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).⁷¹ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.⁷² In order to determine whether the comparison market sales are at different stages in the marketing process than the U.S. sales, we examine the distribution system in each market, *i.e.*, the chain of distribution, including selling functions and class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales, *i.e.*, NV based on either home market or third country prices,⁷³ we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.⁷⁴

When Commerce is unable to match sales of the foreign like product in the comparison 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 comparison market. In comparing EP or CEP sales to sales at a different LOT in the comparison market, where available data make it possible, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability, *i.e.*, no LOT

⁶⁸ See Adisseo España's Letter, "Methionine from Spain: Pre-Preliminary Comments," dated February 1, 2021 at 2-7.

⁶⁹ See Petitioner's Pre-Preliminary Comments at 2-6.

⁷⁰ See Preliminary Analysis Memo.

⁷¹ See 19 CFR 351.412(c)(2).

⁷² *Id.*; and *Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Antidumping Duty Order in Part*, 75 FR 50999 (August 18, 2010) (2007-2008 OJ from Brazil), and accompanying Issues and Decision Memorandum (IDM) at Comment 7.

⁷³ Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling, G&A expenses, and profit for CV, where possible. See 19 CFR 351.412(c)(1).

⁷⁴ See *Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

adjustment is possible, Commerce will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.⁷⁵

In this investigation, we obtained information from Adisseo España regarding the marketing stages involved in making the reported home market and U.S. sales, including a description of the selling activities performed for each channel of distribution.⁷⁶ We also obtained selling activities performed based on customer category.⁷⁷ Our LOT findings are summarized below.

In the home market, Adisseo España reported that it made sales through one channel of distribution, *i.e.*, direct sales to customers from factory.⁷⁸ Selling activities can be generally grouped into five selling function categories for analysis, specifically, provision of: (1) sales support; (2) training services; (3) technical support; (4) logistical services; and (5) performance of sales-related administrative activities. Based on Adisseo España's selling functions chart and its customer categories, we find that Adisseo España performed sales support, training services, logistical services, and sales-related administrative activities for all home market sales, at the same level of intensity. Adisseo España reported differences in its technical support.

With respect to the U.S. market, Adisseo España reported that it made CEP sales through two channel of distribution, *i.e.*, sales shipped to the Adisseo USA warehouse and direct sales to customers.⁷⁹ For its U.S. sales channel, Adisseo España reported that it performed sales support, logistical services, and sales-related administrative activities.

During the instant proceeding, Commerce requested quantitative information related to Adisseo España's claimed LOTs in the home market and U.S. market, including, *inter alia*, a request for Adisseo España to demonstrate how selling activities varied by the different LOTs claimed.⁸⁰ In response to this request for quantitative information, Adisseo España provided no quantitative analysis to support its claimed home market and U.S. market LOTs in its submissions of its selling functions charts organized by channel of distribution and by customer category.

Accordingly, we preliminarily find that Adisseo España's claim that it made home market sales at one LOT and U.S. sales at a different LOT is not supported by record evidence. Further, because we preliminarily find that the record lacks sufficient information required to determine whether the CEP LOT is at a different level than the home market LOT, we preliminarily find that all home market and U.S. market sales are at the same LOT.⁸¹

3. Cost of Production Analysis

In accordance with section 773(b)(2)(A)(ii) of the Act, Commerce requested COP and CV information from Adisseo España. We examined the cost data and determined that our quarterly

⁷⁵ See, e.g., 2007-2008 OJ from Brazil IDM at Comment 7.

⁷⁶ See Adisseo España's October 16, 2020 AQR at A-15-A-19; Adisseo España's December 2, 2020 Section A SQR at 10-11 and 13-18; Adisseo España's December 18, 2020 Section B SQR at 1-2 and 12-13; and Adisseo España's December 23, 2020 Section C SQR.

⁷⁷ See Adisseo España January 26, 2021 Second BC SQR at 4-7 and Exhibit 2SB-4.

⁷⁸ See Adisseo España October 16, 2020 AQR Exhibit A-8.

⁷⁹ *Id.*; and Adisseo España January 26, 2021 Second BC SQR at 4-7 and Exhibit 2SB-4.

⁸⁰ See Adisseo España's December 2, 2020 Section A SQR at 10-11 and 13-18.

⁸¹ *Id.*; and Adisseo España January 26, 2021 Second BC SQR at 4-7 and Exhibit 2SB-4.

cost methodology is not warranted, and, therefore, we are applying our standard methodology of using annual costs based on Adisseo España's reported data.

a. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the costs of materials and fabrication for the foreign like product and subject merchandise, plus amounts for general and administrative (G&A) expenses and financial expenses. We relied on the COP data submitted by Adisseo España.⁸²

b. Test of Comparison Market Sales Prices

On a product-specific basis, pursuant to section 773(b) of the Act, we compared the weighted-average COPs to the home market sale prices of the foreign like product, in order to determine whether the sale prices were below the COPs. For purposes of this comparison, we used COPs exclusive of selling and packing expenses. The home market sale prices were exclusive of applicable billing adjustments, discounts and rebates, movement charges, actual direct and indirect selling expenses, and packing expenses.

c. Results of the Sales-Below-Costs Test

In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether: (1) within an extended period of time, such sales were made in substantial quantities; and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. In accordance with sections 773(b)(2)(B) and (C) of the Act, where less than 20 percent of the respondent's comparison market sales of a given product are at prices less than the COP, we do not disregard the below-cost sales of that product because we determine that in such instances the below-cost sales were not made within an extended period of time and in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we disregard 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 COPs for the POI, 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.

We found that none of Adisseo España's home market sales during the POI were disregarded as a result of the sales-below-cost test. We therefore used all of Adisseo España's home market sales for determining NV, in accordance with section 773 of the Act.

F. Calculation of NV Based on Comparison Market Prices

We calculated NV for Adisseo España based on prices to unaffiliated customers. In accordance with 19 CFR 351.401(c), we adjusted the starting prices for billing adjustments and rebates.⁸³

⁸² See Preliminary Analysis Memo.

⁸³ *Id.*

We made deductions for movement expenses in accordance with section 773(a)(6)(B)(ii) of the Act, which included, where appropriate, inland freight from the plant to the warehouse, warehouse expense, inland freight from the warehouse to the customer and all movement insurance, where applicable.⁸⁴

We made adjustments for differences in circumstances of sale pursuant to section 773(a)(6)(C)(iii) of the Act by deducting home market direct selling expenses (*i.e.*, commissions, credit expenses, technical service expenses, bank charges and other direct selling expenses).

When comparing U.S. sale prices with a NV based on comparison market sale prices of similar, but not identical, merchandise than the merchandise sold in the United States, we also made adjustments for physical differences in the 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 product and subject merchandise.⁸⁵

We also deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act.

For detailed information on the calculation of NV, *see* the Preliminary Analysis Memorandum.

G. Calculation of NV Based on Constructed Value

In accordance with section 773(e) of the Act, and where applicable, we calculated CV based on the sum of the Adisseo España's material and fabrication costs, G&A and financial expenses, as defined in the "Calculation of Cost of Production" section above, to which is added actual home market selling expenses, commissions and an amount for home market profit. In accordance with section 773(e)(2)(A) of the Act, we based selling expenses, commissions and profit on the amounts incurred and realized by Adisseo España in connection with the production and sale of the foreign like product at the same LOT as the U.S. sale, in the ordinary course of trade, for consumption in the home market. We made adjustments to CV for home market direct selling expenses (*i.e.*, commissions, credit expenses, technical service expenses, bank charges and other direct selling expenses) pursuant to section 773(a)(6)(C)(iii) of the Act.

We added U.S. packing costs, in accordance with section 773(a)(6) of the Act.

VIII. CURRENCY CONVERSION

We made currency conversions into U.S. dollars in accordance with section 773A of the Act and 19 CFR 351.415(a), based on the exchange rates in effect on the date of the U.S. sales as certified by the Federal Reserve Bank.

⁸⁴ *Id.*

⁸⁵ *See* 19 CFR 351.411(b).

IX. RECOMMENDATION

We recommend applying the above methodology for this preliminary determination.



Agree

Disagree

2/24/2021

X



Signed by: CHRISTIAN MARSH

Christian Marsh

Acting Assistant Secretary
for Enforcement and Compliance