UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

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DATE: August 1, 2013

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Import Administration

FROM: Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from Taiwan

Summary

The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty (AD) order on polyethylene terephthalate film, sheet, and strip (PET film) from Taiwan. The period of review (POR) is July 1, 2011, through June 30, 2012. On December 28, 2012, the Department partially rescinded the review with respect to Nan Ya Plastics Corporation (Nan Ya).[1] This review covers respondent Shinkong Synthetic Fibers Corporation (SSFC) and its subsidiary Shinkong Materials Technology Co. Ltd. (SMTC) (collectively, Shinkong), producer and exporter of PET film from Taiwan. The Department preliminarily determines that sales of subject merchandise have been made below normal value (NV) by Shinkong.

If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (CBP) to assess AD on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. We intend to issue final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act).

Background

On July 1, 2002, the Department published in the Federal Register the AD order on PET film from Taiwan.[2] On July 2, 2012, the Department published a notice of opportunity to request an

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[1] See Polyethylene Terephthalate Film, Sheet and Strip from Taiwan: Partial Rescission of the Antidumping Duty Administrative Review, 77 FR 76456 (December 28, 2012).
[2] See Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Taiwan, 67 FR 44174 (July 1, 2002), as corrected by Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Taiwan, 67 FR 46566 (July 15, 2002).

administrative review of the AD order on PET film from Taiwan covering the period July 1, 2011, through June 30, 2012.[3] The Department received a timely request for an AD administrative review from Petitioners[4] for two companies: Nan Ya and Shinkong.[5] The Department also received a timely request from Shinkong requesting review of itself.[6] On August 30, 2012, the Department published a notice of initiation of administrative review with respect to Nan Ya and Shinkong.[7]

On September 26, 2012, DuPont Teijin Films, one of the petitioners who requested the review, withdrew its request for an administrative review of Nan Ya and Shinkong.[8] On November 30, 2012, Mitsubishi Polyester Film, Inc., SKC Inc., and Toray Plastics withdrew the remaining request for an administrative review of Nan Ya.[9] Subsequently, the Department rescinded the review with respect to Nan Ya on December 28, 2012.[10]

On March 14, 2013, we extended the deadline for these preliminary results by 120 days, to August 2, 2013. As explained in the Memorandum from the Assistant Secretary for Import Administration, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 29, through October 30, 2012.[11] Thus, all deadlines in this segment of the proceeding have been extended by two days.

Scope of the Order

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

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[3] See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review, 77 FR 39216, 39217 (July 2, 2012).
[4] Petitioners are DuPont Teijin Films, Mitsubishi Polyester Film, Inc., SKC, Inc. and Toray Plastics (America), Inc.
[5] Letter from Petitioners to the Assistant Secretary for Import Administration, regarding "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from Taiwan: Request for Administrative Review," dated July 31, 2012.
[6] Letter from Shinkong to the Assistant Secretary for Import Administration, regarding "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from Taiwan; Administrative Review Request," dated July 31, 2012.
[7] See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 77 FR 52688 (August 30, 2012).
[8] Letter from Petitioners to the Secretary of Commerce, regarding "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from Taiwan: Withdrawal of DuPont Teijin Films' Request for Antidumping Duty Administrative Review," dated September 26, 2012.
[9] Letter from Petitioners to the Secretary of Commerce, regarding "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from Taiwan: Partial Withdrawal of Request for Antidumping Duty Administrative Review," dated November 30, 2012.
[10] See Polyethylene Terephthalate Film, Sheet and Strip from Taiwan: Partial Rescission of the Antidumping Duty Administrative Review, 77 FR 76456 (December 28, 2012).
[11] See Memorandum to the Record from Paul Piquado, Assistant Secretary for Import Administration, regarding "Tolling of Administrative Deadlines as a Result of the Government Closure During Hurricane Sandy," dated October 31, 2012.

Collapsing of SSFC and SMTC

The Department will treat two or more affiliated producers as a single entity where: (1) those producers have production facilities for similar or identical products that would not require substantial retooling of either facility; and (2) there is a significant potential for manipulation of price or production pursuant to 19 CFR 351.401(f)(1) and (2). Consistent with the most recently-completed administrative review,[12] the Department preliminarily determines that SSFC and SMTC should be treated as a single entity (i.e., Shinkong) for purposes of calculating an AD margin pursuant to 19 CFR 351.401(f).

Shinkong reported that SSFC transferred all PET film equipment to SMTC on July 1, 2010, and that SSFC did not produce or sell PET film during the POR.[13] The Department notes that the facilities did not physically change location when the ownership changed.[14] SSFC also continues to own 80 percent of SMTC[15] and managers are shared between the two firms. Specifically, while SMTC is no longer considered part of SSFC's Business Group 3, one person is both the president of SMTC and head of SSFC's Business Group 3, with personnel from both companies reporting to him.[16] SMTC has been involved only in the production of PET film, and all PET chips (a key input in the production of PET film) used by SMTC to produce PET film were supplied by SSFC.[17] Additionally, SMTC's 2011 financial statements show "manufacturing expense," "operating expense," and "facility fees payable" to SSFC, indicating that operations between the two companies continue to be intertwined.[18]

The record demonstrates that SMTC could shift production to SSFC without substantial retooling. Further, the level of common ownership and shared management between SSFC and SMTC is such that there would be a significant potential for manipulation of price and production of PET film if the two companies are not collapsed. Therefore, because the conditions set forth in both 19 CFR 351.401(f)(1) and (2) are met, we are continuing to collapse SSFC and SMTC, and treat them as a single entity, Shinkong, for these preliminary results.

Comparisons to Normal Value

Pursuant to section 773(a)(1)(B) of the Act and 19 CFR 351.414(c)(1) and (d) (2012), to determine whether Shinkong's sales of subject merchandise from Taiwan to the United States were made at less than NV, the Department compared the export price (EP) to the NV as described in the "Export Price" and "Normal Value" sections of this memorandum.

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[12] See Polyethylene Terephthalate Film, Sheet, and Strip From Taiwan: Preliminary Results of Antidumping Duty Administrative Review, 77 FR 36704 (August 6, 2012) (Preliminary Results 2010-2011) unchanged in the final results: Polyethylene Terephthalate Film, Sheet, and Strip From Taiwan: Final Results of Antidumping Duty Administrative Review; 2010-2011, 78 FR 9668 (February 11, 2013) (Final Results 2010-2011).
[13] See Shinkong's response of February 1, 2013 at 2.
[14] See Shinkong's response of March 21, 2013 at 2.
[15] Id. at 1.
[16] Id. at 4.
[17] See Shinkong's response of February 1, 2013 at 7.
[18] See SMTC's 2011 financial statements, submitted on October 18, 2012, at 38 and 39.

A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1)(2012), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average EPs (or constructed export prices (CEPs)) (the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In antidumping investigations, the Department examines whether to use the average-to-transaction method as an alternative comparison method using an analysis consistent with section 777A(d)(l)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department 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.[19] In recent proceedings, the Department applied a "differential pricing" analysis for determining whether application of average-to-transaction comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.[20] The Department finds that the differential pricing analyses used in these and other recent proceedings may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review.[21] The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of EPs for comparable merchandise that differs significantly among purchasers, regions, or time periods. 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 differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported customer names. Regions are defined using the reported destination code (i.e., city name) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods

[19] See Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011, 77 FR 73415 (December 10, 2012).

[20] See Memoranda to Paul Piquado, Assistant Secretary for Import Administration, from Abdelali Elouaradia, Director of AD/CVD Operations Office 4, entitled "Less Than Fair Value Investigation of Xanthan Gum from Austria: Post-Preliminary Analysis and Calculation Memorandum," "Less Than Fair Value Investigation of Xanthan Gum from the People's Republic of China: Post-Preliminary Analysis and Calculation Memorandum for Neimenggu Fufeng Biotechnologies Co., Ltd. (aka Inner Mongolia Fufeng Biotechnologies Co., Ltd.) and Shangdong Fufeng Fermentation Co., Ltd.," and "Less Than Fair Value Investigation of Xanthan Gum from the People's Republic of China: Post-Preliminary Analysis and Calculation Memorandum for Deosen Biochemical Ltd," dated March 4, 2013.

[21] See, e.g., Certain Activated Carbon From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 26748 (May 8, 2013), and accompanying Decision Memorandum; Certain Steel Threaded Rod From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, 78 FR 21101 (April 9, 2013), and accompanying Decision Memorandum; Polyester Staple Fiber From Taiwan: Preliminary Results of Antidumping Duty Administrative Review, 78 FR 17637 (March 22, 2013), and accompanying Decision Memorandum.

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 the Department uses in making comparisons between EP 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* test is applied 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 calculated 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 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 pass the Cohen's *d* test accounts for 66 percent or more of the value of total sales, then the identified pattern of EPs 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 EPs 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, the Department 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 where both rates 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.

B. Results of the Differential Pricing Analysis

Based on the results of the differential pricing analysis, the Department preliminarily finds that 89 percent of Shinkong's export sales pass the Cohen's *d* test, which confirms the existence of a pattern of EPs for comparable merchandise that differ significantly among purchasers, regions, or time periods. Moreover, our analysis of the application of the average-to-transaction alternative method to Shinkong's EP sales, based on the results of the Cohen's *d* test 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. Accordingly, the Department has determined to use the average-to-transaction method applied to all U.S. sales to calculate the weighted-average dumping margin for Shinkong.

Product Comparisons

Pursuant to section 771(16) of the Act, we determined that products sold by the respondent, as described in the "Scope of the Order" section, above, in Taiwan during the POR, are foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We have relied on five criteria to match U.S. sales of subject merchandise to comparison-market sales: grade, specification, thickness, thickness category, and surface treatment. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product based on the characteristics listed above.

Date of Sale

Shinkong reported in its responses that as a result of a change in its revenue recognition accounting policy, it records the date of sale as the date on which Shinkong estimates the risk of loss has transferred to the buyer. In the home market, this is the Government Uniform Invoice (GUI) date. However, for U.S. sales, Shinkong reported as the date of sale the "estimated date of arrival at the shipping destination."[22]

For date of sale, the Department "normally will use the date of invoice, as recorded in the exporter's or producer's records kept in the ordinary course of business. However, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date reflects the date on which the exporter or producer establishes the material terms of sale."[23] In

[22] See Shinkong's submission of May 14, 2013 at 11.
[23] See 19 CFR 351.401(i)

all prior reviews[24] and the investigation,[25] the Department has used the GUI date as the date of sale because it is the date on which the material terms of sale are established. Shinkong has provided the GUI date for all sales. Information provided by Shinkong indicates that invoice date is the date that best reflects when Shinkong establishes the material terms of sale. Shinkong has not demonstrated that such terms can change between invoice date (which normally precedes shipment date) and the estimated date of arrival. Thus, for purposes of these preliminary results, we are using the GUI date as the date of sale for sales under review in both the U.S. and home markets. Additionally, in accordance with the Department's practice, for any sale for which shipment date preceded invoice date, the Department used shipment date as the date of sale.[26]

Export Price

The Department based the price of all U.S. sales of subject merchandise by Shinkong on EP as defined in section 772(a) of the Act because the merchandise was sold by Shinkong to an unaffiliated purchaser in the United States before importation. We calculated EP based on the packed price to unaffiliated purchasers in the United States, as appropriate.[27] We made adjustments to price for billing adjustments, where applicable, and deducted all movement expenses reported by Shinkong. The Shinkong Preliminary Calculation Memorandum and the preliminary calculation SAS programs provide a detailed explanation of the EP calculations.[28]

Normal Value

A. Selection of 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, we compared the volume of Shinkong's home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise, in accordance with section 773(a)(1) of the Act. In accordance with section 773(a)(1)(B) of the Act, and 19 CFR 351.404(b), because Shinkong's 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

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[24] See Final Results 2010-2011.

[25] See Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Taiwan, 67 FR 35474 (May 20, 2002).

[26] See, e.g., Stainless Steel Sheet and Strip in Coils from the Republic of Korea; Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review, 71 FR 18074, 18079-80 (April 10, 2006), unchanged in Stainless Steel Sheet and Strip in Coils from the Republic of Korea; Final Results and Rescission of Antidumping Duty Administrative Review in Part, 72 FR 4486 (January 31, 2007); and Certain Steel Concrete Reinforcing Bars From Turkey; Final Results of Antidumping Duty Administrative Review and New Shipper Review and Determination To Revoke in Part, 72 FR 62630 (November 6, 2007), and accompanying Issues and Decision Memorandum at Issue 2, where the Department found "that it is appropriate to use the earlier of shipment or invoice date as Colakoglu's and Habas' U.S. date of sale in the instant review, consistent with the date-of-sale methodology established in the previous review."

[27] See section 772(c) of the Act.

[28] See Analysis for the Preliminary Results of the 2011-2012 Administrative Review of the Antidumping Duty Order on Polyethylene Terephthalate Film, Sheet, and Strip from Taiwan: Shinkong Synthetic Fibers Corporation and Shinkong Materials Technology Co. Ltd., including the SAS programs (Shinkong Preliminary Calculation Memorandum), dated concurrently with this notice.

subject merchandise, we have determined that the home market was viable for comparison purposes.

B. Arm's-Length Test

The Department may calculate NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the prices at which sales are made to parties not affiliated with the exporter or producer, i.e., sales to home market affiliates must be at arm's-length. In this proceeding, Shinkong reported sales to affiliates in the home market; therefore, the arm's-length test was run to determine if these sales should be included in the calculation for NV. To examine whether home market sales were made at arm's length, we compared on a product-specific basis the starting price of sales to affiliated customers to the starting price of sales to unaffiliated customers, net of all movement charges, direct selling expenses, discounts and packing. Where the prices to the affiliated party were, on average for all products, within a range of 98 to 102 percent of the same or comparable merchandise to all unaffiliated parties, we determined that all of the sales made to that affiliated party were at arm's length.[29] Where the affiliated party did not pass the arm's-length test, the Department excluded all sales to that affiliated party from the NV calculation.[30] However, because the affiliated customers consumed the merchandise in question, there were no "downstream" sales to unaffiliated customers for purposes of calculating NV.

C. Level of Trade

To determine whether NV sales are at a different level of trade (LOT) than U.S. sales, we examine selling functions along the chain of distribution between the respondent and the unaffiliated customer for EP sales. If the comparison market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make a LOT adjustment pursuant to section 773(a)(7)(A) of the Act.

In implementing these principles, we examined information provided by Shinkong regarding the selling functions involved in their home market and U.S. sales, including a description of these selling functions.[31] Our analysis revealed that there were not any significant differences in selling functions between the different channels of distribution or customer types in either the home or U.S. markets. Therefore, we preliminarily determine that Shinkong made all home-market sales at one LOT. Moreover, we preliminarily determine that all home-market sales by Shinkong were made at the same LOT as their U.S. sales. Accordingly, a LOT adjustment is not warranted.

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[29] See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade, 67 FR 69186, 69187 (November 15, 2002).

[30] See Shinkong Preliminary Calculation Memorandum at Attachment 2.

[31] See Shinkong's submission of October 18, 2012 at Exhibit 8.

D. Cost of Production Analysis

Pursuant to section 773(b)(2)(A)(ii) of the Act, because the Department disregarded certain of Shinkong's sales in the most recently-completed review of this order,[32] the Department has reasonable grounds to believe or suspect that Shinkong made home market sales at prices below the cost of production (COP) in this review. As a result, the Department is directed under section 773(b)(1) of the Act to determine whether Shinkong made home market sales during the POR at prices below COP.

i. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of Shinkong's cost 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. We examined the cost data and determined that our quarterly cost methodology is not warranted. Therefore, we have applied our standard methodology of using annual costs based on the reported data. We relied on Shinkong's submitted COP data with minor adjustments.[33]

ii. 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 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 sections 773(b)(2)(B), (C), and (D) of the Act. 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.

iii. 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 CONNUM 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 a respondent's home market sales of a given model 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

[32] See Preliminary Results 2010-2011, unchanged in Final Results 2010-2011.
[33] See Shinkong Preliminary Calculation Memorandum.

standard annual average cost methodology in these preliminary results, we have also applied our standard cost-recovery test with no adjustments.

Our cost test for Shinkong indicated that for home market sales of certain products, more than 20 percent were sold at prices below the COP within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time. Thus, in accordance with section 773(b)(1) of the Act, we disregarded these below-cost sales in our analysis as outside of the ordinary course of trade and used the remaining sales to determine NV.[34]

E. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on packed prices (i.e., including costs for packing) to unaffiliated customers in the home market.[35] We used Shinkong's adjustments and deductions as reported. We made deductions, where appropriate, for foreign inland freight pursuant to section 773(a)(6)(B) of the Act. In addition, for comparisons involving similar merchandise, we made adjustments for cost differences attributable to the physical differences between the products compared, pursuant to section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We also made adjustments for differences in the circumstances of sale, in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410, specifically for imputed credit expenses. Finally, we deducted home market packing costs and added U.S. packing costs in accordance with section 773(a)(6)(A) and (B) of the Act.[36]

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 Import Administration website at http://ia.ita.doc.gov/exchange/index.html.

[34] See Shinkong Preliminary Calculation Memorandum.

[35] Shinkong sold a small amount of foreign like product to its affiliates in the home market for consumption during the POR. These sales have failed the arm's-length test and therefore have been excluded from the calculation of NV.

[36] See Shinkong Preliminary Calculation Memorandum and the preliminary calculation SAS programs for a detailed explanation of the NV calculations.

Conclusion

We recommend applying the above methodology for these preliminary results.

Agree ✓ Disagree _____

Paul Piquado
Assistant Secretary
for Import Administration

1 AUGUST 2013
Date