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International Trade Administration
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AD/CVD Operations/OVII: JA

July 26, 2021

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

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

SUBJECT: Decision Memorandum for Preliminary Results of Antidumping
Duty Administrative Review and Preliminary Determination of No
Shipments: Polyethylene Terephthalate Film, Sheet, and Strip
from Taiwan; 2019-2020

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on polyethylene terephthalate film, sheet, and strip (PET film) from Taiwan. This review covers two companies: Nan Ya Plastics Corporation (Nan Ya) and Shinkong Materials Technology Corporation (SMTC) and Shinkong Synthetic Fiber Corporation (SSFC), which we consider to be a single entity.¹ The period of review (POR) is July 1, 2019, through June 30, 2020. We preliminarily find that Nan Ya did not sell PET film in the United States below normal value (NV). We also preliminarily find that SMTC/SSFC had no shipments during the POR.

¹ The review of Shinkong Materials Technology Corporation (a/k/a Shinkong Materials Technology Co) includes a review of Shinkong Synthetic Fibers Corporation (a/k/a Shinkong Synthetic Fibers Corp.), which is its parent company. See *Polyethylene Terephthalate Film, Sheet, and Strip from Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 48651 (August 9, 2013), and accompanying Preliminary Decision Memorandum, unchanged in *Polyethylene Terephthalate Film, Sheet, and Strip from Taiwan: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 11407 (February 28, 2014). As discussed below, we continue to treat SMTC and SSFC as a single entity, SMTC/SSFC.



II. BACKGROUND

On July 1, 2020, Commerce published in the *Federal Register* a notice of opportunity to request an administrative review of the AD order on PET film from Taiwan.² On July 27, 2020, and July 30, 2020, Polyplex USA LLC (Polyplex USA), a domestic producer and interested party, and the petitioners³ each requested reviews of Nan Ya and SMTC.⁴ Nan Ya self-requested an administrative review of its sales on July 31, 2020.⁵ On September 3, 2020, in accordance with 19 CFR 351.221(c)(1)(i), Commerce published a notice of initiation of administrative review of the antidumping duty order on PET Film from Taiwan.⁶

On September 30, 2020, SMTC and SSFC each claimed that they did not sell or export any subject merchandise to the United States during the POR. On November 24, 2020, Commerce uploaded entry data on the record of the administrative review.⁷ On December 1, 2020, SMTC submitted comments explaining, and documentation showing, that neither SMTC nor SSFC had produced subject merchandise during the POR or three months prior to the POR.⁸ No rebuttal comments were submitted.

On December 2, 2020, Polyplex USA withdrew its request for an administrative review of entries of PET film for all of the companies that it requested be reviewed in this administrative review period: Nan Ya, SSFC and SMTC.⁹

On December 11, 2020, Commerce issued its initial questionnaire to Nan Ya.¹⁰ Between January 4, 2021, and January 21, 2021,¹¹ Nan Ya submitted its responses to section A and sections B through D of the questionnaire. On June 16, 2021, Commerce issued a supplemental questionnaire to Nan Ya.¹² On June 30, 2021, Nan Ya submitted its supplemental questionnaire response.¹³

² See *Antidumping or Countervailing Duty Order, Finding or Suspended Investigation; Opportunity to Request Administrative Review*, 85 FR 39531 (July 1, 2020).

³ The petitioners consist of DuPont Teijin Films; Mitsubishi Polyester Film, Inc.; and SKC, Inc. (petitioners).

⁴ See Polyplex USA's Letter, "Request for Antidumping Duty Administrative Review," dated July 27, 2020; see also Petitioners' Letter, "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from Taiwan: Request for Antidumping Duty Administrative Review," dated July 30, 2020.

⁵ See Nan Ya's Letter, "Polyethylene Terephthalate (PET) Film from Taiwan," dated July 31, 2020.

⁶ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 54983 (September 30, 2020) (*Initiation Notice*).

⁷ See Memorandum, "Antidumping Duty Administrative Review of Polyethylene Terephthalate Film, Sheet and Strip (PET Film) from Taiwan: U.S. Customs Entries for Shinkong Materials Technology Corporation and Shinkong Synthetic Fibers Corporation," dated November 24, 2020.

⁸ See SMTC's Letter, "Polyethylene Terephthalate Film, Sheet, and Strip from Taiwan; Comments on Entry Data," dated December 1, 2020 (SMTC's Comments on Entry Data).

⁹ See Polyplex USA's Letter, "Polyethylene Terephthalate ('PET') Film from Taiwan: Polyplex USA LLC's Withdrawal of Request for Review for Polyplex USA LLC," dated December 2, 2020.

¹⁰ See Commerce's Letter, Antidumping Duty Questionnaire, dated December 11, 2020.

¹¹ See Nan Ya's Letter, "Polyethylene Terephthalate (PET) Film from Taiwan," dated January 4, 2021 (Nan Ya's Section A QR); see also Nan Ya's Letter, "Polyethylene Terephthalate (PET) Film from Taiwan," dated January 21, 2021 (Nan Ya's Sections BCD QR).

¹² See Commerce's Letter, Antidumping Duty Questionnaire, dated June 16, 2021.

¹³ See Nan Ya's Letter, "Polyethylene Terephthalate (PET) Film from Taiwan," dated June 30, 2021 (Nan Ya's SQR).

On March 25, 2021, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.213(h)(2), Commerce extended the due date for the preliminary results by 60 days (from April 2, 2020, to June 2, 2021).¹⁴ On June 1, 2021, we extended the deadline by an additional 30 days.¹⁵ On July 2, 2021, we extended the deadline until July 30, 2021.¹⁶ The deadline for the preliminary results of this review is now July 30, 2021.

III. SCOPE OF THE ORDER

The products covered by the antidumping duty order are all gauges of raw, pretreated, or primed PET film, whether extruded or coextruded. Excluded are metalized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing 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.

IV. PRELIMINARY DETERMINATION OF NO SHIPMENTS FOR SMTC/SSFC

On September 30, 2020, SMTC and SSFC each timely submitted a no shipment certification.¹⁷ We have treated SMTC and SSFC as a single entity in all subsequent reviews and have included SSFC when only SMTC was requested in the administrative review. There is no information on the record of this administrative review that would lead Commerce to reconsider that determination. Accordingly, we continue to treat SMTC and SSFC as a single entity for purposes of this administrative review.

On December 1, 2020, SMTC filed comments to Commerce's CBP Upload, explaining and providing documentation showing that neither SMTC nor SSFC produced subject merchandise during the POR or the pre-POR window period (the three months prior).¹⁸

On January 7, 2021, Commerce sent a no shipment inquiry for SMTC and SSFC to U.S Customs and Border Protection (CBP).¹⁹ On June 7, 2021, CBP replied that it found no evidence of shipments from SMTC and SSFC during the POR.²⁰

¹⁴ See Memorandum, "Polyethylene Terephthalate (PET) Film, Sheet and Strip from Taiwan: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review (2019-2020)," dated March 25, 2021.

¹⁵ See Memorandum, "Polyethylene Terephthalate (PET) Film, Sheet and Strip from Taiwan: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review (2019-2020)," dated June 1, 2021.

¹⁶ See Memorandum, "Polyethylene Terephthalate (PET) Film, Sheet and Strip from Taiwan: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review (2019-2020)," dated July 2, 2021.

¹⁷ See SMTC's Letter, "Polyethylene Terephthalate Film, Sheet and Strip from Taiwan; No Shipment Certification," dated September 30, 2020; *see also* SSFC's Letter, "Polyethylene Terephthalate Film, Sheet and Strip from Taiwan; No Shipment Certification," dated September 30, 2020.

¹⁸ See SMTC's Comments on Entry Data.

¹⁹ See Message 1008401 to CBP, dated January 8, 2021.

²⁰ See Memorandum, "Polyethylene terephthalate film, sheet, and strip (PET Film) from Taiwan; No Shipment Inquiry for Shinkong Materials Technical Corporation and/or Shinkong Synthetic Fibers Corporation during the Period 07/01/2019 through 06/30/2020," dated June 7, 2021.

Based on record evidence (*i.e.*, SMTC and SSFC’s no shipment certifications as well as SMTC’s comments and supporting documentation, and CBP’s reply to our no shipment inquiry), Commerce preliminarily finds that SMTC/SSFC had no shipments or entries of subject merchandise for consumption during the POR. Consistent with Commerce’s practice, we will not preliminarily rescind the review with respect to SMTC/SSFC, but rather, we will complete the review and issue instructions to CBP based on the final results.

V. COMPARISONS TO NORMAL VALUE

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

A. Product Comparisons

In accordance with section 771(16) of the Act, we compared prices for products sold in the U.S. market with prices for products sold in the home market, which were either identical or most similar in terms of the physical characteristics. In the order of importance, these physical characteristics are grade, specification, thickness, thickness category, and surface treatment. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product based on the characteristics listed above.

B. Determination of Comparison Method

Pursuant to 19 CFR 351.414 (b) and (c)(1), Commerce calculates dumping margins by comparing weighted-average NVs to weighted-average EPs (or CEPs) (*i.e.*, the average-to-average method) unless Commerce determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, Commerce examines whether to compare weighted-average NVs to the EPs (or CEPs) of individual U.S. sales (*i.e.*, the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern Commerce’s examination of this question in the context of administrative reviews, Commerce nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in antidumping duty investigations.²¹

In recent investigations, Commerce applied a “differential pricing” analysis for determining whether application of average-to-transaction comparisons is appropriate in a particular situation

²¹ See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum at Comment 1; see also *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286, 1322 (CIT 2014), *aff’d*, 862 F.3d 1337 (Fed. Cir. 2017); and *JBF RAK LLC v. United States*, 790 F.3d. 1358, 1363-65 (Fed. Cir. 2015) (“{t}he fact that the statute is silent with regard to administrative reviews does not preclude Commerce from filling gaps in the statute to properly calculate and assign antidumping duties.”)(citations omitted).

pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.²² Commerce finds that the differential pricing analysis used in those recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. 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 weighted-average dumping margins.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of prices for comparable merchandise that differs significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchaser, region, and time period to determine whether a pattern of prices that differ significantly exists. If such a pattern of price is found, then the differential pricing analysis evaluates whether such differences can be considered when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. For the respondent, purchasers are based on the reported (consolidated) customer codes for Nan Ya. Regions are defined using the reported destination code (*i.e.*, zip code) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region, and time period, that Commerce uses in making comparisons between EP (or CEPs) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the "Cohen's *d* test" is applied. The Cohen's *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen's *d* coefficient is calculated when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen's *d* coefficient is used to evaluate the extent to which the net prices to a particular purchaser, region or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen's *d* test: small, medium, or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant, and the sales in the test group were found to have passed the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

²² See *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); see also *Steel Concrete Reinforcing Bars from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); 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 passes the Cohen’s *d* test accounts for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that passes the Cohen’s *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen’s *d* test as an alternative to the average-to-average method, and application of the average-to-average method to those sales identified as not passing the Cohen’s *d* test. If 33 percent or less of the value of total sales passes the Cohen’s *d* test, then the results of the Cohen’s *d* test do not support consideration of an alternative to the average-to-average method.

If both tests in the first stage (*i.e.*, the Cohen’s *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether using only the average-to-average method can appropriately account for such differences. In considering this question, Commerce tests whether using an alternative method, based on the results of the Cohen’s *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two calculations is meaningful, this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if: (1) there is a 25 percent relative change in the weighted-average dumping margin between the average-to-average method and the appropriate alternative method when both results are above the *de minimis* threshold, or (2) the resulting weighted-average dumping margin moves across the *de minimis* threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.²³

C. Results of the Differential Pricing Analysis

For Nan Ya, based on the results of the differential pricing analysis, Commerce preliminarily finds that the value of all U.S. sales passing the Cohen’s *d* test is 9.10 percent, and does not confirm the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. 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 preliminarily determines

²³ The Court of Appeals for the Federal Circuit (CAFC) has affirmed much of Commerce’s differential pricing methodology. *See, e.g., Dillinger France S.A. v. United States*, 981 F.3d 1318 (Fed. Cir. 2020); and *Apex Frozen Foods v. United States*, 862 F. 3d 1322 (Fed. Cir. 2017). We ask that interested parties present only arguments on issues which have not already been decided by the CAFC.

to apply the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Nan Ya.

VI. DATE OF SALE

Section 351.401(i) of Commerce's regulations states that, in identifying the date of sale of the merchandise under consideration or foreign like product, Commerce normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business. Additionally, under that regulation, 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.²⁴ In addition, Commerce's long-standing practice is to rely on shipment date where it precedes invoice date as the date of sale.²⁵ In the instant review, consistent with the most recently completed review, Nan Ya reported the date of shipment from the factory (what Nan Ya refers to as the delivery note date) as the date of sale for its home market.²⁶ Information on the record indicates that in the home market, Nan Ya issues its invoice on the same day that it ships the merchandise.²⁷ Therefore, because information on the record supports the shipment and invoice date being the same, pursuant to 19 CFR 351.401(i), we are preliminarily using invoice date as the date of sale in the home market.

For the U.S. market, Nan Ya reported that it issues its commercial invoice a few days after shipment of the merchandise.²⁸ Information on the record indicates that in the U.S. market, Nan Ya issues its commercial invoice after it ships the subject merchandise.²⁹ Therefore, consistent with 19 CFR 351.401(i) and Commerce's practice as noted above, we have preliminarily used the earlier of shipment date or invoice date as the date of sale for Nan Ya's U.S. sales.³⁰

²⁴ See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090-1092 (CIT 2001) (*Allied Tube & Conduit Corp.*) ("As elaborated by Department practice, a date other than invoice date 'better reflects' the date when 'material terms of sale' are established if the party shows that the 'material terms of sale' undergo no meaningful change (and are not subject to meaningful change) between the proposed date and the invoice date.")

²⁵ See, e.g., *Seamless Refined Copper Pipe and Tube from Mexico: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 33482 (June 12, 2015), and accompanying Issues and Decision Memorandum at Comment 1; and *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10.

²⁶ See Nan Ya's Section BCD QR at B-20 and at C-13.

²⁷ "Nan Ya relies on the date of the Government Uniform Invoice ('GUI')." See Nan Ya's AQR at A-13.

²⁸ "Nan Ya treats the delivery note as date of sale. Nan Ya issues the delivery note upon shipment of the product.... And in the case of export sales, neither party is allowed to change the agreed material terms of the sales once the delivery note is issued, and the merchandise is delivered." See Nan Ya's Section A QR at A-13; see also Nan Ya's Section BCD QR at C-13

²⁹ *Id.*

³⁰ See, e.g., *Non-Oriented Electrical Steel from the Republic of Korea: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination*, 79 FR 29426 (May 22, 2014), and accompanying Decision Memorandum at 16, unchanged at *Non-Oriented Electrical Steel from the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances*, 79 FR 61612 (October 14, 2014) ("As the information on the record indicates that the material terms of sale ... could change until the date of shipment or invoice, where applicable, for both U.S. and comparison market sales, for purposes of this preliminary determination, we used the date of shipment (if earlier than the date of invoice) or the date of invoice as the date of sale for POSCO's reported U.S. and comparison market sales.")

VII. EXPORT PRICE

For sales to the United States, Commerce calculated EP in accordance with section 772(a) of the Act because the merchandise was sold prior to importation by the exporter or producer outside the United States to the first unaffiliated purchaser in the United States. We calculated EP based on packed prices to customers in the United States. Where applicable, we made deductions from U.S. price for domestic inland freight from plant to port of exportation, brokerage and handling charges incurred in the country of manufacture, trade promotion fee, and marine insurance, in accordance with section 772(c)(2)(A) of the Act.

VIII. NORMAL VALUE

A. Home Market Viability as Comparison Market

To determine whether there was a sufficient volume of sales of PET film in the home market to serve as a viable basis for calculating NV, Commerce compared the volume of the respondent's home market sales of the foreign like product to their volume of U.S. sales of the subject merchandise in accordance with section 773(a) of the Act. Pursuant to section 773(a)(1)(B) of the Act, because its aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable for comparison purposes for Nan Ya.

B. Level of Trade

In accordance with section 773(a)(1)(B) of the Act and the Statement of Administrative Action accompanying the Uruguay Round Agreements Act,³¹ to the extent practicable, Commerce determines NV based on sales in the comparison market at the same level of trade (LOT) as the EP. Pursuant to 19 CFR 351.412(c)(1), the NV LOT is based on the starting price of the sales in the comparison market or, when NV is based on constructed value (CV), the starting price of the sales from which we derive the adjustments to CV for selling expenses and profit. For EP sales, the U.S. LOT is based on the starting price of the sales in the U.S. market, which is usually from the exporter to the importer.

To determine whether comparison market sales are at a different LOT than EP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer.³² 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 the comparison market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act.

Nan Ya reported that it sold to two home market channels of distribution (*i.e.*, end-users and distributors) and that it performed most of its selling functions at the same or similar levels of

³¹ See H.R. Doc. No. 316, 103d Cong., 2d Sess. 829-831 (1994).

³² See 19 CFR 351.412(c)(2).

intensity in both channels of distribution.³³ Because the selling activities to Nan Ya's customers did not vary for sales in the home market through its two channels of distribution, we preliminarily determine that there is one LOT in the home market.

Similarly, Nan Ya reported two channels of distribution in the U.S. market for sales made to importers and end users. However, Nan Ya reported that it performed its selling functions in both channels of distribution at the same or similar levels of intensity. Therefore, we preliminarily find that there is one LOT in the U.S. market.³⁴

Nan Ya also provided Commerce with information on its selling activities in the home and U.S. markets.³⁵ We find that Nan Ya provided mostly similar level of customer support services on their U.S. sales (all of which were EP) as it did on its home market sales, and that the minor differences in levels of intensity that do exist do not establish a distinct and separate LOTs. Thus, we determine that for Nan Ya, the EP and the starting price of home market sales represent the same stage in the marketing process, and are, thus, at the same LOT. For this reason, we preliminarily find that an LOT adjustment for Nan Ya is not warranted.

C Cost of Production Analysis

In accordance with section 773(b)(2)(A) of the Act, we requested CV and cost of production (COP) information from Nan Ya to determine if there were reasonable grounds to believe or suspect that sales of foreign like product had been made at prices less than the COP of the product. We preliminarily determine that Nan Ya in fact made sales in the home market during the POR that were below the costs of production (COP) in its home market.

1. Calculation of Cost of Production Test

We calculated the COP on a product-specific basis, based on the sum of the respondent's costs of materials and fabrication for the foreign like product plus amounts for general and administrative expenses, interest expenses, and the costs of all expenses incidental to preparing the foreign like product for shipment in accordance with section 773(b)(3) of the Act.

2. Test of Comparison Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP for the POR to the per-unit price of the comparison market sales of the foreign like product to determine whether these sales by Nan Ya 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

³³ See Nan Ya's Section A QR at A-11 to A-18 (Narrative of Sales Process) and Exhibit A-3.c (Chart of Sales Activities).

³⁴ *Id.* at Exhibit A-3.c.

³⁵ *Id.*

section 773(b) of the Act.³⁶ 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.³⁷

3. Results of the Cost of Production Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of sales of a given product were at prices less than the COP, we did not disregard below-cost sales of that product because we determined that the below-cost sales were not made in substantial quantities. Where 20 percent or more of the respondent's home market sales of a given product were at prices less than the COP, we disregarded the below-cost sales because: (1) they were made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act, and (2) based on our comparison of prices to the weighted average of the COPs, they were at prices which would not permit the recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act. Because we are applying our standard annual weighted-average cost methodology in these preliminary results, we also applied our standard cost-recovery test with no adjustments.

Our cost test for Nan Ya 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.³⁸

D. Calculation of Normal Value Based on Comparison Market Prices

We based NV on the starting prices of Nan Ya's sales to unaffiliated home market customers, pursuant to sections 773(a)(1)(A) and 773(a)(1)(B)(i) of the Act and, where appropriate, made deductions from NV for movement expenses (*i.e.*, inland freight) in accordance with section 773(a)(6)(B)(ii) of the Act. In accordance with 19 CFR 351.401(c), we adjusted for discounts and rebates. We are preliminarily accepting Nan Ya's discount and rebates if they were used during the period of review for these preliminary results but may request further information.³⁹ Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410, we made, where appropriate, circumstance-of-sale adjustments (*i.e.*, credit and warranty expenses). When applicable, we also made adjustments in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred on comparison-market or U.S. market sales where commissions were granted on sales in one market but not the other. Specifically, where commissions were granted in the U.S. market but not in the comparison market, we made a downward adjustment to NV for the lesser of: (1) the amount of the commission paid in the U.S. market, and (2) the amount of

³⁶ See Memorandum, "Nan Ya's Preliminary Analysis Memorandum," dated concurrently with this Preliminary Decision Memorandum.

³⁷ *Id.*

³⁸ *Id.*

³⁹ See Nan Ya's Section BCD QR at B-21 to 25 and Exhibit B-VI.19.2; *see also* Nan Ya's SQR.

indirect selling expenses incurred in the comparison market. If commissions were granted in the comparison market but not in the U.S. market, we made an upward adjustment to NV following the same method. We also made adjustments for differences in domestic and export packing expenses in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act.⁴⁰

When comparing U.S. sale prices with NVs based on comparison market sale prices of similar, but not identical, merchandise, we also made adjustments for physical differences in merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like products and the subject merchandise.⁴¹

E. Price-to-Constructed Value Comparisons

Where we were unable to determine NV based on home market sales of comparable merchandise, in accordance with section 773(a)(4) of the Act, we based NV on constructed value (CV). Where appropriate, we made adjustments to CV, in accordance with section 773(a)(8) of the Act.

In accordance with section 773(e) of the Act, and where applicable, we calculated CV based on the sum of Nan Ya's COP, SG&A expenses, profit, and U.S. packing costs. We calculated the COP component of CV as described above in the "Cost of Production" section of this memorandum. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by Nan Ya in connection with the production and sales of the foreign like product at the same LOT as the U.S. sale, in the ordinary course of trade, for consumption in the comparison (*i.e.*, home) market.

IX. CURRENCY CONVERSION

We made currency conversions into U.S. dollars in accordance with section 773A of the Act and 19 CFR 351.415, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. The exchange rates are available on the Enforcement and Compliance web site at <http://enforcement.trade.gov/exchange/index.html>.⁴²

⁴⁰ See Memorandum, "Nan Ya Preliminary Analysis Memorandum," dated concurrently with this Preliminary Determination Memorandum for further details.

⁴¹ See 19 CFR 351.411(b).

⁴² See Memorandum, "Nan Ya Preliminary Analysis Memorandum," dated concurrently with this Preliminary Determination Memorandum at Attachment 2 ("Nan Ya's U.S. Market Sales and Margin Program Output and Log.")

X. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.



Agree



Disagree

7/26/2021

X



Signed by: CHRISTIAN MARSH

Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance