



A-351-842
Administrative Review
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March 27, 2020

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Preliminary Results of the
Administrative Review of the Antidumping Duty Order: Certain
Uncoated Paper from Brazil; 2018-2019

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on certain uncoated paper (uncoated paper) from Brazil for the period of review (POR) March 1, 2018 through February 28, 2019. The review covers two producers and/or exporters of the subject merchandise: Suzano Papel e Celulose S.A. (Suzano), and International Paper do Brasil Ltda. (IP) and International Paper Exportadora Ltda. (IPEX) (collectively, International Paper).¹ We preliminarily determine that Suzano made sales of subject merchandise at prices below normal value (NV) during the POR, while International Paper did not.

¹ In the less-than-fair-value (LTFV) investigation, we determined that IP and IPEX constituted a single entity. Because no interested parties submitted comments on this issue, and in the absence of any new information regarding this finding, Commerce is continuing to find that IP and IPEX are affiliated, pursuant to sections 771(33)(E) and (F) of the Act, and are considered a single entity, pursuant to 19 CFR 351.401(f). See *Certain Uncoated Paper From Brazil: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 80 FR 52029 (August 27, 2015), and accompanying Preliminary Decision Memorandum at “Affiliation Determinations,” unchanged in *Certain Uncoated Paper From Brazil: Final Determination of Sales at Less Than Fair Value*, 81 FR 3115 (January 20, 2016).



II. BACKGROUND

On March 3, 2016, Commerce published in the *Federal Register* the AD order on uncoated paper from Brazil.² On March 5, 2019, Commerce published a notice of opportunity to request an administrative review of the AD order on uncoated paper from Brazil.³ Pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b)(1), Commerce received timely requests to conduct an administrative review of the AD order on uncoated paper from Brazil from Domtar Corporation, P.H. Glatfelter Company, Packing Corporation of America, and the United States Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC (collectively, the petitioners), Suzano and International Paper.⁴ On May 29, 2019, in accordance with 19 CFR 351.221(c)(1)(i), we published a notice of initiation of administrative review for Suzano and International Paper.⁵

On July 1, 2019, we issued the AD questionnaire to International Paper and Suzano. Between July 26, 2019, and February 21, 2020, International Paper and Suzano submitted timely responses to Commerce's initial and supplemental questionnaires.⁶

Pursuant to section 751(a)(3)(A) of the Act, Commerce determined that it was not practicable to complete the preliminary results of this review within the 245 days and postponed the preliminary results by 117 days.⁷ The revised deadline for the preliminary results in this review is March 27, 2020.

III. SCOPE OF THE ORDER

The merchandise covered by the order includes uncoated paper in sheet form; weighing at least 40 grams per square meter but not more than 150 grams per square meter; that either is a white

² See *Certain Uncoated Paper from Australia, Brazil, Indonesia, the People's Republic of China, and Portugal: Amended Final Affirmative Antidumping Determinations for Brazil and Indonesia and Antidumping Duty Orders*, 81 FR 11174 (March 3, 2016).

³ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 84 FR 7877 (March 5, 2019).

⁴ See Suzano's Letter, "Paper from Brazil: Request for Administrative Review of Suzano Papel e Celulose S.A.," dated March 29, 2019; International Paper's Letter, "Uncoated Paper from Brazil: Request for Administrative Review," dated March 29, 2019; and Petitioners' Letter, "Uncoated Paper From Brazil / Request For Administrative Review Of The Antidumping Order," dated April 1, 2019.

⁵ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 24743 (May 29, 2019) (*Initiation Notice*).

⁶ See Suzano's July 26, 2019 Section A Questionnaire Response (Suzano July 26, 2019 AQR); International Paper's August 1, 2019 Section A Questionnaire Response (International Paper August 1, 2019 AQR); Suzano's August 21, 2019 Section B Questionnaire Response (Suzano August 21, 2019 BQR); and Suzano's August 21, 2019 Section C Questionnaire Response (Suzano August 21, 2019 CQR); see also International Paper's August 19, 2019 Sections B-C Questionnaire Response (International Paper August 19, 2019 BCQR); Suzano's February 10, 2020 Supplemental Sections AC Questionnaire Response and International Paper's February 21, 2020 Supplemental Sections A-C Questionnaire Response (International Paper February 21, 2020 SQR).

⁷ See Memorandum, "Third Antidumping Duty Administrative Review of Certain Uncoated Paper from Brazil: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated November 25, 2019.

paper with a GE brightness level⁸ of 85 or higher or is a colored paper; whether or not surface-decorated, printed (except as described below), embossed, perforated, or punched; irrespective of the smoothness of the surface; and irrespective of dimensions (Certain Uncoated Paper).

Certain Uncoated Paper includes (a) uncoated free sheet paper that meets this scope definition; (b) uncoated ground wood paper produced from bleached chemi-thermo-mechanical pulp (BCTMP) that meets this scope definition; and (c) any other uncoated paper that meets this scope definition regardless of the type of pulp used to produce the paper.

Specifically excluded from the scope are (1) paper printed with final content of printed text or graphics and (2) lined paper products, typically school supplies, composed of paper that incorporates straight horizontal and/or vertical lines that would make the paper unsuitable for copying or printing purposes. For purposes of this scope definition, paper shall be considered “printed with final content” where at least one side of the sheet has printed text and/or graphics that cover at least five percent of the surface area of the entire sheet.

Imports of the subject merchandise are provided for under Harmonized Tariff Schedule of the United States (HTSUS) categories 4802.56.1000, 4802.56.2000, 4802.56.3000, 4802.56.4000, 4802.56.6000, 4802.56.7020, 4802.56.7040, 4802.57.1000, 4802.57.2000, 4802.57.3000, and 4802.57.4000. Some imports of subject merchandise may also be classified under 4802.62.1000, 4802.62.2000, 4802.62.3000, 4802.62.5000, 4802.62.6020, 4802.62.6040, 4802.69.1000, 4802.69.2000, 4802.69.3000, 4811.90.8050 and 4811.90.9080. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

IV. DISCUSSION OF THE METHODOLOGY

Comparisons to Normal Value

Pursuant to section 773(a) of the Act, and 19 CFR 351.414(c)(1) and (d), to determine whether Suzano’s and International Paper’s sales of uncoated paper from Brazil to the United States were made at less than NV, Commerce compared the export price (EP) or constructed export price (CEP) to the NV, as described in the “Export Price/Constructed Export Price” and “Normal Value” sections of this memorandum.

A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates dumping margins by comparing weighted-average NVs to weighted-average EPs (or CEPs) (*i.e.*, the average-to-average method)

⁸ One of the key measurements of any grade of paper is brightness. Generally speaking, the brighter the paper the better the contrast between the paper and the ink. Brightness is measured using a GE Reflectance Scale, which measures the reflection of light off a grade of paper. One is the lowest reflection, or what would be given to a totally black grade, and 100 is the brightest measured grade. “Colored paper” as used in this scope definition means a paper with a hue other than white that reflects one of the primary colors of magenta, yellow, and cyan (red, yellow, and blue) or a combination of such primary colors.

unless Commerce determines that another method is appropriate in a particular situation. In LTFV investigations, Commerce examines whether to compare weighted-average NVs with the EPs (or CEPs) 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. 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, the issue arising under 19 CFR 351.414(c)(1) in an administrative review is analogous to the issue in an LTFV investigation.⁹

In recent investigations, Commerce applied a “differential pricing” analysis for determining whether application of average-to-transaction comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.¹⁰ Commerce finds that the differential pricing analysis used in those 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 EPs (or CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchaser, region, 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 consolidated customer codes reported by the respondent. Regions are defined using the reported destination code (*i.e.*, zip codes or city and state names) 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 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 (CONNUM) and all characteristics of the U.S. sales, other than purchaser, region and time

⁹ See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum (IDM) at Comment 1; see also *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).

¹⁰ See, e.g., *Polyethylene Terephthalate Resin from Taiwan: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 83 FR 19696 (May 4, 2018), unchanged in *Polyethylene Terephthalate Resin from Taiwan: Final Determination of Sales at Less Than Fair Value, and Final Affirmative Determination of Critical Circumstances, in Part*, 83 FR 48287 (September 24, 2018); *Large Diameter Welded Pipe from Canada: Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 83 FR 43649 (August 27, 2018), unchanged in *Large Diameter Welded Pipe from Canada: Final Affirmative Determination of Sales at Less Than Fair Value*, 84 FR 6378 (February 27, 2019); and *Cast Iron Soil Pipe from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 83 FR 44567 (August 31, 2018), unchanged in *Cast Iron Soil Pipe from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 84 FR 6767 (February 28, 2019).

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.

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 these preliminary results, including arguments for modifying the group definitions used in this proceeding.¹¹

B. Results of the Differential Pricing Analysis

For Suzano, based on the results of the differential pricing analysis, Commerce preliminarily finds that 14.92 percent of the value of U.S. sales pass the Cohen's *d* test,¹² which 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.¹³ Accordingly, Commerce preliminarily determines to apply the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Suzano.

For International Paper, based on the results of the differential pricing analysis, Commerce preliminarily finds that 100 percent of the value of U.S. sales pass the Cohen's *d* test,¹⁴ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, Commerce preliminarily determines to apply the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for International Paper.

V. PRODUCT COMPARISONS

For purposes of determining an appropriate product comparison to U.S. sales, in accordance with section 771(16)(A) of the Act, we considered all products sold in the home market as described in the "Scope of the Order" section, above, that were sold in the ordinary course of trade. In making the product comparisons, we matched foreign like products to the products sold in the United States based on their physical characteristics. In order of importance, these physical

¹¹ The Court of Appeals for the Federal Circuit (CAFC) has affirmed much of Commerce's differential pricing methodology. *See, e.g., 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.

¹² *See* Memorandum, "Antidumping Duty Administrative Review of Certain Uncoated Paper from Brazil: Preliminary Results Analysis Memorandum for Suzano Papel e Celulose S.A.," dated concurrently with this memorandum (Suzano Preliminary Analysis Memorandum) at 2-3.

¹³ *Id.*

¹⁴ *See* Memorandum, "Third Administrative Review of the Antidumping Duty Order on Certain Uncoated Paper from Brazil 2018-2019: Preliminary Analysis Memorandum for International Paper do Brasil Ltda. and International Paper Exportadora Ltda." (International Paper Preliminary Analysis Memorandum) at 2.

characteristics are: whether the product is folio paper, color, existence of embossing/watermark, basis weight, sheet size, brightness, recycled weight, printing, perforations, and punching.

Pursuant to 19 CFR 351.414(f), we compared U.S. sales of uncoated paper to home market sales of uncoated paper within the contemporaneous window period, which extends from three months prior to the month of the first U.S. sale until two months after the month of the last U.S. sale. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, according to section 771(16)(B) of the Act, we compared U.S. sales of uncoated paper to sales of the most similar foreign like product made in the ordinary course of trade.

VI. DATE OF SALE

Section 351.401(i) of Commerce's regulations states that, "{i}n identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business." The regulation provides further that Commerce may use a date other than the date of invoice if Commerce is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.¹⁵ Commerce has a long-standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established.¹⁶

Both Suzano and International Paper reported the date of invoice to the first unaffiliated customer as the date of sale for both their home market sales and U.S. sales.¹⁷ In this review, both Suzano and International Paper reported that the invoice date best represents the date of sale because, at that point, the material terms of the sale cannot be altered.

To assign a date of sale, we followed Commerce practice. For Suzano, the date of shipment never preceded the invoice date; therefore, we used invoice date as the date of sale. For International Paper, we relied on the earlier of invoice date or shipment date.

VII. TREATMENT OF RE-EXPORT SALES

International Paper reported that it exported subject merchandise to an unaffiliated customer located in the United States.¹⁸ International Paper's customer (Company A) kept this merchandise in its own warehouse, located in a foreign trade zone (FTZ). In one instance,

¹⁵ See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)).

¹⁶ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (December 23, 2004), and accompanying IDM at Comment 10; see also *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002), and accompanying IDM at Comment 2.

¹⁷ See Suzano August 21, 2019 BQR, at B-16; and Suzano August 21, 2019 CQR, at C-16; see also International Paper August 19, 2019 BCQR, at B-17 and C-16.

¹⁸ See International Paper August 1, 2019 AQR, at A-6.

Customer A withdrew some of the merchandise for consumption in the United States and sold the merchandise to an unaffiliated U.S. customer. In most instances, however, Company A re-exported the merchandise to third-country markets, either directly, or after Company A transferred it to a different company (Company B) who was also located in an FTZ.¹⁹ International Paper stated that Commerce should not include sales of any re-exported products in the calculation of U.S. price because International Paper re-exported the products and they never entered U.S. commerce.²⁰

In order to determine whether these FTZ sales are U.S. sales which should be included in the margin calculation, Commerce considers whether the unaffiliated customer is located in the United States,²¹ whether the merchandise was delivered in the United States and, finally, whether the goods entered the commerce of the United States for consumption.²² Commerce notes that International Paper is not affiliated with its customer in the FTZ that re-exported the merchandise to third-country markets.²³ With respect to Company A, Commerce finds that the record evidence demonstrates that, with the exception of goods specifically identified as being entered into the United States for consumption, International Paper's sales to Customer A were of products delivered to the customer's FTZ warehouse in the United States and then re-exported to third-country markets.²⁴ We are, therefore, excluding these sales from the margin analysis for these preliminary results, although we intend to continue to gather information on this matter prior to the final results.

With respect to Company B, International Paper reported that Company A transferred a portion of its purchases from its own FTZ to the FTZ of Company B, and that these goods were subsequently re-exported.²⁵ We preliminarily find that the information on the record indicates that goods produced by International Paper and sold to Company A, and then subsequently transferred to Company B, were not entered into consumption in the United States. We are, therefore, excluding these sales from the margin analysis for the preliminary results. However, we intend to gather further information on Company B's disposition of these goods prior to the final results.

VIII. EXPORT PRICE/CONSTRUCTED EXPORT PRICE

Section 772(a) of the Act defines EP as “the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of subject

¹⁹ Because the identity of International Paper's customer, as well as that customer's subsequent customer located in an FTZ, is business proprietary information, for further information, please see International Paper August 19, 2019 CQR at Exhibit C-3.

²⁰ See International Paper August 1, 2019 AQR at A-6.

²¹ See section 772(a) of the Act (defining “export price” as “the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States,” as adjusted under section 772(c) of the Act.).

²² See *Certain Oil Country Tubular Goods from Ukraine: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances*, 79 FR 41969 (July 18, 2014), and accompanying IDM at Comment 1.

²³ See International Paper August 19, 2019 CQR at Exhibit C-3.

²⁴ See International Paper February 21, 2020 SQR, at Exhibits SQR-12, SQR-13, and SQR-15.

²⁵ See International Paper August 19, 2019 CQR at Exhibit C-3.

merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c)” of section 772 of the Act. Section 772(b) of the Act defines CEP as “the price at which the subject merchandise is first sold (or agreed to be sold) in the United States to an unaffiliated purchaser 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)” of section 772 of the Act.

In accordance with section 772(a) of the Act, Commerce used EP for some of Suzano’s, and all of International Paper’s, U.S. sales because the subject merchandise was first sold directly to the first unaffiliated U.S. purchaser prior to importation into the United States, and CEP methodology was not otherwise warranted. For the remainder of Suzano’s U.S. sales, in accordance with section 772(b) of the Act, we used CEP methodology because the subject merchandise was sold in the United States by a U.S. seller affiliated with Suzano.

Suzano

Commerce calculated EP based on packed, delivered prices to unaffiliated purchasers in the United States. We made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act; these expenses included, where appropriate, foreign inland freight, foreign inland insurance, and foreign brokerage and handling.

Commerce calculated CEP based on the packed, delivered prices to unaffiliated purchasers in the United States. We made adjustments where appropriate, to the starting price for billing adjustments, early payment discounts, and rebates, pursuant to 19 CFR 351.401(c). We also made adjustments for movement expenses in accordance with section 772(c)(2)(A) of the Act; these expenses included where appropriate, foreign inland freight, foreign inland insurance, foreign brokerage and handling, U.S. brokerage and handling, international freight, U.S. inland freight, U.S. warehousing, and U.S. customs duties.

In accordance with section 772(d)(1) of the Act, we also deducted selling expenses associated with economic activities occurring in the United States, which include direct selling expenses (credit expenses, and other direct selling expenses) and indirect selling expenses (inventory carrying costs and indirect selling expenses).

Finally, we made an adjustment for profit allocated to CEP selling expenses, in accordance with section 772(d)(3) of the Act. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Suzano and its U.S. affiliate, Suzano Pulp and Paper America, Inc. (SPPA), on their sales of subject merchandise in the United States and the profit associated with those sales.

International Paper

Commerce calculated EP based on packed, delivered prices to unaffiliated purchasers in the United States. We made deductions for movement expenses, in accordance with section

772(c)(2)(A) of the Act; these expenses included, where appropriate, foreign inland freight, foreign warehousing, foreign brokerage and handling, foreign inland insurance, and international freight.

IX. NORMAL VALUE

A. Home 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), Commerce normally compares 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 Commerce determines that no viable home market exists, Commerce 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 review, Commerce preliminarily determined that the aggregate volume of home market sales of the foreign like product for each of Suzano and International Paper was greater than five percent of the aggregate volume of each of their U.S. sales of the subject merchandise. Therefore, Commerce used home market sales as the basis for NV for both Suzano and International Paper, in accordance with section 773(a)(1)(B) of the Act.²⁶

B. Affiliated Party Transactions and Arm's-Length Test

Commerce 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 price at which sales are made to parties not affiliated with the exporter or producer, *i.e.*, sales were made at arm's-length prices.²⁷

Commerce excludes home market sales to affiliated customers that are not made at arm's-length prices from our margin analysis because Commerce considers them to be outside the ordinary course of trade. Consistent with 19 CFR 351.403(c) and (d) and our practice, "{Commerce} may calculate NV based on sales to affiliates if satisfied that the transactions were made at arm's length."²⁸

International Paper reported that it sold the foreign like product to an affiliated company, International Paper – Comércio de Papel e Participações Arapoti Ltda. (IP Brazil), which resold the merchandise in the home market.²⁹ To test whether International Paper's home market sales to its affiliated customer were made at arm's-length prices, we compared these prices to the prices of sales of comparable merchandise to unaffiliated customers, net of all discounts and

²⁶ See Suzano July 26, 2019 AQR, at Appendix A-1; *see also* International Paper August 1, 2019 AQR at A-5.

²⁷ See 19 CFR 351.403(c).

²⁸ See *China Steel Corp. v. United States*, 264 F. Supp. 2d 1339, 1365 (CIT 2003), *aff'd*, 306 F. Supp. 2d 1291 (CIT 2004) (citing *Light-Walled Rectangular Pipe and Tube from Mexico: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 55352, 55355 (September 7, 2011)).

²⁹ See International Paper August 19, 2019 BQR at B-3.

rebates, movement charges, direct selling expenses, and packing costs. Pursuant to 19 CFR 351.403(c) and in accordance with our practice, when the prices charged to an affiliated customer were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise comparable to that sold to the affiliated customer, we determined that the sales to that affiliated customer were at arm's-length prices.³⁰ We excluded from our analysis all of International Paper's sales made to IP Brazil for consumption in the home market where we determined that these sales, on average, were not sold at arm's-length prices.³¹ Consistent with 19 CFR 351.403(c), we did not request IP Brazil's downstream sales because they represented less than five percent of IP's home market sales.

C. 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).³² Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.³³ 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),³⁴ Commerce considered 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.³⁵

When Commerce is unable to compare the NV based on the prices of the foreign like product in the comparison market with EP or CEP at the same LOT, Commerce may compare the U.S. sale prices to sale prices at a different LOT in the comparison market. In comparing EP or CEP to sale prices 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 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

³⁰ See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69187 (November 15, 2002).

³¹ See International Paper Preliminary Analysis Memorandum for a detailed discussion of the results of the arm's-length-Test.

³² See 19 CFR 351.412(c)(2).

³³ *Id.*; see also *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), and accompanying IDM at Comment 7 (*OJ from Brazil*).

³⁴ Where NV is based on constructed value (CV), we determine the NV LOT based on the LOT of the sales from which we derive selling, general and administrative (SG&A) expenses, and profit for CV, where possible. See 19 CFR 351.412(c)(1).

³⁵ See *Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

comparability, *i.e.*, no LOT adjustment is possible, Commerce will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.³⁶

Suzano

In this review, we obtained information from Suzano regarding the marketing stages involved in making its reported home market and U.S. sales, including a description of the selling activities performed by the respondent for each channel of distribution.³⁷ Our LOT findings are summarized below.

Suzano claimed that it made its home market sales through two channels of distribution: (1) Home Market Channel 1 - Sales Office A sells directly to small retailers and end-users through a call center structure and external sales force; and (2) Home Market Channel 2 - Sales Office B sells directly to distributors and merchants.³⁸ Suzano categorized its selling functions by intensity level, and assigned numeric values for these levels.³⁹ These selling activities, as identified by Commerce in its initial questionnaire, are grouped into five selling function categories: (1) provision of sales support, (2) provision of training services, (3) provision of technical support, (4) provision of logistical services, and (5) performance of sales-related administrative activities.⁴⁰ We find that Suzano performed selling functions related to each of the above-referenced categories for its home market sales at different levels of intensity for each of its two reported distribution methods. For Home Market Channel 1, Suzano reported an intensity level of 9 for provision of sales support, 0 for provision of training services, 2 for provision of technical support, 10 for provision of logistical services, and 7 for performance of sales-related administrative activities. For Home Market Channel 2, Suzano reported an intensity level of 4 for provision of sales support, 4 for provision of training services, 6 for provision of technical support, 5 for provision of logistical services, and 5 for performance of sales-related administrative activities.⁴¹

According to 19 CFR 351.412(c)(2), Commerce will determine that sales are made at different LOTs if they are made at different marketing stages (or their equivalent). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stage of marketing. Suzano contends that the two channels discussed above are different in terms of the segment of the market in which they operate, and this difference is reflected in differences in pricing strategy, credit costs, relationship management, and service level. Based on the information placed on the record by Suzano, including quantifiable information to support the differences in the intensity levels reported,⁴² we preliminarily find the intensity differences in Suzano's selling functions to be significant. Accordingly, based on Suzano's marketing process, including its reported methods of distribution, and the selling

³⁶ See, e.g., *OJ from Brazil* IDM at Comment 7.

³⁷ See Suzano July 26, 2019 AQR at Exhibits A-9 and A-10.

³⁸ The names of these selling units are proprietary.

³⁹ See Suzano July 26, 2019 AQR at Exhibit A-10.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.* at Exhibit A9c.

functions described above, we preliminary find that there are two distinct LOTs in the home market.

With respect to the U.S. market, Suzano reported that it made sales during the POR through two channels of distribution: (1) EP sales shipped directly to United States; and (2) CEP sales made by its U.S. affiliate SPPA to U.S. distributors.⁴³ Within the U.S. channel of distribution, Suzano reported an intensity level of 4 for provision of sales support, 4 for provision of training services, 2 for provision of technical support, 5 for provision of logistical services, and 4 for performance of sales-related administrative activities.⁴⁴ Accordingly, based on Suzano's marketing process, including its reported channel of distribution and selling functions described above, we preliminarily find there is one LOT in the U.S. market.

Suzano provided a narrative response listing the selling functions that it performed in Brazil and the United States, including, for example, sales forecasting, strategic/economic planning, packing, order input/processing, market research, and freight and delivery.⁴⁵ We compared the U.S. LOT to the home market LOTs and found that the selling functions performed for U.S. customers are most similar to home market LOT 2, as Suzano performed many of the same selling functions at relatively similar level of intensity across markets. In contrast, we find that Suzano performed selling functions related to four of the five categories referenced above, *i.e.*, provision of sales support, provision of training services, provision of technical support, and provision of logistical services, at significantly different levels of intensity when comparing its U.S. sales to home market sales in LOT 1. Because Suzano's response indicates that it performed comparable selling functions in the U.S. market as compared with home market LOT 2, we find that these two LOTs are the same.⁴⁶

Based on the findings above, we compared Suzano's U.S. sales to sales at the same home market LOT, where possible. When we are unable to match U.S. sales of the foreign like product in the home market at the same LOT as the EP or CEP, Commerce compared the U.S. sale to sales at a different LOT in the home market. In comparing EP or CEP sales at a different LOT in the home market, where available data make it possible, we make an LOT adjustment under section 773(a)(7)(A) of the Act.

Finally, as we have provided a LOT adjustment for Suzano's U.S. sales, a CEP offset is not warranted pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f).

International Paper

In the home market, International Paper reported that it made sales through two channels of distribution (*i.e.*, direct sales from the paper mill to the customer (retailers, distributors, and end-

⁴³ *Id.* at A-25 and Exhibit A-10. Because Suzano claimed business proprietary treatment for the details of its EP transactions, we have not discussed them. However, based on Suzano's reported information, the selling functions for the U.S. sales on EP basis are not significantly dissimilar to Suzano's CEP selling functions.

⁴⁴ *Id.*

⁴⁵ *Id.* at A-29 - A-43.

⁴⁶ *Id.*

users) (Channel 1), and sales from inventory through third-party warehouses to the customer (retailers, distributors, and end-users) (Channel 2)).⁴⁷ Because International Paper reported that the selling functions that it performed to sell to home market customers in each of these channels are substantially the same, we find that International Paper made all home market sales at the same LOT.

With respect to the U.S. market, International Paper reported that it made sales through two channels of distribution (*i.e.*, direct shipments from the paper mill to the port of export (U.S. Channel 1) and shipments stored at a third-party warehouse that were then shipped to the port of export (U.S. Channel 2)).⁴⁸ Because International Paper reported that the selling functions that it performed to sell to U.S. customers in these channels are also substantially the same, we find that International Paper made all U.S. sales at the same LOT.

Finally, we compared the U.S. LOT to the home market LOT and found that the selling functions performed for U.S. and home market customers do not differ significantly, as International Paper performed many of the same selling functions at the same relative level of intensity in both markets. International Paper provided a narrative response listing those selling functions which it performed in Brazil and the United States, many at the same level in both markets, including, direct sales activities, packing, freight and delivery, order/input processing.⁴⁹ Therefore, based on the above-referenced selling function categories, we find that International Paper performed selling functions related to three of the five categories, provision of sales support, provision of logistical services, and performance of sales related administrative activities for its U.S. sales. Although we recognize that there may be some differences in provision of training services and technical support, we preliminarily do not consider them to be sufficient to create different LOTs. Because International Paper's response indicates that it performed a majority of its selling functions within the same selling function categories at the same or similar levels in both markets,⁵⁰ we, therefore, preliminarily determine that sales to the U.S. and home markets during the POR were made at the same LOT, and, as a result, no LOT adjustment is possible.

D. Cost of Production

In accordance with section 773(b)(2)(A)(ii) of the Act, Commerce requested CV and cost of production (COP) information from Suzano and International Paper in this review. We examined Suzano's and International Paper's cost data and determined that our quarterly cost methodology is not warranted, and, therefore, we applied our standard methodology of using annual costs based on the reported data.

⁴⁷ See International Paper August 1, 2019 AQR at A-23 – A-24.

⁴⁸ *Id.* at A-23.

⁴⁹ *Id.* at Exhibit A-12.

⁵⁰ *Id.*

1. Calculation of COP

We calculated the COP for the respondents based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for SG&A expenses and financial expenses, in accordance with section 773(b)(3) of the Act.

We relied on the COP data provided by Suzano⁵¹ and International Paper for the COP calculation.

2. Sales-Below-Cost Test of Comparison Market Sales Prices

On a product-specific basis, pursuant to section 773(b) of the Act, we compared the adjusted weighted-average COPs to the per-unit price of the home market sales of the foreign like product to determine whether the sales had been made at prices below the COP. In particular, in determining whether to disregard home market sales made at prices below the 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. For purposes of this comparison, we used COPs exclusive of selling and packing expenses. The prices were exclusive of any applicable billing adjustments, discounts, rebates, movement expenses, direct and indirect selling expenses, and packing expenses, where appropriate.

3. Results of the COP Test

Section 773(b)(1) of the Act provides that, where sales made at less than the COP “have been made within an extended period of time in substantial quantities” and “were not at prices which permit recovery of all costs within a reasonable period of time,” Commerce may disregard such sales when calculating NV. Pursuant to section 773(b)(2)(C)(i) of the Act, we did not disregard below-cost sales that were not made in “substantial quantities,” *i.e.*, where less than 20 percent of sales of a given product were made at prices less than the COP. We disregarded below-cost sales when they were made in substantial quantities, *i.e.*, where 20 percent or more of a respondent’s sales of a given product were at prices less than the COP and where “the weighted average per unit price of the sales . . . is less than the weighted average per unit cost of production for such sales.”⁵² Finally, based on our comparison of prices to the weighted-average COPs, we considered whether the prices would permit the recovery of all costs within a reasonable period of time.⁵³

We found that, for certain products, more than 20 percent of Suzano’s and International Paper’s respective home market sales were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. We therefore

⁵¹ We relied on the interest expense rate reported in Exhibit SD-2 of Suzano’s February 26, 2020 Section D Supplemental Questionnaire Response and used this rate to calculate the reported interest expense on a per-CONNUM basis.

⁵² See section 773(b)(2)(C)(ii) of the Act.

⁵³ See section 773(b)(2)(D) of the Act.

disregarded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

E. Calculation of NV Based on Comparison Market Prices

Suzano

We based NV for Suzano on CV. For further discussion, *see* “the Calculation of NV based on CV” section, below.

International Paper

We calculated NV based on packed, ex-factory or delivered prices to unaffiliated customers in Brazil. We made adjustments, where appropriate, to the starting price for billing adjustments, early payment discounts, and rebates, in accordance with 19 CFR 351.401(c).⁵⁴ We also made deductions, pursuant to section 773(a)(6)(B)(iii) of the Act, for certain taxes that were imposed directly on sales of the foreign like product, but not collected on sales of the merchandise under consideration.⁵⁵

We made made deductions, where appropriate, from the starting price for foreign inland freight to the distribution warehouse, foreign inland freight from distribution warehouse to the customer, inland insurance, and warehousing expenses, pursuant to section 773(a)(6)(B) of the Act. We also made adjustments pursuant to section 773(a)(6)(C) of the Act and 19 CFR 351.410 for differences in circumstances of sale for 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.

When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, 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. Commerce based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and the subject merchandise.⁵⁶

F. Calculation of NV Based on CV

In accordance with section 773(e) of the Act, and where applicable, we calculated CV based on the sum of Suzano’s material and fabrication costs, selling expenses, general and administrative (G&A) expenses, profit and U.S. packing costs, as adjusted. In accordance with section 773(e)(2)(A) of the Act, we based selling expenses and profit on the amounts incurred and

⁵⁴ See International Paper Analysis Memorandum.

⁵⁵ See *Small Diameter Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Brazil; Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 24524, 24526 (May 10, 2005) (where Commerce deducted PIS and COFINS taxes from home market prices that were compared to COP figures), unchanged in *Notice of Final Results of Antidumping Duty Administrative Review: Small Diameter Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Brazil*, 70 FR 60280 (October 17, 2005).

⁵⁶ See 19 CFR 351.411(b); *see also* International Paper Preliminary Analysis Memorandum.

realized by Suzano in connection with the production and sale of the foreign like product at the most similar LOT as the U.S. sale, as discussed above, in the ordinary course of trade, for consumption in the comparison market.

For comparisons to Suzano's EP sales, we made circumstances-of-sale adjustments by deducting direct selling expenses incurred on comparison market sales from, and adding U.S. direct selling expenses, to CV, in accordance with section 773(a)(8) of the Act and 19 CFR 351.410.

For comparisons to Suzano's CEP sales, we deducted home market direct selling expenses, in accordance with section 773(a)(6)(B)(ii) of the Act.

When possible, we calculated constructed value at the same level of trade as the EP or CEP. If CV was calculated at a different level of trade, we made an adjustment, if appropriate and if possible, in accordance with sections 773(a)(7) and (8) of the Act.

X. CURRENCY CONVERSION

We made currency conversions into U.S. dollars in accordance with section 773A(a) 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.

XI. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

☒

Agree

☐

Disagree

3/27/2020

X



Signed by: JEFFREY KESSLER
Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance