



A-580-889

Administrative Review

POR: 02/03/2017-07/31/2018

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October 10, 2019

MEMORANDUM TO: Christian Marsh
Deputy 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
2017-2018 Antidumping Duty Administrative Review: Dioctyl
Terephthalate from the Republic of Korea

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order¹ on dioctyl terephthalate (DOTP) from the Republic of Korea (Korea), in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). The period of review (POR) is February 3, 2017 through July 31, 2018. This review covers three mandatory respondents: Aekyung Petrochemical Co., Ltd. (AKP), Hanwha Chemical Corporation (Hanwha Chemical), and LG Chem, Ltd. (LG Chem). We preliminarily determine that AKP and Hanwha Chemical made sales of subject merchandise at prices below normal value (NV) during the POR and that LG Chem did not make sales at less than normal value during the POR.

II. BACKGROUND

On August 7, 2018, Commerce published in the *Federal Register* a notice of opportunity to request an administrative review of the *Order*.² Commerce received timely requests to conduct an administrative review from LG Chem and Eastman Chemical Company (the petitioner).³ On October 4, 2018, in accordance with 19 CFR 351.221(c)(1)(i), we published a notice of initiation

¹ See *Dioctyl Terephthalate from the Republic of Korea: Antidumping Duty Order*, 82 FR 39409 (August 18, 2017) (*Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 83 FR 38682 (August 7, 2018).

³ See Petitioner's Letter, "Dioctyl Terephthalate (DOTP) from Korea: Administrative Review Request," dated August 27, 2018; LG Chem's Letter, "LG Chem's Request for AD Administrative Review Dioctyl Terephthalate (DOTP) from Korea," dated August 31, 2018.



of administrative review covering AKP, Hanwha Chemical, and LG Chem.⁴ On October 25, 2018, LG Chem withdrew its administrative review request.⁵

In the *Initiation Notice*, we stated our intent to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POR.⁶ On October 23, 2018, we released U.S. import data from CBP for comment by interested parties regarding our selection of respondents for the instant review.⁷ The petitioner provided comments on October 30, 2018, arguing that Commerce should select all three respondents upon whom it initiated a review for individual examination.⁸ On November 6, 2018, we issued the initial AD questionnaire to AKP, Hanwha Chemical, and LG Chem.⁹ All three companies provided timely responses to the relevant sections of the initial AD questionnaire.¹⁰ Between April 10, 2019 and May 9, 2019, we issued supplemental questionnaires to AKP, Hanwha Chemical, and LG Chem.¹¹ All three companies provided timely responses, as requested.¹²

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 50077 (October 4, 2018) (*Initiation Notice*).

⁵ See LG Chem's Letter, "LG Chem's Withdrawal of Request for AD Administrative Review Dioctyl Terephthalate (DOTP) from Korea," dated October 25, 2018. Because the petitioner's request for review included LG Chem, we continue to conduct this administrative review with respect to the respondent.

⁶ See *Initiation Notice*.

⁷ See Memorandum, "Antidumping Duty Review of Dioctyl Terephthalate from the Republic of Korea: Release of U.S. Customs and Border Protection Import Data," dated October 23, 2018.

⁸ See Petitioner's Letter, "Dioctyl Terephthalate (DOTP) from Korea: Comments Regarding CBP Import Data and Respondent Selection," dated October 30, 2018.

⁹ See Commerce's Letters to AKP, Hanwha Chemical, and LG Chem, dated November 6, 2018.

¹⁰ See AKP's Letters, "Antidumping Investigation of Dioctyl Terephthalate from Korea - Response to Section A of the Department's November 6 Questionnaire" dated December 11, 2018 (AKP's AQR) and "Antidumping Investigation of Dioctyl Terephthalate from Korea - Response to Sections B, C, and D of the Department's November 6 Questionnaire," dated February 5, 2019 (AKP's BCDQR); see also Hanwha Chemical's Letters, "Dioctyl Terephthalate (DOTP) from the Republic of Korea - Hanwha Chemical's Section A Questionnaire Response," dated December 11, 2018 (Hanwha Chemical's AQR) and "Dioctyl Terephthalate (DOTP) from the Republic of Korea - Hanwha Chemical's Sections B, C, and D Questionnaire Responses," dated February 5, 2019 (Hanwha Chemical's BCDQR); LG Chem's Letters, "LG Chem's Section A Response: Dioctyl Terephthalate (DOTP) from Korea," dated December 12, 2018 (LG Chem's AQR); "LG Chem's Section B Response: Dioctyl Terephthalate (DOTP) from Korea," dated December 20, 2018 (LG Chem's BQR); "LG Chem's Section C Response: Dioctyl Terephthalate (DOTP) from Korea," dated December 20, 2018 (LG Chem's CQR); and "LG Chem's Section D Response: Dioctyl Terephthalate (DOTP) from Korea," dated December 27, 2018 (LG Chem's DQR).

¹¹ See Commerce's Letters, "Dioctyl Terephthalate from the Republic of Korea: Antidumping Duty Administrative Review: First Supplemental Questionnaire for the Sections A, B, C and D Questionnaire Responses of LG Chem Ltd.," dated April 10, 2019; see also "2017-2018 Administrative Review of the Antidumping Duty Order on Dioctyl Terephthalate from the Republic of Korea: First Supplemental Questionnaire for the Sections A, B, C, and D Questionnaire Responses of Hanwha Chemical Corporation," dated April 11, 2019; and "Dioctyl Terephthalate from the Republic of Korea: Antidumping Duty Administrative Review: First Supplemental Questionnaire for the Sections A, B, C and D Questionnaire Responses of Aekyung Petrochemical Co., Ltd.," dated May 9, 2019.

¹² See AKP's Letter, "Response of Aekyung Petrochemical Co., Ltd. to the Department's May 9 Supplemental Questionnaire," dated June 6, 2019 (AKP's 1st SQR); see also Hanwha Chemical's Letter, "Dioctyl Terephthalate (DOTP) from the Republic of Korea - Hanwha Chemical's Supplemental Sections A-D Response," dated May 2, 2019 (Hanwha Chemical's 1st SQR); and LG Chem's Letter, "LG Chem's First Supplemental Section A-D Response: Dioctyl Terephthalate (DOTP) from the Republic of Korea," dated May 13, 2018 (LG Chem's 1st SQR).

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumptions of operations on January 28, 2019.¹³ The revised deadline for the preliminary results was originally June 12, 2019.¹⁴ On May 23, 2019, we extended the deadline for the preliminary results in this review to no later than October 10, 2019.¹⁵

III. SCOPE OF THE ORDER

The merchandise covered by this order is dioctyl terephthalate (DOTP), regardless of form. DOTP that has been blended with other products is included within this scope when such blends include constituent parts that have not been chemically reacted with each other to produce a different product. For such blends, only the DOTP component of the mixture is covered by the scope of this order.

DOTP that is otherwise subject to this order is not excluded when commingled with DOTP from sources not subject to this order. Commingled refers to the mixing of subject and non-subject DOTP. Only the subject component of such commingled products is covered by the scope of the order.

DOTP has the general chemical formulation $C_6H_4(C_8H_{17}COO)_2$ and a chemical name of “bis (2-ethylhexyl) terephthalate” and has a Chemical Abstract Service (CAS) registry number of 6422-86-2. Regardless of the label, all DOTP is covered by this order.

Subject merchandise is currently classified under subheading 2917.39.2000 of the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may also enter under subheadings 2917.39.7000 or 3812.20.1000 of the HTSUS. While the CAS registry number and HTSUS classification are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

IV. DISCUSSION OF THE METHODOLOGY

We are conducting this administrative review of the order in accordance with section 751(a) of the Act and 19 CFR 351.213.

A. *Comparisons to Normal Value*

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), in order to determine whether AKP, Hanwha Chemical, and LG Chem made sales of subject merchandise from Korea to the United States at less than NV, Commerce compared the applicable export price (EP)

¹³ See Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, “Deadlines Affected by the Partial Shutdown of the Federal Government,” dated January 28, 2019. All deadline in this segment of the proceeding have been extended by 40 days.

¹⁴ The original deadline for the preliminary results was May 3, 2019. Due to the government shutdown, tolling the preliminary results by 40 days placed the deadline on June 12, 2019.

¹⁵ See Memorandum, “Dioctyl Terephthalate from the Republic of Korea: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review,” dated May 23, 2019.

and/or constructed export price (CEP) to the NV as described in the “Export Price and Constructed Export Price” and “Normal Value” sections of this memorandum.

B. Determination of the Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs or CEPs (*i.e.*, the average-to-average (A-A) method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value (LTFV) investigations, Commerce examines whether to compare weighted-average NVs with the EPs or CEPs of individual sales (*i.e.*, the average-to-transaction (A-T) 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 less-than-fair-value investigations.¹⁶

In numerous AD investigations, Commerce applied a “differential pricing” analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.¹⁷ Commerce finds that the differential pricing analysis used in certain 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 a respondent’s weighted-average dumping margin.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of export prices (or CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination code, *i.e.*, zip code, and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period,

¹⁶ See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010-2011*, 77 FR 73415 (December 10, 2012) and accompanying Issues and Decision Memorandum (IDM) at Comment 1; see also *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (CIT 2014).

¹⁷ See, *e.g.*, *Xanthan Gum from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); and *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region, and time period, that Commerce uses in making comparisons between EP or CEP and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* coefficient is a generally recognized statistical measure of the extent of the difference between the mean, *i.e.*, weighted-average price, of a test group and the mean, *i.e.*, weighted-average price, of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region, or time period each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s *d* coefficient is used to evaluate the extent to which the prices to the particular purchaser, region, or time period differ significantly from the prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen’s *d* test: small, medium or large (0.2, 0.5 and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are found to pass the Cohen’s *d* test, if the calculated Cohen’s *d* coefficient is equal to or exceeds the large, *i.e.*, 0.8, threshold.

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 under the “mixed method.” 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 segment of the proceeding.¹⁸

C. *Results of the Differential Pricing Analysis*

1. AKP

For AKP, based on the results of the differential pricing analysis, we preliminarily find that 97.11 percent of the value of U.S. sales pass the Cohen's *d* test,¹⁹ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, we preliminarily determine that the average-to-average method cannot account for such differences because the weighted-average dumping margin crosses the *de minimis* threshold when calculated using the average-to-average method and when calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, for these preliminary results, we are applying the average-to-transaction method to all U.S. sales to calculate the weighted-average dumping margin for AKP.

2. Hanwha Chemical

For Hanwha Chemical, based on the results of the differential pricing analysis, Commerce preliminarily finds that 100.00 percent of the value of U.S. sales pass the Cohen's *d* test,²⁰ 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.²¹ Thus, for these preliminary results, we are applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Hanwha Chemical.

¹⁸ The Court of Appeals for the Federal Circuit (CAFC) in *Apex Frozen Foods v. United States*, 862 F. 3d 1322 (Fed. Cir. July 12, 2017) affirmed much of Commerce's differential pricing methodology. We ask that interested parties present only arguments on issues which have not already been decided by the CAFC.

¹⁹ See Memorandum, "Analysis for the Preliminary Results of the Administrative Review of Dioctyl Terephthalate from the Republic of Korea: Aekyung Petrochemical Co., Ltd.," dated concurrently with this memorandum (AKP's Preliminary Analysis Memorandum) at Attachment 4, page 60.

²⁰ See Memorandum, "Analysis for the Preliminary Results of the Administrative Review of Dioctyl Terephthalate from the Republic of Korea: Hanwha Chemical Corporation," dated concurrently with this memorandum (Hanwha Chemical's Preliminary Analysis Memorandum) at Attachment 4, page 73.

²¹ *Id.*

3. LG Chem

For LG Chem, based on the results of the differential pricing analysis, Commerce preliminarily finds that 85.33 percent of the value of U.S. sales pass the Cohen's *d* test,²² and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, we preliminarily determine 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, for these preliminary results, we are applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for LG Chem.²³

V. **DATE OF SALE**

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

1. AKP

For its home market sales, AKP reported the date of sale (SALEDATH) based on its shipping invoice,²⁴ which is the first written documentation confirming the quantity shipped.²⁵ Further, AKP explained that the tax invoice is the first written documentation confirming the sales price to the customer.²⁶ AKP stated that during the POR, all of its shipment dates preceded the tax invoice dates in the home market; therefore, it reported the date of shipment as the date of sale.²⁷ Therefore, we preliminarily determine to accept AKP's reported date of sale (SALEDATH).

For its U.S. sales, AKP explained that it reported the earlier of the date of shipment or the date of the internal billing document as the date of sale.²⁸ AKP further stated that this is the date on which terms of sale were fixed.²⁹ Therefore, we preliminarily determine to use AKP's reported date of sale as the date of sale for AKP's U.S. sales transactions.

²² See Memorandum, "Analysis for the Preliminary Results of the Administrative Review of Dioctyl Terephthalate from the Republic of Korea: LG Chem Ltd. and LG Chem America, Inc.," dated concurrently with this memorandum (LG Chem's Preliminary Analysis Memorandum) at Attachment 4, page 70.

²³ *Id.* at 128 and 131.

²⁴ See AKP's BQR at 10.

²⁵ *Id.*

²⁶ *Id.*

²⁷ See AKP's AQR at 22.

²⁸ See AKP's CQR at 47.

²⁹ *Id.*

2. Hanwha Chemical

Hanwha Chemical reported the invoice date, which is the same as the shipment date, as the date of sale for HM sales.³⁰ For U.S. sales, Hanwha Chemical reported the earlier of the shipment date from Korea or the invoice date to the unaffiliated customer as the date of sale.³¹ Therefore, consistent with our practice, we used the invoice date as date of sale for HM sales and the earlier of the date of shipment or invoice date as the date of sale for the U.S. sales.

3. LG Chem

LG Chem reported the date of sale based on its internal billing document, which is consistent with the date of invoice for home market sales.³² LG Chem explained that the internal billing document contains the correct value and shipment date for each transaction, which are combined in the tax invoice.³³ LG Chem reported that it determines the per-unit price for certain transactions after the date of shipment.³⁴ In those instances, LG Chem creates the initial invoice (INVOICEH) specifying a tentative per-unit price; then, reverses and rebooks the original transaction when it finalizes the actual per-unit price.³⁵ LG Chem then issues the tax invoice, including the total value of the transaction, at the end of the month when it sets the actual price.³⁶

LG Chem explained further that because it issues the billing document upon shipment, the date of the sales invoice (*e.g.*, the date of the billing document) is the same as the date of the shipment.³⁷ However, in those instances where LG Chem determines the unit price of a transaction at a date after the date of the shipment, there may be differences between the sales invoice date and the date of shipment.³⁸ LG Chem explained that it recognizes the revenue of the transaction on the sales invoice date.³⁹ Therefore, LG Chem reported the sales invoice date (SALINDTH) as the date of sale.⁴⁰ Our examination of LG Chem's home market sales database reveals that the date of shipment does not always match the date of the internal billing documents for the instant POR.⁴¹ Therefore, we have preliminarily determined to use the earlier of the date of sale or date of shipment as LG Chem's date of sale for the purposes of this preliminary results of review, in accordance with our practice.⁴²

³⁰ See Hanwha Chemical's BQR at B-14.

³¹ See Hanwha Chemical's CQR at C-14.

³² See LG Chem's BQR at 18-19.

³³ *Id.* at 19.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.* at 20.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ See LG Chem's Section B database.

⁴² See LG Chem's Preliminary Analysis Memorandum.

LG Chem used the date recorded on the commercial invoice to report the date of sale for EP sales,⁴³ and the date of the commercial invoice issued upon delivery to the U.S. customer to report the date of sale for CEP sales.⁴⁴ Our examination of LG Chem's U.S. sales database reveals that the date of shipment does not always match the date of the commercial invoice recorded for the date of sale during the instant POR.⁴⁵ Therefore, we have preliminarily determined to use the earlier of the date of invoice or the date of shipment as LG Chem's date of sale for the purposes of this preliminary results of review, in accordance with our practice.⁴⁶

VI. PRODUCT COMPARISONS

In accordance with section 771(16) of the Act, we considered all products that respondents produced and sold in Korea during the POR that fit the description in the "Scope of Order" section of this memorandum to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market, where appropriate. 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, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade.

In making product comparisons, we matched subject merchandise and foreign like product based on whether the products were prime or non-prime and the physical characteristics reported by AKP, Hanwha Chemical, and LG Chem, in the following order of importance: color, acid value before heating, and specific gravity. For the respondents' sales of DOTP in the United States, the reported control number identifies the characteristics of DOTP, as exported by AKP, Hanwha Chemical, and LG Chem.⁴⁷

⁴³ See LG Chem's CQR at 14.

⁴⁴ *Id.*

⁴⁵ See LG Chem's Section C database.

⁴⁶ See LG Chem's Preliminary Analysis Memorandum; see also *Narrow Woven Ribbons with Woven Selvedge from Taiwan; Preliminary Results of Antidumping Duty Administrative Review*; 2013-2014, 80 FR 60627 (October 7, 2015) and accompanying Preliminary Decision Memorandum at 9, unchanged in *Narrow Woven Ribbons with Woven Selvedge from Taiwan: Final Results of Antidumping Duty Administrative Review*; 2013-2014, 81 FR 22578 (April 18, 2016); *Notice of Final Determinations of Sales at Less Than Fair Value: Certain Durum Wheat and Hard Red Spring Wheat from Canada*, 68 FR 52741 (September 5, 2003), and accompanying IDM at Comment 3. In that case, we stated "[I]t is Department practice to use the date of shipment as the date of sale where date of shipment precedes invoice date." See e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Brazil*, 67 FR 62134, 62136 (October 3, 2002); *Notice of Final Determination of Sales at Less Than Fair Value: Folding Metal Tables and Chairs from the People's Republic of China*, 67 FR 20090, 20093 (April 24, 2002); *Stainless Steel Bar from Japan: Final Results of Antidumping Administrative Review*, 65 FR 13717, 13718 (March 14, 2000); and *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from Italy*, 64 FR 30750, 30765 (June 8, 1999).

⁴⁷ See AKP's BQR at 4 and CQR at 42-43; see also Hanwha Chemical's BQR at B-10 to B-11 and CQR at C-10; LG Chem's BQR at 6-7.

VII. U.S. PRICE

A. *Export Price*

Section 772(a) of the Act defines EP as “the price at which 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. All three respondents reported making EP sales during the POR, and LG Chem and Hanwha reported making both EP and CEP sales.⁴⁸ In accordance with section 772(a) of the Act, we calculated EP for all of AKP’s and Hanwha Chemical’s U.S. sales, and certain of LG Chem’s U.S. sales, where the subject merchandise was first sold to an unaffiliated purchaser in the United States prior to importation and the CEP methodology was not otherwise warranted based on the facts of the record.

1. AKP

We calculated EP for AKP based on packed prices to unaffiliated purchasers in the United States. We made deductions, where appropriate, for movement expenses, *i.e.*, inland freight from the plant to warehouse, warehouse expense, inland freight from warehouse to the port of exportation, domestic brokerage and handling, U.S. inland freight, inspection fees, international freight, marine insurance, and U.S. customs duties, in accordance with section 772(c)(2)(A) of the Act.⁴⁹

2. Hanwha Chemical

We calculated EP for Hanwha Chemical based on packed prices to unaffiliated purchasers in the United States. We made deductions, where appropriate, for movement expenses, *i.e.*, inland freight from plant/warehouse to port of exportation, domestic brokerage and handling, wharfage, terminal handling charges, and document fees, brokerage and handling incurred in the United States, U.S. international freight, and marine insurance, in accordance with section 772(c)(2)(A) of the Act.⁵⁰

3. LG Chem

We calculated EP for LG Chem based on packed prices to unaffiliated purchasers in the United States. We made deductions, where appropriate, for movement expenses, *i.e.*, inland freight from plant/warehouse to port of exportation, domestic brokerage and handling, U.S. international freight, and marine insurance, in accordance with section 772(c)(2)(A) of the Act.⁵¹

⁴⁸ See AKP’s CQR at 43; Hanwha Chemical’s CQR at C-10; and LG Chem’s CQR at 12.

⁴⁹ See AKP’s Preliminary Analysis Memorandum.

⁵⁰ See Hanwha Chemical’s Preliminary Analysis Memorandum.

⁵¹ See LG Chem’s Preliminary Analysis Memorandum.

B. *Constructed Export Price*

Pursuant to section 772(b) of the Act, the CEP is “the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter,” as adjusted under sections 772(c) and (d) of the Act. In accordance with section 772(b) of the Act, we used CEP for certain of Hanwha Chemical’s and LG Chem’s sales because U.S. sales were made on their behalf by their U.S. sales affiliates in the United States (*i.e.*, Hanwha International LLC and LG Chem America, Inc. (LGCAI), respectively) to unaffiliated purchasers in the United States.

1. Hanwha Chemical

We calculated Hanwha Chemical’s CEP based on delivered prices to unaffiliated purchasers in the United States. We made additions to the starting price for packing in accordance with section 772(c)(1)(A) of the Act. We made deductions from the U.S. sales price for movement expenses in accordance with section 772(c)(2) of the Act. These adjustments included, where applicable, inland freight from plant/warehouse to port of exportation, domestic brokerage and handling, wharfage, terminal handling charges, and document fees, brokerage and handling incurred in the United States, U.S. international freight, and marine insurance.

In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we deducted, where applicable, those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (*i.e.*, bank charges, exchange commissions, and credit expenses) and indirect selling expenses (*i.e.*, indirect selling expenses and inventory carrying costs). In accordance with section 772(d) of the Act, we calculated Hanwha Chemical’s credit expenses and inventory carrying costs based on its short-term interest rate. In addition, we deducted CEP profit in accordance with sections 772(d)(3) and 772(f) of the Act.

2. LG Chem

We calculated LG Chem’s CEP based on delivered prices to unaffiliated purchasers in the United States. We made additions to the starting price for packing in accordance with section 772(c)(1)(A) of the Act. We made deductions from the U.S. sales price for movement expenses in accordance with section 772(c)(2) of the Act. These adjustments included, where applicable, foreign inland freight from plant to the port of exportation, foreign brokerage and handling, U.S. brokerage and handling, international freight, marine insurance, U.S. brokerage expenses, and U.S. inland freight from the warehouse to the unaffiliated customer.

In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we deducted, where applicable, those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (*i.e.*, commissions and credit expenses) and indirect selling expenses (*i.e.*, indirect selling expenses and inventory carrying costs). In accordance with section 772(d) of the Act, we calculated LG Chem’s credit expenses and inventory carrying costs based on its short-term interest rate. In addition, we deducted CEP profit in accordance with sections 772(d)(3) and 772(f) of the Act.

C. *Duty Drawback*

AKP and LG Chem requested a duty drawback adjustment.⁵² Section 772(c)(1)(B) of the Act states that EP and CEP shall be increased by “the amount of any import duties imposed by the country of exportation . . . which have not been collected, by reason of the exportation of the subject merchandise to the United States.” In determining whether an adjustment for duty drawback should be made, we look for a reasonable link between the duties imposed and those rebated or exempted. We do not require that the imported material be traced directly from importation through exportation. We do require, however, that the company meet our “two-pronged” test in order for this adjustment to be made to EP or CEP.⁵³ The first element is that the import duty and its rebate or exemption be directly linked to, and dependent upon, one another; the second element is that the company must demonstrate that there were sufficient imports of the imported material to account for the duty drawback or exemption granted for the export of the manufactured product.⁵⁴

In this administrative review, AKP and LG Chem provided timely responses and supporting documentation regarding their duty drawback claims, including the regulation governing duty drawback in Korea, and a detailed list of the duty drawback refunds that it received for their U.S. sales during the POR.⁵⁵ AKP and LG Chem identified the raw materials on which they paid an import duty and provided worksheets: (1) detailing how they calculated the duty drawback on a transaction-specific basis; (2) linking the raw materials to production of merchandise under consideration; and, (3) demonstrating that they imported sufficient volumes of raw materials to account for the duty drawback received on U.S. sales.⁵⁶ Based on these supporting documents, we preliminarily determine that AKP’s and LG Chem’s duty drawback claims meet the two-pronged test. Because AKP and LG Chem have satisfied the criteria described above for Korea’s duty drawback program,⁵⁷ we preliminarily determine to make a duty drawback adjustment to U.S. price for each company, pursuant to section 772(c)(1)(B) of the Act.⁵⁸

VIII. 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

⁵² See AKP’s CQR at 69-70, and LG Chem’s CQR at 36-37.

⁵³ See *Saha Thai Steel Pipe (Public) Co. v. United States*, 635 F. 3d 1335, 1340-41 (Fed. Cir. 2011).

⁵⁴ *Id.*; see also *Notice of Final Results of the Eleventh Administrative Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea*, 71 FR 7513 (February 13, 2006), and accompanying IDM at Comment 2.

⁵⁵ See AKP’s CQR at 69-70 and Appendix C-16, and AKP’s 1st SQR at Appendices SC-8 and SD-3; see also LG Chem’s CQR at 36-37 and Exhibit C-27.

⁵⁶ *Id.*

⁵⁷ See AKP’s CQR at 69-70 and Appendix C-16, and AKP’s 1st SQR at Appendices SC-8 and SD-3; see also LG Chem’s CQR at 36-37 and Exhibit C-27.

⁵⁸ See *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 81 FR 47355 (July 21, 2016) and accompanying IDM at Comment 6.

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

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared AKP's, Hanwha Chemical's, and LG Chem's volume of home-market sales of the foreign like product to the respective volume of U.S. sales of the subject merchandise in accordance with sections 773(a)(1)(B) and (C) of the Act. We found that each respondent's individual aggregate sales volume of foreign like product in the home market was greater than five percent of the respective company's sales of subject merchandise to the United States. Therefore, in accordance with section 773(a)(1)(C) of the Act, Korea constitutes a viable home market for AKP, Hanwha Chemical, and LG Chem. Accordingly, we used Korea as the comparison market for purposes of the analysis in this review. Consistent with our practice, we included each respondent's reported sales to affiliated parties in our viability analysis.⁵⁹

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. 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, "the Department may calculate normal value based on sales to affiliates if satisfied that the transactions were made at arm's length."

During the POR, AKP, Hanwha Chemical and LG Chem made sales of DOTP in Korea to affiliated parties, as defined in section 771(33) of the Act.⁶⁰ Consequently, we tested these sales to ensure that AKP, Hanwha Chemical, and LG Chem made such sales at arm's-length prices in accordance with 19 CFR 351.403(c). To test whether AKP, Hanwha Chemical, and LG Chem made sales to affiliated parties at arm's-length prices, we compared the unit prices of sales to affiliated and unaffiliated customers net of all direct selling expenses and packing. Pursuant to 19 CFR 351.403(c) and in accordance with Commerce's practice, where the price to an affiliated party was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise sold to the unaffiliated parties at the same level of trade (LOT), we determined that the sales made to the affiliated party were at arm's length. Sales to affiliated customers in the

⁵⁹ See *Certain Oil Country Tubular Goods from Saudi Arabia: Final Determination of Sales at Less Than Fair Value*, 79 FR 41986 (July 18, 2014), and accompanying IDM at Comment 2 (use of affiliated party sales in viability determination).

⁶⁰ See AKP's BQR at 7; see also Hanwha Chemical's BQR at B-3-B-4; and LG Chem's BQR at B-3.

home market that were not made at arm's-length prices were excluded from our analysis because we consider these sales to be outside the ordinary course of trade.⁶¹

C. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, we will calculate NV based on sales of foreign like products at the same level of trade (LOT) as the EP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).⁶² Substantial differences in selling activities are necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.⁶³ To determine whether the comparison-market sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, chain of distribution), including selling functions, class of customer (customer category), and the level of selling expenses for each type of sale. To determine whether home market sales are at a different LOT than U.S. sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. When we are unable to match U.S. sales to sales of foreign like product in the comparison market at the same LOT, we may compare the U.S. sales to sales at a different LOT in the comparison market. When this occurs and the difference in LOT is demonstrated to affect price comparability based on a pattern of consistent price differences between sales at different LOTs in the market in which NV is determined, we make a LOT adjustment under section 773(a)(7)(A) of the Act.

In this review, we obtained information from AKP, Hanwha Chemical, and LG Chem regarding the marketing stages involved in making their reported home market and U.S. sales, including a description of the selling activities performed by each respondent for each channel of distribution.⁶⁴

1. AKP

In the home market, AKP stated that it made sales directly to unaffiliated customers, either through direct shipments from AKP's production factory (Channel 1) or from inventory (Channel 2).⁶⁵ AKP reported that it performed the following selling functions for home market customers: sales forecasting; strategic/economic planning; personnel training/exchange; engineering services; marketing (which includes advertising, sales promotion, market research, and sales/marketing support); procurement/sourcing services; packing; inventory maintenance; order input/processing; direct sales personnel; technical assistance; warranty/after-sale services and guarantees; and freight and delivery.⁶⁶

⁶¹ See section 771(15) of the Act; *see also* 19 CFR 351.102(b)(35).

⁶² See 19 CFR 351.412(c)(2).

⁶³ See *id.*; *see also* Notice of Final Determination of Sales at Less Than Fair Value Certain Cut-to-Length Carbon Steel Plate from South Africa, 62 FR 61731, 61732 (November 19, 1997).

⁶⁴ See LG Chem's AQR at 14 through 18; *see also* AKP's AQR at 15 through 20; and Hanwha Chemical's AQR at A-14 through A-17.

⁶⁵ See AKP's AQR at 15 and Appendix A-3.

⁶⁶ *Id.*

Selling activities can be generally grouped into four selling function categories for analysis: (1) sales and marketing; (2) freight and delivery services; (3) inventory maintenance and warehousing; and (4) warranty and technical support.⁶⁷ Based on these selling function categories, we find that AKP performed the same selling functions at the same level of intensity for both of its home market channels of distribution, and thus, we determine that all home market sales are at the same LOT.

With respect to the U.S. market, AKP stated that it made sales through two channels of distribution: (1) direct exports to unaffiliated U.S. customers (Channel 1), and, (2) “local export” sales through unaffiliated Korean trading companies (Channel 2).⁶⁸ AKP reported that it performed the following selling functions for U.S. market customers: sales forecasting; strategic/economic planning; personnel training/exchange; engineering services; marketing (which includes advertising, sales promotion, market research, sales marketing support); procurement/sourcing services; packing; inventory maintenance; order/input processing; direct sales personnel; technical assistance; guarantees, and warranty/after-sales services; and freight and delivery. Based on these selling function categories, we find that AKP performed the same selling functions at the same level of intensity for both of its U.S. market channels of distribution, and thus, we determine that all U.S. market sales are at the same LOT.

We compared the selling functions in the home market channels of distribution to the selling functions in the U.S. channels of distribution and found that the selling functions AKP performed for the home market customers are similar to the ones performed for U.S. customers at a similar level of intensity. Therefore, based on the totality of the facts and circumstances, we preliminarily determine that AKP’s sales to the home market during the POR were made at the same LOT as AKP’s EP sales to the U.S. market. Consequently, we matched all EP sales to home market sales, and no LOT adjustment was warranted.

2. Hanwha Chemical

Hanwha Chemical reported that it had only one channel of distribution in the home market to two categories of customers: (1) unaffiliated distributors; and, (2) affiliated and unaffiliated end users.⁶⁹ Hanwha Chemical reported that it performed the following selling functions for home market customers: sales forecasting, strategic/economic planning, personnel training/exchange, advertising, sales promotion, packing, inventory maintenance, order input/processing, direct sales personnel, sales/marketing support, market research, technical assistance, and freight and

⁶⁷ See *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*); see also *Certain Frozen Warmwater Shrimp from India: Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 9991, 9996 (March 9, 2009), unchanged in *Certain Frozen Warmwater Shrimp from India: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 33409 (July 13, 2009) (collectively, *Shrimp from India*); see also *Certain Cold-Rolled Steel Flat Products from the Republic of Korea: Final Determination of Sales at Less Than Fair Value*, 81 FR 49953 (July 29, 2016), and accompanying IDM at Comments 9 and 18 (*CRS from Korea*).

⁶⁸ See AKP’s AQR at 16.

⁶⁹ See Hanwha Chemical’s AQR at A-14-15; see also Hanwha Chemical’s BQR at B-13.

delivery services.⁷⁰ Selling activities can be generally grouped into four selling function categories for analysis: (1) sales and marketing; (2) freight and delivery services; (3) inventory maintenance and warehousing; and (4) warranty and technical support.⁷¹ Because Hanwha Chemical only has one channel of distribution in the home market, we determine that all home market sales are at the same LOT.

Hanwha Chemical reported that it made sales either to an unaffiliated Korean trading company, or to affiliated and unaffiliated distributors or end users through three channels of distribution in the United States: (1) sales from Hanwha Chemical (Korea) to Hanwha International LLC, an affiliated trading company in the United States, which in turn sold to unaffiliated U.S. customers (Channel 1); (2) Hanwha Chemical (Korea) sold to unaffiliated trading company located in Korea, which in turn sold to its own U.S. customers (Channel 2); and (3) Hanwha Chemical (Korea) sold directly to unaffiliated U.S. customers (Channel 3).⁷² Because Hanwha International LLC rarely performs selling functions that Hanwha Chemical normally performs for its home market sales, Hanwha Chemical asserts that activities performed by Hanwha Chemical in connection with its home market sales are greater in scope and intensity than the activities that it performed for its sales to Hanwha International LLC.⁷³ Therefore, Hanwha Chemical claims that the CEP level of trade from Hanwha Chemical to Hanwha International LLC is much less advanced than the single level of trade of Hanwha Chemical's home market sales, and as a result, Hanwha Chemical claims that it is entitled to a CEP offset in this review.

Hanwha Chemical reported that it performed the following selling functions for U.S. market customers: sales forecasting, strategic/economic planning, personnel training/exchange, sales promotion, packing, inventory maintenance, order input/processing, direct sales personnel, sales/marketing support, market research, technical assistance, and freight and delivery.⁷⁴ Based on these selling function categories, we find that Hanwha Chemical performed the same selling functions at a similar level of intensity for all of its U.S. market channels of distribution. Therefore, in spite of minor differences in selling functions in all three channels, we determine that all U.S. sales are at the same LOT.

We compared the selling functions in the home market channels of distribution to the selling functions in the U.S. channels of distribution and found that the selling functions Hanwha Chemical performed for its home market customers are similar to the ones performed for its U.S. customers at a similar level of intensity. Therefore, based on the totality of the facts and circumstances, we preliminarily determine that Hanwha Chemical's sales to the home market during the POR were made at the same LOT as Hanwha Chemical's EP and CEP sales to the U.S. market. In order for Commerce to grant a CEP offset to NV, the respondent must first demonstrate that substantial differences exist between the LOT of sales in each market, in

⁷⁰ See Hanwha Chemical's AQR at Exhibit A-7.

⁷¹ See *OJ from Brazil* and accompanying IDM at Comment 7; see also *Shrimp from India*, 74 FR 9991, 9996 (March 9, 2009), unchanged in *Certain Frozen Warmwater Shrimp from India: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 33409 (July 13, 2009); see also *CRS from Korea*, and accompanying IDM at Comments 9 and 18.

⁷² See Hanwha Chemical's AQR at A-14-A-15.

⁷³ See Hanwha Chemical AQR Exhibit A-7 Selling Activity/Function Chart.

⁷⁴ *Id.*

accordance with 19 CFR 351.412(c)(2).⁷⁵ Consequently, because we found that Hanwha Chemical's sales to the U.S. and home market were made at the same LOT, we are not granting a CEP offset pursuant to 773(a)(7)(B) of the Act to Hanwha Chemical.

3. LG Chem

LG Chem reported that it made sales through four channels of distribution in the home market: (1) sales through an outsourced warehouse to unaffiliated end users (Channel 1); (2) sales through an outsourced warehouse to unaffiliated retailers (Channel 2); (3) sales to an affiliated customer by linked pipeline (Channel 3); and, (4) sales from the factory direct to affiliated or unaffiliated end users or retailers (Channel 4).⁷⁶ LG Chem explained that it performed the following selling functions for all home market customers: sales forecasting, strategic/economic planning, marketing (including advertising, sales/marketing support, market research), inventory management, order input, and direct sales personnel.⁷⁷ It also provided packing services and freight and delivery arrangements for all channels of distribution but Channel 2.⁷⁸

As described above, and consistent with our practice, we analyzed LG Chem's selling activities under four categories.⁷⁹ Based on these selling function categories, we find that LG Chem performed the same selling functions at a similar level of intensity for all of its home market channels of distribution. Therefore, despite minor differences in selling functions between Channel 3 and other channels, we determine that all home market sales are at the same LOT.

LG Chem reported that it had three channels of distribution in the U.S. market: (1) delivered CEP sales through LGCAI (Channel 1); (2) EP sales made through a trading company in Korea (Channel 2); and, (3) EP sales made directly to a U.S. customer (Channel 3).⁸⁰ Because LGCAI rarely performs selling functions that LG Chem normally performs for its home market sales, LG Chem asserts that the activities performed by LG Chem in connection with its home market sales are greater in scope and intensity than the activities that it performed for its sales to LGCAI.⁸¹ Therefore, LG Chem claims that the CEP level of trade from LG Chem to LGCAI is much less advanced than the single level of trade of LG Chem's home market sales, and as a result, LG Chem claims that it is entitled to a CEP offset in this review.⁸²

LG Chem reports that it performed the following sales functions for CEP sales: strategic/economic planning, sales forecasting, marketing, direct sales personnel, commissions,

⁷⁵ See *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 5. See also *Certain Circular Welded Non-Alloy Steel Pipe from Mexico: Final Results of Antidumping Duty Administrative Review*, 80 FR 19633 (April 13, 2015), and accompanying IDM at Comment.

⁷⁶ See LG Chem's AQR at 13-14; and LG Chem's BQR at 17-18, and Exhibit B-10.

⁷⁷ See LG Chem's AQR at Exhibit A-14, "Selling Functions Chart - Home Market."

⁷⁸ *Id.*

⁷⁹ See, e.g., *OJ from Brazil*, *Shrimp from India*, and *CRS from Korea*.

⁸⁰ See LG Chem's AQR at 14 and Exhibit A-13.

⁸¹ See LG Chem's AQR at 30.

⁸² *Id.*

and freight and delivery arrangements.⁸³ It does not report commissions in either Channel 2 or 3,⁸⁴ and it does not report having selling functions of strategic/economic planning, sales forecasting, marketing, direct sales personnel, or commissions in Channel 2.⁸⁵

Based on these selling function categories, we find that LG Chem performed the same selling functions at a similar level of intensity for all of its U.S. market channels of distribution. Therefore, in spite of minor differences in selling functions in all four channels, we determine that all U.S. sales are at the same LOT.

We compared the selling functions in the home market channels of distribution to the selling functions in the U.S. channels of distribution and found that the selling functions LG Chem performed for its home market customers are similar to those performed for its U.S. customers at a similar level of intensity. Therefore, based on the totality of the facts and circumstances, we preliminarily determine that LG Chem's sales to the home market during the POR were made at the same LOT as LG Chem's EP and CEP sales to the U.S. market. In order for Commerce to grant a CEP offset to NV, the respondent must first demonstrate that substantial differences exist between the LOT of sales in each market, in accordance with 19 CFR 351.412(c)(2).⁸⁶ Consequently, because we found that LG Chem's sales to the U.S. and home market were made at the same LOT, we are not granting a CEP offset pursuant to 773(a)(7)(B) of the Act to LG Chem.

D. Cost of Production Analysis

Pursuant to section 773(b)(2)(A)(ii) of the Act Commerce requested constructed value (CV) and COP information from all respondent companies in this AD proceeding.⁸⁷

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of costs of materials and fabrication for the foreign like product, plus amounts for general and administrative (G&A) expenses and interest expenses.

We examined AKP's, Hanwha Chemical's, and LG Chem's cost data. Based on our review of the submitted quarterly cost data, we determined that the change in costs was not significant and accordingly, our quarterly cost methodology is not warranted.⁸⁸ Therefore, we have applied our

⁸³ See LGC's AQR at Exhibit A-13, "Selling Functions Chart - US Market (through LGCAI)."

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ See *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 5; see also *Certain Circular Welded Non-Alloy Steel Pipe from Mexico: Final Results of Antidumping Duty Administrative Review*, 80 FR 19633 (April 13, 2015), and accompanying IDM at Comment.

⁸⁷ See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793, 46794-95 (August 6, 2015).

⁸⁸ See AKP's DQR at Exhibit D-4; Hanwha Chemical's DQR at Exhibit D-4; and, LG Chem's DQR at Exhibit D-3.

standard methodology of using annual average costs based on AKP's, Hanwha Chemical's, and LG Chem's reported data.⁸⁹

a. AKP and Hanwha Chemical

We relied on the COP data submitted by AKP and Hanwha Chemical without any adjustments.

b. LG Chem

We revised LG Chem's reported costs to calculate G&A expenses using a company-wide ratio rather than the divisional ratio reported by LG Chem.⁹⁰

2. 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 home market sales prices of the foreign like product, in order to determine whether the sales prices were below the COPs. For purposes of this comparison, we used COPs exclusive of selling and packing expenses. The prices were exclusive of any applicable billing adjustments, discounts and rebates, movement charges, actual direct and indirect selling expenses, and packing expenses.

3. Results of the COP Test

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

Where we find that more than 20 percent of a company's home market sales for a given product were made 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 excluded these sales and used the

⁸⁹ See AKP's Preliminary Analysis Memorandum; *see also* Hanwha Chemical's Preliminary Analysis Memorandum; and LG Chem's Preliminary Analysis Memorandum.

⁹⁰ See LG Chem's DQR at 37; *see also* LG Chem's 1st SQR at Exhibit D-17 for the revised ratio.

remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.⁹¹

E. Calculation of NV Based on Comparison-Market Prices

1. AKP

We calculated NV based on delivered or ex-works prices to unaffiliated and affiliated customers where the sale was made at arm's length.⁹² We made deductions from the starting price for billing adjustments and discounts, where appropriate, in accordance with section 19 CFR 351.401(c). We also made deductions from the starting price for movement expenses, including inland freight and warehousing under section 773(a)(6)(B)(ii) of the Act.⁹³ We made adjustments for differences in packing, in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act, and in circumstances of sale (imputed credit expenses, bank charges, and other direct selling expenses), in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410.⁹⁴ Where commissions were granted in the home market but not in the U.S. market, we made an upward adjustment to NV for the lesser of: (1) the amount of commission paid in the home market; or (2) the amount of indirect selling expenses (including inventory carrying costs) incurred for sales to the U.S. market.⁹⁵

When comparing U.S. sales with home market sales of similar merchandise, we also made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411.⁹⁶ We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise.⁹⁷

2. Hanwha Chemical

We based NV for Hanwha Chemical on comparison market prices where there were an appropriate number of sales at prices above the COP. We calculated NV based on ex-works or delivered prices, as applicable, to affiliated and unaffiliated parties.⁹⁸ We made deductions from the starting price for movement expenses (*i.e.*, inland freight from the plant to the distribution warehouse, from the plant or distribution warehouse directly to the customer, to the home market customer, warehousing expense) under section 773(a)(6)(B)(ii) of the Act.⁹⁹ We made adjustments for differences in packing in accordance with sections 773(a)(6)(A) and

⁹¹ See AKP's Preliminary Analysis Memorandum; *see also* Hanwha Chemical's Preliminary Analysis Memorandum; and, LG Chem's Preliminary Analysis Memorandum.

⁹² See AKP's Preliminary Analysis Memorandum.

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ See 19 CFR 351.410(e).

⁹⁶ See AKP's Preliminary Analysis Memorandum.

⁹⁷ See 19 CFR 351.411(b).

⁹⁸ See Hanwha Chemical's Preliminary Analysis Memorandum.

⁹⁹ *Id.*

773(a)(6)(B)(i) of the Act.¹⁰⁰ We made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale.¹⁰¹ Specifically, we deducted direct selling expenses incurred for home market sales, *i.e.*, credit expenses, and added U.S. direct selling expenses, *i.e.*, credit expenses, bank charges and exchange commissions.¹⁰²

We made no adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411, because Hanwha Chemical reported that all U.S. and home market sales consisted of one single CONNUM.¹⁰³

3. LG Chem

We calculated NV for LG Chem where an appropriate number of sales were made at prices above the COP.¹⁰⁴ We calculated NV based on delivered or ex-works prices, as applicable, to unaffiliated and affiliated customers where the sale was made at arm's length.¹⁰⁵ We made a deduction from the starting price for movement expenses, including inland freight from the plant to the distribution warehouse, warehousing expenses and inland freight from the plant or distribution warehouse to the unaffiliated customer in the home market under section 773(a)(6)(B)(ii) of the Act.¹⁰⁶ We made adjustments for differences in packing, in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act, and in circumstances of sale (imputed credit expenses and direct selling expenses), in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410.¹⁰⁷ Finally, 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 commission paid in the U.S. market; or (2) the amount of indirect selling expenses (including inventory carrying costs) incurred in the comparison market.¹⁰⁸

We made no adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411, because LG Chem reported that all U.S. and home market sales consisted of one single CONNUM.¹⁰⁹

IX. CURRENCY CONVERSION

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

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ See LG Chem's Preliminary Analysis Memorandum.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ See 19 CFR 351.410(e). See, e.g., *Certain Frozen Warmwater Shrimp from India: Preliminary Results of Antidumping Duty Administrative Review, and Preliminary No Shipment Determination*, 77 FR 13275 (March 6, 2012) unchanged in *Certain Frozen Warmwater Shrimp from India: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination*, 77 FR 40848 (July 11, 2012).

¹⁰⁹ See LG Chem's Preliminary Analysis Memorandum.

the Federal Reserve Bank. The exchange rates are available on the Enforcement and Compliance website at <http://enforcement.trade.gov/exchange>.

X. RECOMMENDATION


We recommend applying the above methodology for these preliminary results.

☒

Agree

☐

Disagree

X 

Signed by: CHRISTIAN MARSH

Christian Marsh

Deputy Assistant Secretary
for Enforcement and Compliance