



A-580-889

Administrative Review

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

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April 15, 2020

MEMORANDUM TO: Christian B. Marsh
Deputy Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Issues and Decision Memorandum for the Finals Results of the
2017-2018 Administrative Review of the Antidumping Duty Order
on Dioctyl Terephthalate from the Republic of Korea

I. SUMMARY

We analyzed the comments of interested parties in the 2017-2018 administrative review of the antidumping duty order covering dioctyl terephthalate (DOTP) from the Republic of Korea (Korea). This review covers three producers and/or exporters of subject merchandise: Aekyung Petrochemical Co., Ltd. (AKP); Hanwha Chemical Corporation (Hanwha Chemical); and LG Chem Ltd. (LG Chem). The period of review (POR) is February 3, 2017 through July 31, 2018. As a result of our analysis, we made changes to the margin calculations for AKP. We recommend that you approve the positions described in the “Discussion of the Issues” section of this memorandum.

Below is a complete list of issues in this administrative review for which we received comments from interested parties.

Comment 1: AKP’s Differential Pricing Analysis
Comment 2: Errors in AKP’s Preliminary Margin Calculations
Comment 3: Constructed Export Price Offset for Hanwha Chemical

II. BACKGROUND

On October 18, 2019, the Department of Commerce (Commerce) published the *Preliminary Results* of this administrative review.¹

¹ See *Dioctyl Terephthalate from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2017-2018*, 84 FR 55904 (October 18, 2019) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).



We asked parties to comment on our *Preliminary Results*.² Parties submitted case and rebuttal briefs on November 18 and 25, 2019, respectively.³

The Eastman Chemical Company (the petitioner) requested, and then withdrew its request for a hearing on February 19, 2020.⁴ Therefore, we did not hold a hearing for this review.

On January 14, 2020, Commerce extended the deadline for the final results. Thus, the signature date for these final results of review is April 15, 2020.

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. CHANGES SINCE THE PRELIMINARY RESULTS OF REVIEW

We calculated the export price (EP), constructed export price (CEP), and normal value (NV) using the same methodology as the *Preliminary Results*,⁵ with the following exceptions:

² See *Preliminary Results*, 84 FR at 55905.

³ See AKP’s Letter, “Administrative Review of Dioctyl Terephthalate from Korea: Case Brief of Aekyung Petrochemical Co., Ltd.,” dated November 18, 2019 (AKP’s Case Brief); see also Hanwha Chemical’s Letter, “Dioctyl Terephthalate (DOTP) from the Republic of Korea: Case Brief,” dated November 18, 2019 (Hanwha Chemical’s Case Brief); and Petitioner’s Letter, “Rebuttal Case Brief; Dioctyl Terephthalate (DOTP) from Korea,” dated November 25, 2019 (Petitioner’s Case Brief).

⁴ See Petitioner’s Letter, “Petitioner’s Withdrawal of Hearing Request; Dioctyl Terephthalate (DOTP) from Korea,” dated February 29, 2020.

⁵ See, generally, *Preliminary Results* PDM.

- We removed the erroneous double-counting of AKP’s credit expenses as the sum of the original U.S. credit expenses (CREDITU) and revised U.S. credit expenses (FCREDITU). For the final results, we based the adjustment of U.S. price for AKP’s credit expenses on the revised credit expenses alone.

V. DISCUSSION OF THE ISSUES

Comment 1: AKP’s Differential Pricing Analysis

Background: In the *Preliminary Results*, Commerce applied its differential pricing analysis to determine whether there was a “pattern of export prices... for comparable merchandise that differ significantly among purchasers, regions, or time periods” for AKP’s U.S. sales.⁶ Because 97.11 percent of AKP’s U.S. sales passed the Cohen’s *d* test, Commerce calculated AKP’s overall weighted-average dumping margin using a methodology that applied an average-to-transaction (A-T) comparison method to all of AKP’s U.S. sales.⁷

AKP’s Comments⁸

- Commerce is required to justify the numerical thresholds used in the differential pricing analysis based on substantial evidence on the record.
 - Commerce has the ability to adopt a rule that establishes arbitrary numerical cut-offs if it follows the notice-and-comment requirements of the Administrative Procedure Act (APA). But Commerce has not done so for those thresholds used in its differential pricing analysis used in this review. Rather, Commerce applied the cut-offs used in the differential pricing analysis on a case-by-case basis, without providing an explanation in each investigation or review why any application of the differential pricing analysis - and why any of the numerical thresholds used in connection with that test - are appropriate in the context of each specific application.
 - This principle was recognized by both the Court of Appeals for the Federal Circuit (CAFC) and the Court of International Trade (CIT), in cases addressing the *de minimis* standard applied by Commerce in investigations.⁹ At the time of those decisions, Commerce was applying a 0.5 percent *de minimis* standard as a matter of policy, without any specific provision in the regulations.¹⁰
 - Under the principles recognized in *Carlisle Tire* and *Washington Raspberries*, Commerce’s use of the differential pricing analysis can be sustained only if Commerce provides both evidence and analysis showing why the cut-offs used - the

⁶ See *Preliminary Results* PDM at 4.

⁷ *Id.* at 6.

⁸ See AKP’s Case Brief at 2-16.

⁹ *Id.* at 3 (citing *Carlisle Tire v. United States*, 634 F. Supp. 419, 423 (CIT 1986); *Washington Red Raspberry Commission v. United States*, 859 F.2d 898, 903 (Fed. Cir. 1988) (*Washington Raspberries*); and *IPSCO v. United States*, 687 F. Supp. 614, 630-31 (CIT 1988)).

¹⁰ *Id.* (noting that the regulations were subsequently amended to explicitly incorporate the 0.5 percent *de minimis* standard in reviews. See *Antidumping and Countervailing Duties; De minimis Dumping Margins and De Minimis Subsidies*, 52 FR 30660 (August 17, 1987). The *de minimis* standard for investigations was then raised to 2 percent by the Uruguay Round Agreements Act. See Pub. L. 103-465, § 213(a); see also section 733(b)(3) of the Tariff Act of 1930, as amended (the Act)).

- 0.8 cut-off used for the Cohen's *d* test and the 33- and 66-percent cut-offs used for the "ratio test" - provide an appropriate measure in this specific review.¹¹
- Commerce's application of the differential pricing analysis is mathematically and legally improper for the following reasons:
 - The 0.8 cut-off used in the Cohen's *d* test is not supported by substantial evidence on the record. Specifically:
 - Commerce cannot rely on a widely adopted statistical test when it is not using that test in the context for which it was proposed and is appropriately applied.
 - Neither mathematics nor substantial evidence support Commerce's assertion that it can apply the cut-offs in the Cohen's *d* test when the assumptions laid out in the Cohen's *d* test do not apply, simply because Commerce claims that it is analyzing an entire population, and not just a sample.
 - The 33- and 66-percent cut-offs used in the "ratio test" are not supported by theoretical or empirical evidence on the record, and thus, are arbitrary and improper. Specifically:
 - Commerce did not explain why it chose thresholds of 33 and 66 percent, and why a ratio between 33 and 66 percent calls for consideration of the A-T method only for the sales that "pass" the Cohen's *d* test, whereas a ratio of 66 percent or more calls for the application of the A-T method for all sales.
 - The differential pricing analysis fails to explain why any patterns of price differences were not, or could not be, taken into account using an average-to-average (A-A) comparison method. Specifically:
 - The different results represent a function of the different treatment of non-dumped sales (*i.e.*, negative comparison results) under Commerce's standard methodology (which does not apply zeroing) and its alternate methodology using A-T comparisons (which "zeros" (*i.e.*, sets to zero) negative comparison results).
 - Differences in calculated weighted-average dumping margins generated by the application of "zeroing" are not the same as differences in weighted-average dumping margins caused by patterns of price differences by customer, region, or time period.
 - Commerce has provided no support for its assertion that the difference in weighted-average dumping margins is meaningful when the weighted-average dumping margin crosses the *de minimis* threshold when using the alternative calculation instead of the A-A method.
 - Under the relevant provisions of the statute, Commerce is not permitted to utilize an average-to-transaction comparison method for any of AKP's U.S. sales. Specifically:
 - The statute requires Commerce to calculate a weighted-average dumping margin in an investigation either by comparing an average NV to an average

¹¹ *Id.* at 5. AKP notes: "We recognize that Judges Kelly and Choe-Groves of the Court of International Trade have rejected {this same} argument and have found that the Department's application of its 'Differential Pricing Analysis' does not need to be supported with substantial evidence on the record." See *Apex Frozen Foods Pvt. Ltd. v. United States*, 144 F. Supp. 3d 1308, 1320-21 (CIT 2016) (*Apex I*), affirmed in *Apex Frozen Foods Pvt. Ltd. v. United States*, 862 F. 3d 1337 (Fed. Cir. 2017) (*Apex II*); see also *NEXTEEL Co. v. United States*, 355 F. Supp. 3d 1336, 1356 (CIT 2019) (*NEXTEEL*).

U.S. price (*i.e.*, the A-A method), or by comparing the NV for individual transactions to the U.S. price for individual transactions (*i.e.*, the T-T method).

- The statute, however, provides an exception to this general rule when:¹²

- (i) there is a pattern of export prices (or constructed export prices) for comparable merchandise that differ significantly among purchasers, regions, or periods of time, and

- (ii) the administering authority explains why such differences cannot be taken into account using a method described in paragraph (1)(A)(i) or (ii).

Commerce is not permitted to depart from the A-A (or T-T) methodology that is normally required in an investigation when these conditions are not met.

- Neither the petitioners nor Commerce have established, based on substantial evidence on the record, that there is in AKP's U.S. sales, a pattern of U.S. prices for comparable merchandise that differ significantly among purchasers, regions, or periods of time. Even if such a pattern existed, Commerce's differential pricing analysis would not explain why such differences could not be taken into account by using either the A-A or T-T comparison methods. In these circumstances, the exception set forth in section 777A(d)(1)(B) of the Act does not apply, and Commerce is required, not by its differential pricing analysis methodology, but by statute, to continue to calculate AKP's weighted-average dumping margin using the A-A methodology for all of AKP's U.S. sales in its final results of review.

*Petitioner's Rebuttal Comments*¹³

- Commerce should continue to apply its differential pricing analysis in the final results and not otherwise calculate AKP's weighted-average dumping margin.
 - AKP does not dispute that 97.11 percent of its sales passed the Cohen's *d* test, which triggers Commerce to consider an alternative comparison methodology. This approach aligns with Commerce's practice, and the courts have routinely upheld it.
 - When Commerce applied an A-T comparison method, it resulted in a weighted-average dumping margin of 0.85 percent. This analysis was legally proper and justified because Commerce identified a pattern of prices that differ significantly among purchasers, time periods, or regions.
 - Before Commerce applies the A-T method, the two criteria in section 777A(d)(1)(B) of the Act must be met. While Commerce initially applied this differential pricing

¹² See AKP's Case Brief at 15 (citing section 777A(d)(1)(B) of the Act).

¹³ See Petitioner's Case Brief at 5-8.

- analysis in an investigation, it has also used it in administrative reviews, and the CAFC has upheld its use in an administrative review as reasonable.¹⁴
- AKP acknowledges that the differential pricing analysis has been upheld in several court opinions.¹⁵
 - According to the petitioner, the court explained that the Cohen’s *d* test measures the degree of price disparity between two groups of sales. Commerce calculates the number of standard deviations by which the weighted-average net price of U.S. sales for a particular purchaser, region or time period (the “test group”) differ from the weighted-average net price of all other U.S. sales of comparable merchandise (the “comparison group”).¹⁶ The result of this calculation is a coefficient, and that coefficient is used to evaluate the extent to which net prices differ significantly.¹⁷
 - Commerce then applies the ratio test to measure the extent of the significant price differences.¹⁸ If both the Cohen’s *d* test and the ratio test demonstrate that the A-T method should be considered, then Commerce applies its meaningful difference test to determine if the weighted-average dumping margins calculated using different comparison methodologies are meaningfully different. According to the petitioner, the CAFC has upheld these steps as reasonable.¹⁹
 - AKP recognizes that Commerce has significant discretion in establishing numerical cut-offs under the differential pricing analysis,²⁰ but cites several U.S. CIT and CAFC opinions from the 1980s stating that Commerce is required to explain its basis for procedures that are not rules, despite the fact that these opinions have nothing to do with differential pricing, and pre-date Commerce’s differential pricing analysis by several decades.
 - AKP puts great weight in the origin of the Cohen’s *d* test and quotes Dr. Cohen (the author and developer of the *d* coefficient) on the purpose and application of the Cohen’s *d* coefficient.²¹ However, Commerce has already distinguished its application of the Cohen’s *d* test from Dr. Cohen’s “T-Test for Means” and “power analysis.”²² Its use of the Cohen’s *d* coefficient is a tool. The fact that AKP is “not convinced” by this explanation does not hold statutory or regulatory significance.²³ Commerce’s goal in applying this approach is to identify “a pattern of prices that differ significantly among purchasers, regions or time periods.”²⁴
 - In this review, Commerce determined that there is a 25 percent relative change in the weight-average dumping margins between the A-A method and the appropriate alternative method. The weighted-average dumping margin crosses the *de minimis*

¹⁴ *Id.* at 5 (citing *JBF RAK LLC v. United States*, 790 F. 3d 1358, 1364 (CAFC 2015) (“Commerce’s decision to apply its average-to-transaction comparison methodology in the context of an administrative review is reasonable.”)).

¹⁵ *Id.* at 6 (citing, e.g., *Apex Frozen Foods Pvt. Ltd. v. United States*, 37 F. Supp. 3d 1286, 1299 (CIT 2014) (*Apex*)).

¹⁶ *Id.* (citing *NEXTEEL*, 355 F. Supp. 3d at 1355).

¹⁷ *Id.* at 6.

¹⁸ *Id.*

¹⁹ *Id.* at 7 (citing *Apex II*; see also *NEXTEEL*, 355 F. Supp. 3d 1356 (CIT 2019)).

²⁰ *Id.* (citing AKP’s Case Brief at 2).

²¹ *Id.* (citing AKP’s Case Brief at 6-8).

²² *Id.*

²³ *Id.* (citing AKP’s Case Brief at 7, footnote 15).

²⁴ *Id.* (citing *Preliminary Results PDM* at 5).

- threshold when calculated using the A-A method and when calculated using an alternative comparison method (based on applying the A-T method to all U.S. sales).²⁵ The application of the A-T method must apply to all U.S. sales for purposes of calculating the weighted-average dumping margin for AKP.
- Commerce provided a thorough and detailed description of the differential pricing methodology and how the application of this methodology to AKP's sales resulted in the identification of a pattern of pricing that suggested "targeted" or masked dumping.²⁶ The approach and supporting explanations align with a series of decisions by Commerce.²⁷ Substantial evidence supports the application of differential pricing on this record,²⁸ and the CAFC's recent confirmation of the analysis and much of the methodology in *Apex II* indicates that Commerce must continue to apply the A-T method to all U.S. sales in AKP's margin calculations for the final results of review.²⁹

No other party provided comments on this issue.

Commerce's Position:

As an initial matter, we note that there is nothing in section 777A(d) of the Act that mandates how Commerce measures whether there is a pattern of prices that differs significantly or explains why the A-A method cannot account for such differences. On the contrary, carrying out the purpose of the statute³⁰ here is a gap filling exercise properly conducted by Commerce.³¹ As explained in the *Preliminary Results*, as well as in various other proceedings,³² Commerce's

²⁵ *Id.* at 8 (without citation).

²⁶ *Id.*

²⁷ *Id.* (citing *Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2013–2014*, 81 FR 39908 (June 20, 2016), and accompanying Issues and Decision Memorandum (IDM) at Comment 1; and *Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 79 FR 54264 (September 11, 2014), and accompanying IDM at Comment 1).

²⁸ *Id.* at 8 (without citation).

²⁹ *Id.* at 7-8 (citing *Apex II*).

³⁰ See *Koyo Seiko Co., Ltd. v. United States*, 20 F. 3d 1156, 1159 (Fed. Cir. 1994) (*Koyo Seiko*) ("The purpose of the antidumping statute is to protect domestic manufacturing against foreign manufacturers who sell at less than fair market value. Averaging U.S. prices defeats this purpose by allowing foreign manufacturers to offset sales made at less-than-fair value with higher priced sales. Commerce refers to this practice as 'masked dumping.' By using individual U.S. prices in calculating dumping margins, Commerce is able to identify a merchant who dumps the product intermittently—sometimes selling below the foreign market value and sometimes selling above it. We cannot say that this is an unfair or unreasonable result." (internal citations omitted)).

³¹ See *Chevron U.S.A., Inc. v. Natural Res. Def. Council, Inc.*, 467 U.S. 837, 842-43 (1984) (recognizing deference where a statute is ambiguous, and an agency's interpretation is reasonable); see also *Apex*, 37 F. Supp. 3d at 1302 (applying *Chevron* deference in the context of Commerce's interpretation of section 777A(d)(1) of the Act).

³² See, e.g., *Large Diameter Welded Pipe from the Republic of Korea: Final Determination of Sales at Less Than Fair Value*, 84 FR 6374 (February 27, 2019), and accompanying IDM at Comment 5; see also *Certain Oil Country Tubular Goods from the Republic of Korea: Final Results of the Antidumping Duty Administrative Review and Final Determination of No Shipments; 2015-2016*, 83 FR 17146 (April 18, 2018) (*Second OCTG Review*), and accompanying IDM at Comment 8; *Welded Line Pipe from the Republic of Korea: Final Determination of Sales at Less Than Fair Value*, 80 FR 61366 (October 13, 2015), and accompanying IDM at Comment 1; *Circular Welded*

differential pricing analysis is reasonable, including the use of the Cohen's *d* test as a component in this analysis, and it is not contrary to the law.

We note that the CAFC has upheld key aspects of Commerce's differential pricing analysis, including: (1) the application of the "meaningful difference" standard, which compares the calculated weighted-average dumping margins using the A-A method without zeroing and an alternative comparison method based on the A-T method with zeroing; (2) the reasonableness of Commerce's comparison method in fulfilling the relevant statute's aim; (3) Commerce's use of a "benchmark" to illustrate a meaningful difference; (4) Commerce's justification for applying the A-T method to all U.S. sales; (5) Commerce's use of zeroing in applying the A-T method; (6) that Congress did not dictate how Commerce should determine if the A-A method accounts for "targeted" or masked dumping; (7) that the "meaningful difference" test is reasonable; and (8) that Commerce may consider all sales in its "meaningful difference" analysis and consider all sales when calculating a final rate using the A-T method.³³

APA Rulemaking Not Required

Commerce disagrees with AKP that it is obligated to follow the APA in establishing the differential pricing methodology. The notice and comment requirements of the APA do not apply "to interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice."³⁴ Further, Commerce normally makes these types of changes in practice (e.g., the change from the targeted dumping analysis to the current differential pricing analysis) in the context of its proceedings, on a case-by-case basis.³⁵ As the CAFC has recognized, Commerce is entitled to make changes and adopt a new approach in the context of its proceedings, provided it explains the basis for the change, and the change is a reasonable interpretation of the statute.³⁶ The CAFC has also held that Commerce's meaningful difference analysis was reasonable.³⁷ Moreover, the CIT in *Apex I* held that Commerce's change in practice (from targeted dumping to its differential pricing analysis) was exempt from the APA's rule making requirements, stating, in part:

{T}he APA's notice and comment requirement applies to legislative rules and does not apply to "interpretive rules, general statements of policy, or rules of agency organization, procedure, or practice."³⁸

Non-Alloy Steel Pipe from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2012-2013, 80 FR 32937 (June 10, 2015), and accompanying IDM at Comments 1 and 2; and *Welded ASTM A-312 Stainless Steel Pipe from the Republic of Korea: Final Results of Antidumping Duty Administrative Review*; 2013-2014, 81 FR 46647 (July 18, 2016), and accompanying IDM at Comment 4.

³³ See *Apex Frozen Foods Pvt. Ltd. v. United States*, 862 F. 3d 1322 (Fed. Cir. 2017); see also *Apex II*.

³⁴ See 5 U.S.C. § 553(b)(3)(A).

³⁵ See *Differential Pricing Analysis; Request for Comments*, 79 FR 26720, 26722 (May 9, 2014) (*Differential Pricing Comment Request*).

³⁶ See *Saha Thai Steel Pipe Company v. United States*, 635 F. 3d 1335, 1341 (Fed. Cir. 2011); see also *Washington Raspberry*, 859 F. 2d at 902-03; and *Carlisle Tire*, 634 F. Supp. at 423 (discussing exceptions to the notice and comment requirements of the APA).

³⁷ See *Apex II*, 862 F. 3d at 1347-51.

³⁸ See *Apex I*, 144 F.Supp.3d 1308, 1320 (quoting 5 U.S.C. § 553(b)(A)).

Because Commerce's approach has and continues to evolve, it is not appropriate to "rigidify[] [Commerce's] tentative judgment into a hard and fast rule." Commerce's approach for determining whether to utilize the A-T exception is precisely the type of situation where the agency "retain[s] power to deal with the problems on a case-to-case basis . . . [allowing for] the case-by-case evolution of statutory standards." Thus, Commerce's shift from the Nails test to the differential pricing analysis is not subject to notice and comment requirements.³⁹

Moreover, as we noted previously, the CIT acknowledged in *Apex I* that as Commerce "gains greater experience with addressing potentially hidden or masked dumping that can occur when {Commerce} determines weighted-average dumping margins using the average-to-average comparison method, {Commerce} expects to continue to develop its approach with respect to the use of an alternative comparison method."⁴⁰ Further developments and changes, along with further refinements, are expected in the context of our proceedings based upon an examination of the facts and the parties' comments in each case.

The Application of the Cohen's d Coefficient and the Threshold of 0.8 for the Cohen's d Coefficient is Reasonable

As stated in the *Preliminary Results*, the purpose of the Cohen's *d* test is to evaluate "the extent to which the prices to a particular purchaser, region, or time period differ significantly from the prices of all other sales of comparable merchandise."⁴¹ The Cohen's *d* coefficient is a recognized measure which gauges the extent (or "effect size") of the difference between the means of two groups and provides "a simple way of quantifying the difference between two groups and has many advantages over the use of tests of statistical significance alone."⁴² "Effect size quantifies the size of the difference between two groups, and may therefore be said to be a true measure of *the significance of the difference*."⁴³ As stated in the *Second OCTG Review*, the purpose for which Commerce relies on the Cohen's *d* test is to satisfy the statutory language, to measure whether a difference is significant.⁴⁴

Further, in describing "effect size" and the distinction between effect size and statistical significance, Commerce stated in *Shrimp from Vietnam*:⁴⁵

Dr. Paul Ellis, in his publication *The Essential Guide to Effect Sizes*, introduces effect size by asking a question: "So what? Why do this study? What does it mean for the man on the street?" Dr. Ellis continues:

³⁹ *Id.* at 1320-21 (quoting *SEC v. Chenery*, 332 U.S. 194, 202 and 203).

⁴⁰ *Id.*

⁴¹ See *Preliminary Results* PDM at 5.

⁴² See *Second OCTG Review* IDM at 68 (quoting Coe, Robert, "It's the Effect Size, Stupid: What effect size is and why it is important," (September 2002) (Coe's Paper)).

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ See *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review*, 2014-2015, 81 FR 62717 (September 12, 2016) (*Shrimp from Vietnam*), and accompanying IDM at 16-17 (quoting Ellis, Paul D., *The Essential Guide to Effect Sizes*; Cambridge University Press (2010) (Ellis) at 3-5); see also *Second OCTG Review* IDM at 67-72.

A statistically significant result is one that is unlikely to be the result of chance. But a practically significant result is meaningful in the real world. It is quite possible, and unfortunately quite common, for a result to be statistically significant and trivial. It is also possible for a result to be statistically nonsignificant and important. Yet scholars, from PhD candidates to old professors, rarely distinguish between the statistical and the practical significance of their results.

In order to evaluate whether such a practically significant result is meaningful, Dr. Ellis states that this “implies an estimation of one or more effect sizes.”

An effect size refers to the magnitude of the result as it occurs, or would be found, in the population. Although effects can be observed in the artificial setting of a laboratory or sample, effect sizes exist in the real world.

Commerce further stated in *Shrimp from Vietnam*:⁴⁶

As recognized by Dr. Ellis in the quotation above, the results of an analysis may have statistical and/or practical significance, and that these two distinct measures of significance are independent of one another. In its case brief, VASEP {the Vietnamese respondent} accedes to the distinction and meaning of “effect size” when it states “While application of the t test {a measure of statistical significance} in addition to Cohen’s *d* might at least provide the cover of statistical significance, it still would not ensure practical significance.” The Department agrees with this statement – statistical significance is not relevant to the Department’s examination of an exporter’s U.S. prices when examining whether such prices differ significantly. The Department’s differential pricing analysis, including the Cohen’s *d* test, includes all U.S. sales which are used to calculate a respondent’s weighted-average dumping margin; therefore, statistical significance, as discussed above, is inapposite. The question is whether there is a practical significance in the differences found to exist in the exporter’s U.S. prices among purchasers, regions or time periods. Such practical significance is quantified by the measure of “effect size.”

Lastly, in *Shrimp from Vietnam*, Commerce again pointed to Dr. Ellis, where he addresses populations of data:

Dr. Ellis also states in his publication that the “best way to measure an effect is to conduct a census of an entire population but this is seldom feasible in practice.”⁴⁷

There are two separate concepts and measurements when analyzing whether the means of two sets of data are different. The first measurement, when these two sets of data are samples of a larger population, is whether this difference is statistically significant, as measured by a t-test. This will determine whether this difference rises above the sampling error (or in other words, noise or randomness) in selecting the sample. This will answer the question of whether picking a

⁴⁶ See *Shrimp from Vietnam* IDM at 16-17; see also *Second OCTG Review* IDM at 67-72.

⁴⁷ See *Shrimp from Vietnam* IDM at 17 (quoting Ellis); see also *Second OCTG Review* IDM at 67-72.

second (or third or fourth) set of samples will result in a different outcome than the first set of samples. When the t-test results in determining that the difference is statistically significant (*i.e.*, the null hypothesis is false), then these results rise above the sampling error and are statistically significant.

The second measurement is whether there is a practical significance of the difference between the means of the two sets of data, as measured by an “effect size” such as Cohen’s *d* coefficient. As noted above, this quantifies the real-world relevance of this difference “and may therefore be said to be a true measure of the significance of the difference.”⁴⁸ This is the basis for Commerce’s determination whether prices in a test group differ significantly from prices in a comparison group.

AKP claims that Commerce’s use of Cohen’s stated thresholds to determine whether Cohen’s measurement of effect size is significant is not appropriate. AKP states that these thresholds, and consequently the Cohen’s *d* coefficient,

can only be used where ‘samples, each of *n* cases, have been randomly and independently drawn from normal populations,’ and where the two samples do not have ‘substantially unequal variances’ or ‘substantially unequal sample sizes (whether small or large).’⁴⁹

AKP’s claim is misplaced. AKP’s quotation is from section 2.1 of Dr. Cohen’s text, “Introduction and Use” of “The T Test for Means.”⁵⁰ As described above, this concerns the statistical significance of the difference in the means for two sampled sets of data and is not relevant when considering whether this difference has a practical difference. This is not to say that sample size and sample distribution have no impact on the description of “effect size” for sampled data,⁵¹ but that is not the basis for Commerce’s analysis of AKP’s U.S. sale price data.

Further, the subject for Dr. Cohen’s book and the discussion therein is “statistical power analysis.” Power analysis involves the interrelationship between statistical and practical significance to attain a specified confidence or “power” in the results of one’s analysis. Indeed, the beginning of the “Introduction and Use” of “The T Test for Means,” including AKP’s first quotation, is:

The arithmetic mean is by far the most frequently used measure of location by behavioral scientists, and hypotheses about means the most frequently tested. The tables have been designed to render very simple the procedure for power analysis in the case where two samples, each of *n* cases, have been randomly and independently drawn from normal

⁴⁸ See *Second OCTG Review* IDM at 69 (citing Coe’s Paper).

⁴⁹ See AKP’s Case Brief at 9 (citing *Certain Oil Country Tubular Goods from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2014-2015*, 82 FR 18105 (April 17, 2017), and accompanying IDM at 22, note 61 (quoting Cohen, Jacob, *Statistical Power Analysis for the Behavioral Sciences*, Second Edition (1988) (Cohen) at 19-20)).

⁵⁰ *Id.*

⁵¹ See *Second OCTG Review* IDM at 69 (citing, for example, Cohen at 21-23, section 2.2.1).

populations, and the investigator wishes to test the null hypothesis that their respective population means are equal...⁵²

Again, Commerce is not conducting a “power analysis” which guides researchers in their construction of a project in order to obtain a prescribed “power” (*i.e.*, confidence level, certainty in the researchers’ results and conclusions). This incorporates a balance between sampling technique, including sample size and potential sampling error, with the stipulated effect size. The Cohen’s *d* test in these final results only measures the significance of the observed differences in the mean prices for the test and comparison groups with no need to draw statistical inferences regarding sampled price data or the “power” of Commerce’s results and conclusions.

The 0.8 threshold for the Cohen’s *d* coefficient, which establishes whether the price difference between the test and comparison groups is significant (*i.e.*, the “large” effect size), is subjective and objectively supported with real-world observations, and thus it is not arbitrary. Further, Dr. Cohen’s thresholds are widely accepted, and thus have been found by others to represent reasonable standards to define the magnitude of effect size. Commerce addressed the same argument by the respondent Deosen in *Xanthan Gum*, stating:

Deosen’s claim that the Cohen’s *d* test’s thresholds of “small,” “medium,” and “large” are arbitrary is misplaced. In “Difference Between Two Means,” the author states that “there is no objective answer” to the question of what constitutes a large effect. Although Deosen focuses on this excerpt for the proposition that the “guidelines are somewhat arbitrary,” the author also notes that the guidelines suggested by Cohen as to what constitutes a small effect size, medium effect size, and large effect size “have been widely adopted.” The author further explains that Cohen’s *d* is a “commonly used measure{ }” to “consider the difference between means in standardized units.” At best, the article may indicate that although the Cohen’s *d* test is not perfect, it has been widely adopted. And certainly, the article does not support a finding, as Deosen contends, that the Cohen’s *d* test is not a reasonable tool for use as part of an analysis to determine whether a pattern of prices differ significantly.⁵³

As Commerce explained in the *Preliminary Results*, the magnitude of the price differences as measured with the Cohen’s *d* coefficient:

... 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

⁵² *Id.* (quoting Cohen at 19 (emphasis in italics, AKP’s quotation underlined)).

⁵³ See *Xanthan Gum From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013) (*Xanthan Gum*), and accompanying IDM at Comment 3 (quoting Dave Lane et al., Chapter 19 “Effect Size,” Section 2 “Difference Between Two Means”); see also *Certain Activated Carbon from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 70533 (November 26, 2013), and accompanying IDM at Comment 4; *Certain Steel Nails from the People’s Republic of China: Final Results of the Fourth Antidumping Duty Administrative Review*, 79 FR 19316 (April 8, 2014), and accompanying IDM at Comment 7; and *Second OCTG Review* IDM at 67-72.

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.⁵⁴

Commerce has relied on the most conservative of these three thresholds to determine whether the difference in prices is significant. Dr. Cohen further provided examples which demonstrate “real world” understanding of the small, medium and large thresholds where a “large” difference “is represented by the mean IQ difference estimated between holders of the Ph.D. degree and typical college freshmen, or between college graduates and persons with only a 50-50 chance of passing an academic high school curriculum. These seem like grossly perceptible and therefore large differences, as does the mean difference in height between 13- and 18-year-old girls....”⁵⁵ In other words, Dr. Cohen was stating that it is obvious on its face that there are differences in intelligence between highly educated individuals and struggling high school students, and between the height of younger and older teenage girls. Likewise, the “large” threshold is a reasonable yardstick to determine whether prices differ significantly.

Therefore, Commerce disagrees with AKP's arguments that its application of the Cohen's *d* test in this administrative review is improper. As a general matter, Commerce finds that the U.S. sales data which AKP has reported to Commerce constitutes a complete population. As such, sample size, sample distribution, and the statistical significance of the sample are not relevant to Commerce's analysis.⁵⁶ Furthermore, Commerce finds that Dr. Cohen's thresholds are reasonable, and the use of the “large” threshold is reasonable and consistent with the requirements of section 777A(d)(1)(B) of the Act.⁵⁷

Finally, we note that, in the *Preliminary Results*, we requested that interested parties “present arguments and justifications in relation to the above-described differential pricing approach used in the preliminary results, including arguments for modifying the group definitions used in this segment of the proceeding.”⁵⁸ AKP has submitted no factual evidence or argument that these thresholds should be modified or that any other aspects of the differential pricing analysis should be changed for AKP in this administrative review. Accordingly, AKP's arguments at this late stage of the administrative review are unsupported by the record and appear only to convey AKP's disagreement with the results of Commerce's application of a differential pricing analysis in this administrative review, rather than to truly identify some aspect of this approach which is unreasonable or inconsistent with the statute.

⁵⁴ Nonetheless, these thresholds, as with the approach incorporated in the differential pricing analysis itself, may be modified given factual information and argument on the record of a proceeding. See, *e.g.*, *Preliminary Results* PDM at 5.

⁵⁵ See *Second OCTG Review* IDM at 71 (citing Cohen at 27).

⁵⁶ See, *e.g.*, *Xi'an Metals & Materials Imp. & Exp. Co. v. United States*, 256 F. Supp. 3d 1346, 1364-65 (CIT 2017) (“‘{S}tatistical significance’ is irrelevant where, as here, the agency has a complete set of data to consider . . . {I}f Congress wanted ITA to measure ‘statistical significance,’ it would have included the word ‘statistical’ {when it drafted the statute}.”); and *Stanley Works Langfang Fastening Sys. Co. v. United States*, 333 F. Supp. 3d 1329, 1346 (CIT 2018) (*Stanley Works*) (similar).

⁵⁷ See *Stanley Works*, 333 F. Supp. 3d at 1346-46 (“Commerce lawfully used these thresholds to help it determine which sales ‘pass’ its Cohen's *d* test.”).

⁵⁸ See *Preliminary Results* PDM at 6.

The 33- and 66-Percent Thresholds for the Ratio Test Are Reasonable

We disagree with AKP's contention that Commerce has never explained the 33- and 66-percent thresholds used in the ratio test. Specifically, in *OCTG from India*, we addressed the establishment of the 33- and 66-percent thresholds as follows:

In the differential pricing analysis, the Department reasonably established a 33 percent threshold to establish whether there exists a pattern of prices that differ significantly. The Department finds that when a third or less of a respondent's U.S. sales are not at prices that differ significantly, then these significantly different prices are not extensive enough to satisfy the first requirement of the statute...

Likewise, the Department finds reasonable, given its growing experience of applying section 777A(d)(1)(B) of the Act and the application of the A-to-T method as an alternative to the A-to-A method, that when two thirds or more of a respondent's sales are at prices that differ significantly, then the extent of these sales is so pervasive that it would not permit the Department to separate the effect of the sales where prices differ significantly from those where prices do not differ significantly. Accordingly, the Department considered whether, as an appropriate alternative comparison method, the A-to-T method should be applied to all U.S. sales. Finally, when the Department finds that between one third and two thirds of U.S. sales are at prices that differ significantly, then there exists a pattern of prices that differ significantly, and that the effect of this pattern can reasonably be separated from the sales whose prices do not differ significantly. Accordingly, in this situation, the Department finds that it is appropriate to address the concern of masked dumping by considering the application of the A-to-T method as an alternative to the A-to-A method for only those sales which constitute the pattern of prices that differ significantly.⁵⁹

Although the selection of these thresholds is subjective, Commerce's stated reasons behind the 33- and 66-percent thresholds does not render them arbitrary. In its case brief, AKP proffers several pairs of other possible thresholds but without reasoning or support to argue that these values are more appropriate than those used by Commerce in this administrative review.⁶⁰ Likewise, during the course of this administrative review, AKP has submitted no factual evidence or argument that these thresholds should be modified. Accordingly, AKP's arguments at this late stage of the administrative review are unsupported by the record and appear only to convey AKP's disagreement with the results of Commerce's application of a differential pricing analysis in this administrative review rather than to truly identify some aspect of this approach which is unreasonable or inconsistent with the statute.

⁵⁹ See *Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances: Certain Oil Country Tubular Goods from India*, 79 FR 41981 (July 18, 2014) (*OCTG from India*), and accompanying IDM at Comment 1.

⁶⁰ See AKP's Case Brief at 11.

The Differential Pricing Analysis Appropriately Explains Whether the A-A Method Can Account for Significant Price Differences

We disagree with AKP's contention that we failed to explain why the A-A method cannot account for any pattern of price differences observed. We find that the comparison of each of the calculated weighted-average dumping margins using the standard and alternative comparison methodologies exactly quantifies the extent of the masked dumping.

The difference in the calculated results specifically reveals the extent of the masked, or "targeted," dumping which is being concealed when applying the A-A method.⁶¹ The difference in these two results is caused by higher U.S. prices offsetting lower U.S. prices where the dumping, which may be found on lower priced U.S. sales, is hidden or masked by higher U.S. prices,⁶² such that the A-A method would be unable to account for such differences.⁶³ Such masking or offsetting of lower prices with higher prices may occur implicitly within the averaging groups or explicitly when aggregating the A-A comparison results. Therefore, in order to understand the impact of the unmasked "targeted dumping," Commerce finds that the comparison of each of the calculated weighted-average dumping margins using the standard and alternative comparison methodologies exactly quantifies the extent of the unmasked "targeted dumping."

The simple comparison of the two calculated results belies all of the complexities in calculating and aggregating individual dumping margins (*i.e.*, individual results from comparing EPs, or CEPs, with NVs). It is the interaction of these many comparisons of EPs or CEPs with NVs, and the aggregation of these comparison results, which determine whether there is a meaningful difference in these two calculated weighted-average dumping margins. When using the A-A method, lower-priced U.S. sales (*i.e.*, sales which may be dumped) are offset by higher-priced U.S. sales due to the use of a weighted-average U.S. price (*i.e.*, implicit masking). Congress was concerned about offsetting and that concern is reflected in the SAA which states that "targeted dumping" is a situation where "an exporter may sell at a dumped price to particular customers or regions, while selling at higher prices to other customers or regions."⁶⁴ The comparison of a weighted-average dumping margin based on comparisons of weighted-average U.S. prices that also reflects offsets for non-dumped sales (*i.e.*, explicit masking), with a weighted-average dumping margin based on comparisons of individual U.S. prices without such offsets (*i.e.*, with zeroing) precisely examines the impact on the amount of dumping which is hidden or masked by the A-A method. Both the weighted-average U.S. price and the individual U.S. prices are compared to a NV that is independent from the type of U.S. price used for comparison, and the

⁶¹ See *Koyo Seiko*.

⁶² See Statement of Administrative Action accompanying the Uruguay Round Agreements Act., H. Doc. 316, vol. 1, 103d Cong. (1994) (SAA) at 842.

⁶³ See *Union Steel v. United States*, 713 F. 3d 1101, 1108 (Fed. Cir. 2013) ("{the A-to-A} comparison methodology masks individual transaction prices below normal value with other above normal value prices within the same averaging group.").

⁶⁴ See SAA at 842.

basis for NV will be constant because the characteristics of the individual U.S. sales⁶⁵ remain constant whether weighted-average U.S. prices or individual U.S. prices are used in the analysis.

Consider the situation where there is a single, weighted-average U.S. price, and this average is made up of a number of individual U.S. sales which exhibit a range of different prices, and the two comparison methods under consideration are the A-A method with offsets (*i.e.*, without zeroing) and the A-T method with zeroing.⁶⁶ The NV used to calculate a weighted-average dumping margin for these sales will fall into one of five scenarios with respect to the range of these different, individual U.S. sale prices:

- 1) the NV is less than all of the U.S. prices and there is no dumping;
- 2) the NV is greater than all of the U.S. prices and all sales are dumped;
- 3) the NV is nominally greater than the lowest U.S. prices such that there is a minimal amount of dumping and a significant amount of offsets from non-dumped sales;⁶⁷
- 4) the NV is nominally less than the highest U.S. prices such that there is a significant amount of dumping and a minimal amount of offsets generated from non-dumped sales;
- 5) the NV is in the middle of the range of individual U.S. prices such that there is both a significant amount dumping and a significant amount of offsets generated from non-dumped sales.

Under scenarios (1) and (2), either there is no dumping or all U.S. sales are dumped such that there is no difference between the weighted-average dumping margins calculated using offsets or zeroing and there is no meaningful difference in the calculated results and the A-A method will be used. Under scenario (3), there is a minimal (*i.e.*, *de minimis*) amount of dumping, such that the application of offsets will result in a zero or *de minimis* amount of dumping (*i.e.*, the A-A method with offsets and the A-T method with zeroing both results in a weighted-average dumping margin which is either zero or *de minimis*) and which also does not constitute a meaningful difference and the A-A method will be used. Under scenario (4), there is a significant (*i.e.*, non-*de minimis*) amount of dumping with only a minimal amount of non-

⁶⁵ These characteristics include may include such items as product, level-of-trade, time period, and whether the product is considered as prime- or second-quality merchandise.

⁶⁶ The calculated results using the A-A method with offsets (*i.e.*, no zeroing) and the calculated results using the A-T method with offsets (*i.e.*, no zeroing) will be identical. See Memorandum, "Analysis Memorandum for the Final Results of the 17-18 Antidumping Duty Administrative Review of Dioctyl Terephthalate from the Republic of Korea: Aekyung Petrochemical Co., Ltd.," dated concurrently with this memorandum, at Attachment 4 (pages 107-109), where the calculation results of the A-A method and each of the alternative comparison methods are summarized. The sum of the "Positive Comparison Results" and the "Negative Comparison Results" for each of the three comparison methods (*i.e.*, the A-A method, the "mixed" method, and the A-T method, are identical, *i.e.*, with offsets for all non-dumped sales (*i.e.*, negative comparison results), the amount of dumping is identical. As such, the difference between the calculated results of these comparison methods is whether negative comparison results are used as offsets or set to zero.

⁶⁷ As discussed further below, note that scenarios 3, 4, and 5 imply that there is a wide enough spread between the lowest and highest U.S. prices so that the differences between the U.S. prices and NV can result in a significant amount of dumping and/or offsets, both of which are measured relative to the U.S. prices.

dumped sales, such that the application of the offsets for non-dumped sales does not change the calculated results by more than 25 percent, and again there is not a meaningful difference in the weighted-average dumping margins calculated using offsets or zeroing and the A-A method will be used. Lastly, under scenario (5), there is a significant, non-*de minimis* amount of dumping and a significant amount of offsets generated from non-dumped sales such that there is a meaningful difference in the weighted-average dumping margins calculated using offsets and zeroing. Only under the fifth scenario can Commerce consider the use of an alternative comparison method.

Only under scenarios (3), (4) and (5) are the granting or denial of offsets relevant to whether dumping is being masked, as there are both dumped and non-dumped sales. Under scenario (3), there is only a *de minimis* amount of dumping such that the extent of available offsets will only make this *de minimis* amount of dumping even smaller and have no impact on the outcome. Under scenario (4), there exists more than a *de minimis* amount of dumping, and the offsets are not sufficient to meaningfully change the results. Only with scenario (5) is there more than a *de minimis* amount of dumping with a sufficient amount of offsets such that the weighted-average dumping margin will be meaningfully different under the A-T method with zeroing as compared to the A-T / A-A method with offsets. This difference in the calculated results is meaningful in that a non-*de minimis* amount of dumping is now masked or hidden to the extent where the dumping is found to be zero or *de minimis*, or to have decreased by at least 25 percent of the amount of the dumping with the applied offsets.

This example demonstrates that there must be a significant and meaningful difference in U.S. prices in order to resort to an alternative comparison method. These differences in U.S. prices must be large enough, relative to the absolute price level in the U.S. market, where not only is there a non-*de minimis* amount of dumping, but there also is a meaningful amount of offsets to impact the identified amount of dumping under the A-A method with offsets. Furthermore, the NV must fall within an even narrower range of values (*i.e.*, narrower than the range of U.S. price) such that these limiting circumstances are present (*i.e.*, scenario (5) above). This required fact pattern, as represented in this simple situation, must then be repeated across multiple averaging groups in the calculation of a weighted-average dumping margin in order to result in an overall weighted-average dumping margin which changes to a meaningful extent.

Further, for each A-A comparison result which does not result in set of circumstances in scenario (5), the “meaningfulness” of the difference in the weighted-average dumping margins between the two comparison methods will be diminished. This is because for these A-A comparisons which do not exhibit a meaningful difference with the A-T comparisons, there will be little or no change in the amount of dumping (*i.e.*, the numerator of the weighted-average dumping margin) but the U.S. sales value of these transactions will nonetheless be included in the total U.S. sales value (*i.e.*, the denominator of the weighted-average dumping margin). The aggregation of these intermediate A-A comparison results where there is no “meaningful” difference will thus dilute the significance of other A-A comparison results where there is a “meaningful” difference, which the A-T method avoids.

Additionally, the extent of the amount of dumping and potential offsets for non-dumped sales is measured relative to the total export value (*i.e.*, the denominator of the weighted-average

dumping margin) of the subject merchandise. Thus, the “targeted dumping” analysis accounts for the difference in the U.S. prices relative to the absolute price level of the subject merchandise. Only under scenario (5) above will Commerce find that the A-A method is not appropriate – where there is an identifiable above *de minimis* amount of dumping along with an amount of offsets generated from non-dumped sales such that the amount of dumping is changed by a meaningful amount when those offsets are applied. Both of these amounts are measured relative to the total export value (*i.e.*, absolute price level) of the subject merchandise sold by the exporter in the U.S. market.

In this instant proceeding, the A-A and A-T methodologies calculated different dumping margins for AKP. As found in the final results, AKP’s weighted-average dumping margin based on the A-A method is zero, whereas the AKP’s weighted-average dumping margin based on the A-T method is 0.82 percent (*i.e.*, AKP’s margins have crossed the *de minimis* threshold). This result demonstrates that the A-A method cannot account for the pattern of significant price differences.

As the CIT has explained,

Where the amount of uncovered masked dumping results in an A-T calculated margin that is not *de minimis*, and the A-A calculated margin would be *de minimis*, it is reasonable for Commerce to presume that A-A cannot account for the pattern of significant price differences because, unlike A-T, A-A cannot uncover the dumping that was masked by the differentially priced sales. The fact that A-A was able to is reason enough to demonstrate that A-A could not account for the pattern of significant price differences here.⁶⁸

Accordingly, for the above reasons, we find that Commerce’s differential pricing analysis is consistent with section 777A(d)(1)(B) of the Act and the SAA. Furthermore, the differential pricing analysis establishes a reasonable framework to determine whether the A-A method is appropriate, and if not, then how the A-T method may be considered as an alternative to the standard A-A method. Based on the results of the differential pricing analysis for the final results, we have thus continued to calculate AKP’s weighted average dumping margin by applying the A-T method to all of AKP’s U.S. sales.

Application of the Average-to-Transaction Method is Supported by Record Evidence and Commerce’s Analysis

Commerce disagrees with AKP that it has failed to satisfy the statutory requirements of section 777A(d)(1)(B) of the Act and considers the application of an alternative comparison method based on the A-T method appropriate. As set forth in the *Preliminary Results*,⁶⁹ and further explained above, Commerce’s differential pricing analysis for AKP in this review is both lawful, reasonable, and completely within Commerce’s discretion in executing the statute.

⁶⁸ See *Apex I* at 1332-35.

⁶⁹ See *Preliminary Results* PDM at 6.

Comment 2: Errors in AKP's Preliminary Margin Calculations

*AKP's Comments*⁷⁰

- Commerce failed to convert the reported costs for bulk shipments made in flexibags (FLEXIU) from Korean Won to U.S. dollars, although these expenses were reported in Korean Won.
- Commerce overstated the amount of AKP's U.S. credit expenses by deducting both the amount reported in the field, "U.S. credit expense (CREDITU)," and, in the field, "credit expense reflecting the final payment date (FCREDITU)." Because the credit expense amount reported in the variables, CREDITU and FCREDITU represent different calculations of the same expense, Commerce should deduct one or the other, but not both.

*Petitioner's Rebuttal Comments*⁷¹

- Commerce should make no adjustment for either of AKP's two alleged errors. Specifically:
 - The record does not establish that AKP's U.S. sales require a currency conversion.
 - AKP did not support its request for its requested credit expense adjustment with appropriate evidence. Commerce gave AKP considerable opportunities to demonstrate its requested adjustments; absent such support, Commerce reasonably concluded that the credit expense was improper.

Commerce's Position:

AKP contends that it reported its flexibag cost in Korean Won.⁷² However, an examination of AKP's CQR reveals that it reported the flexibag costs in U.S. dollars.⁷³ Specifically, the invoice and the sample calculation presented in Exhibit C-10 reflect a charge in U.S. dollars.⁷⁴ Although the computer file description states that AKP reported the variable in Korean won,⁷⁵ the invoice and calculation demonstrate that the charge was in U.S. dollars,⁷⁶ which matched the information reported in the U.S. sales data.⁷⁷ Therefore, we will make no change to our calculations with respect to AKP's reported flexibag costs.

We agree with AKP, that we erroneously determined U.S. credit as the sum of the original credit expenses (CREDITU) and revised credit expenses (FCREDITU). We requested AKP to revise its U.S. sales data to reflect the final date of payment for U.S. sales that received multiple

⁷⁰ See AKP's Case Brief at 16.

⁷¹ See Petitioner's Case Brief at 8.

⁷² See AKP's Case Brief at 16 (citing AKP's Letter, "Response to Sections B, C, and D of the Department's November 6 Questionnaire," dated February 5, 2019 (AKP's BQR, CQR, and DQR), at Exhibit C-10, "ISO Tank Rental Charge and Flexibag Cost").

⁷³ See AKP's CQR at Exhibit C-2, "Computer File Format Description," and Exhibit C-10.

⁷⁴ *Id.*

⁷⁵ *Id.*; see also 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), at Exhibit SC-2.

⁷⁶ See AKP's CQR at Exhibit C-10.

⁷⁷ *Id.*; see also the section C database.

payments for a single transaction.⁷⁸ AKP responded that, “during the review period, there were two U.S. sales with multiple payments (SEQU 23 and 28).” In addition, AKP explained that it revised its date of payment for certain additional U.S. sales to reflect actual dates on which AKP received the payments, as indicated in its bank statements.⁷⁹ Thus, AKP fully supported its reporting of credit expense and correctly notes that only FCREDITU (reflecting date of final payment) should be used for the final results to correct for the double-counting in the *Preliminary Results*. Therefore, for the final results, we will base the adjustment to U.S. price for credit expenses on the final payment dates recorded in AKP’s revised U.S. sales data and remove the double-counting of AKP’s credit expenses. We note that the petitioner’s objection to making this change, asserting that AKP’s claimed adjustment for credit expenses were not supported by the record, and Commerce was correct to not make the adjustment, does not address the substance of the issue, which concerns whether AKP’s credit expenses were improperly double-counted (*i.e.*, adequate support for an adjustment to U.S. price for credit expenses was never at issue).

Comment 3: A CEP Offset for Hanwha Chemical

*Hanwha Chemical’s Comments*⁸⁰

- Hanwha Chemical disagrees with Commerce’s determination that Hanwha Chemical did not qualify for a CEP offset in the *Preliminary Results*.⁸¹
- Hanwha Chemical performed thirteen selling activities at the home market (HM) level of trade (LOT) but only six selling activities at the CEP LOT.⁸² Hanwha Chemical’s selling activities for the U.S. market at the CEP LOT are minimal because Hanwha International LLC (Hanwha International, the affiliated U.S. importer) performs most of the selling activities for the sales in the United States to the first unaffiliated U.S. customer. Thus, Hanwha Chemical’s sales at the CEP LOT are at a less advanced stage of distribution than the HM LOT.
- Commerce’s analysis focused on the wrong U.S. channels of distribution when determining whether Hanwha Chemical qualified for a CEP offset, conflating the activities that Hanwha Chemical performed in selling to Hanwha International at the CEP LOT with the activities that Hanwha Chemical performed when making EP sales to unaffiliated customers in Korea (trading companies) or in the United States (direct sales). In particular, Commerce claimed that Hanwha Chemical performed the selling functions of sales forecasting, strategic/economic planning, sales promotion, packing, market research and technical assistance for all U.S. sales, when in fact, Hanwha Chemical only performed these selling

⁷⁸ See Commerce’s Letter, “Diethyl 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, at 10 question 35.

⁷⁹ *Id.* at 2-3.

⁸⁰ See Hanwha Chemical’s Case Brief at 2-12.

⁸¹ *Id.* at 2 (citing *Preliminary Results* PDM at 16-17).

⁸² *Id.* at 3-4 (citing Hanwha Chemical’s Letter, “Diethyl Terephthalate (DOTP) from the Republic of Korea: Hanwha Chemical’s Section A Questionnaire Response,” dated December 11, 2018 (Hanwha Chemical’s AQR), at Exhibit A-7).

functions with respect to the EP sales to Korean trading companies and directly to unaffiliated U.S. customers.

- In determining whether the HM LOT is at a more advanced stage of distribution than the CEP LOT, Commerce compares the selling functions required to make the first sale to unaffiliated home market customers with the selling functions required to make sales to its U.S. affiliate.⁸³ If Commerce determines that more activities are incurred in selling to the first unaffiliated home market customers than to the exporter's U.S. affiliate, the HM LOT is considered more advanced than the CEP LOT, and the respondent is entitled to a CEP offset.⁸⁴
- Commerce has determined in a broad array of determinations that companies that demonstrate a substantial difference between the selling activities performed for the CEP LOT and the HM LOT are entitled to a CEP offset.⁸⁵
- Thus, Commerce should grant Hanwha Chemical a CEP offset for the final results of review.

⁸³ *Id.* at 3 (citing *Preliminary Results PDM* at 14 and 16).

⁸⁴ *Id.* at 3. Hanwha Chemical provided no statutory or regulatory citation for this statement.

⁸⁵ See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Korea*, 67 FR 62124 (October 3, 2002), and accompanying IDM at Comment 10 (finding that the respondent's U.S. affiliate was "heavily involved and performs exclusively" a number of activities, including negotiating sales terms, meeting with customers, involving unaffiliated customers, performing market research, handling importation documents, serving as importer of record, and paying U.S. customs duties and wharfage); see also *Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2017-2018*, 83 FR 65348 (December 21, 2018), and accompanying PDM at 8 and 9 (granting CEP offsets to two respondents after concluding that the selling activities that the respondents performed for their home-market LOTs were "substantially dissimilar" to those performed in selling to the respondents' U.S. affiliates, including the fact that their sales at their respective CEP LOTs did not involve certain selling activities that they performed at their respective home market LOTs), unchanged in *Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 84 FR 25751 (June 4, 2019); *Certain Magnesia Bricks from Mexico: Notice of Final Determination of Sales at Less Than Fair Value*, 75 FR 45097 (August 2, 2010), and accompanying IDM at Comment 2 (granting a CEP offset after finding, based on verified record evidence, that respondent Refmex's sales to home market customers involve the full range of selling activities, while Refmex provides only a limited amount of selling activities for its sales to {its affiliate} VRC. We also confirmed that most of the selling activities that Refmex performs for home market sales are performed by VRC and VRA for CEP sales.); *Stainless Steel Sheet and Strip in Coils from Germany: Notice of Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 45024, 45029 (August 8, 2006) (finding that in the home market the respondent made sales "further down the chain of distribution by providing certain downstream selling functions that are normally performed by the affiliated resellers in the U.S. market (e.g., technical advice, sales calls and visits)"), unchanged in *Stainless Steel Sheet and Strip in Coils from Germany: Notice of Final Results of Antidumping Duty Administrative Review*, 71 FR 74897 (December 13, 2006); *Notice of Final Results of the Tenth Administrative Review and New Shipper Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea*, 70 FR 12443 (March 14, 2005), and accompanying IDM at Comment 4 (noting the "significant selling activities" performed by the respondents' U.S. affiliates); and *Certain Stainless Steel Butt-Weld Pipe Fittings from Taiwan: Final Results and Final Rescission in Part of Antidumping Duty Administrative Review*, 67 FR Reg. 78417 (Dec. 24, 2002), and accompanying IDM at Comment 6 (noting that, whereas the respondent performed "the key sales functions of dealing with and negotiating with unaffiliated customers" in the home market, the U.S. affiliate performed this "key task" in the U.S. market).

*Petitioner's Rebuttal Comments*⁸⁶

- Commerce should deny Hanwha Chemical's requested CEP offset because Hanwha Chemical failed to demonstrate substantial differences between the LOT of sales in each market.
- Hanwha Chemical's reported selling functions in the home market are very similar to the selling functions related to its U.S. sales, and, the record demonstrates that Hanwha engages in very little marketing activity for its sales of DOTP.
- In the original investigation and in the *Preliminary Results*, Commerce denied LG Chem a CEP offset because "LG Chem did not demonstrate that its selling activities differ in that adjustments are appropriate under section 773(a)(7)(B) of the Act and 19 CFR 351.412(c)(2)." Commerce stated further that "Record evidence does not demonstrate that LG Chem's sales channels or selling practices in either market are significantly different from one another, such that one could determine the sales to be at different marketing stages, pursuant to 19 CFR 351.412(c)(2)."⁸⁷
- In the instant review, Commerce properly concluded that Hanwha Chemical made all home market sales at the same LOT since they were made to unaffiliated distributors and affiliated and unaffiliated end users through one channel of distribution.
- In the U.S. market, Commerce reasonably concluded that Hanwha Chemical's U.S. sales were all made at the same LOT through three channels of distribution at the same LOT.
- Thus, because there are no significant differences in selling functions or the intensity of those functions between the various channels of distribution, Commerce should find all of Hanwha's sales to be at the same LOT and deny the CEP offset in the final results of this administrative review, as it did with LG Chem in the original investigation.

Commerce's Position:

We agree with the petitioner that Hanwha Chemical failed to support its claim for a CEP offset and that Hanwha Chemical's selling activities are similar in each market, *i.e.*, that there is a single LOT in both markets. As described in the *Preliminary Results*, Hanwha Chemical has not demonstrated that its selling activities differ such that adjustments are appropriate under section 773(a)(7)(B) of the Act and 19 CFR 351.412(c)(2).⁸⁸ Hanwha Chemical makes all of its HM sales through a single channel of distribution directly to unaffiliated distributors and affiliated and unaffiliated end users in the home market.⁸⁹ Hanwha Chemical makes EP sales to unaffiliated Korean trading companies, and directly to unaffiliated retailers and end users in the United States.⁹⁰ Hanwha International, Hanwha Chemical's affiliated U.S. importer, makes CEP sales of subject merchandise directly to unaffiliated end users and distributors in the United States.⁹¹ Hanwha Chemical's section A response stated that its prices do not vary depending on the channel of distribution or customer categories, either in the U.S. or home markets.⁹² Hanwha

⁸⁶ See Petitioners' Rebuttal Brief at 1-5.

⁸⁷ *Id.* at 3.

⁸⁸ See *Preliminary Results* PDM at 15-17.

⁸⁹ See Hanwha Chemical's AQR at 1-14 and Exhibit A-6.

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.* at A-17.

Chemical's section B response explains that Hanwha Chemical performs selling activities to a greater degree and intensity for HM sales than the activities performed for its CEP sales to Hanwha International;⁹³ and, as a consequence, Hanwha Chemical coded its home market and EP sales with a LOT code of "1"⁹⁴ and its CEP sales with a LOT code of "2".⁹⁵

We agree with Hanwha Chemical that our analysis in the *Preliminary Results* erroneously conflated the selling activities that Hanwha Chemical performed in selling to Hanwha International at the CEP LOT with the activities that Hanwha Chemical performed when making EP sales to unaffiliated Korean trading companies and direct sales to unaffiliated customers in the United States, and we have revised our analysis accordingly. However, for the reasons set forth below, we have not changed our determination with respect in finding that a single LOT existed for Hanwha Chemical's U.S. sales, in finding that a single LOT existed for both its U.S. and HM sales, and denying Hanwha Chemical a CEP offset for the final results.

We disagree with Hanwha Chemical's premise that Commerce should merely add up the number of selling activities performed in one market but not the other and determine on that basis that the market with the greater number of selling activities is at a different, and more advanced, LOT. The CEP offset analyses are primarily qualitative in nature - it is not the number of activities which is determinative, but how significant these activities are to the company's overall sales process.⁹⁶

In analyzing the respective LOTs for home market sales and CEP sales, Commerce's practice is to "examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer."⁹⁷ If the home market sales are at a different LOT than the LOT for CEP sales and the difference affects price comparability, as manifested in a pattern of consistent price differences between sales on which NV is based and home market sales at the LOT of the export transaction, Commerce makes a LOT adjustment under section 773(a)(7)(A) of the Act.⁹⁸ For CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in levels between NV and CEP affects price comparability, Commerce adjusts NV under section

⁹³ See Hanwha Chemical's Letter, "Diocetyl Terephthalate (DOTP) from the Republic of Korea: Hanwha Chemical's Sections B, C, and D Questionnaire Responses," dated February 5, 2019 (BQR, CQR and DQR), at B-21.

⁹⁴ See Hanwha Chemical's BQR at B-21.

⁹⁵ See Hanwha Chemical's CQR at C-21.

⁹⁶ See *Certain Frozen Warmwater Shrimp from Thailand: Final Results of Antidumping Duty Administrative Review, Partial Rescission of Review, and Revocation of Order (in Part)*; 2011; 74 FR 42497 (July 16, 2013), and accompanying IDM at Comment 6.

⁹⁷ See, e.g., *Certain Hot-Rolled Carbon Steel Flat Products from Romania: Preliminary Results of the Antidumping Duty Administrative Review*, 72 FR 44821, 44824 (August 9, 2007) (*HRS from Romania*), unchanged in *Certain Hot-Rolled Carbon Steel Flat Products from Romania: Final Results of Antidumping Duty Administrative Review*, 72 FR 71357 (December 17, 2007); *Certain Pasta from Italy: Notice of Preliminary Results and Partial Rescission of Tenth Antidumping Duty Administrative Review*, 72 FR 44082, 44084-85 (August 7, 2007), unchanged in *Certain Pasta from Italy: Notice of Final Results of the Tenth Administrative Review and Partial Rescission of Review*, 72 FR 70298 (December 11, 2007); and *Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination*, 77 FR 63291 (October 16, 2012), and accompanying IDM at Comment 3.

⁹⁸ See *HRS from Romania*, 72 FR at 44824.

773(a)(7)(B) of the Act (the CEP offset).⁹⁹ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.¹⁰⁰ Some overlap in selling activities will not preclude a determination that two sales are at different stages of marketing.¹⁰¹ It is within this framework that Commerce conducts its LOT analysis.

It is Commerce's standard practice to conduct an LOT analysis of selling activities for CEP sales under 19 CFR 351.412(c)(1) after deducting the selling expenses for CEP sales under section 772(d) of the Act.¹⁰² Under section 772(d) of the Act, we do not deduct the selling expenses incurred by Hanwha Chemical in support of its sales to Hanwha International. Thus, to the extent that Hanwha Chemical performs selling activities related to such expenses in support of its sales to its affiliate Hanwha International, we have included them in the CEP LOT. Commerce will not consider selling activities provided by Hanwha Chemical to unaffiliated U.S. customers, in support of Hanwha International's sales to these customers, as these are associated with the selling expenses that must be deducted under section 772(d) of the Act, regardless of their location in the reported expense fields.

In conducting our analysis for this review, we examine four broad categories of selling functions that Commerce uses in such analyses (*i.e.*, sales and marketing activities, inventory maintenance and warehousing, freight and delivery, and warranty and technical support) as well as all information and other arguments provided regarding the question of whether Hanwha Chemical's home market sales are at a more advanced LOT than the LOT for its CEP sales. Such an analysis, we conclude, confirms that the home market and CEP sales are at the same LOT.

In its section A questionnaire response, Hanwha Chemical identified a large number of selling functions, and divided these into the four broad selling activities listed below.¹⁰³ Our Final Analysis Memorandum contains a business proprietary discussion of the specific selling functions included in each of the four selling activities identified below.¹⁰⁴

⁹⁹ *Id.*

¹⁰⁰ See 19 CFR 351.412(c)(2).

¹⁰¹ *Id.*

¹⁰² See, e.g., *Certain Hot-Rolled Carbon Steel Flat Products from Romania: Preliminary Results of the Antidumping Duty Administrative Review*, 71 FR 62082, 62084 (October 23, 2006), unchanged in *Certain Hot-Rolled Carbon Steel Flat Products from Romania: Final Results of Antidumping Duty Administrative Review*, 72 FR 18204 (April 11, 2007) ("For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and CEP profit under section 772(d) of the Act"); see also 19 CFR 351.412(c)(1)(ii).

¹⁰³ See Hanwha Chemical's AQR at A-18 through A-20, and Exhibit A-7.

¹⁰⁴ See Memorandum, "Analysis Memorandum for the Final Results of the 17-18 Antidumping Duty Administrative Review of Diocetyl Terephthalate from the Republic of Korea: Hanwha Chemical Co., Ltd., Hanwha Chemical Corp., Hanwha Chemical Corporation, and Hanwha Corporation (collectively, Hanwha Chemical)," dated concurrently with this memorandum (Final Analysis Memorandum).

Sales and Marketing Activities

Hanwha Chemical classified a number of selling functions as sales and marketing activities and identified the selling functions and level of intensity that it performed for its home market sales, and the selling functions that it reported for its sales to Hanwha International, Hanwha Chemical's affiliated U.S. importer.¹⁰⁵ Hanwha Chemical also reported that it did not perform certain selling functions for its sales to Hanwha International.¹⁰⁶ Our examination of these selling functions further indicates that Hanwha Chemical did not perform certain selling functions for either market.¹⁰⁷ As discussed further in the Final Analysis Memorandum, although it nominally appears that Hanwha Chemical performed more selling functions at a higher level of intensity in support of its HM sales than for its sales to Hanwha International, the totality of circumstances indicates that the overall selling activities are similar in both markets.¹⁰⁸

Inventory Maintenance and Warehousing

Hanwha Chemical classified a number of selling functions as inventory maintenance and warehousing activities and identified the selling functions and level of intensity that it performed for its HM sales, and the selling functions that it reported for its sales to Hanwha International.¹⁰⁹ In addition, Hanwha Chemical indicated that it did not perform certain selling functions for either market.¹¹⁰ Despite the fact that Hanwha Chemical performed certain selling functions at a different level of intensity for each market, the selling functions that it performed for each market in this category are similar.

Freight and Delivery

Hanwha Chemical classified a number of selling functions as freight and delivery and identified the selling functions and level of intensity that it performed for its HMT sales, and the selling functions that it reported for its sales to Hanwha International.¹¹¹ Although it reported that it provided freight and delivery services at differing levels of intensity for each market, the selling functions that it performed for each market in this category are similar.

Warranty and Technical Support

Hanwha Chemical classified a number of selling functions as warranty and technical support and explained that it did not provide warranty services either to the home market or to Hanwha International.¹¹² In addition, it explained that it provided technical services to its HM customers to a far greater degree than to its CEP entity.¹¹³ However, Hanwha Chemical's BQR and CQR

¹⁰⁵ See Hanwha Chemical's AQR at Exhibit A-7.

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² See Hanwha Chemical's AQR at A-19 and Exhibit A-7.

¹¹³ *Id.*

each explained that it did not provide technical services in either the home or U.S. market,¹¹⁴ contradicting the information provided in its section A response.¹¹⁵ Therefore, because Hanwha Chemical did not provide warranties or technical services in either market, we find that the selling activities Hanwha Chemical performed in this category for each market to be similar.

Conclusion

Based on a totality of the facts and circumstances, we find that analysis of the relevant selling activities, as classified under the four general categories of selling functions, demonstrates that there is no basis for determining that there is a significant variation in Hanwha Chemical's overall selling activities for its HM and CEP sales. Hanwha Chemical performed similar selling activities in both markets, although it claims that it performed most selling functions at a lower level of intensity for sales to the CEP entity than for its HM sales. Thus, there is no record evidence to conclude that the selling activities that Hanwha Chemical performs in the home market are sufficiently different and greater in intensity to warrant a finding that the HM LOT is at a different and at a more advanced stage of distribution than the CEP LOT. As a consequence, there is no basis for making a CEP offset for these final results.

As we stated in the *Preliminary Results*, “[I]n 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).”¹¹⁶ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stage of marketing.¹¹⁷ Hanwha Chemical did not demonstrate that substantial differences exist between the LOT of its HM and CEP sales. It did not claim that the HM LOT is more remote from the factory than the CEP LOT, and, it explicitly claims that its “prices do not vary depending on the channel of distribution or customer categories, either in the U.S. or home markets.”¹¹⁸ As a consequence, there is no basis to determine whether the differences in any perceived LOT between HM sales and CEP sales affects price comparability, since Hanwha Chemical explicitly stated that prices do not vary depending on the channel of distribution or customer category. Because the totality of the information and argument on the record does not support Hanwha Chemical's claims that its sales were made at different LOTs, or that it was entitled to a CEP offset, we have made no changes to our margin calculations for a CEP offset for the final results of review.

¹¹⁴ See Hanwha Chemical's BQR at B-29; and Hanwha Chemical's CQR at C-33. In addition, we note that Hanwha Chemical did not identify warranty or technical services as an indirect selling expense in the U.S. or home market. See Hanwha Chemical's BQR at Exhibit B-13, “Indirect Selling Expense Calculation;” Hanwha Chemical's CQR at Exhibit C-15, “Korean Indirect Selling Expenses (DINDIRSU),” and Exhibit C-16, “U.S. Indirect Selling Expenses (INDIRSU).”

¹¹⁵ See Hanwha Chemical's AQR at A-19 and Exhibit A-7.

¹¹⁶ See *Preliminary Results* PDM at 17.

¹¹⁷ *Id.* (citing 19 CFR 351.412(c)(2)).

¹¹⁸ See Hanwha Chemical's AQR at A-17.

VI. RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting all of the above positions. If this recommendation is accepted, we will publish the final results of this review in the *Federal Register*.



Agree

Disagree

4/15/2020

X



Signed by: CHRISTIAN MARSH

Christian B. Marsh
Deputy Assistant Secretary
for Enforcement and Compliance