



A-557-813
Administrative Review
POR: 08/01/2019 – 07/31/2020
Public Document
E&C/OIII: SB

August 27, 2021

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

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

SUBJECT: Decision Memorandum for the Preliminary Results of the 2019-2020 Antidumping Duty Administrative Review: Polyethylene Retail Carrier Bags from Malaysia

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on polyethylene retail carrier bags (PRCBs) from Malaysia covering the period of review (POR) August 1, 2019, through July 31, 2020. This administrative review covers one producer/exporter of the subject merchandise: Euro SME Sdn. Bhd. and Euro Nature Green Sdn. Bhd. (Nature Green) (collectively, Euro SME).¹ We preliminarily determine that Euro SME did not make sales below normal value (NV) during the POR.

II. BACKGROUND

On August 4, 2020, Commerce published a notice of opportunity to request an administrative review of the order for the 2019-2020 review period.² In August 2020, Commerce received a timely request to conduct an administrative review from the petitioners.³ On October 6, 2020,

¹ In the 2018-2019 administrative review of the AD order, we collapsed Euro SME Sdn. Bhd. and Nature Green and treated them as a single entity. See *Polyethylene Retail Carrier Bags from Malaysia: Preliminary Results of Antidumping Duty Administrative Review; 2018-2019*, 85 FR 83515 (December 22, 2020), and accompanying Preliminary Decision Memorandum at 3-5, unchanged in *Polyethylene Retail Carrier Bags from Malaysia: Final Results of Antidumping Duty Administrative Review; 2018-2019*, 86 FR 22019 (April 26, 2021)). Our treatment of Euro SME Sdn. Bhd. and Nature Green remains unchanged in the instant review.

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 85 FR 47167 (August 4, 2020).

³ The petitioners are the Polyethylene Retail Carrier Bag Committee and its individual members, Hilex Poly Co., LLC and Superbag Corp. (collectively, petitioners). See Petitioners' Letter, "Polyethylene Retail Carrier Bags from Malaysia: Request for Administrative Review," dated August 31, 2020.

we published a notice initiating an AD administrative review of the AD order on PRCBs from Malaysia covering Euro SME.⁴

On October 26, 2020, we issued the initial questionnaire to Euro SME. Euro SME provided timely responses to the relevant sections of the initial questionnaire.⁵ Between February 2021 and June 2021, we issued supplemental questionnaires to Euro SME and Euro SME provided timely responses, as requested.⁶

III. SCOPE OF THE ORDER

The merchandise covered by this order is polyethylene retail carrier bags (PRCBs), which may be referred to as t-shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non-sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than 0.035 inch (0.889 mm) and no less than 0.00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches but not longer than 40 inches (101.6 cm).

PRCBs are typically provided without any consumer packaging and free of charge by retail establishments, e.g., grocery, drug, convenience, department, specialty retail, discount stores, and restaurants, to their customers to package and carry their purchased products. The scope of the order excludes (1) polyethylene bags that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) polyethylene bags that are packed in consumer packaging with printing that refers to specific end-uses other than packaging and carrying merchandise from retail establishments, e.g., garbage bags, lawn bags, trash-can liners.

Imports of subject merchandise are currently classifiable under statistical category 3923.21.0085 of the Harmonized Tariff Schedule of the United States (HTSUS). This subheading may also cover products that are outside the scope of this antidumping duty order. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this antidumping duty 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 Tariff Act of 1930, as amended (the Act) and 19 CFR 351.213.

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 63081 (October 6, 2020).

⁵ See Euro SME's Letter, "Polyethylene Retail Carrier Bags from Malaysia; Section A Response," dated November 23, 2020 (AQR); see also Euro SME's Letter, "Polyethylene Retail Carrier Bags from Malaysia; Sections B-D Response," dated December 11, 2020 (BCDQR).

⁶ See Euro SME's Letter, "Polyethylene Retail Carried Bags from Malaysia; First Supplemental Response," dated March 10, 2021 (SQR1); see also Euro SME's Letter, "Polyethylene Retail Carrier Bags from Malaysia; Second Supplemental Response," dated June 2, 2021; and Euro SME's Letter, "Polyethylene Retail Carrier Bags from Malaysia; Third Supplemental Response," dated July 9, 2021.

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 the respondent's sales of the subject merchandise from Malaysia to the United States were made at less than NV, Commerce compared the export price (EP) and/or the constructed export price (CEP) to NV as described in the "Export Price and Constructed Export Price" and "Normal Value" sections of this memorandum.

1. *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 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.⁷

In numerous investigations and reviews, 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.⁸ Commerce finds that the differential pricing analysis is instructive for purposes of examining whether to apply an alternative comparison method in this administrative review.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of EPs (or CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by 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

⁷ 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 Decisions Memorandum (IDM) at Comment 1; see also *JBF RAK LLC v. United States*, 790 F.3d 1358, 1363-65 (Fed. Cir. 2015) ("the fact that the statute is silent with regard to administrative reviews does not preclude Commerce from filling gaps in the statute to properly calculate and assign antidumping duties.") (citations omitted); and *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (CIT 2014).

⁸ 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); and *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), or *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is defined using the product control number 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.⁹

2. *Results of the Differential Pricing Analysis*

For Euro SME, based on the results of the differential pricing analysis, Commerce preliminarily finds that 60.79 percent of the value of U.S. sales pass the Cohen's *d* test,¹⁰ 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 those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test. Thus, for these preliminary results, Commerce is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Euro SME.

B. *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.¹¹ 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.¹²

⁹ The Court of Appeals for the Federal Circuit (CAFC) in *Apex Frozen Foods v. United States*, 862 F.3d 1322 (Fed. Cir. 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.

¹⁰ See Memorandum, "Polyethylene Retail Carrier Bags from Malaysia: Euro SME Sdn Bhd. – Analysis Memorandum for the Preliminary Results of the Administrative Review, 2019-2020," dated concurrently with this memorandum (Euro SME's Preliminary Analysis Memorandum).

¹¹ See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)).

¹² See, e.g., *Certain Frozen Warmwater Shrimp from Thailand: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 52065 (September 12, 2007), and accompanying IDM at Comment 11.

Euro SME reported the invoice date as the date of sale for its home market and U.S. sales.¹³ We preliminarily followed Commerce’s long-standing practice of basing the date of sale for all comparison market and U.S. sales on the earlier of the invoice date or the shipment date.

C. *Product Comparisons*

In accordance with section 771(16) of the Act, we considered all products that the respondent produced and sold in Malaysia 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 the physical characteristics reported by Euro SME in the following order of importance: bag type, length, width, gusset, thickness, percent of high density polyethylene resin, percent of low density polyethylene resin, percent of low linear density polyethylene resin, percent of color concentrate, percent of ink coverage, number of ink colors, and number of sides printed.¹⁴ For the respondent’s sales of PRCBs in the United States, the reported control number identifies the characteristics of PRCBs as exported by Nature Green.

D. *Export Price and Constructed Export Price*

1. 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. In accordance with section 772(a) of the Act, we calculated EP for Euro SME’s U.S. sales where the subject merchandise was first sold to an unaffiliated purchaser in the United States prior to importation.

We calculated EP for Euro SME based on packed prices to unaffiliated purchasers in the United States. We made deductions, where appropriate, for movement expenses as reported, *i.e.*, inland freight from plant to seaport,¹⁵ international freight, U.S. customs duties,¹⁶ U.S. brokerage and handling expenses,¹⁷ U.S. inland freight from the port to the warehouse,¹⁸ U.S. warehousing

¹³ See BCDQR at 10 and 30; see also SQR1 at 11-12.

¹⁴ See BCDQR at 5-9 and 25-29.

¹⁵ *Id.* at 36.

¹⁶ See SQR1 at 9.

¹⁷ *Id.* at 8.

¹⁸ *Id.*

expenses,¹⁹ U.S. inland freight from the warehouse to the customer,²⁰ in accordance with section 772(c)(2)(A) of the Act.

2. 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 Euro SME’s U.S. sales of subject merchandise because the sales were made on its behalf by its affiliate in the United States to unaffiliated purchasers in the United States.

For reported CEP sales, we calculated CEP based on delivered prices to unaffiliated purchasers in the United States. We also 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 to seaport as reported,²¹ international freight, U.S. customs duties,²² U.S. brokerage and handling expenses,²³ U.S. inland freight from the port to the warehouse,²⁴ U.S. warehousing expenses,²⁵ and U.S. inland freight from the warehouse to the customer.²⁶

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 credit expenses, indirect selling expenses, inventory carrying costs, and commissions incurred in the United States. In addition, we deducted an amount for CEP profit in accordance with sections 772(d)(3) and 772(f) of the Act.

E. *Normal Value*

1. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, *i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales, 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

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.* at 36.

²² *Id.* at 9.

²³ *Id.* at 8.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

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 or in a third country to serve as a viable basis for calculating NV, we compared Euro SME's volume of home-market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise in accordance with sections 773(a)(1)(B) and (C) of the Act. We found that Euro SME's individual aggregate sales volume of foreign like product in the home market was greater than five percent of its sales of subject merchandise to the United States. Therefore, in accordance with section 773(a)(1)(C) of the Act, Malaysia constitutes a viable home market for Euro SME. Accordingly, Malaysia was selected as the comparison market for purposes of analysis in this review.

2. 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 U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).²⁷ Substantial differences in selling activities are necessary, but not a sufficient, condition for determining that there is a difference in the stages of marketing.²⁸ 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.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (*i.e.*, where NV is based on either home market or third country prices),²⁹ we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.³⁰

When we are unable to match U.S. sales of the foreign like product in the comparison market at the same LOT, Commerce may compare U.S. sales to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it possible, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs

²⁷ See 19 CFR 351.412(c)(2).

²⁸ *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).

²⁹ Where NV is based on constructed value (CV), we determine the NV LOT based on the LOT of the sales from which we derive selling, general, and administrative expenses and profit for CV, where possible. See 19 CFR 351.412(c)(1).

³⁰ See *Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

between NV and CEP affects price comparability (*i.e.*, no LOT adjustment is possible), Commerce will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.³¹

In this review, we obtained information from Euro SME regarding the marketing stages involved in making its reported home market and U.S. sales, including a description of the selling activities performed by Euro SME for each channel of distribution.³² Euro SME did not claim LOT adjustments in either the home market or the U.S. market.³³ Therefore, we preliminarily determine that sales to the United States and home market during the POR were made at the same LOT, and, as a result, no LOT adjustment or CEP offset is warranted.

F. *Cost of Production Analysis*

In accordance with section 773(b)(2)(A)(ii) of the Act, Commerce requested COP information from Euro SME. We examined Euro SME's cost data and determined that our quarterly cost methodology is not warranted; therefore, we are applying our standard methodology of using annual costs based on the reported data.

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 financial expenses. We relied on the COP data submitted by Euro SME with the following adjustments:

- We increased the reported cost of manufacturing (COM) in accordance with the transactions disregarded rule to account for affiliated party services provided to Euro SME.³⁴
- We revised the cost reconciliation to exclude the change in work in process inventory and adjusted the reported costs to reflect the increase in COM.³⁵
- We revised the G&A expense ratio to use the cost of goods sold in the denominator of the calculation.³⁶
- We revised the financial expense ratio to reflect the rate based on the consolidated financial statements.³⁷

³¹ See, e.g., *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.

³² See AQR at 10 and Exhibit 4.

³³ See BCDQR at 15 and 35.

³⁴ See Euro SME's Preliminary Analysis Memorandum.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

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, movement charges, actual 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.

In this case, we found that for certain products more than 20 percent of Euro SME's home market sales during the POR were at prices less than the COP and that such sales did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales as the basis for determining NV in accordance with section 773(b)(1) of the Act.

G. *Calculation of Normal Value Based on Comparison-Market Prices*

For Euro SME, we based NV on delivered prices to unaffiliated customers in the home market. We made deductions from the starting price for movement expenses, including inland freight from plant/warehouse to the customer³⁸ under section 773(a)(6)(B)(ii) of the Act.

We also deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act. For comparisons to EP sales, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale. Specifically, we deducted direct selling expenses incurred for home market sales (*i.e.*, imputed credit expenses) and added U.S. direct selling expenses (*i.e.*, imputed credit expenses).

³⁸ See BCDQR at 16.

For comparisons to CEP sales, in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410, we deducted direct selling expenses (*i.e.*, imputed credit expenses) from NV.

When comparing U.S. sales with comparison-market sales of similar, but not identical, merchandise, we also made adjustments for differences in merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like products and merchandise under consideration.³⁹

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

VI. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

☒

☐

Agree

Disagree

8/27/2021

X



Signed by: CHRISTIAN MARSH

Christian Marsh

Acting Assistant Secretary

for Enforcement and Compliance

³⁹ See 19 CFR 351.411(b).