



A-351-842  
Investigation  
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January 8, 2016

**MEMORANDUM TO:** Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

**FROM:** Christian Marsh *CM*  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**SUBJECT:** Issues and Decision Memorandum for the Final Determination of  
the Antidumping Duty Investigation of Certain Uncoated Paper  
from Brazil

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## I. SUMMARY

The Department of Commerce (“the Department”) determines that certain uncoated paper (“uncoated paper”) from Brazil is being, or is likely to be, sold in the United States at less than fair value (“LTFV”), as provided in section 735 of the Tariff Act of 1930, as amended (“the Act”). We analyzed the comments of the interested parties. As a result of this analysis and based on our findings at verification,<sup>1</sup> we made certain changes to the margin calculations for the mandatory respondents, International Paper do Brasil Ltda. (“IP Brasil”), and International Paper

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<sup>1</sup> See Memorandum to the File, through Neal Halper, Director, Office of Accounting, from Christopher Zimpo and Lavonne Clark, Accountants, “Verification of the Cost of Production and Constructed Value Data Submitted by International Paper do Brasil Ltda. in the Antidumping Duty Investigation of Certain Uncoated Paper from Brazil” (November 12, 2015) (“IP Brasil’s Cost Verification Report”); Memorandum to the File, through Neal Halper, Director, Office of Accounting, from Christopher Zimpo and Lavonne Clark, Accountants, “Verification of the Cost of Production and Constructed Value Data Submitted by Suzano Papel e Celulose S.A. in the Antidumping Duty Investigation of Certain Uncoated Paper from Brazil” (November 9, 2015) (“Suzano’s Cost Verification Report”); Memorandum to the File, through Paul Walker, Program Manager, Office V, from Andrew Devine, Julia Hancock, Susan Pulongbarit, and Whitney Schablik, Analysts, “Verification of Home Market Sales of International Paper do Brasil Ltda. and International Paper Exportadora Ltda.” (November 12, 2015) (“International Paper’s Home Market Verification Report”); Memorandum to the File, through Paul Walker, Program Manager, Office V, from Andrew Devine, Julia Hancock, Susan Pulongbarit, and Whitney Schablik, Analysts, “Verification of Home Market Sales of Suzano Papel e Celulose S.A.” (November 6, 2015) (“Suzano’s Home Market Verification Report”); and Memorandum to the File, from Paul Walker, Program Manager, Office V, “Verification of U.S. Sales of Suzano Papel e Celulose S.A.” (December 1, 2015) (“Suzano’s CEP Verification Report”).



Exportadora Ltda. (“IPEX”) (collectively “International Paper”)<sup>2</sup> and Suzano Papel e Celulose S.A./Suzano Pulp and Paper America, Inc. (“Suzano”), collectively “Respondents.” The estimated weighted-average dumping margins are shown in the “Final Determination” section of the accompanying *Federal Register* notice.

## II. BACKGROUND

On August 27, 2015, the Department published in the *Federal Register* the *Preliminary Determination* of this antidumping duty (“AD”) investigation.<sup>3</sup>

Between September and December 2015, the Department received supplemental questionnaire responses and revised databases from International Paper and Suzano. In September and October 2015, the Department verified the sales and cost data reported by International Paper and Suzano, pursuant to section 782(i) of the Act.

On October 2, 2015, Gartner Studios, Inc. submitted its case brief on the scope of the investigations.<sup>4</sup> On October 19, 2015, American Greetings Corporation (“American Greetings”) submitted its case brief regarding the scope of the investigations.<sup>5</sup> On October 29, 2015, Petitioners<sup>6</sup> submitted their rebuttal brief regarding the scope of the investigations.<sup>7</sup>

Additionally, between November 20, and November 25, 2015, International Paper, Petitioners, and Suzano submitted properly filed case briefs,<sup>8</sup> pursuant to the Department’s regulations.<sup>9</sup>

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<sup>2</sup> In the *Preliminary Determination*, the Department found that IPEX, the exporter in Brazil, and IP Brasil, the producing entity in Brazil, were affiliated, pursuant to sections 771(33)(E) and (F) of the Act, and should be considered as a single entity for purposes of this investigation, pursuant to 19 CFR 351.401(f). *See Certain Uncoated Paper From Brazil: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 80 FR 52029 (August 27, 2015) (“*Preliminary Determination*”) and accompanying Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, “Decision Memorandum for the Preliminary Determination in the Antidumping Duty Investigation of Certain Uncoated Paper from Brazil,” (“*Preliminary Decision Memorandum*”) at 5-6; Memorandum to James C. Doyle, Director, Office V, through Paul Walker, Acting Program Manager, from Julia Hancock, Senior International Trade Compliance Analyst, Office V, “Antidumping Duty Investigation of Certain Uncoated Paper from Brazil: Preliminary Determination of Affiliation/Single Entity Treatment of International Paper do Brasil Ltda, International Paper Exportadora Ltda., *et al.*” (August 19, 2015). Because no interested parties submitted comments on this issue, the Department’s determination that IP Brasil and IPEX are affiliated, pursuant to sections 771(33)(E) and (F) of the Act, and is considered a single entity, pursuant to 19 CFR 351.401(f), remains unchanged for this final determination.

<sup>3</sup> *See Preliminary Determination*, 80 FR at 52029.

<sup>4</sup> *See* Letter to Secretary Pritzker from Gartner Studios, Inc., “Certain Uncoated Paper from Australia, Brazil, the People’s Republic of China, Indonesia, and Portugal: Case Brief” (October 2, 2015).

<sup>5</sup> *See* Letter to Secretary Pritzker from American Greetings, “Certain Uncoated Paper from Australia, Brazil, the People’s Republic of China, Indonesia, and Portugal: Case Brief of American Greetings Corporation” (October 19, 2015).

<sup>6</sup> Petitioners are United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (“USW”); Domtar Corporation; Finch Paper LLC; P.H. Glatfelter Company; and Packaging Corporation of America.

<sup>7</sup> *See* Letter to Secretary Pritzker from Petitioners, “Certain Uncoated Paper from Australia, Brazil, the People’s Republic of China, Indonesia, and Portugal: Scope Rebuttal Brief” (October 29, 2015).

<sup>8</sup> *See* Letter to Suzano from Paul Walker, Program Manager, Office V, AD/CVD Operations, “Certain Uncoated

Additionally, on December 1, 2015, Petitioners and Suzano submitted properly filed rebuttal briefs.<sup>10</sup>

The Department is issuing a scope comments decision memorandum for the final determinations of the AD and countervailing duty investigations of uncoated paper from various countries, which is incorporated by reference in, and hereby adopted by, this final determination.<sup>11</sup>

We have conducted this investigation in accordance with section 735(b) of the Act.

### III. PERIOD OF INVESTIGATION

The period of investigation (“POI”) is January 1, 2014, through December 31, 2014. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was January 2015.<sup>12</sup>

### IV. MARGIN CALCULATIONS

The Department calculated export price (“EP”) or constructed export price (“CEP”) and normal value (“NV”) for International Paper and Suzano using the same methodology stated in the *Preliminary Determination*,<sup>13</sup> except as follows:

#### *International Paper*

1. The Department used the revised home market sales, U.S. sales, and cost of production (“COP”) databases based on minor corrections from verification.<sup>14</sup>
2. In the *Preliminary Determination*, International Paper noted that the Department incorrectly calculated International Paper’s potentially uncollected dumping duties

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Paper from Brazil: Rejection of Untimely Filed New Factual Information in Case Brief” (November 23, 2015).

<sup>9</sup> See Letter to Secretary Pritzker from Petitioners, “Certain Uncoated Paper from Brazil: Petitioners’ Case Brief” (November 20, 2015) (“Petitioners’ Case Brief”); Letter to Secretary Pritzker from International Paper, “Antidumping Duty Investigation of Certain Uncoated Paper from Brazil: International Paper’s Case Brief” (November 20, 2015) (“International Paper’s Case Brief”); and Letter to Secretary Pritzker from Suzano, “Antidumping Duty Investigation of Certain Uncoated Paper from Brazil: Revised Case Brief” (November 25, 2015) (“Suzano’s Case Brief”).

<sup>10</sup> See Letter to Secretary Pritzker from Petitioners, “Certain Uncoated Paper from Brazil: Petitioners’ Rebuttal Brief” (December 1, 2015) (“Petitioners’ Rebuttal Brief”); and Letter to Secretary Pritzker from Suzano, “Antidumping Duty Investigation of Certain Uncoated Paper from Brazil: Rebuttal Brief” (December 1, 2015) (“Suzano’s Rebuttal Brief”).

<sup>11</sup> See the Department’s Memorandum to the File, “Less-Than-Fair-Value Investigations of Certain Uncoated Paper from Australia, Brazil, the People’s Republic of China, Indonesia, and Portugal; and Countervailing Duty Investigations of Certain Uncoated Paper from the People’s Republic of China and Indonesia: Scope Comments Decision Memorandum for the Final Determinations” (“Final Scope Decision Memorandum”), dated concurrently with this memorandum.

<sup>12</sup> See 19 CFR 351.204(b)(1).

<sup>13</sup> See *Preliminary Determination*.

<sup>14</sup> See Memorandum to the File from Julia Hancock, Senior International Trade Compliance Analyst, Office V, through Paul Walker, Program Manager, Office V “Calculations Performed for International Paper for the Final Determination in the Antidumping Duty Investigation of Certain Uncoated Paper from Brazil” (“International Paper Final Analysis Memo”), dated concurrently with this memorandum.

(“PUDD”) and net U.S. value by multiplying the total quantity of a sale’s commercial invoice (“QTY3U”), which can include several line items, by the net U.S. price. Instead the Department should have multiplied by the quantity (“QTY1U”) for each relevant product line item.<sup>15</sup> In calculating International Paper’s U.S. net price, the Department used the reported quantity of each product line item instead of the commercial invoice to avoid double-counting

3. The Department revised its calculation of the biological asset fair value adjustment (“BAFVA”) based on the amounts reported in IP Brasil’s FY 2014 audited financial statements, as explained further in Comment 2.<sup>16</sup>
4. The Department revised its calculation of the selling, general, and administrative (“SG&A”) expense ratio used in calculating IP Brasil’s COP based on IP Brasil’s FY 2014 audited financial statement. Additionally, the Department revised the reported interest rate expenses in IP Brasil’s COP database to reflect the adjustment made in the *Preliminary Determination*.<sup>17</sup>

#### *Suzano*

1. The Department used the revised home market sales, U.S. sales, and COP databases based on minor corrections from verification.<sup>18</sup>
2. The Department adjusted Suzano’s reported costs to include the BAFVA, as explained further in Comment 2.
3. The Department deducted the IPI and ICMS ST taxes from Suzano’s home market gross unit price, as explained further in Comment 5.
4. The Department recalculated Suzano’s reported bank charges for home market sales made through Sales Division X, as explained further in Comment 8.
5. The Department offset Suzano’s financial expenses with interest income, as explained further in Comment 10.
6. The Department excluded direct selling expenses to Suzano’s EP sales, as explained further in Comment 11. Furthermore, to avoid double-counting, the Department has adjusted Suzano’s international freight expenses for four transactions, as explained further in Comment 11.
7. The Department deducted Suzano’s indirect selling expenses incurred in the United States from its CEP sales, as explained further in Comment 12.
8. At Suzano’s cost verification, Suzano reported that the packing cost (“PACKH”) for certain control numbers (“CONNUMs”) was incorrect and submitted revised packing

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<sup>15</sup> See International Paper’s Case Brief at 3. We noted that Petitioners did not comment on this issue in its briefs.

<sup>16</sup> See Memorandum to Neal Halper, “Cost of Production and Constructed Value Calculation Adjustments for the Final Determination – International Paper do Brasil Ltda. and International Paper Exportadora Ltda.” (“International Paper’s Final Cost Calculation Memorandum”), dated concurrently with this memorandum, at 1-2.

<sup>17</sup> *Id.*

<sup>18</sup> See Memorandum to the File from Julia Hancock, Senior International Trade Compliance Analyst, Office V, through Paul Walker, Program Manager, Office V “Calculations Performed for Suzano Papel e Celulose S.A for the Final Determination in the Antidumping Duty Investigation of Certain Uncoated Paper from Brazil” (“Suzano’s Final Analysis Memo”), dated concurrently with this memorandum.

costs as a minor correction.<sup>19</sup> Accordingly, the Department revised Suzano's packing costs for home market and U.S. sales of certain CONNUMs.<sup>20, 21</sup>

## V. LIST OF COMMENTS

### General Issues

Comment 1: Treatment of Re-Exported Sales to Company X<sup>22</sup>

Comment 2: BAFVA and Cost of Production

### International Paper-Specific Issues

Comment 3: International Paper's Level of Trade ("LOT")

### Suzano-Specific Issues

Comment 4: Suzano's LOT

Comment 5: Treatment of IPI and ICMS ST Taxes

Comment 6: Treatment of INSS Taxes

Comment 7: Inland Insurance

Comment 8: Bank Charges

Comment 9: Late Payment Fees, Rebate Expenses, and Other Expenses for Home Market Sales

Comment 10: Interest Income and Calculation of Financial Expense Rate

Comment 11: Corrections to U.S. Selling Expenses and Movement Expenses

Comment 12: U.S. Indirect Selling Expenses

## VI. DISCUSSION OF COMMENTS

### General Issues

#### **Comment 1: Treatment of Re-Exported Sales to Company X<sup>23</sup>**

##### *Respondents' Comments:*

- In the *Preliminary Determination*, the Department inappropriately included Respondents' Re-Exported Sales<sup>24</sup> in their margin calculations.
- At the time Company X negotiated its sales prices with Respondents, each respondent knew these Re-Exported Sales were to be resold to Latin America and the Caribbean at prices not representative of the U.S. market.
- While Company X imported uncoated paper from Respondents for consumption, Company X's purchases only entered for consumption for logistical purposes and were

<sup>19</sup> See Suzano's Cost Verification Report at 1-2.

<sup>20</sup> See Suzano's Final Analysis Memo at Attachments 2 and 4.

<sup>21</sup> The Department notes that Petitioners requested this minor correction be made in its case brief and Suzano did not object to this correction in its rebuttal brief. See Petitioner's Case Brief at 2-3; Suzano's Rebuttal Brief at 5.

<sup>22</sup> Because the identity of Company X is business proprietary information ("BPI"), for further discussion, please see International Paper's Case Brief at 2-8, and Suzano's Case Brief at 24-5.

<sup>23</sup> *Id.*

<sup>24</sup> International Paper's and Suzano's U.S. sales to Company X that were re-exported to third countries are collectively known as "Re-Exported Sales."

stored in a warehouse where the merchandise was combined with various other paper products prior to re-exportation.

- Unlike other cases, where the respondent did not demonstrate beyond arguments that the merchandise was re-exported, Respondents and Company X demonstrated, with record evidence, that the Re-Exported Sales were re-exported outside the United States and sold at prices not set for the U.S. market.

*Petitioners' Comments:*

- Respondents acknowledge that the sales to Company X entered the United States for consumption, and the merchandise was delivered to Company X's warehouse in the United States. Thus, the sales should continue to be treated as EP sales.
- The Re-Exported Sales should be included in the margin calculation because the shipment documents state that merchandise entered the United States and the Respondents do not know the final destination.

**Department's Position:** The Department disagrees with Respondents that their respective Re-Exported Sales to Company X should be excluded in the margin calculations for the final determination.

In their responses, both Respondents reported that they exported subject merchandise to an unaffiliated customer (*i.e.*, Company X) located in the United States.<sup>25</sup> The customer stored this merchandise in its<sup>26</sup> warehouse and Respondents provided documentation purporting to show that Company X re-exported the goods to third-country markets.<sup>27</sup> Respondents argue that because these sales were re-exported and never entered U.S. commerce, the Department should find that these sales did not enter for consumption, and thus, should not be considered U.S. sales.<sup>28</sup> However, in the *Preliminary Determination*, the Department found that both Respondents' respective sales to Company X should be included in the calculation of the U.S. price for each company.<sup>29</sup>

After the *Preliminary Determination*, the Department verified each Respondent's sales process.<sup>30</sup> Specifically, both Respondents stated that they ship merchandise to Company X, which owns warehouses where the merchandise is stored prior to re-exportation in the United States, because this allows customers to purchase varying volumes of merchandise that are then re-exported to the Caribbean or Latin America.<sup>31</sup> However, the Department notes that both Respondents stated that they do not have knowledge of the final destination of the Re-Exported Sales once the merchandise enters Company X's warehouse in the United States, because Company X

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<sup>25</sup> Because the identity of this customer is BPI, for further information, please *see* International Paper's Supplemental Section C Questionnaire Response (July 20, 2015) at 1-3 and Exhibit SC1S-2; Suzano's Supplemental Section A Questionnaire Response (June 9, 2015) at 1-9.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *See* Preliminary Decision Memorandum at 11-12.

<sup>30</sup> *See* International Paper's Home Market Verification Report at 6-7; and Suzano's Home Market Verification Report at 10-11.

<sup>31</sup> *Id.*

negotiates the terms of sale with the final customer.<sup>32</sup> Since the shipment documentation for Re-Exported Sales indicates that the merchandise enters the United States, respondents do not have knowledge of the final destination of the Re-Exported Sales.<sup>33</sup> Furthermore, while Respondents stated that sales through Company X now enter a bonded warehouse prior to re-exportation, Respondents confirmed this was not the case during the POI.<sup>34</sup>

While Respondents argue that the Department inappropriately concluded that *Torrington 1995* provided no basis for excluding their respective Re-Exported Sales from the margin calculations for the *Preliminary Determination*, the Department disagrees.<sup>35</sup> Although Respondents contend that *Torrington 1995* gives the Department discretion to deviate from its practice from including these Re-Exported Sales in calculating the margins for the final determination, this case is not applicable here.<sup>36</sup> In *Torrington 1995*, the CAFC found that the Department can calculate assessment and cash deposit rates on different bases – using entered value as the denominator for the former, and total U.S. price value as the denominator for the latter.<sup>37</sup> Although Respondents contend that the Court’s finding in *Torrington 1995*, that the Department can calculate assessment and cash deposit rates on different bases, grants the Department discretion in this investigation to deviate from its practice of including these Re-Exported Sales in the margin calculation for calculating cash deposit rates, the Department disagrees. In *Torrington 1995*, the Court noted that section 751(a)(2) of the Act did not stipulate a specific divisor in calculating assessment and cash deposit rates in administrative reviews, only that PUDD, serve as the basis in both calculation, and accordingly does not speak to which entries for consumption may or may not be excluded from the U.S. sales listing.<sup>38</sup> However, the calculation of export price is governed by a different section of the statute, section 772(a) of the Act, and therefore, *Torrington 1995* does not apply to this issue.

In this investigation, the issue is whether the Re-Exported Sales to Company X should be considered U.S. sales that entered for consumption and should be included in calculating the U.S. price in each Respondent’s margin calculation. Section 772(a) of the Act specifies that “export price” is defined as the “price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer, or exporter, of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States, or to an unaffiliated purchaser for exportation to the United States.”<sup>39</sup> The Department notes that the antidumping statute does not provide different definitions of “export price” in administrative reviews and investigations, and thus, the Department is following the definition of “export price,” pursuant to section 772(a) of the Act, in terms of its treatment of these Re-Exported Sales for this investigation.<sup>40</sup>

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<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> See *Torrington Company v. United States*, 44 F.3d 1572, 1579 (Fed. Cir. 1995) (“*Torrington 1995*”); 19 USC 1675(a)(2)(C), 19 USC 1673d(c)(1)(B), and 19 USC 1677a(a).

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.* at 1578-9. The Department notes that this is an investigation, and thus, the issue of calculating PUDD does not apply here since there is no AD order in place.

<sup>39</sup> See section 772(a) of the Act.

<sup>40</sup> See Final Results of Redetermination Pursuant to *Hiep Thanh Seafood Joint Stock Co. v. United States*, Ct. No.

As explained in the *Preliminary Determination*, in order to determine whether a U.S. sale should be included in the margin calculation, the Department considers whether the unaffiliated customer is located in the United States,<sup>41</sup> whether the merchandise was delivered in the United States, and finally, whether the goods entered for consumption.<sup>42</sup> Although Respondents contend that *Hiep Thanh 2012* is not applicable here because both Respondents demonstrated that they had knowledge the Re-Export Sales were destined for re-exportation, the Department disagrees.<sup>43</sup> Similar to *Hiep Thanh 2012*, while both Respondents anticipated these sales may have been re-exported, the record evidence shows that the Re-Exported Sales' terms clearly indicate that the merchandise was delivered to the unaffiliated purchaser, Company X, at the unaffiliated purchaser's non-bonded warehouse, at which point title transferred.<sup>44</sup> Although Respondents claim that the Department should not include these Re-Exported Sales in the margin calculation, the Department notes that these sales were shipped, and entered for consumption, into the United States without any qualification or limitation of U.S. entry, such as through a bonded warehouse, during the POI.<sup>45</sup> The Department recognizes that, unlike in *Hiep Thanh 2012*, the Re-Exported Sales entered for consumption into the United States prior to initiation of this investigation.<sup>46</sup>

Additionally, while Respondents argue that the Department can differentiate this case from others because there is record evidence that the Re-Exported Sales were re-exported to other countries, the Department disagrees. Similar to *Maverick Tube*, which also applied the findings of *Hiep Thanh 2012* in an antidumping investigation, the Department finds that the record evidence<sup>47</sup> shows that the Re-Exported Sales were delivered to the United States and sold to an unaffiliated purchaser, entered for consumption, and some of the sales were not subsequently re-exported.<sup>48</sup> The Department notes that all of Respondents' Re-Exported Sales to Company X entered for consumption into the United States during the POI, and thus, "once such goods enter

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09-00270 (September 30, 2011) ("Hiep Thanh Redetermination") at 7; *Hiep Thanh Seafoods Joint Stock Co. v. United States*, 821 F. Supp. 2d 1335, 1339-40 (CIT 2012) ("*Hiep Thanh 2012*"); ; *Maverick Tube Corp. v. United States*, Consol. No. 14-00244, Slip Op. 15-107 (CIT 2015) ("*Maverick Tube*") at 8-9.

<sup>41</sup> See section 772(a) of the Act (defining "export price," which is "the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States," as adjusted under section 772(c) of the Act.).

<sup>42</sup> See *Certain Oil Country Tubular Goods from Ukraine: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances*, 79 FR 41969 (July 18, 2014) and accompanying Issues and Decision Memorandum at Comment 1; Preliminary Decision Memorandum at 11-2.

<sup>43</sup> See *Hiep Thanh 2012*.

<sup>44</sup> See *Hiep Thanh 2012* at 1339; International Paper's Home Market Verification Report at 6-7; and Suzano's Home Market Verification Report at 10-11.

<sup>45</sup> See International Paper's Home Market Verification Report at 6-7; and Suzano's Home Market Verification Report at 10-1.

<sup>46</sup> See *Hiep Thanh 2012* at 1339-40.

<sup>47</sup> See International Paper's Home Market Verification Report at 6-7; and Suzano's Home Market Verification Report at 10-1.

<sup>48</sup> See *Maverick Tube* at 9; International Paper's Supplemental Section C Questionnaire Response (July 20, 2015) at 1-3 and Exhibit SC1S-2; Suzano's Supplemental Section A Questionnaire Response (June 9, 2015) at 1-9 Exhibit SA-1; International Paper's Supplemental Section A Questionnaire Response (May 22, 2015) at 1-12 and Exhibit SA1S-2 and Exhibit SA1S-3; Suzano's Case Brief at 25; and International Paper's Case Brief at 8-9.

the commerce of the United States, they compete with U.S. goods and thus, an entry for consumption must be the end of our analysis, regardless of any subsequent resale either within or outside of the United States.”<sup>49</sup> Accordingly, the Department finds that it is appropriate to continue to include all of Respondents’ Re-Exported Sales to Company X in the margin calculations for the final determination, pursuant to section 772(a) of the Act.

## **Comment 2: BAFVA and Cost of Production**

### *Respondents’ Comments:*

- In the *Preliminary Determination*, the Department increased International Paper’s and Suzano’s cost of manufacturing (“COM”) to reflect the BAFVA reflected in each company’s fiscal year (“FY”) 2014 trial balance.
- At verification, the Department reviewed International Paper’s FY 2014 audited financial statement that shows the BAFVA was due to two items, unharvested forests and harvested forests, which is included in the cost of goods sold (“COGS”).
- For the final determination, the Department should not increase International Paper’s COM to reflect the BAFVA because the BAFVA does reflect costs are incurred by IP Brasil to produce uncoated paper. If the Department does decide to increase International Paper’s COM by the BAFVA, the Department should only increase COM by the portion of the BAFVA relating to harvested forests because only that wood entered the production process.
- At verification, Suzano clarified that the BAFVA (*i.e.*, International Financial Reporting Standard (“IFRS”)) adjustments for forest depletion and depreciation were included in Suzano financial statements for purposes of adjusting Brazilian generally accepted accounting principles (“GAAP”).
- For the final determination, the Department should use Suzano’s reported COP, which excludes IFRS adjustments for forest depletion and depreciation, as well as the IFRS adjustment for reevaluation of biological assets included in other income.

### *Petitioners’ Comments:*

- Contrary to Respondents’ contention, at verification, the Department found that the BAFVA must be recognized under Brazilian generally accepted accounting principles (“GAAP”).
- Because the BAFVA cost must be recognized under GAAP of Brazil, the Department should continue to include these costs in International Paper’s COP for the final determination.

**Department’s Position:** The Department disagrees with Respondents and for the final determination has included the BAFVA in each company’s COP. Under Brazilian GAAP, IP Brasil’s financial statements reflect adjustments related to the valuation of standing trees in its forests and harvested wood from the forests. The Department finds that record evidence shows that the BAFVA is specifically addressed under the Brazilian GAAP standard CPC 29.<sup>50</sup>

<sup>49</sup> See Hiep Thanh Remand Redetermination at 7.

<sup>50</sup> See International Paper’s Cost Verification Report at Cost Verification Exhibit (“CVE”)-1 (Appendix 1, IP Brasil’s fiscal year (“FY”) 2014 Financial statement footnote 11 at page 32); Suzano’s Verification Report at 2.

The Department agrees with Petitioners and continues to rely on each Respondent's BAFVA, as recorded in its normal books and records. Section 773(f)(1)(A) of the Act instructs the Department to calculate costs based on a respondent's normal books and records if they are kept in accordance with home country GAAP and reasonably reflect the costs associated with the production and sale of the merchandise. In this case, the Department finds that the calculation of Respondents' BAFVA is consistent with the companies' normal books and records, with Brazilian GAAP, and with the Department's practice of applying foreign GAAP except where those principles distort the cost.<sup>51</sup> Accordingly, the Department finds that it is appropriate to continue to include the BAFVA adjustment in each Respondent's COP<sup>52</sup> because this is consistent with the costs based on each Respondent's normal books and records.

While International Paper argues that the Department does not adjust costs to reflect fair value accounting, there is no record evidence to support the contention that the adjustment is distortive. International Paper's argument that the Department does not make adjustments to market value ignores section 773(f)(1)(A) of the Act, and the independent auditor's opinion that its books and records "present fairly, in all material respects, the financial position of the Company ..."<sup>53</sup> International Paper failed to demonstrate why the BAFVA from its Brazilian GAAP based normal books and records is unreasonable and distortive to the Department's calculations. Therefore, we continue to include both parts of the BAFVA (the part related to the standing trees and the part related to harvested trees) in the cost calculation for the final determination because: 1) we find no evidence that the BAFVA distorts the reported costs; 2) International Paper failed to demonstrate that the inclusion of the BAFVA from International Paper's normal books and records is distortive; and 3) the BAFVA is consistent with International Paper's normal books and records in accordance with Brazilian GAAP.<sup>54</sup>

With respect to Suzano's argument that the IFRS adjustments for forest depletion, depreciation and the revaluation of biological assets (*i.e.*, BAFVA) included in the company's normal product costs should be excluded, Suzano's argument is based on the premise that Brazilian GAAP and IFRS treat these BAFVA adjustments differently. We find that the record evidence (*i.e.*, Suzano's audited unconsolidated and consolidated financial statements, accompanying footnotes and auditor's report) contradicts Suzano's argument.<sup>55</sup> The auditor's report states specifically that the values reported in the unconsolidated financial statements which is the basis for

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<sup>51</sup> See, e.g., *Stainless Steel Sheet and Strip in Coils from Mexico; Final Results of Antidumping Duty Administrative Review*, 74 FR 6365 (February 9, 2009) and accompanying Issues and Decision Memorandum at Comment 6; and *Certain Frozen Warmwater Shrimp from Brazil: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 52061 (September 12, 2007) ("*Shrimp from Brazil*") and accompanying Issues and Decision Memorandum at Comment 5.

<sup>52</sup> For International Paper, we are including this adjustment for both standing trees in its forest and harvested wood because this is consistent with the costs based in its normal books and records. See International Paper's Final Cost Memo at 2.

<sup>53</sup> International Paper's audit opinion is qualified with respect to potential liabilities, and is unrelated to the valuation of forests and wood harvested.

<sup>54</sup> For further discussion and methodology used to incorporate the BAFVA under Brazilian GAAP standard CPC 29 into International Paper's COP due to BPI, see International Paper's Final Cost Calculation Memorandum.

<sup>55</sup> See Suzano's Section A Questionnaire Response (March 27, 2015) at Exhibit A-13.

Suzano's normal product costs represents "accounting practices adopted in Brazil."<sup>56</sup> The auditor's report also notes that the values shown in the consolidated financial statements reflect IFRS.<sup>57</sup> At verification, we determined that the IFRS BAFVA adjustments were included in Suzano's audited unconsolidated financial statements.<sup>58</sup> As such, the product costs reflected in the unconsolidated and consolidated financial statements in regard to the BAFVA IFRS adjustments were treated in the same manner.<sup>59</sup> Because these amounts were included in Suzano's audited financial statements that an independent auditor opined were in compliance with Brazilian GAAP and because Suzano has not provided any record evidence that the costs reflected in the unconsolidated financial statements do not reasonably reflect the cost of producing the merchandise, we determine that the BAFVA adjustments in question should be included in the reported costs. Therefore, we have adjusted Suzano's reported costs to include the IFRS BAFVA adjustments.<sup>60</sup>

### **International Paper-Specific Issues**

#### **Comment 3: International Paper's Level of Trade ("LOT")**

##### *Respondent's Comments:*

- Since the *Preliminary Determination*, the Department examined at verification whether International Paper did, in fact, make sales in the home market at two levels of trade: 1) sales to distributors and end-users ("HM LOT 1"); and 2) sales to retailers ("HM LOT 2").
- For home market sales, the record evidence demonstrates that International Paper performs selling activities, such as advertising, direct sales personnel, sales promotion and marketing support, and rebates, at a significantly higher level of intensity for retailers (HM LOT 2) than for distributors or end-users (HM LOT 1).
- The record evidence also demonstrates that other selling activities, such as market research, after sales services, and freight/delivery, are performed at higher levels for retailers (HM LOT 2) than distributors or end-users (HM LOT 1).
- While International Paper's level of selling activities did not vary by channel of distribution in the home market, the channel of distribution is not the only, nor the primary, factor to be considered in the Department's LOT analysis.

##### *Petitioners' Comments:*

- With regards to International Paper's alleged different LOTs in the home market, the difference in the selling functions between sales to retailers and sales to distributors/end-users does not justify finding two different LOTs.

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<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> See Suzano's Cost Verification Report at 2, 10 and 32.

<sup>59</sup> See, e.g., footnote 11 accompanying Suzano's financial statements that shows that Brazilian GAAP and IFRS treated these adjustments in the same manner.

<sup>60</sup> See Memorandum to Neal M. Halper from LaVonne Clark re Cost of Production and Constructed Value Calculation Adjustments for the Final Determination - Suzano Papel e Celulose S.A. dated concurrently with this memo ("Suzano Final Cost Memo") at 1-2.

- Specifically, customer categories are useful in identifying LOTs but they are insufficient in themselves to establish differences in LOTs.<sup>61</sup>
- In the *Preliminary Determination*, the Department appropriately concluded that the differences in the selling functions between sales to retailer, distributor, and end-user customers were not sufficiently substantial to find different LOTs in the home market.
- Since the *Preliminary Determination*, International Paper did not provide any arguments or record evidence to compel the Department to reach a different conclusion.

**Department’s Position:** The Department disagrees with International Paper that its home market sales were made through two different LOTs and that it qualifies for a LOT adjustment for its U.S. sales, which are all EP, in the final determination.

In accordance with section 773(a)(1)(B) of the Act, we determine NV based on sales in the comparison market at the same LOT as the EP and CEP sales, to the extent practicable. Pursuant to 19 CFR 351.412(c)(1), the LOT is based on the starting price of the sales in the comparison market or constructed value. When NV is based on constructed value (“CV”), the NV LOT is that of the sales from which we derive selling, general and administrative (“SG&A”) expenses and profit.

Consistent with 19 CFR 351.412(c)(2), to determine whether comparison market sales were at a different LOT, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated (or arm’s-length) customers. If the comparison market sales were at a different LOT and the differences affect price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we will make an LOT adjustment under section 773(a)(7)(A) of the Act.

In analyzing differences in selling functions, we determine whether the LOTs identified by the respondent are meaningful.<sup>62</sup> If the claimed LOTs are the same, we expect that the functions and activities of the seller should be similar. Conversely, if a party claims that LOTs are different for different groups of sales, the functions and activities of the seller should be dissimilar.<sup>63</sup>

Pursuant to 19 CFR 351.412(c)(2), the Department “will determine that sales are made at different levels of trade if they are made at different marketing stages (or their equivalent).” The regulation specifies that “[s]ubstantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stage of marketing.” Furthermore, the *Preamble* to the Department’s regulations state that:

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<sup>61</sup> See *Non-Oriented Electrical Steel from the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances*, 79 FR 61612 (October 14, 2014) and accompanying Issues and Decision Memorandum at Comment 1.

<sup>62</sup> See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27371 (May 19, 1997) (“*Preamble*”).

<sup>63</sup> See *Stainless Steel Bar from Germany: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 5811, 5813-14, February 3, 2006, unchanged in the *Stainless Steel Bar from Germany: Final Results of Antidumping Duty Administrative Review*, 71 FR 42802 (July 28, 2006).

It is sufficient that, at the more remote level, the seller takes on a role comparable to that of a reseller if the merchandise had changed hands twice. For example, a producer that normally sells to distributors (that, in turn, resell to industrial consumers) could make some sales directly, taking over the functions normally performed by the distributors. Such sales would be at the same LOT as the sales through the distributors. Each more remote level must be characterized by an additional layer of selling activities, amounting in the aggregate to a substantially different selling function. Substantial differences in the amount of selling expenses associated with two groups of sales also may indicate that the two groups are at different LOT.<sup>64</sup>

The *Preamble* continues, stating that “[a]lthough the type of customer will be an important indicator in identifying differences in levels of trade, the existence of different classes of customers is not sufficient to establish a difference in the levels of trade.”<sup>65</sup> For the Department to grant a LOT adjustment, there must be “a significant correlation between prices and selling expenses on the one hand, and levels of trade on the other.”<sup>66</sup>

Moreover, in analyzing differences in selling functions, the Department determines whether the LOTs identified by the respondent are meaningful.<sup>67</sup> If the claimed LOTs are the same, we expect that the functions and activities of the seller should be similar. Conversely, if a party claims that levels of trade are different for different groups of sales, the functions and activities of the seller should be dissimilar.<sup>68</sup>

The Department continues to find that there is only one LOT for International Paper in the home market. In the home market, International Paper reported that it made sales through two channels of distribution (*i.e.*, direct sales from the paper mill to the customer (Channel 1), and sales sold from inventory through third-party warehouses to the customer (Channel 2)).<sup>69</sup> According to International Paper in both of the home market channels of distribution, it sold the foreign like product through two different LOTs: 1) retailers (HM LOT 1); and 2) distributors and end-users (HM LOT 2).<sup>70</sup>

While International Paper argues that it makes sales through two LOTS, the Department finds that our analysis of the selling functions performed along the chains of distribution between

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<sup>64</sup> See *Preamble*, 62 FR at 27371.

<sup>65</sup> *Id.*

<sup>66</sup> See “Matching at Levels of Trade,” Policy Bulletin 92/1 (July 29, 1992); see also *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from Japan*, 64 FR 30574, 30580 (June 8, 1999) (where sales to end-users and trading companies constituted two LOTs in the home market, but because there was no consistent, significant pattern of price differentials, no LOT adjustment was made).

<sup>67</sup> See *Preamble*, 62 FR 27296, 27371.

<sup>68</sup> See *Certain Stainless Steel Butt-Weld Pipe Fittings from Taiwan: Final Results and Final Rescission in Part of Antidumping Duty Administrative Review*, 74 FR 66620 (December 16, 2009) and accompanying Issues and Decision Memorandum at Comment 4; *Non-Oriented Electrical Steel from the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances*, 79 FR 61612 (October 14, 2014) and accompanying Issues and Decision Memorandum at Comment 1.

<sup>69</sup> See International Paper’s Section A Questionnaire Response (“SAQR”) (March 27, 2015) at 16-17.

<sup>70</sup> See International Paper’s SAQR at 19-21 and Exhibit A -11.

International Paper and its unaffiliated home market customers for both channels of distribution are similar.

Specifically, for International Paper's home market sales, it reported: 1) 13 selling activities to retailer customers; 2) 10 selling activities to end-user customers; and 3) 12 selling activities to distributor customers.<sup>71</sup> Of the 13 selling activities that International Paper reported for retailer customers, the Department finds that 11 activities are common with distributor customers and nine selling activities are common with end-user customers.<sup>72</sup> While International Paper contends that the Department confirmed that distributor and end-user customers did not have advertising as a selling activity at verification, the Department notes that we found "{International Paper} reported advertising in the home market database for end-users and distributors and that these are trade marketing activities."<sup>73</sup> Based on our analysis of International Paper's selling activities at verification and the fact that advertising expenses were reported for end-user and distributor customers in International Paper's home market database, the Department continues to find that International Paper provided this selling activity for these customer categories for the final determination. Additionally, based on our analysis of International Paper's selling activities at verification and the fact that rebates were reported for all types of home market customers in International Paper's home market database, the Department continues to find that International Paper provided this selling activity for these customer categories for the final determination.<sup>74</sup>

Of the 11 activities for distributor customers and nine selling activities for end-user customers that are in common with retailer customers, the Department finds that reported levels of intensity were the same, or nearly the same, for these common selling activities.<sup>75</sup> Specifically, as noted above while International Paper claims there is a difference, the record evidence, including the data in the home market sales database, demonstrates that International Paper provided advertising and rebate to all three customer categories at the same or nearly the same level.<sup>76</sup> Additionally, the Department finds that the following activities, customer training, packing, order/input process, market research, technical assistance, after sales-services, and freight/delivery, are either at the same level or close to the same level of intensity for retailers, distributors, and end-users.<sup>77</sup> Although International Paper claims that after-sales services, market research, and freight/delivery are provided at a higher level of intensity for retailers, the Department notes that at verification International Paper's documentation did not demonstrate

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<sup>71</sup> See International Paper's Home Market Verification Report at VE-4; and International Paper's Third Supplemental Section A Questionnaire Response (June 24, 2015) at Exhibit 3SA-2.

<sup>72</sup> *Id.*

<sup>73</sup> See International Paper's Home Market Verification Report at 7 and VE-4.

<sup>74</sup> See International Paper's Preliminary Analysis Memo at 4; and International Paper's Home Market Verification Report at 7-9.

<sup>75</sup> See International Paper's Preliminary Analysis Memo at 4; International Paper's Home Market Verification Report at 7-9.

<sup>76</sup> *Id.*

<sup>77</sup> See International Paper's SAQR at 19-21 and Exhibit A -11; International Paper's 3<sup>rd</sup> SSAQR at Exhibit SA3S-2; and International Paper's Home Market Verification Report at 7-9.

that the differences for these activities between retailers and distributors and end-users was significantly different.<sup>78</sup>

Although there is a greater intensity for some of these activities regarding retailer customers, the Department finds that this alone does not demonstrate a substantial difference in selling activities that would form the basis for a different LOT.<sup>79</sup> As explained by 19 CFR 351.412(c)(2), the Department will determine that sales are made at different LOTs when they are “made at different marketing stages {but}... {s}ubstantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stage of marketing.”<sup>80</sup> However, because the Department does not find substantial differences in selling activities between International Paper’s home market customer categories, which are the same in both channels of distribution, there is no basis to conclude that two different LOTs exist for International Paper’s home market sales, pursuant to 19 CFR 351.412(c)(2). Furthermore, the Department notes that International Paper did not demonstrate any clear, quantifiable distinctions between its claimed LOTs in the home market, such as one LOT having twice as many selling activities as the other LOT, which might establish a quantifiable price difference between LOTs that would warrant such an adjustment.<sup>81</sup>

In conclusion, while International Paper has reported two different channels of distribution in the home market, the selling activities performed in these channels are very similar by customer category reported as the same in each channel of distribution, and do not warrant two LOTs.<sup>82</sup> Additionally, in the *Preliminary Determination*, the Department found that a single LOT existed in the U.S. market for International Paper’s U.S. sales, which are all EP.<sup>83</sup> No party contested this finding. Therefore, for this final determination, the Department continues to find that it is appropriate to match International Paper’s EP sales to home market sales without making a LOT adjustment to NV.

## **Suzano-Specific Issues**

### **Comment 4: Suzano’s LOT**

#### *Respondent’s Comments:*

- In the home market, Suzano has two channels of distribution: 1) sales to distributors (Channel 1) that sell to customers in smaller quantities at the local level; and 2) sales through a limited number of sales representatives to a small group of merchants and end-users (Channel 2).

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<sup>78</sup> See International Paper’s Home Market Verification Report at 7-9 and VE-4.

<sup>79</sup> See *Certain Pasta from Italy: Notice of Final Results of the Eleventh Administrative Review and Partial Rescission of Review*, 73 FR 75400 (December 11, 2008) and accompanying Issues and Decision Memorandum at Comment 3.

<sup>80</sup> See 19 CFR 351.412(c)(2).

<sup>81</sup> See section 773(a)(7)(A) of the Act.

<sup>82</sup> 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) and accompanying Issues and Decision Memorandum at Comment 10.

<sup>83</sup> See Preliminary Decision Memorandum at 16-8.

- Because Channel 1 sales in the home market are exclusively supported by local warehouses, the nature of the shipments from local warehouses and the need to constantly maintain available stock results in a greater effort required by the planning and logistics/inventory maintenance departments.
- Also, for Channel 1 sales, the advertising and promotional costs are greater because the effort to promote a distribution network servicing large quantities of customers requires a different focus than providing a constant source of paper to the smaller, established customer base in Channel 2.
- Similar to *Stainless Steel Bar from Brazil*, Suzano has two different levels of trade in the home market because, while there is an overlap in customer categories, the level of selling activities differ.<sup>84</sup>
- Contrary to the *Preliminary Determination*, for cut-size paper sales in the home market, seven of the selling activities are at different levels of intensity for Channel 1 and Channel 2. Also, only four selling activities are at a comparable level of activity.
- While the Department found that Channel 2 customers may be serviced from both mill and local warehouses resulting in the selling activities being similar to sales made through Channel 1, this is not true since sales made through warehouses in Channel 2 are insignificant in volume.
- When the indirect selling expense ratio is segregated by channel, the indirect selling expense rates for home market sales through Channel 1 and Channel 2 differ significantly. The Department erred in instructing Suzano to recalculate the indirect selling expense rate for all sales instead of by channel of distribution and the indirect selling expense rate should be recalculated for the final determination.
- While identical selling functions may appear in both channels of distribution, this does not mean that a single LOT exists because the Department’s regulations specify that some overlap in selling activities is permissible but this does not “preclude a determination that two sales are not at different stages of marketing.”<sup>85</sup>
- Contrary to the Department’s erroneous determination, the different sales channels in the home market represent commercial differences, as demonstrated by the differences in the sales processes and distribution diagrams that were verified.

*Petitioners’ Comments:*

- In the *Preliminary Determination*, the Department appropriately found that, while Suzano reported two LOTs and channels, there was only one LOT in the home market.
- The problem with Suzano’s definition of LOT in the home market is that it is not based on commercial differences or different marketing stages, pursuant to 19 CFR 351.412(c)(2), but rather by the sales office that makes each sale.
- As was evident in the *Preliminary Determination*, there is no real difference in the channels of distribution or customer categories because sales to all customer categories

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<sup>84</sup> See *Stainless Steel Bar from Brazil: Preliminary Results of Antidumping Duty Administrative Review; 2013-2014*, 79 FR 75789 (December 19, 2014) and accompanying Preliminary Decision Memorandum.

<sup>85</sup> See *Magnesium Metal from the Russian Federation: Final Results of Antidumping Duty Administrative Review*, 75 FR 56989 (September 17, 2010) and accompanying Issues and Decision Memorandum at Comment 2.

are in each LOT in the home market, as demonstrated by Suzano's home market sales database.

- While Suzano argues that it is appropriate to define LOT by its internal sales divisions, Suzano acknowledged, itself, there is overlap in customers serviced in the two channels of distribution.
- Although Suzano contends that company officials stated at verification why Suzano's sales division is structured into two channels of distribution, this is not on the record and cannot be relied upon in the LOT analysis.
- Even if it were appropriate to conduct a LOT analysis by sales division, the selling activities performed by these divisions are essentially the same in the home market.

**Department's Position:** The Department's practice does not automatically equate two channels of distribution with two LOTs.<sup>86</sup> Pursuant to 19 CFR 351.412(c)(2), and as fully described above in Comment 3, the Department "will determine that sales are made at different levels of trade if they are made at different marketing stages (or their equivalent)."

The Department continues to find that there is only one LOT for Suzano in the home market. While Suzano argues that it makes sales through two channels of distribution, sales directed to distributors (Channel 1) and merchants/end-users (Channel 2), in its questionnaire responses Suzano stated that until late 2014, it did not precisely track the nature of the business activity of its customers.<sup>87</sup> Before this time, Suzano recorded its sales based on selling divisions, rather than customer categories, and at times on the historical relationship between sales personnel and the customer.<sup>88</sup> Since late 2014, Suzano has recorded sales based on customer categories, but admits that some internal classifications may continue to be based on historical relationships with sales divisions, rather than customer category.<sup>89</sup> We note that Suzano has a very large number of customers, the vast majority of which have not been assigned a customer category.<sup>90</sup>

In addition, we examined the selling functions performed along the chain of distribution between Suzano and the unaffiliated customer. Our analysis indicates that the selling functions performed for home market customers for both channels of distribution are similar. Specifically, for folio paper, Suzano reported 13 selling activities in the home market.<sup>91</sup> Of these 13 selling activities, 11 are common to the two channels of distribution, with Channel 2 having the additional selling activities of distributor/dealer training and rebates.<sup>92</sup> Suzano reported levels of intensity that were the same, or nearly the same, for all 11 common selling activities for folio paper.<sup>93</sup> Thus,

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<sup>86</sup> See, e.g., *Notice of Final Determination of the Sales at Less Than Fair Value; Silicomanganense from Venezuela*, 67 FR 15533 (April 2, 2002) and accompanying Issues and Decision Memorandum at Comment 8 ("separate channels of distribution alone do not qualify as separate levels of trade particularly when the selling functions performed for each channel are similar").

<sup>87</sup> See Suzano's July 23, 2015 submission at 4-5 and 10-11. The POI for this investigation is January 1, 2014 to December 31, 2014.

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> *Id.* at 11.

<sup>91</sup> See Suzano's June 9, 2015 submission at Exhibit 16.

<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

for folio paper, we do not find substantial differences in selling activities between Suzano's channels of distribution which would lead us to conclude that two different levels of trade exist in accordance with section 351.412(c)(2) of the Department's regulations.

Regarding cut paper, Suzano reported 12 selling activities in the home market.<sup>94</sup> Of these 12 selling activities, there are 11 in common in the two channels of distribution, with Channel 2 having the additional selling activity of distributor/dealer training.<sup>95</sup> Suzano reported levels of intensity that were the same, or nearly the same, for 10 of the common selling activities for cut paper.<sup>96</sup> We note that the intensity for inventory maintenance was high for Channel 1 and low for Channel 2, and rebates were low for Channel 1 and high for Channel 2. However, for cut paper, we do not find substantial differences in selling activities between Suzano's channels of distribution, which would lead us to conclude that two different levels of trade exist in accordance with 19 CFR 351.412(c)(2). Even though there is a difference in two out of the 11 common selling activities in the two channels of distribution claimed by Suzano in the home market, the Department finds that overall the overwhelming majority (10) of selling activities in these two channels of distribution are the same or nearly same level of intensity. Moreover, the Department finds that Suzano has not demonstrated with quantifiable differences in price how the two dissimilar selling activities, inventory maintenance and rebates, establish that the channels of distribution represent distinct, different LOTs.<sup>97</sup> Even if the differences in these two selling activities are substantial, the Department has found that even substantial differences are not alone sufficient to establish a difference in the LOT.<sup>98</sup> We do not find that when considering all of the record information, the differences in the two selling activities in this case are enough to establish different LOTs in the home market.<sup>99</sup> In conclusion, while Suzano has reported two different channels of distribution in the home market, the selling activities performed in these channels are very similar, and do not warrant two LOTs.<sup>100</sup>

With regard to Suzano's argument that indirect selling expenses should be recalculated for the final determination, we disagree. We verified Suzano's indirect selling expenses, which were not based on channel of distribution, and found no discrepancies.<sup>101</sup> Moreover, Suzano reported indirect selling expenses in accordance with the instructions in the original AD questionnaire.<sup>102</sup> As such, the Department has not recalculated Suzano's indirect selling expenses for the final determination.

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<sup>94</sup> *Id.*

<sup>95</sup> *Id.*

<sup>96</sup> *Id.*

<sup>97</sup> See section 773(a)(7)(A) of the Act.

<sup>98</sup> See *Brass Sheet and Strip from Canada; Final Results of Antidumping Duty Administrative Review*, 62 FR 16759 (April 8, 1997) and accompanying Issues and Decision Memorandum at Comment 1.

<sup>99</sup> See, e.g., *Notice of Final Results of Antidumping Duty Administrative Review: Carbon and Certain Alloy Steel Wire Rod from Canada*, 72 FR 26591 (May 10, 2007) and accompanying Issues and Decision Memorandum at Comment 1 (where the Department found two home market LOTs based on a many different selling activities taking place in the two channels of trade).

<sup>100</sup> 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) and accompanying Issues and Decision Memorandum at Comment 10.

<sup>101</sup> See Suzano's Home Market Verification Report at 44 – 45.

<sup>102</sup> See the Department's February 24, 2015 letter to Suzano at B-24.

## Comment 5: Treatment of IPI and ICMS ST Taxes

### *Respondent's Comments:*

- Suzano's reported gross unit price in its home market sales database is inclusive of PIS, COFINS, ICMS, ICMS ST, and IPI taxes.<sup>103</sup> In the *Preliminary Determination*, the Department erred in not deducting IPI or ICMS ST taxes.
- Contrary to the Department's findings, the IPI and ICMS ST taxes were, in fact, imposed directly on sales of uncoated paper in Brazil and were included in Suzano's reported gross unit price.
- The SAA states that taxes on consumption sales in the home market are to be deducted from NV only to the extent that they have been "added to or included in the price" of the foreign like product.<sup>104</sup>
- As verified by the Department, the IPI and ICMS ST taxes are: (1) imposed directly upon Suzano's sales of uncoated paper in Brazil; (2) are not collected on Suzano's sales of uncoated paper in the United States; and (3) have been "added to or included" in the price of uncoated paper in Brazil, as reported by Suzano for the gross unit price in its home market sales database.
- The Department already determined, on numerous occasions, that similar taxes, ICMS, PIS, and COFINS taxes, must be deducted from the gross unit price in the home market when calculating NV.<sup>105</sup>
- There is no logical reason to treat the IPI and ICMS ST taxes any differently than the ICMS, PIS, and COFINS taxes because IPI and ICMS ST taxes are imposed directly on home market sales nor collected on U.S. sales of uncoated paper.<sup>106</sup>
- Suzano included all Brazilian sales taxes in its gross unit price because it records revenue inclusive of taxes in its books and records, which the Department noted at verification.
- Suzano reported its gross unit price inclusive of IPI and ICMS ST taxes.
- The absence of any specific discussion of the treatment of IPI and ICMS ST taxes in prior cases is due to the fact that these taxes are not usually reported as being included in the gross unit price, which is what Suzano did in this case.<sup>107</sup>

Petitioners did not provide comments on this issue.

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<sup>103</sup> See International Paper's Supplemental Section B Response (July 9, 2015) at 7-8; and Suzano's Supplemental Section B Questionnaire Response (July 23, 2015) at Appendix SB-15.

<sup>104</sup> See Statement of Administrative Action ("SAA"), accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103-316 (1994) at Article VI.

<sup>105</sup> See, e.g., *Silicon Metal from Brazil: Final Results of Antidumping Duty Administrative Review*, 71 FR 7517 (February 13, 2006) and accompanying Issues and Decision Memorandum at Comment 1; *Silicon Metal from Brazil: Final Results of Antidumping Duty Administrative Review and Revocation of Order in Part*, 67 FR 77225 (December 17, 2002) and accompanying Issues and Decision Memorandum at Comment 1.

<sup>106</sup> See *Certain Cold-Rolled Carbon Steel Flat Products from Brazil: Final Determination of Sales at Less Than Fair Value*, 67 FR 62134 (October 3, 2002) and accompanying Issues and Decision Memorandum at Comment 2.

<sup>107</sup> See *Small Diameter Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Brazil: Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 24524, 24526 (May 10, 2005) (unchanged in *Final Results*, 70 FR 60282 (October 17, 2005) and accompanying Issues and Decision Memorandum).

**Department’s Position:** The Department agrees with Suzano that the ICMS ST and IPI taxes should be deducted for the reported gross unit price in Suzano’s home market sales database for the final determination.

Pursuant to section 773(a)(6)(B)(iii) of the Act, the Department adjusts for the amount of any taxes imposed directly upon the foreign like product, which have been rebated or not collected on subject merchandise, to the extent that such taxes are added to or included in the price of the foreign like product.<sup>108</sup> Additionally, 19 CFR 351.102(b)(28) defines an “indirect tax” as a tax on “sales, excise, turnover, value added, franchise, stamp, transfer, inventory, or equipment tax, a border tax, or any other tax other than a direct tax or an import charge.” The Department notes that it has a practice of regarding other taxes included in Suzano’s invoice to the home market customer, such as PIS and COFINS, is to treat them as “indirect taxes” that should be deducted from the home market price charged to the customer as they are paid indirectly by the buyer as part of the sales price.<sup>109</sup>

At the verification of Suzano, the Department found that the IPI tax is “is added to the sales price at the moment the sales invoice is issued.”<sup>110</sup> In addition, the ICMS ST tax “is added to the sales price agreed upon by the client when the sales invoice is issued.”<sup>111</sup> As a result, Suzano increased its home market sales price to include the IPI and ICMS ST taxes. Therefore, in accordance with section 773(a)(6)(B)(iii) of the Act, and consistent with our practice in prior reviews, the Department has deducted these taxes from Suzano’s home market gross unit price for the final determination.

#### **Comment 6: Treatment of INSS Taxes<sup>112</sup>**

##### *Respondent’s Comments:*

- Suzano’s reported gross unit price in its home market sales database includes the INSS tax.<sup>113</sup> The Department should deduct the INSS tax from Suzano’s home market gross unit price as a tax deduction, pursuant to section 773(a)(6)(B)(iii) of the Act, or as a circumstance of sale (“COS”) adjustment, pursuant to section 773(a)(6)(C)(iii) of the Act.
- Suzano pays the INSS tax on the revenue derived from home market sales of uncoated paper in the home market and the amount of the INSS tax is included in the price charged to the home market customer.

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<sup>108</sup> See also *Certain Lined Paper Products from India: Notice of Final Results of Antidumping Duty Administrative Review*, 77 FR 14729 (March 13, 2012) and accompanying Issues and Decision Memorandum at Comment 6.

<sup>109</sup> See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Brazil*, 67 FR 62134 (October 3, 2002) and accompanying Issues and Decision Memorandum at Comment 2 (“*Cold-Rolled Carbon Steel Flat Products from Brazil*”).

<sup>110</sup> See Suzano’s Home Market Verification Report at 24.

<sup>111</sup> *Id.* at 23.

<sup>112</sup> The comments on this issue only apply to Suzano since International Paper’s reported gross unit price in its home market sales database did not include the INSS tax.

<sup>113</sup> See International Paper’s Supplemental Section B Response (July 9, 2015) at 7-8; Suzano’s Supplemental Section B Questionnaire Response (July 23, 2015) at Appendix SB-15.

- Because INSS taxes are only paid on domestic sales, Suzano includes this tax in the price of the foreign like product, in order to maintain the same profit margin on domestic and export sales.
- Thus, the Department’s failure to make a circumstance of sale adjustment for the payment of the INSS tax rendered any comparison between the U.S. price and home market price unequal and this needs to be reversed for the final determination.

*Petitioners’ Comments:*

- The INSS taxes is a direct tax leveled on gross sales revenue because it is not charged to Suzano’s customers and is not included in the home market gross unit price. Thus, the INSS taxes should not be deducted as an “indirect tax” because it is paid by Suzano to the government and is not included in the gross unit price.
- Additionally, the INSS taxes should not be deducted as a circumstances of sale adjustment, pursuant to 19 CFR 351.410(b), because these adjustments are only made on direct selling expenses or selling expenses assumed by the seller on behalf of the buyer.

**Department’s Position:** The Department disagrees with Suzano that the INSS taxes are included in the reported gross unit price in its home market sales database and should, therefore, be deducted as an “indirect tax,” pursuant to section 773(a)(6)(B), for the final determination. As explained above in the Department’s Position at Comment 7, the Department will deduct “indirect taxes” from the NV of the merchandise when the taxes are added to or included in the price of the foreign like product.<sup>114</sup> In *Cold-Rolled Carbon Steel Flat Products from Brazil*, the Department clarified that “indirect taxes” are similar to sales taxes or value-added taxes since “indirect taxes” are paid indirectly by the buyer as part of the sales price.<sup>115</sup>

At verification, the Department noted that Suzano explained that the INSS taxes used to be a tax on payroll but that the Brazilian tax regulation changed this tax to being leveled on gross revenue for domestic sales in Brazil, which took effect prior to the POI.<sup>116</sup> According to Suzano, the Brazilian tax authority assesses INSS taxes on gross revenue on a monthly basis after deducting for PIS, COFINS, ICMS, ICMS ST, and IPI taxes.<sup>117</sup> The Department notes that the payment documentation on the record shows that Suzano paid the INSS taxes on its monthly gross revenue of domestic sales to the Brazilian government and that this tax was not “indirectly” paid by the buyer as part of the sales price.<sup>118</sup> Specifically, the Department finds that the record evidence shows that the INSS taxes were not included in the total value of the commercial invoice paid by the home market customer, which instead only included the PIS, COFINS, ICMS, ICMS ST, and IPI taxes.<sup>119</sup>

Contrary to Suzano’s classification of the INSS taxes as an “indirect tax,” the Department finds that these taxes qualify as a “direct tax,” pursuant to 19 CFR 351.102(b)(16), because the INSS

<sup>114</sup> See section 773(a)(6)(B)(iii) of the Act.

<sup>115</sup> See *Cold-Rolled Carbon Steel Flat Products from Brazil* at Comment 2.

<sup>116</sup> See Suzano’s Home Market Verification Report at 23 and VE-6D.

<sup>117</sup> *Id.* at 24-5 and VE-6D and VE-7.

<sup>118</sup> *Id.*

<sup>119</sup> See Suzano’s Home Market Sales Verification Report at 23-5 and VE-7 and VE-14.

tax is a “direct tax” on Suzano’s gross revenue of domestic sales. Pursuant to 19 CFR 351.102(b)(16), “direct taxes” are taxes on “wages, profits, interests, rents, royalties, and other forms of income.” In *Cut-to-Length Carbon Steel Plate From Brazil*, the Department found that taxes on total gross monthly revenue, which is similar to profit and wages listed in examples of 19 CFR 351.102(b)(16), was a direct tax and not an indirect tax imposed directly on the sale of the foreign like product.<sup>120</sup> Similarly, in this case, Suzano’s pays the INSS taxes on its monthly gross revenue of domestic sales, which includes sales on the foreign like product and non-subject merchandise, such as pulp and other items, and other revenue.<sup>121</sup> Because Suzano pays the INSS taxes on its monthly gross revenue and not just on its company’s sales of the foreign like product, the Department finds that the INSS taxes are a “direct tax,” pursuant to 19 CFR 351.102(b)(16), and should not be deducted from Suzano’s gross unit price of home market sales for the final determination.

The Department also disagrees with Suzano that the INSS taxes should be deducted as a COS adjustment for its reported home market sales in the final determination, pursuant to section 773(a)(6)(C)(iii) of the Act. Specifically, 19 CFR 351.410(b) provides that a circumstance of sale adjustment may be made only for direct selling expenses, such as commissions, credit expenses, etc., and assumed expenses that are selling expenses assumed by the seller on behalf of the buyer, such as advertising expenses. The Department notes that the INSS taxes that Suzano reported for its home market sales are a tax on gross sales revenue paid by Suzano directly to the Brazilian government and not a direct selling expense or assumed expense.<sup>122</sup> Additionally, the Department finds that Suzano failed to provide any Court or Department precedent in support for its argument to treat its reported INSS taxes as a COS adjustment. Accordingly, the Department will not treat Suzano’s INSS taxes as a COS adjustment for the final determination.

## **Comment 7: Inland Insurance**

### *Respondent’s Comments:*

- At verification, the Department found that Suzano did not report the premium for an inland insurance contract that covered a portion of the POI in its total inland insurance expenses incurred in the home market.
- For the final determination, the Department should adjust Suzano’s reported inland insurance expenses (INSUREH) in its home market database by applying the same rate for the reported months to the months in the POI where the rate was not reported. In the alternative, the Department should request that Suzano report its total inland insurance expenses to include the inland insurance premium rates for the entirety of the POI.

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<sup>120</sup> See *Certain Cut-To-Length Carbon Steel Plate from Brazil: Final Results of Antidumping Duty Administrative Review*, 63 FR 12744 (March 16, 1998) and accompanying Issues and Decision Memorandum at Comment 1 (“*Cut-to-Length Carbon Steel Plate From Brazil*”).

<sup>121</sup> See Suzano’s Home Market Sales Verification Report at 25 and VE-7. Because the other revenue is business proprietary, please see Suzano’s Home Market Sales Verification Report for further discussion.

<sup>122</sup> *Id.*

*Petitioners' Comments:*

- At verification, the Department did not accept the unreported inland insurance contract that Suzano failed to report and, afterwards, did not instruct Suzano to provide the missing expenses in its revised home market sales database.
- Because Suzano had multiple opportunities to provide these expenses, including as a minor correction on the first day of verification, the Department should not grant Suzano the opportunity to correct this unreported expense.<sup>123</sup>
- Alternatively, the Department could deny the requested adjustment because Suzano failed to cooperate to the best of its ability to provide the information by the applicable deadline.

**Department's Position:** Section 782(e) of the Act states that the Department shall not decline to consider submitted information if all of the following requirements are met: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties. In this case we note that Suzano did not report a particular insurance premium either in its responses to the Department's questionnaires or as a minor correction at the start of verification.<sup>124</sup> As this information was discovered at verification, it is untimely, and consistent with section 782(e) of the Act, the Department has not deducted this particular insurance premium from Suzano's home market sales price for the final determination.

**Comment 8: Bank Charges**

*Respondent's Comments:*

- At verification, the Department found that Suzano incurred bank charges for some of its home market sales through Sales Division X<sup>125</sup> from August through December 2014. However, in calculating the bank charge rate, Suzano divided these charges by the total gross revenue for fiscal year ("FY") 2014.
- The Department should recalculate the reported bank charges for these home market sales through Sales Division X by dividing the total bank charges by the total gross revenue for August through December 2014 and applying a factor adjustment.

*Petitioners' Comments:*

- At verification, the Department found that Suzano's home market bank charges were not reported correctly because the expenses were calculated using the wrong denominator.
- While Suzano requests that the Department recalculate the bank charges using the correct denominator and multiplied by a factor, the Department should not make this adjustment because it would apply an adjustment factor calculated for a subset of sales to bank charges reported for all sales in the POI.

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<sup>123</sup> See 19 CFR 351.401(b)1).

<sup>124</sup> See Suzano's Home Market Sales Verification Report at 35 - 36.

<sup>125</sup> Because the identity of Sales Division X is business proprietary information, please see Suzano's Case Brief at 26.

**Department's Position:** The Department agrees with Suzano that we should recalculate the bank charges for the home market sales through Sales Division X using the correct denominator of gross revenue for August through December 2014, which we note was on the record before verification. At verification, the Department found that bank charges incurred for home market sales through Sales Division X (BANKCHARH) were for August through December 2014 but that per-unit expense reported in the sales database was calculated based on the gross revenue for FY 2014 as the denominator.<sup>126</sup> Accordingly, the Department determines that it would be correct to recalculate the per-unit expenses for these bank charges incurred for home market sales through Sales Division X using the gross revenue for August through December 2014.

However, the Department disagrees with Suzano that we should recalculate the per-unit expenses for these bank charges by applying a factor adjustment.<sup>127</sup> The Department notes that the factor adjustment proposed by Suzano is the ratio of the corrected per-unit expenses for bank charges based on sales from August to December 2014 and the original per-unit expenses for bank charges was based on sales for FY 2014. However, the Department notes that applying the factor adjustment proposed by Suzano would revise the corrected per-unit expenses for bank charges based on sales through Sales Division X to a subset of the sales that incurred the bank charges from August to December 2014. Additionally, at verification, the Department notes that it did not observe that the corrected per-unit expenses using the correct denominator needed to be adjusted by a factor ratio and neither does the record evidence demonstrate such.<sup>128</sup> Accordingly, the Department finds that there is no basis to adjust the corrected per-unit expenses for bank charges incurred for sales through Sales Division X for the final determination.

### **Comment 9: Late Payment Fees, Rebate Expenses, and Other Expenses for Home Market Sales**

#### *Respondent's Comments:*

- At verification, the Department found that certain sales in the home market database incurred late payment fees which were not reported as zero in Suzano's Section B database. Suzano explained that this was due to a rounding error.
- At verification the Department requested that Suzano review the entire Section B database to determine whether any other rounding errors occurred, and found that one sales observation had reported zero for inland insurance and bank charges.
- In addition, Suzano found that for sales made through Sales Division X that occurred prior to August 2014, certain rebate expenses were not reported. These rebate expenses were not reported because the expenses were recorded in a separate accounting system prior to August 2014. When Suzano combined these two accounting systems, these rebate expenses were inadvertently omitted in the final combined home market sales

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<sup>126</sup> See Suzano's Home Market Sales Verification Report at 39 and VE-24.

<sup>127</sup> See Suzano's Case Brief at 26.

<sup>128</sup> See Suzano's Home Market Sales Verification Report at 39 and VE-24. The Department notes that we only referenced an adjustment factor when we discussed our verification of Suzano's rebate expenses in the home market because the rebate rates were adjusted to a "gross revenue basis." See Suzano's Home Market Sales Verification Report at 32-3 and VE-17.

database. The Department chose to not take the complete list of home market sales where rebate expenses were not reported, and instead took only the rebate expenses for five transactions.

- For the final determination, the Department should allow Suzano to resubmit the sales database with the additional rebate expenses.

*Petitioners' Comments:*

- On the last day of verification, Suzano informed the Department that there were a number of sales observations in the home market database that had rebate expenses that should have been reported. Because this was new factual information, the Department did not accept the additional sales data regarding this unreported expense.
- When Suzano attempted to provide the complete sales listing for this unreported expense in its case brief, the Department appropriately rejected this information and required Suzano to resubmit its case brief.
- While Suzano argues that the Department should allow Suzano to resubmit the sales database with this additional expense, Suzano had multiple opportunities to provide this data on a timely basis and failed to do so.
- Respondents bear the burden of establishing entitlement to a favorable adjustment and it is essential that they provide information supporting such adjustments on a timely basis allowing the Department sufficient time to evaluate and verify the data.<sup>129</sup>

**Department's Position:** Section 782(e) of the Act states that the Department shall not decline to consider submitted information if all of the following requirements are met: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties. We note that on the last day of verification Suzano attempted to submit a variety of corrections discovered during the course of verification as minor corrections.<sup>130</sup> As such, Suzano failed to report adjustments to these reported expenses during the "Minor Corrections" phase of verification, despite the Department's instructions in the verification outline, which was issued 20 days prior to the commencement of verification.<sup>131</sup> It is important to note that Suzano did not provide the information requested by the deadline for submission of the information. Nor did Suzano provide an indication that it needed more time to provide the information requested, despite having done so in responding to questions on other topics. As the information regarding these selling expenses was discovered at verification, it is untimely, and consistent with section 782(e) of the Act, the Department has not deducted these unreported expenses for the final determination.

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<sup>129</sup> See 19 CFR 351.401(b)(1).

<sup>130</sup> See Suzano's Verification Report at 2.

<sup>131</sup> See the Department's September 4, 2015 letter to Suzano. Verification began on September 24, 2015.

## **Comment 10: Interest Income and Calculation of Financial Expense Rate**

### *Respondent's Comments:*

- In the *Preliminary Determination*, the Department excluded a portion of Suzano's interest income but, at verification, demonstrated that the interest income was generated by short-term deposits. For the final determination, the Department should include the full amount of interest income in the calculation of the financial expense rate.

Petitioners did not comment on this issue.

**Department's Position:** The Department agrees with Suzano and has included the full amount of the company's claimed interest income offset in the calculation of Suzano's financial expense rate. At verification, the Department found that all of the interest income included in Suzano's reported interest income offset was generated by short-term interest bearing assets. Consistent with our practice, the Department has offset Suzano's financial expenses with this interest income.<sup>132</sup>

## **Comment 11: Corrections to U.S. Selling Expenses and Movement Expenses**

### *Respondent's Comments:*

- At verification, the Department found that other direct selling expenses (DIRSELU) were related exclusively to Suzano's CEP sales. However, when the U.S. sales database was combined for both EP and CEP sales, the other direct selling expenses were also applied to Suzano's EP sales.
- The Department verified that no EP sales incurred this expense and, for the final determination, the Department should not deduct this expense from the gross unit price for Suzano's EP sales.
- Also, at verification, Suzano noted to the Department that the international freight expenses for four sales transactions were double-counted because the total amount of international freight for the invoice was applied to each line item on the invoice. This error was identified during the sales traces of Suzano's home market sales, which was verified by the Department.
- The Department should correct this error in the reported international freight expenses for these four transactions in Suzano's home market sales database for the final determination.

### *Petitioners' Comments:*

- Contrary to Suzano's assertion that other direct selling expenses reported for EP sales are incorrect and should be deleted and the Department verified this correction, there is no such indication in the verification report.

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<sup>132</sup> See, e.g., *Sugar from Mexico: Final Determination of Sales at Less Than Fair Value*, 80 FR 57341 (September 23, 2015) and accompanying Issues and Decision Memorandum at Comment 10. For the calculation of Suzano's financial expense rate, see Suzano's Final Cost Memorandum at 2.

- Additionally, contrary to Suzano’s assertion that international freight expenses for four transactions were double-counted and the Department verified this correction, there is no such indication in the verification report.
- Because the Department neither accepted nor verified these additional corrections, these adjustments should not be made for the final determination.

**Department’s Position:** The Department agrees with Suzano that the other direct selling expenses should only be deducted from the gross unit price for Suzano’s CEP sales and corrects the international freight expenses for the respective four sales transactions.<sup>133</sup> Regarding direct selling expenses, we agree with Suzano. As we noted at verification, Suzano’s only direct selling expense for CEP sales in the U.S. is an insurance it pays on all CEP sales.<sup>134</sup> Moreover, we noted no direct selling expenses on EP sales to the U.S and verified this in our review of Suzano’s sales and accounting documentation for sample sales.<sup>135</sup> Therefore, for the final determination, we have not applied any direct selling expenses to Suzano’s EP sales.

Regarding international freight expenses for four sales transactions in Suzano’s U.S. sales database, we agree with Suzano. It is the Department’s practice to avoid double-counting.<sup>136</sup> Similar to the other direct selling expenses, the Department notes that it verified Suzano’s international freight expenses for these four sales transactions and the shipping documentation demonstrated that the reported international freight expenses were incorrect and over reported the freight expenses listed in the documentation.<sup>137</sup> Therefore, in order to avoid double-counting, for these four transactions, the Department has adjusted Suzano’s international freight expenses for the final determination.

## **Comment 12: U.S. Indirect Selling Expenses**

### *Petitioners’ Comments:*

- In the *Preliminary Determination*, the Department stated that it deducted Suzano’s indirect selling expenses incurred in the United States (“INDIRSU”) from Suzano’s CEP. However, in the margin program, the Department incorrectly classified INDIRSU as U.S. indirect selling expenses rather than CEP U.S. indirect selling expenses. Thus, this error should be corrected for the final determination so that INDIRSU is deducted from Suzano’s CEP for U.S. sales.

Suzano did not comment on this issue.

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<sup>133</sup> See Suzano’s Case Brief at 30-31.

<sup>134</sup> See Suzano’s CEP Verification Report at 8.

<sup>135</sup> See Suzano’s Home Market Verification Report at 29 – 30 and VE-16, VE-18, VE-19, VE-21, and VE-43.

<sup>136</sup> See, e.g., *Certain Stilbenic Optical Brightening Agents from Taiwan: Final Determination of Sales at Less Than Fair Value*, 77 FR 17027 (March 23, 2012) and accompanying Issues and Decision Memorandum at Comment 3.b (where the Department excluded certain expenses to avoid double-counting); *Drawn Stainless Steel Sinks from the People’s Republic of China: Investigation; Final Determination*, 78 FR 13019 (February 26, 2013) and accompanying Issues and Decision Memorandum at Comment 4 (it is the Department’s practice to avoid double-counting costs where the data are available to do so).

<sup>137</sup> See Suzano’s Home Market Verification Report at VE-18.

**Department's Position:** The Department agrees with Petitioners that Suzano's indirect selling expenses incurred in the United States for its CEP sales should be classified as a CEP U.S. indirect selling expense rather than a U.S. indirect selling expense. For the final determination, the Department corrected this error in Suzano's margin calculation and deducted CEP U.S. indirect selling expenses only from its CEP sales.<sup>138</sup>

**Conclusion**

We recommend applying the above methodology for this final determination.

  
\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

  
\_\_\_\_\_  
Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

  
\_\_\_\_\_  
(Date)

<sup>138</sup> See Suzano's Final Analysis Memo.