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April 2, 2015

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Gary Taverman *GT*
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results of
Antidumping Duty Administrative Review: Purified
Carboxymethylcellulose from Finland

SUMMARY

In response to a request from Ashland Specialty Ingredients, a division of Hercules Inc. (Petitioner), and CP Kelco Oy (CP Kelco), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on purified carboxymethylcellulose (CMC) from Finland. The review covers one respondent, CP Kelco. The period of review (POR) is July 1, 2013, through June 30, 2014.

We preliminarily find that sales of the subject merchandise by CP Kelco have not been made at prices below normal value (NV) during the POR. If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection (CBP) to assess no antidumping duties based on differences between the export price (EP) or constructed export price (CEP) and NV. We invite interested parties to comment on these preliminary results.

BACKGROUND

The Department published the antidumping duty order on CMC from Finland on July 11, 2005.¹ On July 1, 2014, the Department published the notice of opportunity to request an administrative review of CMC from Finland for the period July 1, 2013, through June 30, 2014 (POR).² On July 17, 2014, Petitioner requested a review of CP Kelco for the POR.³ Additionally, on July 18,

¹ See Notice of Antidumping Duty Orders: Purified Carboxymethylcellulose from Finland, Mexico, the Netherlands, and Sweden, 70 FR 39734 (July 11, 2005).

² See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review, 79 FR 37289 (July 1, 2014).

³ See July 17, 2014 letter from Ashland Specialty Ingredients to Secretary of Commerce: Re: Request for Administrative Review and Entry of Appearance.



2014, CP Kelco requested a review of its sales for the POR.⁴ On August 29, 2014, the Department published in the Federal Register a notice of initiation of this antidumping duty administrative review.⁵

Based on our analysis of the information on the record, the Department issued its standard Antidumping Questionnaire to CP Kelco on September 2, 2014.⁶ CP Kelco submitted its response to section A of the Antidumping Questionnaire on September 23, 2014.⁷ CP Kelco submitted its responses to sections B and C of the Antidumping Questionnaire on October 16, 2014.⁸

Because the Department disregarded sales which were made at prices below the cost of production (COP) in the most recently completed administrative review as of the initiation of the instant review, we are conducting a sales-below-cost investigation in this review.⁹ Accordingly, CP Kelco submitted its response to section D of the Antidumping Questionnaire on October, 16, 2014.¹⁰

On February 11, 2015, the Department issued a supplemental questionnaire to CP Kelco regarding its responses to sections A, B, C and D of the Antidumping Questionnaire.¹¹ CP Kelco submitted its response to the Department's February 11, 2015 supplemental questionnaire on February 26, 2015.¹²

SCOPE OF THE ORDER

The merchandise covered by the order is all purified CMC, sometimes also referred to as purified sodium CMC, polyanionic cellulose, or cellulose gum, which is a white to off-white, non-toxic, odorless, biodegradable powder, comprising sodium CMC that has been refined and purified to a minimum assay of 90 percent. Purified CMC does not include unpurified or crude CMC, CMC Fluidized Polymer Suspensions, and CMC that is cross-linked through heat treatment. Purified

⁴ See July 18, 2014 letter from CP Kelco to Secretary of Commerce Re: Purified Carboxymethylcellulose from Finland: Request for Administrative Review.

⁵ See Initiation of Antidumping and Countervailing Duty Administrative Reviews, 79 FR 51548 (August, 29, 2014).

⁶ See September 2, 2014 letter from Acting Program Manager to CP Kelco (Antidumping Questionnaire).

⁷ See September 23, 2014 letter CP Kelco to Secretary of Commerce Re Purified Carboxymethylcellulose from Finland : Section A Questionnaire Response of CP Kelco Oy (CP Kelco Section A Response).

⁸ See October 16, 2014 letter from CP Kelco to Secretary of Commerce Re Purified Carboxymethylcellulose from Finland : Section B Questionnaire Response of CP Kelco Oy (CP Kelco Section B Response); see also October 16 2014 letter from CP Kelco to Secretary of Commerce Re Purified Carboxymethylcellulose from Finland: Section C Questionnaire Response of CP Kelco Oy (CP Kelco Section C Response).

⁹ See Purified Carboxymethylcellulose from Finland: Notice of Preliminary Results of Antidumping Duty Administrative Review, 79 FR 48119 (August 15, 2014) and accompanying Decision Memorandum at 12-13 (2012-2013 Preliminary Results) unchanged in Purified Carboxymethylcellulose from Finland: Final Results of Antidumping Duty Administrative Review 2012-2013, 79 FR 76302 (December 22, 2014) (2012-2013 Final Results).

¹⁰ See October 16, 2014 letter from CP Kelco to Secretary of Commerce Re Purified Carboxymethylcellulose from Finland : Section D Questionnaire Response of CP Kelco Oy (CP Kelco Section D Response).

¹¹ See February 11, 2015 letter from Robert James to CP Kelco (Supplementary Antidumping Questionnaire).

¹² See February 26, 2015 letter from CP Kelco to Secretary of Commerce Re Purified Carboxymethylcellulose from Finland: First Supplemental Sections A-D Questionnaire Response of CP Kelco Oy (CP Kelco Supplemental Questionnaire Response).

CMC is CMC that has undergone one or more purification operations which, at a minimum, reduce the remaining salt and other by-product portion of the product to less than ten percent. The merchandise subject to the order is classified in the Harmonized Tariff Schedule of the United States at subheading 3912.31.00. This tariff classification is provided for convenience and customs purposes; however, the written description of the scope of the order is dispositive.

METHODOLOGY

Fair Value Comparisons

Pursuant 19 CFR 351.414(c)(1) and (d), to determine whether CP Kelco's sales of subject merchandise from Finland were made in the United States at less than NV, we compared the EP or CEP to NV as described in the "Export Price," "Constructed Export Price" and "Normal Value" sections of this decision memorandum.

Product Comparisons

In accordance with section 771(16) of the Tariff Act of 1930, as amended (Act), we compared products produced by CP Kelco Oy and sold in the U.S. and home markets on the basis of the comparison product which was either identical or most similar in terms of the physical characteristics to the product sold in the United States. In the order of importance, these physical characteristics are: 1) grade; 2) viscosity; 3) degree of substitution; 4) particle size; and 5) solution gel characteristics.¹³

When making product comparisons in accordance with section 771(16) of the Act, we considered sales of all products sold in the home market as described in the "Scope of the Order" section of this memorandum, above, which were made in the ordinary course of trade. We compared U.S. sales to home market sales which were contemporaneous with the U.S. sale. If contemporaneous home market sales of identical merchandise were reported, we made comparisons to the monthly weighted-average home-market prices for all such sales. If home market sales of identical merchandise were made in the same month as the U.S. sale, we compared EP or CEP of U.S. sales to the normal value based on home market sales of identical merchandise made in the same month as the U.S. sale. If no such home market sales were reported, we compared EP or CEP of U.S. sales to normal value based on home market sales of identical merchandise in the most contemporaneous month in which such U.S. sales were made. We considered home market sales to be contemporaneous with U.S. sales if the home market sales were made within the period including the month of the U.S. sale, the two months after the U.S. sale, and the three months before the U.S. sale.

Where there were no contemporaneous home market sales of identical merchandise in the comparison market made in the ordinary course of trade, we compared EP or CEP of U.S. sales to the normal value based on home market sales of the next most similar product on the basis of

¹³ See Purified Carboxymethylcellulose from Finland; Notice of Preliminary Results of Antidumping Duty Administrative Review, 72 FR 44106, 44108 (August 7, 2007) (2004-2006 Preliminary Results) unchanged in Purified Carboxymethylcellulose from Finland; Notice of Final Results of Antidumping Duty Administrative Review, 72 FR 70568 (December 12, 2007) (2004-2006 Final Results).

the characteristics listed above, that were sold in the same month as the U.S. sales or the month which was most contemporaneous with the U.S. sales, in accordance with 19 CFR 351.414(f). Where there were no contemporaneous sales of identical or similar merchandise made in the ordinary course of trade in the comparison market, we compared U.S. sales to constructed value (CV).¹⁴

Determination of Comparison Margins

Pursuant to 19 CFR 351.414(c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average EPs (or CEPs) (the average-to-average, or A-to-A, method) unless the Secretary determines that another method is appropriate in a particular situation. In antidumping investigations, the Department examines whether to use the average-to-transaction (A-to-T) method as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in antidumping investigations.¹⁵ In investigations, pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act, the Department applied a "differential pricing" analysis for determining whether application of A-to-T comparisons is appropriate in a particular situation.¹⁶ The Department finds the differential pricing analysis used in those investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review.¹⁷ The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the A-to-A method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differs significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the

¹⁴ See section 773(e) of the Act.

¹⁵ See Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011, 77 FR 73415 (December 10, 2012).

¹⁶ See, e.g., Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 33350 (June 4, 2013), and the accompanying Issues and Decision Memorandum at Comment 3; and Hardwood and Decorative Plywood From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 58273 (September 23, 2013), and the accompanying Issues and Decision Memorandum at Comment 3.

¹⁷ See, e.g., Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011–2012, 78 FR 70533 (November 26, 2013), and accompanying Issues and Decision Memorandum at Comment 2.

reported consolidated customer codes. Regions are defined using the reported destination code (i.e., zip codes) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the period of review being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region and time period, that the Department uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

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

Next, the “ratio test” assesses the extent of the significant price differences for all sales as measured by the Cohen’s *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test account for 66 percent or more of the value of total sales, then the identified pattern of EPs (or CEPs) that differ significantly supports the consideration of the application of the A-to-T method to all sales as an alternative to the A-to-A method. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an A-to-T method to those sales identified as passing the Cohen’s *d* test as an alternative to the A-to-A method, and application of the A-to-A method to those sales identified as not passing the Cohen’s *d* test. If 33 percent or less of the value of total sales passes the Cohen’s *d* test, then the results of the Cohen’s *d* test do not support consideration of an alternative to the A-to-A method.

If both tests in the first stage (i.e., the Cohen’s *d* test and the ratio test) demonstrate the existence of a pattern of EPs (or CEPs) that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether using only the A-to-A method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on the results of the Cohen’s *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the A-to-A method only. If the difference between the two calculations is meaningful, then this

demonstrates that the A-to-A method cannot account for differences such as those observed in this analysis, and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if: 1) there is a 25 percent relative change in the weighted-average dumping margin between the A-to-A method and the appropriate alternative method where both rates are above the de minimis threshold, or 2) the resulting weighted-average dumping margin moves across the de minimis threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.

Results of Differential Pricing Analysis

Based on the results of the differential pricing analysis, the Department finds that fewer than 33 percent of CP Kelco's EP and CEP sales pass the Cohen's *d* test, and thus does not confirm the existence of a pattern of export prices for comparable merchandise that differ significantly among purchasers, regions, or time periods.¹⁸ Therefore, the Department need not consider whether the A-to-T method can account for such differences, and no additional argument to the contrary has been placed on the record. Accordingly, the Department has determined to use the A-to-A method for all U.S. sales to calculate the weighted-average dumping margin for CP Kelco for these preliminary results.

Date of Sale

Section 351.401(i) of the Department's regulations states that, normally, the Department will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The regulation provides further that the Department may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established.

Consistent with previous segments of this proceeding,¹⁹ CP Kelco claimed the commercial invoice date as the date of sale for all U.S. and home market sales.²⁰ CP Kelco explains the invoice is normally issued on the same day the merchandise is shipped to the customer.²¹ For these reasons, and consistent with the presumption established in the Department's regulation,

¹⁸ For additional detail, see "Analysis of Data Submitted by CP Kelco Oy and CP Kelco U.S. Inc. (collectively CP Kelco) in the Preliminary Results of the Antidumping Duty Administrative Review of the 2013-2014 Administrative Review of Purified Carboxymethylcellulose (CMC) from Finland (Preliminary Analysis Memorandum).

¹⁹ See, e.g., Purified Carboxymethylcellulose from Finland; Notice of Preliminary Results of Antidumping Duty Administrative Review, 74 FR 16180, 16181 (April 9, 2009) (2007-2008 Preliminary Results) unchanged in Purified Carboxymethylcellulose from Finland; Notice of Final Results of Antidumping Duty Administrative Review, 74 FR 28886 (June 18, 2009) (2007-2008 Final Results).

²⁰ See CP Kelco's Section B Response at B-14-B-15 and CP Kelco's Section C Response at C-16.

²¹ See CP Kelco's October 16, 2014 Section B Response at B-15 and CP Kelco's October 16, 2014 Section C Response at C-16.

and our treatment in prior segments of this proceeding, we have preliminarily used CP Kelco's reported commercial invoice date as the date of sale for all U.S. and home market sales.²²

U.S. Price

A. Export Price

CP Kelco reported that certain subject merchandise was sold prior to importation by the exporter or producer outside the United States to the first unaffiliated purchaser in the United States. Therefore, for such sales we based the U.S. price on EP, as defined in section 772(a) of the Act. CP Kelco's EPs are based on prices to unaffiliated purchasers in the United States. We made adjustments to the EP for billing adjustments and discounts, where applicable. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act, which included, where appropriate: foreign inland freight; international freight; marine insurance; U.S. brokerage and handling; and direct selling expenses (credit expenses).

B. Constructed Export Price

CP Kelco reported it sold subject merchandise to its affiliate CP Kelco U.S., Inc. in the United States; and CP Kelco U.S., Inc. sold subject merchandise to unaffiliated U.S. customers. In accordance with section 772(b) of the Act, we based U.S. price on CEP for these sales. We based CEP on the delivered or cost, insurance and freight prices to unaffiliated purchasers in the United States. We made adjustments for price or billing adjustments, and early payment discounts, where applicable. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act, which included, where appropriate: foreign inland freight; foreign brokerage and handling; international freight; marine insurance; customs duties; U.S. brokerage; U.S. inland freight; and U.S. warehousing expenses.

We also reduced movement expenses, where appropriate, by the amount of freight revenue paid by the unaffiliated customer to CP Kelco U.S., Inc. CP Kelco claims that it arranges and pre-pays for transportation, and bills the freight expenses in question to the customer as a separate line on the product invoice.²³ In past cases, we have declined to treat freight-related revenues as either an addition to U.S. price under section 772(c) of the Act or as price adjustments under 19 CFR 351.102(b). Rather, we have incorporated these revenues as offsets to movement expenses because they relate to the transportation of subject merchandise.²⁴ Our offset practice limits the granting of an offset to situations where a respondent incurs expenses and realizes revenue for the same type of activity.²⁵ Consistent with this practice, we capped the amount of

²² See, e.g., Purified Carboxymethylcellulose from Finland: Notice of Preliminary Results of Antidumping Duty Administrative Review, 77 FR 47036, 47037 (August 7, 2012) at (2010-2011 Preliminary Results) unchanged in Purified Carboxymethylcellulose from Finland: Notice of Final Results of Antidumping Duty Administrative Review 2010-2011, 78 FR 11817 (February 20, 2013) (2010-2011 Final Results).

²³ See CP Kelco's Section A response at A-31-A33; CP Kelco's Section C Response at C-27.

²⁴ See, e.g., Stainless Steel Wire Rod from Sweden: Preliminary Results of Antidumping Duty Administrative Review, 72 FR 51411, 51415 (September 7, 2007) unchanged in Stainless Steel Wire Rod from Sweden: Final Results of Antidumping Duty Administrative Review, 72 FR 12950 (March 1, 2008).

²⁵ Id.

freight revenue deducted at no greater than the amount of inland freight in the United States.²⁶ Further, CP Kelco reports that these freight fees charged to the customer which generate freight revenues are based upon estimates of freight, not upon actual freight expenses. Therefore, we limited the amount of freight revenue deducted to no greater than the amount of movement expenses incurred in the home market, in accordance with the Department's past practice.²⁷ As the Department explained in Bags from the PRC, section 772(c)(1) of the Act provides that the Department shall increase the price used to establish either EP or CEP in only three instances: (A) when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the subject merchandise in condition packed ready for shipment to the United States; (B) the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the subject merchandise to the United States; and (C) the amount of any countervailing duty imposed on the subject merchandise under subtitle A to offset an export subsidy. Moreover, 19 CFR 351.401(c) directs the Department to use a price in the calculation of U.S. price which is net of any price adjustments that are reasonably attributable to the subject merchandise. The term "price adjustments" is defined under 19 CFR 351.102(b)(38) as "any change in the price charged for subject merchandise or the foreign like product, such as discounts, rebates, and post-sale adjustments, that are reflected in the purchaser's net outlay."

Additionally, in accordance with section 772(d)(1) of the Act, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (imputed credit expenses), inventory carrying costs, and indirect selling expenses. We also made an adjustment for profit in accordance with section 772(d)(3) of the Act.

C. U.S. Sample Sales

CP Kelco reported that it provided certain samples to unaffiliated customers in the U.S. market during the POR.²⁸ For these sample transactions, gross unit prices were zero. Furthermore CP Kelco did not claim nor provide any evidence that any other sort of consideration was provided for these transactions. Therefore, we have determined that such samples are not sales within the meaning of sections 772(a) and section 772(b) the Act, and have not included these sales in our calculations of EP or CEP. This analysis is in accordance with the Department's established practice and previous decisions of the Court of Appeals of the Federal Circuit (CAFC).²⁹

²⁶ See Polyethylene Retail Carrier Bags from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 74 FR 6857 (February 11, 2009) (Bags from the PRC), and the accompanying Issues and Decision Memorandum at Comment 6.

²⁷ See, e.g., Purified Carboxymethylcellulose from Finland: Notice of Preliminary Results of Antidumping Duty Administrative Review, 75 FR 47788, 47790 (August 9, 2010) (2008-2009 Preliminary Results), unchanged in Purified Carboxymethylcellulose from Finland: Notice of Final Results of Antidumping Duty Administrative Review, 75 FR 73035 (November 29, 2010) (2008-2009 Final Results); see also Bags from the PRC, and the accompanying Issues and Decision Memorandum at Comment 6.

²⁸ See CP Kelco's Section A Response at A-35 and A-55.

²⁹ See, e.g., Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of 1996-1997 Antidumping Duty Administrative Review and New Shipper Review and Determination Not to Revoke in Part, 63 FR 63860, 63872-73 (November 17, 1998) (TRBs from China); and Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, and Affirmative Final Determination of Critical

Normal Value

A. Home Market Viability as Comparison Market

To determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (i.e., the aggregate volume of home market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), we compared the volume of CP Kelco's home market sales of the foreign like product to the volume of its U.S. sales of subject merchandise, in accordance with section 773(a)(1)(B) of the Act.³⁰ Based on this comparison, we determined that CP Kelco had a viable home market during the POR. Consequently, we based NV on home market sales to unaffiliated purchasers made in the usual quantities in the ordinary course of trade.

B. Calculation of NV Based on Comparison Market Prices

We calculated NV based on prices to unaffiliated customers in the home market. We adjusted the starting price for billing adjustments, interest revenue, foreign inland freight, warehousing, and inland insurance, pursuant to section 773(a)(6)(B)(ii) of the Act. We made adjustments for differences in packing, in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act. We also made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act, as well as for differences in circumstances of sale (for imputed credit expenses and warranty expenses) in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(c). When applicable, we also made adjustments, in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred on comparison market or U.S. sales where commissions were granted on sales in one market but not in the other. We did not make further adjustments to CP Kelco's home market data.

C. Home Market Sample Sales

CP Kelco reported that it provided certain samples in the home market during the POR to unaffiliated customers.³¹ The sample sales reported by CP Kelco in the home market had a gross unit price was zero, and CP Kelco did not claim nor provide any evidence that any other sort of consideration was provided. Therefore, we have determined that such samples are not sales within the meaning of 773(a)(1)(B)(i) the Act and have not included these sales in our calculations of NV consistent with our treatment of U.S. samples for which no evidence of consideration was reported. As explained in the "U.S. Price" section, above, this analysis is in accordance with the Department's established practice and previous decisions of the CAFC.³²

Circumstances, in Part, 77 FR 63791 (October 17, 2012) (Photovoltaic Cells from China), and the accompanying Issues and Decision Memorandum at Comment 31. See also NSK Ltd. v. United States, 115 F.3d 965, 975 (Fed. Cir. 1997).

³⁰ See CP Kelco Section A Response at A-2.

³¹ See CP Kelco's Section A Response at A-35 and A-55.

³² See, e.g., TRBs from China and Photovoltaic Cells from China and the accompanying Issues and Decision Memorandum at Comment 31; see also NSK Ltd. v. United States, 115 F.3d 965, 975 (Fed. Cir.1997).

D. Cost of Production Analysis

In accordance with section 773(b)(2)(A)(ii) of the Act, because we disregarded sales by CP Kelco that were below the COP in the most recently completed administrative review of CMC from Finland in which CP Kelco was a respondent,³³ we had reasonable grounds to believe or suspect that CP Kelco made sales of the subject merchandise in the comparison market at prices below the COP in the current review period. Accordingly, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by CP Kelco.

1. Calculation of Cost of Production

We calculated the COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for general and administrative and financial expenses, in accordance with section 773(b)(3) of the Act. We examined the cost data and determined that our quarterly cost method is not warranted and, therefore, we have applied our standard method of using annual costs based on the reported data as adjusted below. We relied on the COP data submitted by CP Kelco in its questionnaire response for the COP calculation.

CP Kelco purchases a production input from a company who is CP Kelco's sole supplier of this specific input. This production input accounts for a significant share of CP Kelco's total cost of manufacture (TOTCOM) for CMC, and CP Kelco's purchases of this production input from this supplier comprise the preponderance of CP Kelco's cellulose consumption. CP Kelco and this supplier share common stock ownership in another Finnish company. The other cellulose used in CMC production by CP Kelco is from other production inputs, none of which was supplied by the supplier of the production input in question.³⁴

Consistent with the position taken in the 2012-2013 review of this case,³⁵ we have used the reported price for this production input from CP Kelco's supplier to value this production input. Consistent with our findings in the 2012-2013 review, we have preliminarily determined that CP Kelco's stock ownership in a common company with its supplier fails to establish that CP Kelco exercises control over either the company in which CP Kelco and its supplier share ownership or over its supplier.³⁶ To establish control pursuant to section 771(33)(F) of the Act and 19 CFR 351.102(b)(3), we must determine both: 1) that the parties are legally or operationally in a position to exercise restraint or direction over a third party, and 2) that the relationship has the potential to impact decisions concerning the production, pricing or cost of the subject merchandise. In the instant case, CP Kelco's and its supplier's stock ownership in a third company does not demonstrate that CP Kelco and its supplier are in a position to exercise restraint or direction over this company. Therefore, we preliminarily determine that CP Kelco is

³³ See 2012-2013 Preliminary Results, unchanged in 2012-2013 Final Results.

³⁴ See CP Kelco September 23, 2014 Section A Response at A-11 which describes the equity structure of CP Kelco and the supplier in question; see also CP Kelco February 26, 2015 Section D Response at D-4 which provides further detail concerning the production inputs provided by CP Kelco's suppliers.

³⁵ See 2012-2013 Preliminary Results, unchanged in 2012-2013 Final Results.

³⁶ Id.

not affiliated with its supplier and we have used the reported price for this production input from CP Kelco's supplier to value this production input.³⁷

2. Test of Comparison Market Sales Prices

As required under sections 773(b)(1)(A) and (B) of the Act, we compared the weighted average of the COP for the POR to the per-unit price of the comparison market sales of the foreign like product to determine whether these sales had been made at prices below the COP within an extended period of time in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time, in accordance with sections 773(b)(2)(B), (C), and (D) of the Act. We determined the net comparison market prices for the below-cost test by subtracting from the gross unit price any applicable movement charges, discounts, rebates, billing adjustments, direct and indirect selling expenses, and packing expenses.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where 20 percent of sales of a given product were at prices less than the COP, we did not disregard below-cost sales that were not made in "substantial quantities." Where 20 percent or more of the respondent's home market sales of a given product were at prices less than the COP, we disregarded the below-cost sales because (1) they were made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act; and (2) based on our comparison of prices to the weighted average of the COPs, they were at prices which would not permit the recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act

Our cost test for CP Kelco revealed that, for home market sales of certain models, more than 20 percent were sold at prices below the COP within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time. Thus, in accordance with section 773(b)(1) of the Act, we excluded these below-cost sales from our analysis and used the remaining above-cost sales to determine NV.³⁸

For those U.S. sales of subject merchandise for which there were no home market sales in the ordinary course of trade, we compared EPs to CV in accordance with section 773(a)(4) of the Act. See "Calculation of Normal Value Based on Constructed Value" section, below.

E. Level of Trade Analysis

To the extent practicable, we determine NV using home market sales made at the same level of trade (LOT) as the U.S. sales. Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for U.S. and comparison market sales (*i.e.*, NV based on either comparison market or third country prices), we consider the starting prices before any adjustments. If the home-market sales are at a different LOT from that of a U.S. sale and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based

³⁷ See Preliminary Analysis Memorandum at 4.

³⁸ Id. at-3-4.

and home-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.³⁹ To determine whether home market sales are at a different LOT than U.S. sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer.⁴⁰

1. Analysis of Home Market Level of Trade

In the current review, CP Kelco reported only one LOT in the home market.⁴¹ We obtained information from CP Kelco regarding the marketing process and selling functions along the chain of distribution between the producer and the customer in the home market.⁴² Our analysis indicates the selling functions performed for home market end-user customers are performed at similar degree of intensity and are similar in number to the selling functions performed for home market distributor customers. For example, in comparing CP Kelco's selling activities, CP Kelco reported that all of the selling functions performed in the home market distributor channel of distribution are also performed in the home market end user channel of distribution (*i.e.*, sales negotiation, credit risk management, customer service, logistics, inventory maintenance, packing, freight/delivery, collection, sales promotion, direct sales personnel, technical support, and guarantees).⁴³ CP Kelco also reported that many selling functions are performed at the same level of intensity (*i.e.*, customer service, logistics, collection, sales promotion, and guarantees). CP Kelco reported differences in the level of intensity between the home market distributor and end user channels of distribution for only the sales negotiation, credit risk management, inventory maintenance, packing, freight/delivery, direct sales personnel, and technical support selling functions.⁴⁴ Further, where there were differences reported by CP Kelco, these differences were minor and do not establish distinct and separate LOTs in Finland. We further note that all sales in the home market both occur closer to the end of the distribution chain and involve similar volumes; they require similar customer interaction and consequently the performance of similar selling functions at similar levels of intensity.⁴⁵ Accordingly, we preliminarily determine that CP Kelco's home market sales through the distributor and end user channels of distribution were made at the same LOT.

2. Analysis of U.S. Levels of Trade

CP Kelco reported two LOTs for its U.S. sales, an EP LOT (based on the selling activities associated with the transactions between CP Kelco Oy and its customers in the U.S.) and a CEP LOT (which is based on the selling activities associated with the transaction between CP Kelco Oy and its affiliated importer, CP Kelco U.S., Inc.).⁴⁶ We obtained information on CP Kelco's

³⁹ See 19 CFR 351.412(c)(2); see also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa, 62 FR 61731, 61732 (November 19, 1997).

⁴⁰ See 19 CFR 351.412(c)(2).

⁴¹ See CP Kelco's Section B Response at B-22.

⁴² See CP Kelco's Section A Response at A-21 to A-50.

⁴³ *Id.* at A-23-A-39.

⁴⁴ *Id.* at A-39.

⁴⁵ *Id.*

⁴⁶ See CP Kelco's Section C Response at C-24.

marketing process and selling functions along the chain of distribution between the producer and the customer in the U.S.⁴⁷ Our analysis indicates the selling functions performed in the EP channel of distribution are either performed at a higher degree of intensity or are greater in number than the selling functions performed for CEP sales to CP Kelco U.S., Inc. For example, in comparing CP Kelco's selling activities, we find most of the reported selling functions performed in the EP channel of distribution are not a part of CEP transactions (*i.e.*, sales negotiation, credit risk management, collection, sales promotion, direct sales personnel, technical support, and guarantees).⁴⁸ For those selling activities performed for both EP sales and CEP sales (*i.e.*, customer service, logistics, inventory maintenance, packing, and freight/delivery), CP Kelco reported that it performed each activity at either the same or at a higher level of intensity in the EP channel of distribution, with the sole exception of the inventory maintenance selling function.⁴⁹ We further note that CEP sales from CP Kelco Oy to CP Kelco U.S. generally occur at the beginning of the distribution chain, representing essentially a logistical transfer of inventory. In contrast, all sales made through the EP channel of distribution occur closer to the end of the distribution chain, do not resemble logistical transfers of inventory, require more customer interaction, and consequently, the performance of more selling functions.⁵⁰ Accordingly, we preliminarily determine that CP Kelco's EP sales and CEP sales were made at separate and distinct LOTs, and that the EP LOT is at a more advanced stage than the CEP LOT.

3. Level of Trade Determination

We then compared CP Kelco's home market LOT to its EP LOT. Our analysis indicates the selling functions performed for home market customers are performed at similar degree of intensity and are similar in number to the selling functions performed the EP channel of distribution. For example, in comparing CP Kelco's selling activities, CP Kelco reported that all of the selling functions performed in the home market distributor and end user channels of distribution are also performed in the EP channel of distribution (*i.e.*, sales negotiation, credit risk management, customer service, logistics, inventory maintenance, packing, freight/delivery, collection, sales promotion, direct sales personnel, technical support, and guarantees).⁵¹ CP Kelco also reported that many selling functions are performed at the same level of intensity for all three channels of distribution (*i.e.*, customer service, logistics, collection, sales promotion, and guarantees).⁵² Further, CP Kelco reported that the credit risk management and packing selling functions are performed at the same level of intensity for both the EP and home market distributor channel of distribution.⁵³ CP Kelco reported differences in the level of intensity between the home market end user channels of distribution and the EP channel of distribution for the inventory maintenance, packing, freight/delivery, direct sales personnel, and technical support selling functions.⁵⁴ The level of intensity for the inventory maintenance, freight/delivery, direct sales personnel, and technical support selling functions differed to some degree among both the U.S. distributor and end user channels of distribution, and the EP channel

⁴⁷ See CP Kelco's Section A Response at A-21 to A-50.

⁴⁸ *Id.* at A-23-A-39.

⁴⁹ *Id.*

⁵⁰ *Id.* at A-23-A-39.

⁵¹ *Id.*

⁵² *Id.* at A-39.

⁵³ *Id.*

⁵⁴ *Id.*

of distribution.⁵⁵ However, where there were differences reported by CP Kelco, these differences are minor and do not establish distinct and separate LOTs. We further note that home market and EP sales both occur closer to the end of the distribution chain and involve similar volumes; they require similar customer interaction and consequently the performance of similar selling functions at similar levels of intensity.⁵⁶ Accordingly, we preliminarily determine CP Kelco's home market and EP sales were made at the same LOT and no LOT adjustment is warranted for the EP sales.

F. CEP Offset

CP Kelco claims that it did not make home market sales at a LOT comparable to the CEP LOT. Therefore, CP Kelco requests the Department make a CEP offset. Accordingly, we compared the NV LOT (based on the selling activities associated with the transactions between CP Kelco and its customers in the home market) to the CEP LOT (which is based on the selling activities associated with the transaction between CP Kelco Oy and its affiliated importer, CP Kelco U.S., Inc.) Our analysis indicates the selling functions performed for home market EP customers are either performed at a higher degree of intensity or are greater in number than the selling functions performed for CEP sales to CP Kelco U.S., Inc. For example, in comparing CP Kelco's selling activities, we find most of the reported selling functions performed in the home market are not a part of CEP transactions (i.e., sales negotiations, credit risk management, intermediate warehousing, collection, sales promotion, direct sales personnel, technical support, guarantees, and discounts). For those selling activities performed for both home market sales and CEP sales (i.e., customer service, logistics, inventory maintenance, packing, and freight/delivery), CP Kelco reported it performed each activity at either the same or at a higher level of intensity in one or both of the home market channels of distribution. For both the packing and the freight/delivery selling functions, each function is performed at the same level of intensity in one home market channel of distribution, but at a lower level of intensity in the other home market channel of distribution. We further note that CEP sales from CP Kelco Oy to CP Kelco U.S., Inc., generally occur at the beginning of the distribution chain, representing essentially a logistical transfer of inventory. In contrast, all sales made through the EP channel of distribution occur closer to the end of the distribution chain, do not resemble logistical transfers of inventory, require more customer interaction, and consequently, the performance of more selling functions. Based on the foregoing, we conclude that the NV LOT is at a more advanced stage than the CEP LOT.

Because we found the home market and U.S. CEP sales were made at different LOTs, we examined whether a LOT adjustment or a CEP offset may be appropriate in this review. As we found only one LOT in the home market, it was not possible to make a LOT adjustment to home market sales, because such an adjustment is dependent on our ability to identify a pattern of consistent price differences between the home market sales on which NV is based and home market sales at the LOT of the U.S. sales.⁵⁷ Furthermore, we have no other information that provides an appropriate basis for determining a LOT adjustment. Because the data available do not form an appropriate basis for making a LOT adjustment, and because the NV LOT is at a

⁵⁵ Id.

⁵⁶ Id.

⁵⁷ See 19 CFR 351.412(d)(1)(ii).

more advanced stage of distribution than the CEP LOT, we have made a CEP offset to NV in accordance with section 773(a)(7)(B) of the Act.

G. Calculation of Normal Value Based on Constructed Value

In accordance with section 773(e) of the Act, we calculated CV for CP Kelco based on the sum of its material and fabrication costs, selling, general and administrative (SG&A) expenses, profit, and U.S. packing costs. We calculated the COP component of CV as described in the “Cost of Production Analysis” section of this memorandum, above. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by CP Kelco in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the comparison market.

Currency Conversion

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

CONCLUSION

We recommend applying the above methodology for these preliminary results.

✓
Agree

Disagree


Paul Piquado
Assistant Secretary
for Enforcement and Compliance

2 APRIL 2015
(Date)