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November 21, 2014

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for Preliminary Results of Antidumping
Duty Administrative Review: Lightweight Thermal Paper from
Germany

SUMMARY

The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on lightweight thermal paper (LWTP) from Germany. The review covers one producer and exporter of the subject merchandise, Papierfabrik August Koehler SE (Koehler). The period of review (POR) is November 1, 2012, through October 31, 2013. We preliminarily determine that Koehler did not make sales below normal value (NV) during this POR. Interested parties are invited to comment on these preliminary results.

BACKGROUND

In response to the Department's notice of opportunity to request an administrative review,¹ on November 27, 2013, Koehler requested an administrative review of the antidumping duty order on LWTP from Germany with respect to its exports of subject merchandise to the United States during the POR. On December 2, 2013, Appvion Inc. (the petitioner), a domestic interested party, requested that the Department conduct an administrative review of the sales of Koehler, Mitsubishi HiTec Paper Flensburg GmbH, Mitsubishi HiTec Paper Bielefeld GmbH, and Mitsubishi International Corp. Also on this date, Mitsubishi HiTec Paper Europe GmbH (Mitsubishi Europe) timely requested a review of itself. Accordingly, we published in the Federal Register a notice of initiation of an administrative review of the antidumping duty order on LWTP from Germany covering the POR.²

¹ See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review, 78 FR 65612 (November 1, 2013).

² See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 78 FR 79392 (December 30, 2013).



On January 16, 2014, the petitioner withdrew its request for review of Mitsubishi HiTec Paper Flensburg GmbH, Mitsubishi HiTec Paper Bielefeld GmbH, and Mitsubishi International Corp., and Mitsubishi Europe also withdrew its request for a review of itself. On February 11, 2014, we rescinded the review of these companies.³

On January 15, 2014, we issued the antidumping duty questionnaire to Koehler. In February and March 2014, Koehler timely submitted its responses to our questionnaire.

On January 29, 2014, the petitioner requested, pursuant to 19 CFR 351.213(j), that the Department determine whether antidumping duties have been absorbed by Koehler during the POR. See “Duty Absorption” section below.

On March 27, 2014, the petitioner filed a company-specific sales-below-cost allegation against Koehler. On April 22, 2014, we initiated a sales-below-cost investigation and instructed Koehler to respond to section D of the Department’s questionnaire.⁴ See “Cost of Production Analysis” section below.

From April 2014 through August 2014, we issued supplemental sales and cost questionnaires to Koehler. We received responses to these supplemental questionnaires from May 2014 through September 2014.

On June 30, 2014, the petitioner provided comments for consideration in the preliminary results.⁵ Koehler responded to those comments on July 7, 2014.

On July 15, 2014, we extended the time period for issuing the preliminary results of this review until December 1, 2014.⁶

We are conducting this administrative review of the order in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

SCOPE OF THE ORDER

The scope of the order includes certain lightweight thermal paper, which is thermal paper with a basis weight of 70 grams per square meter (g/m^2) (with a tolerance of $\pm 4.0 \text{ g/m}^2$) or less; irrespective of dimensions;⁷ with or without a base coat⁸ on one or both sides; with thermal

³ See Lightweight Thermal Paper from Germany: Partial Rescission of Antidumping Duty Administrative Review; 2012 – 2013, 79 FR 8156 (February 11, 2014).

⁴ See Memorandum entitled “The Petitioner’s Allegation of Sales Below the Cost of Production for Papierfabrik August Koehler SE (Koehler),” dated April 22, 2014 (COP Initiation Memo).

⁵ On July 3, 2014, the petitioner filed a targeted dumping allegation against Koehler. However, the Department’s current practice is to automatically conduct a differential pricing analysis (see below for further discussion). Thus, we did not consider the petitioner’s allegation further.

⁶ See Memorandum regarding “2012-2013 Administrative Review of Lightweight Thermal Paper from Germany: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,” dated July 15, 2014.

⁷ LWTP is typically produced in jumbo rolls that are slit to the specifications of the converting equipment and then converted into finished slit rolls. Both jumbo and converted rolls (as well as LWTP in any other form, presentation, or dimension) are covered by the scope of the order.

active coating(s)⁹ on one or both sides that is a mixture of the dye and the developer that react and form an image when heat is applied; with or without a top coat;¹⁰ and without an adhesive backing. Certain LWTP is typically (but not exclusively) used in point-of-sale applications such as ATM receipts, credit card receipts, gas pump receipts, and retail store receipts. The merchandise subject to this order may be classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 3703.10.60, 4811.59.20, 4811.90.8000, 4811.90.8030, 4811.90.8040, 4811.90.8050, 4811.90.9000, 4811.90.9030, 4811.90.9035, 4811.90.9050, 4811.90.9080, 4811.90.9090, 4820.10.20, and 4823.40.00.¹¹ Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

DISCUSSION OF THE METHODOLOGY

Fair Value Comparisons

Pursuant to section 773(a)(1)(B) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether Koehler's sales of LWTP from Germany were made to the United States at less than NV, we compared the export price (EP) or constructed export price (CEP) to NV, as described in the "Export Price and Constructed Export Price" and "Normal Value" sections of this memorandum, below.

A. *Determination of Comparison Method*

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 method) unless the Department determines that another method is appropriate in a particular situation. In antidumping duty investigations, the Department examines whether to use the average-to-transaction 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 duty investigations.¹² In recent investigations and reviews, the Department applied a "differential pricing" analysis for determining whether application of average-to-transaction comparisons is appropriate in a

⁸ A base coat, when applied, is typically made of clay and/or latex and like materials and is intended to cover the rough surface of the paper substrate and to provide insulating value.

⁹ A thermal active coating is typically made of sensitizer, dye, and co-reactant.

¹⁰ A top coat, when applied, is typically made of polyvinyl acetone, polyvinyl alcohol, and/or like materials and is intended to provide environmental protection, an improved surface for press printing, and/or wear protection for the thermal print head.

¹¹ HTSUS subheading 4811.90.8000 was a classification used for LWTP until January 1, 2007. Effective that date, subheading 4811.90.8000 was replaced with 4811.90.8020 (for gift wrap, a non-subject product) and 4811.90.8040 (for "other" including LWTP). HTSUS subheading 4811.90.9000 was a classification for LWTP until July 1, 2005. Effective that date, subheading 4811.90.9000 was replaced with 4811.90.9010 (for tissue paper, a non-subject product) and 4811.90.9090 (for "other," including LWTP).

¹² See Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews: 2010–2011, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum at Comment 1.

particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.¹³ The Department finds the differential pricing analysis used in those recent proceedings may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. 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 average-to-average 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 reported customer names. Regions are defined using the reported destination code (*i.e.*, zip code) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR 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 if the calculated Cohen's *d* coefficient is equal to or exceeds the large threshold (*i.e.*, 0.8).

¹³ See, e.g., Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 33351 (June 4, 2013), and accompanying Issues and Decision Memorandum at Comment 3; and Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2012-2013, 79 FR 13275 (March 10, 2014), and accompanying Decision Memorandum at pages 4 – 6; unchanged in Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2012-2013, 79 FR 54264 (September 11, 2014), and accompanying Issues and Decision Memorandum at Comments 1 – 3.

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 accounts 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 average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that passes the Cohen’s *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen’s *d* test as an alternative to the average-to-average method, and application of the average-to-average method to those sales identified as not passing the Cohen’s *d* test. If 33 percent or less of the value of total sales passes the Cohen’s *d* test, then the results of the Cohen’s *d* test do not support consideration of an alternative to the average-to-average method.

If both tests in the first stage (*i.e.*, the Cohen’s *d* test and the ratio test) demonstrate the existence of a pattern of 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 average-to-average 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 average-to-average method only. If the difference between the two calculations is meaningful, this demonstrates that the average-to-average 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 average-to-average method and the appropriate alternative method where both rates are above the de minimis threshold, or 2) the resulting weighted-average dumping 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.

B. *Results of the Differential Pricing Analysis*

Based on the results of the differential pricing analysis, the Department finds that more than 66 percent of Koehler’s export sales confirm the existence of a pattern of EPs or CEPs for comparable merchandise that differ significantly among purchasers, regions, or time periods. Therefore, the results support consideration of the application of an average-to-transaction methodology to all sales.¹⁴ However, because there is no meaningful difference in the weighted-average dumping margin when calculated using the average-to-average method and the average-

¹⁴ Further discussion of the differential pricing analysis is included in the Memorandum entitled, “Preliminary Results Margin Calculation for Papierfabrik August Koehler,” dated concurrently with this memorandum. (Preliminary Results Calculation Memo).

to-transaction method, the Department preliminarily determines that it is appropriate to apply the average-to-average method in making comparisons of EP or CEP and NV for Koehler.¹⁵

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by Koehler covered by the description in the “Scope of the Order” and sold in the home market during the POR to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Pursuant to 19 CFR 351.414(f), we compared Koehler’s U.S. sales of LWTP made during a particular month to its sales of LWTP made in the home market in the same month. Where there were no contemporaneous sales within the same month, pursuant to 19 CFR 351.414(f)(2), we compared Koehler’s U.S. sales of LWTP to its sales of LWTP made in the home market in the most recent of the three months prior to the month of the U.S. sales. Finally, if Koehler did not make home market sales of LWTP during any of these months, pursuant to 19 CFR 351.414(f)(3), we compared Koehler’s U.S. sales of LWTP to Koehler’s home market sales of LWTP in the earlier of the two months following the month of the U.S. sales in which Koehler made a home market sale of LWTP. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by Koehler in the following order: form, thermal active coating, top coating, basis weight, maximum optical density units, static sensitivity, dynamic sensitivity, coating color, printing, width, length, and core material.

Based on our analysis, we were able to match all of Koehler’s U.S. sales during the POR to contemporaneous sales in the home market that were identical according to these product matching criteria within the meaning of section 771(16)(A) of the Act. Accordingly, in calculating Koehler’s NV, we made product comparisons without having to account for cost differences associated with differences in the physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act.

Export Price and Constructed Export Price

In accordance with section 772(a) of the Act, we calculated EP for those sales where the subject merchandise was sold to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise warranted based on the facts of the record. We based EP on the packed, delivered prices to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act, which included, where appropriate, foreign inland freight from plant to the port of exportation, foreign brokerage and handling, international freight (inclusive of U.S. inland freight), inland and marine insurance, and U.S. brokerage and handling (including harbor maintenance fees and merchandise processing fees). We also adjusted movement expenses for rebates paid to Koehler by its freight services provider.

¹⁵ In these preliminary results, the Department applied the weighted-average dumping margin calculation method adopted in Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification, 77 FR 8101 (February 14, 2012). In particular, the Department compared monthly weighted-average EPs or CEPs with monthly weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

Pursuant to section 772(b) of the Act, we calculated CEP for those sales where the subject merchandise was first sold or agreed to be sold in the United States before or after the date of importation by or for the account of the producer or exporter or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter. We based CEP on the packed, ex-U.S. warehouse or delivered prices to unaffiliated purchasers in the United States. Where appropriate, pursuant to 19 CFR 351.401(c), we adjusted the starting prices for billing adjustments, rebates, and early payment discounts. We made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act, which included, where appropriate, foreign inland freight from plant to the port of exportation, foreign brokerage and handling, international freight (inclusive of U.S. port to U.S. warehouse transportation), marine insurance, U.S. brokerage and handling (including harbor maintenance fees and merchandise processing fees), U.S. inland freight from U.S. warehouse to customer, and warehousing expenses. We also adjusted movement expenses for rebates paid to Koehler by its freight services provider. In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (*i.e.*, credit expenses and credit insurance expenses), and indirect selling expenses (including inventory carrying costs).

We also deducted from CEP an amount for profit in accordance with section 772(d)(3) of the Act. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Koehler and its U.S. affiliate on their sales of the subject merchandise in the United States and the profit associated with those sales.

Normal Value

A. *Home Market Viability and Selection of Comparison Market*

To determine whether there is a sufficient quantity of sales in the home market to serve as a viable basis for calculating Koehler's NV, we compared the volume of Koehler'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)(C) and 19 CFR 351.404. Based on this comparison, we determined that, pursuant to 19 CFR 351.404(b), Koehler had a viable home market during the POR because the volume of Koehler's home-market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise. Consequently, pursuant to section 773(a)(1)(B)(i) of the Act and 19 CFR 351.404(c)(1)(i), we based Koehler's NV on its home market sales.

B. *Level of Trade*

In accordance with section 773(a)(1)(B)(i) of the Act and the Statement of Administrative Action accompanying the Uruguay Round Agreements Act,¹⁶ to the extent practicable, the Department determines NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP. Pursuant to 19 CFR 351.412(c)(1), in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either home market or third-country prices), we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities

¹⁶ See H.R. Doc. No. 316, 103d Cong., 2d Sess. 829-831 (1994).

reflected in the price after the deduction of selling expenses and CEP profit under section 772(d) of the Act.¹⁷ Where NV is based on constructed value (CV), we determine the NV LOT based on the LOT of the sales from which we derive selling, general, and administrative expenses, and profit for CV, where possible.

To determine whether comparison market sales are at a different LOT than EP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer.¹⁸ If the comparison market sales are at a different LOT and the difference affects price comparability, as described in 19 CFR 351.412(d) and as manifested in a pattern of consistent price differences between the sales on which NV is based and the comparison market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act.

In this administrative review, we obtained information from Koehler regarding the marketing stages involved in making its reported home market and U.S. sales, including a description of the selling activities performed by Koehler for each channel of distribution.¹⁹ Our LOT finding is summarized below.

Selling activities can be generally grouped into four selling function categories for analysis: (1) sales and marketing; (2) freight and delivery; (3) warehousing and inventory; and (4) warranty and technical support.²⁰ Koehler reported that during the POR it made sales of LWTP in the home market through two channels of distribution: direct sales to the customer (Channel 1) and consignment sales (Channel 2). Based on our analysis, we found that, except for low-degree warehousing activities performed for Channel 1 sales but not performed for Channel 2 sales, Koehler performed the same selling activities to the same degree in each of the above-described selling function categories for its channels of distribution in the home market.²¹ Although Koehler performed additional warehousing activities for its direct sales through Channel 1, we do not find that this selling function constitutes a substantial difference in selling functions which is significant enough to warrant a separate LOT in the home market. As explained at 19 CFR 351.412(c)(2), “{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.” Therefore, we preliminarily determine that there is one LOT in the home market because Koehler performed essentially the same selling activities at the same level of intensity in each of the four selling function categories for the two channels of distribution in the home market.

¹⁷ See Micron Technology, Inc. v. United States, 243 F.3d 1301, 1314 (Fed. Cir. 2001).

¹⁸ See 19 CFR 351.412(c)(2).

¹⁹ See Koehler’s February 24, 2014, response to section A of the Department’s questionnaire (QRA) at pages 16 - 19, and Exhibit A-9.

²⁰ See, e.g., Certain Orange Juice From Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Antidumping Duty Order in Part, 75 FR 50999 (August 18, 2010), and accompanying Issues and Decision Memorandum at Comment 7); and Certain Frozen Warmwater Shrimp From India: Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review, 74 FR 9991, 9996 (March 9, 2009), unchanged in Certain Frozen Warmwater Shrimp from India: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 74 FR 33409 (July 13, 2009).

²¹ See QRA at page 16 and Exhibit A-9.

In the U.S. market, Koehler sold LWTP through three channels of distribution. Koehler made CEP sales in the U.S. market through two channels of distribution: sales made by its U.S. affiliate, Koehler America, Inc. (Koehler America), and shipped directly from Germany to the unaffiliated U.S. customer (Channel 1), and sales made by Koehler America from a warehouse located in the United States (Channel 2). In addition, Koehler made EP sales in the U.S. market through one channel of distribution: direct sales to unaffiliated U.S. customers in Puerto Rico (Channel 3). Based on our analysis, we found that, except for warehousing activities performed for CEP Channel 2 sales, Koehler performed virtually the same selling activities in each of the above-described selling function categories for all three channels of distribution in the U.S. market.²² Although Koehler performed additional warehousing activities for its CEP sales through Channel 2, we do not find that this selling function constitutes a substantial difference in selling functions which is significant enough to warrant a separate LOT in the U.S. market. As explained at 19 CFR 351.412(c)(2), “{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.” Therefore, we preliminarily determine that there is one LOT in the U.S. market because Koehler performed essentially the same selling functions for all U.S. sales.

Finally, we compared the U.S. LOT to the home market LOT and found that, except for the sales negotiation activity, the selling functions performed for home market sales are either performed at the same degree of intensity as, or vary only slightly from, the selling functions performed for U.S. sales. With respect to sales negotiation activity, Koehler conducts the sales negotiations for home market sales, while the sales negotiations with the unaffiliated U.S. customers are conducted either by an unaffiliated commissioned sales agent (EP sales) or by Koehler America (CEP sales). We do not find that the additional sales negotiation activity performed by Koehler for its home-market sales constitutes a substantial difference in selling functions significant enough to warrant finding that home-market sales are made at a different LOT than U.S. sales. Therefore, we find that the single home-market LOT and the single U.S. LOT are virtually the same and, as a result, no LOT adjustment or CEP offset is warranted. Accordingly, we matched U.S. and home-market sales at the same LOT.

C. *Cost of Production Analysis*

On March 27, 2014, the petitioner alleged that Koehler made sales in the home market during the POR that were below the cost of production (COP). Based on our analysis of the allegation made by the petitioner, we found that Koehler’s home-market sales which allegedly fell below the COP were representative of the broader range of sales which may be used as a basis for NV. Therefore, we determined that there were reasonable grounds to believe or suspect that Koehler’s sales of LWTP in the home market were made at prices below its COP. Accordingly, pursuant to section 773(b) of the Act, we initiated a sales-below-cost investigation to determine whether Koehler’s sales were made at prices below its COP.²³ We examined Koehler’s cost data and determined that our quarterly cost methodology is not warranted and, therefore, we applied our standard methodology of using annual costs based on the reported data.

²² See *id.*, at 17-18 and Exhibit A-9.

²³ See COP Initiation Memo.

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated the respondent's COP based on the sum of its costs of materials and fabrication for the foreign like product, plus amounts for general and administrative (G&A) expenses and interest expenses (see "Test of Comparison Market Sales Prices" section, below, for treatment of home-market selling expenses). We made no adjustments to Koehler's reported COP data.

2. Test of Comparison Market Sales Prices

On a product-specific basis, we compared the weighted-average COP to the home-market sales prices of the foreign like product, as required under section 773(b) of the Act, in order to determine whether the sales prices were below the COP. For purposes of this comparison, we used COP exclusive of selling and packing expenses. The prices (inclusive of billing adjustments, where appropriate) were exclusive of any applicable movement charges, direct and indirect selling expenses, and packing expenses.

3. Results of the COP Test

In determining whether to disregard home-market sales made at prices below the COP, we examine, in accordance with sections 773(b)(1)(A) and (B) of the Act: 1) whether, within an extended period of time, such sales were made in substantial quantities; and 2) whether such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. Sales made at prices below the COP are made in substantial quantities if the volume of such sales represents 20 percent or more of the volume of the respondent's home-market sales of a given product, in accordance with section 773(b)(2)(C) of the Act. Thus, we disregard the below-cost sales when: 1) they were made within an extended period of time in substantial quantities, in accordance with sections 773(b)(2)(B) and (C) of the Act, and 2) based on our comparison of prices to the weighted-average COPs for the POR, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

We found that less than 20 percent of Koehler's sales were at prices less than the COP. Therefore, we used all of Koehler's home-market sales as the basis for determining NV.

D. *Calculation of Normal Value Based on Comparison Market Prices*

We calculated NV based on packed, delivered prices to unaffiliated customers. We excluded from the NV calculation certain sales transactions reported by Koehler as samples. We adjusted the starting price for billing adjustments, early payment discounts, rebates, warehouse expenses, and inland freight, where appropriate, pursuant to section 773(a)(6) of the Act and 19 CFR 351.401(c).

For comparisons made to EP sales, we made adjustments for differences in circumstances of sale (COS) pursuant to section 773(a)(6)(C)(iii) of the Act. We made COS adjustments by deducting direct selling expenses incurred for home-market sales (credit expenses, warranty expenses,

credit insurance expenses, and other direct selling expenses) and adding U.S. direct selling expenses (credit expenses, credit insurance expenses, commissions, and warranty expenses), where appropriate. Where commissions were granted in the U.S. market but not in the home market, we made an downward adjustment to NV for the lesser of: (1) the amount of commission paid in the U.S. market; or (2) the amount of indirect selling expenses (including inventory carrying costs) incurred in the home market, pursuant to 19 CFR 351.410(e).

For comparisons to both EP and CEP sales, we deducted home-market packing costs and added U.S. packing costs, in accordance with sections 773(a)(6)(A) and (B) of the Act.

Currency Conversion

Where necessary, the Department 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 Bank.

Duty Absorption

Pursuant to section 751(a)(4) of the Act, if timely requested, the Department conducts duty absorption inquiries in reviews that are initiated either two or four years after the publication of the order. On January 29, 2014, the petitioner requested that the Department determine whether antidumping duties have been absorbed by Koehler during the POR, pursuant to 19 CFR 351.213(j). However, the order on LWTP from Germany was published on November 24, 2008.²⁴ Therefore, this administrative review, initiated in December 2013, was not initiated two or four years after the publication of the order but instead, five years after the publication of the order. Accordingly, the Department is not conducting a duty absorption inquiry in this administrative review.

²⁴ See Antidumping Duty Orders: Lightweight Thermal Paper from Germany and the People's Republic of China, 73 FR 70959 (November 24, 2008).

Conclusion

We recommend applying the above methodology for these preliminary results.



Agree

Disagree



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

21 NOVEMBER 2014
(Date)