



A-533-843  
Changed Circumstances Review  
**Public Document**  
AD/CVD III: CR

**DATE:** March 30, 2015

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

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

**RE:** Certain Lined Paper Products from India

**SUBJECT:** Final Results of Changed Circumstances Review (CCR) of  
Kokuyo Riddhi Paper Products Private Limited

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## I. Summary

Based on our analyses of comments which we received in the case and rebuttal briefs submitted by interested parties in the above-referenced CCR, we recommend that you approve the positions we develop in the “Department’s Position” sections of this memorandum, and continue to find that Kokuyo Riddhi Paper Products Private Limited is the successor-in-interest to Riddhi Enterprises.

## II. Background

On July 14, 2014, the Department of Commerce (the Department) issued the *Preliminary Results* of this CCR, in which it determined that Kokuyo Riddhi Paper Products Private Limited (Kokuyo) is the successor-in-interest (SII) to Riddhi Enterprises (Riddhi).<sup>1</sup>

On August 11, 2014, Petitioners<sup>2</sup> submitted comments regarding the *Preliminary Results*.<sup>3</sup> On August 29, 2014, Kokuyo rebutted Petitioners’ post-preliminary comments.<sup>4</sup> On September 5, 2014, Petitioners submitted their case brief.<sup>5</sup> On September 18, 2014, Kokuyo submitted its rebuttal brief.<sup>6</sup>

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<sup>1</sup> See *Certain Lined Paper Products From India: Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review*, 79 FR 40709 (July 14, 2014) (*Preliminary Results*), and the accompanying Preliminary Decision Memorandum.

<sup>2</sup> Petitioners are the Association of American School Paper Suppliers (AASPS) and its individual members, which consists of the following companies: ACCO Brands USA LLC, Norcom Inc., and Top Flight, Inc.

<sup>3</sup> See Petitioners’ August 11, 2014, submission (Post-Preliminary Comments).

<sup>4</sup> See Kokuyo’s August 29, 2014, submission (Post-Preliminary Rebuttal Comments).

<sup>5</sup> See Petitioners’ September 5, 2014, case brief.

<sup>6</sup> See Kokuyo’s September 18, 2014, rebuttal brief.



### III. Scope of the Order

The scope of this order includes certain lined paper products, typically school supplies (for purposes of this scope definition, the actual use of or labeling these products as school supplies or non-school supplies is not a defining characteristic) composed of or including paper that incorporates straight horizontal and/or vertical lines on ten or more paper sheets (there shall be no minimum page requirement for looseleaf filler paper) including but not limited to such products as single- and multi-subject notebooks, composition books, wireless notebooks, looseleaf or glued filler paper, graph paper, and laboratory notebooks, and with the smaller dimension of the paper measuring 6 inches to 15 inches (inclusive) and the larger dimension of the paper measuring 8-3/4 inches to 15 inches (inclusive). Page dimensions are measured size (not advertised, stated, or “tear-out” size), and are measured as they appear in the product (*i.e.*, stitched and folded pages in a notebook are measured by the size of the page as it appears in the notebook page, not the size of the unfolded paper). However, for measurement purposes, pages with tapered or rounded edges shall be measured at their longest and widest points. Subject lined paper products may be loose, packaged or bound using any binding method (other than case bound through the inclusion of binders board, a spine strip, and cover wrap). Subject merchandise may or may not contain any combination of a front cover, a rear cover, and/or backing of any composition, regardless of the inclusion of images or graphics on the cover, backing, or paper. Subject merchandise is within the scope of this order whether or not the lined paper and/or cover are hole punched, drilled, perforated, and/or reinforced. Subject merchandise may contain accessory or informational items including but not limited to pockets, tabs, dividers, closure devices, index cards, stencils, protractors, writing implements, reference materials such as mathematical tables, or printed items such as sticker sheets or miniature calendars, if such items are physically incorporated, included with, or attached to the product, cover and/or backing thereto.

Specifically excluded from the scope of this order are:

- unlined copy machine paper;
- writing pads with a backing (including but not limited to products commonly known as “tablets,” “note pads,” “legal pads,” and “quadrille pads”), provided that they do not have a front cover (whether permanent or removable). This exclusion does not apply to such writing pads if they consist of hole-punched or drilled filler paper;
- three-ring or multiple-ring binders, or notebook organizers incorporating such a ring binder provided that they do not include subject paper;
- index cards;
- printed books and other books that are case bound through the inclusion of binders board, a spine strip, and cover wrap;
- newspapers;
- pictures and photographs;
- desk and wall calendars and organizers (including but not limited to such products generally known as “office planners,” “time books,” and “appointment books”);
- telephone logs;
- address books;

- columnar pads and tablets, with or without covers, primarily suited for the recording of written numerical business data;
- lined business or office forms, including but not limited to: pre-printed business forms, lined invoice pads and paper, mailing and address labels, manifests, and shipping log books;
- lined continuous computer paper;
- boxed or packaged writing stationary (including but not limited to products commonly known as “fine business paper,” “parchment paper”, and “letterhead”), whether or not containing a lined header or decorative lines;
- Stenographic pads (steno pads), Gregg ruled (“Gregg ruling” consists of a single- or double-margin vertical ruling line down the center of the page. For a six-inch by nine-inch stenographic pad, the ruling would be located approximately three inches from the left of the book.), measuring 6 inches by 9 inches.

Also excluded from the scope of this order are the following trademarked products:

- Fly™ lined paper products: A notebook, notebook organizer, loose or glued note paper, with papers that are printed with infrared reflective inks and readable only by a Fly™ pen-top computer. The product must bear the valid trademark Fly™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- Zwipes™: A notebook or notebook organizer made with a blended polyolefin writing surface as the cover and pocket surfaces of the notebook, suitable for writing using a specially-developed permanent marker and erase system (known as a Zwipes™ pen). This system allows the marker portion to mark the writing surface with a permanent ink. The eraser portion of the marker dispenses a solvent capable of solubilizing the permanent ink allowing the ink to be removed. The product must bear the valid trademark Zwipes™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- FiveStar®Advance™: A notebook or notebook organizer bound by a continuous spiral, or helical, wire and with plastic front and rear covers made of a blended polyolefin plastic material joined by 300 denier polyester, coated on the backside with PVC (poly vinyl chloride) coating, and extending the entire length of the spiral or helical wire. The polyolefin plastic covers are of specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). Integral with the stitching that attaches the polyester spine covering, is captured both ends of a 1" wide elastic fabric band. This band is located 2-3/8" from the top of the front plastic cover and provides pen or pencil storage. Both ends of the spiral wire are cut and then bent backwards to overlap with the previous coil but specifically outside the coil diameter but inside the polyester covering. During construction, the polyester covering is sewn to the front and rear covers face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. The flexible polyester material forms a covering over the spiral wire to protect it and provide a comfortable grip on the product. The product must bear

the valid trademarks FiveStar®Advance™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

- FiveStar Flex™: A notebook, a notebook organizer, or binder with plastic polyolefin front and rear covers joined by 300 denier polyester spine cover extending the entire length of the spine and bound by a 3-ring plastic fixture. The polyolefin plastic covers are of a specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). During construction, the polyester covering is sewn to the front cover face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. During construction, the polyester cover is sewn to the back cover with the outside of the polyester spine cover to the inside back cover. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. Each ring within the fixture is comprised of a flexible strap portion that snaps into a stationary post which forms a closed binding ring. The ring fixture is riveted with six metal rivets and sewn to the back plastic cover and is specifically positioned on the outside back cover. The product must bear the valid trademark FiveStar Flex™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

Merchandise subject to this order is typically imported under headings 4811.90.9035, 4811.90.9080, 4820.30.0040, 4810.22.5044, 4811.90.9050, 4811.90.9090, 4820.10.2010, 4820.10.2020, 4820.10.2030, 4820.10.2040, 4820.10.2050, 4820.10.2060, and 4820.10.4000 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS headings are provided for convenience and customs purposes; however, the written description of the scope of this order is dispositive.

#### **IV. Discussion of Interested Party Comments**

##### **Comment 1: Time Periods Analyzed When Conducting an SII CCR Analysis**

###### *Petitioners' Brief*

- The Department has previously stated that in SII analyses, the business operations of the alleged successor are to be compared with those of the alleged predecessor at the time of its most recent administrative review.<sup>1</sup> Kokuyo acknowledges that the most recent administrative review of Riddhi covered the period September 1, 2010, through August 31, 2011,<sup>2</sup> but made no attempt to compare or contrast Kokuyo's operations with those of Riddhi during that review period.
- The information provided by Kokuyo merely compared Riddhi's operations in the months preceding the December 2013 business transfer, which occurred a considerable amount of time after the period covered by Riddhi's most recently completed review, with Kokuyo's operations in the months after the business transfer.
- Thus, because Kokuyo has failed to provide information with respect to the appropriate comparison period (*i.e.*, a comparison of the period September 1, 2010, through August 31,

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<sup>1</sup> See *East Sea Seafoods LLC v. United States*, 703 F. Supp. 2d 1336, 1352 (CIT 2010) (*East Sea Seafoods*) at 1351.

<sup>2</sup> See Kokuyo's May 13, 2014, CCR Request (CCR Request) at 1.

2011, with the period after the December 2013 business transfer), the Department should issue a final negative SII determination.

*Kokuyo's Rebuttal Brief*

- Kokuyo understands that the basic and fundamental requirement of a successful CCR is that both the predecessor and successor company should be operating at the same level of operations. In other words, an affirmative SII finding requires that there not be any drastic or significant change in the level of operations of the predecessor and successor company.
- Thus, the level of operations of the successor company, Kokuyo, should be compared with the level of operations of the predecessor company, Riddhi, immediately before the business transfer, as this will establish a suitable platform for comparing the level of operations of a successor company with the predecessor company.
- The approach proposed by Petitioners could, in a proceeding with relatively few active reviews, lead to a situation in which the Department would compare the level of operations of the predecessor during the most recently completed review (*e.g.*, a review conducted ten years ago) with the present level of operations of a successor requesting the CCR. Such an untenable outcome demonstrates the flaws of Petitioners' arguments on this point.
- Kokuyo, by means of the documentation contained in its CCR Request, post-preliminary rebuttal comments and rebuttal brief, has demonstrated that there is absolutely no change in management, production facilities, supplier relationships, and customer base that warrants a negative final results in the instant CCR.

**Department's Position:** In this CCR, as in every CCR involving an issue of successorship, the central question before the Department is whether the purported "new" company operates in a manner such that it remains essentially the same business entity as the predecessor company, and thus whether it is entitled to the predecessor's cash deposit rate.<sup>3</sup> The Department evaluates whether a company is eligible for the same antidumping duty (AD) treatment as its predecessor as a result of an event such as a corporate name change, change in ownership, acquisition, merger or other such event (*i.e.*, it is the successor-in-interest, or successor to its predecessor form). The Department has developed a practice when analyzing such changes that is designed to facilitate the proper administration of the antidumping laws.<sup>4</sup>

In making a successor-in-interest determination, the Department examines several factors, including but not limited to, changes in: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base.<sup>5</sup> While no single factor or combination of these factors will necessarily provide a dispositive indication of a successor-in-interest relationship, the Department will generally consider the new company to be the successor to the previous

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<sup>3</sup> See *Marine Harvest (Chile) S.A. v. United States*, 244 F. Supp 2d 1364, 1369 (CIT 2002) (*Marine Harvest*).

<sup>4</sup> See Petitioners' case brief at 3 where Petitioners cite to *East Sea Seafoods*.

<sup>5</sup> See, *e.g.*, *Pressure Sensitive Plastic Tape from Italy: Preliminary Results of Antidumping Duty Changed Circumstances Review*, 75 FR 8925 (February 26, 2010), unchanged in *Pressure Sensitive Plastic Tape From Italy: Final Results of Antidumping Duty Changed Circumstances Review*, 75 FR 27706 (May 18, 2010); *Brake Rotors From the People's Republic of China: Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 70 FR 69941 (November 18, 2005), citing *Brass Sheet and Strip from Canada: Final Results of Antidumping Duty Administrative Review*, 57 FR 20460 (May 13, 1992); and *Structural Steel Beams from Korea: Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review*, 66 FR 15834 (March 21, 2001).

company if the new company's resulting operation is essentially similar to that of its predecessor.<sup>6</sup> Thus, if the record demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as essentially the same business entity as the predecessor company, the Department will treat the successor company the same as the predecessor for AD purposes, *i.e.*, assign the new company the cash deposit rate of its predecessor.<sup>7</sup>

When analyzing the SII factors mentioned above, we “must examine the totality of circumstances” behind the event that warranted the CCR.<sup>8</sup> Further, we note that a successorship determination is necessarily a case-by-case determination, where we analyze the totality of the evidence on the record.<sup>9</sup> The courts have upheld this practice,<sup>10</sup> while recognizing that the statute “reveals tremendous deference to the expertise” of the Department in administering AD laws.<sup>11</sup> Thus, we find that determining the proper comparison period in an AD CCR is a decision that the Department must make on a case-by-case basis.

As an initial matter, information on the record of this proceeding indicates that Mr. Kamal Parekh and Mr. Aman Parekh owned Ridhhi from its formation up to the December 5, 2013, business transfer.<sup>12</sup> Additionally, record evidence indicates that since Ridhhi's founding and up to and beyond the December 5, 2013, business transfer, Ridhhi/Kokuyo have operated a single production facility.<sup>13</sup> In this respect, Kokuyo has provided relevant information concerning the SII analysis that conforms to the time period that Petitioners contend must be analyzed in a CCR.

However, notwithstanding the presence of this information on the record of this proceeding, we disagree with Petitioners that respondents in an AD CCR must necessarily submit information concerning the four CCR criteria that cover the period of time since the predecessor's most recently completed administrative review up to and after the event necessitating the CCR. There is nothing in the Department's regulations that requires consideration of the comparison period advocated by Petitioners. Additionally, in this CCR, we do not find that customer and supplier base information going back several years prior to the relatively recent change in circumstances (*e.g.*, a recent name change or change in ownership) would alter our determination.

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<sup>6</sup> See, *e.g.*, *Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea: Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review*, 76 FR 27005, 27006 (May 10, 2011), unchanged in *Notice of Final Results of Antidumping Duty Changed Circumstances Review: Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea*, 76 FR 50456 (August 15, 2011); see also *Industrial Phosphoric Acid from Israel: Final Results of Antidumping Duty Changed Circumstances Review*, 59 FR 6944, 6945 (February 14, 1994); see also *Brass Sheet and Strip from Canada: Final Results of Antidumping Duty Administrative Review*, 57 FR 20460 (May 13, 1992) at Comments 1 and 2 (*Brass Sheet from Canada*).

<sup>7</sup> See *Fresh and Chilled Atlantic Salmon From Norway: Final Results of Changed Circumstances Antidumping Duty Administrative Review* 64 FR 9979 (March 1, 1999) at 9980.

<sup>8</sup> See *Brass Sheet from Canada*, 57 FR at 20460 (“Therefore, in attempting to fashion guiding principles for deciding what deposit rate to assign a company, the Department has concluded it must examine the totality of circumstances”).

<sup>9</sup> See *Brass Sheet from Canada*, 57 FR at 20460.

<sup>10</sup> See *East Sea Seafoods* at 1352.

<sup>11</sup> *Id.*, citing to *Fujitsu Gen. v. United States*, 88 F.3d 1034 (CAFC 1996).

<sup>12</sup> See CCR Request at 3-4.

<sup>13</sup> *Id.*, at 5-7, and at Exhibits 7-13 and 13.1.

Further, we find the facts in *East Sea Seafoods* are distinct from those of the instant CCR and, thus, are not controlling with respect to the comparison period to be used when conducting our successor-in-interest analysis. In *East Sea Seafoods*, the Court upheld the Department's determination in which it found that the requestor, ESS LLC, was not the successor-in-interest to the predecessor, ESS JVC, based on a comparison of information from the last review period in which ESS LLC was subject to individual examination (the third review period) up through the most recent review period (the fifth review period).<sup>14</sup> However, importantly, the facts surrounding the CCR request in *East Sea Seafoods* not only involved a name change that occurred during the fifth review period, but also changes in ownership and management at the predecessor company that took place subsequent to the third review period and prior to the name change.<sup>15</sup>

In contrast, in the instant CCR, Riddhi/Kokuyo has not undergone a series of ownership, management, or name changes that span several years. Rather, the record is clear that Riddhi operated a single production facility since its founding up through the December 2013 business transfer, and that Kokuyo has continued to operate this plant as its sole production facility since December 2013.<sup>16</sup> Further, record evidence indicates that Riddhi's sole ownership change occurred as part of the December 2013 business transfer.<sup>17</sup> Thus, the facts of the instant CCR request are distinct from the facts addressed in *East Sea Seafoods*, as well as other AD CCR proceedings involving companies that underwent numerous ownership changes over a course of several years or substantially modified or expanded their production facilities over time, thereby necessitating a successor-in-interest analysis that spanned a longer period of time.<sup>18</sup>

Therefore, we continue to find that Kokuyo's CCR Request covers the proper time period and contains sufficient information for the Department to reach a final determination in this proceeding.

**Comment 2:** Whether Kokuyo's Management Structure is Similar to that of Riddhi

*Petitioners' Comments*

- While Kokuyo argues that the two former owners of Riddhi are being held on as managers, with the same responsibilities as they had as owners of Riddhi, the Employment Services Agreement between Kokuyo and the former owners does not substantiate this claim.
- In particular, the Employment Services Agreement between Kokuyo and the two former owners of Riddhi provides no comparison of their current duties with the duties they carried out as owners/partners of Riddhi.

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<sup>14</sup> See *East Sea Seafoods* at 1351-52.

<sup>15</sup> *Id.*

<sup>16</sup> See CCR Request at 5-7 and Exhibits 7-13; see also Kokuyo's post-preliminary rebuttal comments at 6-7 and Exhibit A2, and Kokuyo's rebuttal brief at 6-7.

<sup>17</sup> See CCR Request at 3-4 and Exhibits 1-3, 7-10, 11, and 13.1.

<sup>18</sup> See, e.g., *Certain Pasta From Italy: Notice of Final Results of Antidumping Duty Changed Circumstances Review*, 79 FR 56339 (September 19, 2014), and the accompanying Issues and Decision Memorandum.

### *Kokuyo's Rebuttal Comments*

- Although the two original owners (Kamal Parekh and Aman Parekh) no longer own the successor company, Kokuyo, they continue to work for Kokuyo in their pre-existing capacities as the Chief Executive Officer and President of International Business, respectively.
- The Employment Service Agreement indicates that the two original owners' duties include the day-to-day operations of Kokuyo, including production, procurement, marking, and price setting activities.<sup>19</sup> These duties assigned to the former owners clearly reflect managerial responsibilities and have a direct impact on the manner in which subject merchandise is produced, priced and sold.
- The fact that the day-to-day responsibilities the former owners have at Kokuyo are spelled out in a formal, written agreement between the former owners and new owners of Kokuyo, dispels any concerns that such management responsibilities are likely subject to change in the near future. Further, the mere possibility that these management responsibilities could change in the future does not mean that Kokuyo failed in the CCR Request to provide sufficient information with respect to the management criteria of the Department's SII analysis.
- Further, Kokuyo indicated the work designation of the original owners before and after the December 2013 event that necessitated the CCR Request and, thus, the presence of this record evidence disproves Petitioners' claim that Kokuyo has failed to provide a sufficient comparison of the former owners' managerial responsibilities.<sup>20</sup>
- Additionally, the fact that Kokuyo retained all of Riddhi's former employees is indicative that the management of Kokuyo is similar to that of Riddhi.<sup>21</sup>

**Department's Position:** We disagree with Petitioners. The information in the CCR Request details the managerial responsibilities entrusted to the two former owners of Riddhi. For example, information in the CCR Request indicates that the two former owners continue to work for Kokuyo in their preexisting capacities, as the CEO and President of International Business, respectively.<sup>22</sup> Further, the Employment Service Agreement between Kokuyo and the two original owners indicates that the duties of the two original owners include the day-to-day operation of Kokuyo, including production, procurement, marking and price setting activities.<sup>23</sup> We find these duties, as specified in the Employment Service Agreement, directly relate to the manner in which subject merchandise is produced and sold. On this basis, we find that the information in the CCR Request demonstrates the management of Kokuyo is essentially the same as its predecessor, Riddhi.

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<sup>19</sup> See CCR Request at Exhibit 5.

<sup>20</sup> *Id.*, at 6(a) and 6(b).

<sup>21</sup> *Id.*, at 4-5 and Exhibit 1.

<sup>22</sup> *Id.*, at Exhibit 6(a).

<sup>23</sup> *Id.*, at 4 and Exhibit 5.

### **Comment 3:** Whether Kokuyo's Production Facilities Are Similar to Those of Riddhi

#### *Petitioners' Arguments*

- Kokuyo's Post-Preliminary Rebuttal Comments only indicates the specific amounts that Kokuyo and Riddhi actually sold in various years and the equipment maintained by Kokuyo after the December 2013 business transfer. These sales data do not answer the question of whether Kokuyo's production capacity is essentially the same as that of Riddhi.
- Kokuyo makes no attempt to compare its equipment holdings with those of Riddhi in the months preceding the December 2013 business transfer, or Riddhi's equipment holdings during the most recently completed review period (*i.e.*, September 1, 2010, through August 31, 2011).
- Kokuyo's sales in the period following December 2013 are much larger than those of Riddhi, which is suggestive of expansions to its plant and equipment.

#### *Kokuyo's Rebuttal Comments*

- The CCR Request indicates that all plant facilities utilized by Riddhi were transferred to Kokuyo.<sup>24</sup>
- The Central Excise Registration for both Riddhi and Kokuyo indicates the same factory premise.<sup>25</sup> Further, the CCR Request includes the deed and other legal documents demonstrating the transfer of the facilities from Riddhi to Kokuyo.<sup>26</sup>
- Additionally, Kokuyo's Post-Preliminary Rebuttal Comments include the list of plant and machinery maintained by Kokuyo for the period December 5, 2013, through March 31, 2014. Notably, the opening and closing balances remain unchanged from the date of the event that necessitated the CCR Request through the end period.<sup>27</sup> Thus, the information provides further proof that Kokuyo's production facilities were the same as Riddhi's.
- Kokuyo provided Riddhi sales data for the five-year period leading up to December 2013 as well as sales data for Kokuyo for eight months after December 2013. These data indicate that Kokuyo's sales volumes are similar to those of Riddhi prior to December 2013, thereby indicating that the production facilities remained the same.<sup>28</sup>
- Petitioners base their arguments concerning the continuity of the production facilities of Riddhi/Kokuyo on an improper time period. Under Petitioners' approach, and as noted above, the Department should examine Kokuyo's operations immediately following the December 2013 business transfer with the operations of Riddhi during the administrative review that covered fiscal year 2010-2011. Thus, under Petitioners' flawed approach, the Department would ignore any changes in Riddhi's production facilities since August 31, 2011, through December 2013.

**Department's Position:** We continue to find that Kokuyo's production facilities remained essentially unchanged from those of the predecessor company Riddhi. Information from Kokuyo demonstrates that the copy of the Central Excise Registration issued to Riddhi and Kokuyo list

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<sup>24</sup> *Id.*, at Exhibit 7 and 8.

<sup>25</sup> *Id.*, at Exhibit 8.

<sup>26</sup> *Id.*, at Exhibit 11 and 13.1.

<sup>27</sup> See Post-Preliminary Rebuttal Comments at Exhibit A-2.

<sup>28</sup> *Id.*, at Exhibit 4.

the same factory premises.<sup>29</sup> In addition, the CCR Request indicates that as part of the December 2013 business transfer, Riddhi transferred its existing factory license to Kokuyo.<sup>30</sup> Further, the CCR Request indicates that as part of the business transfer Kokuyo acquired the deed to the land on which Riddhi's factory was located.<sup>31</sup> Additionally, Kokuyo provided a summary worksheet of its production records indicating the opening and closing balances from its plant and machinery account for the period December 5, 2013, through March 31, 2014, and from April 1, 2014, through July 31, 2014.<sup>32</sup> Notably, for all but two entries, the opening and closing balances for the plant and equipment entries remained unchanged during the December 5, 2013, through March 31, 2014, period.<sup>33</sup> We find this demonstrates that Kokuyo did not make any acquisitions to plant and machinery during the months immediately following the December 2013 business transfer.

We disagree with Petitioners that sales data submitted by Kokuyo demonstrate that Kokuyo's production facilities are significantly different from those of Riddhi. Kokuyo's sales during the period immediately following December 2013 are larger than Riddhi's sales in certain years. However, information from Kokuyo indicates that in other years, Riddhi's sales approached Kokuyo's level of sales.<sup>34</sup> Thus, even the use of Petitioners' indirect and sub-optimal comparison of the two firms' sales levels as a means to gauge the level of production does not support a conclusion that Kokuyo's production facilities are significantly different from those of Riddhi.

**Comment 4:** Whether Kokuyo's Customer Base is the Same as Riddhi's

*Petitioners' Comments:*

- Kokuyo failed to provide evidence to show that certain customers ever contracted or negotiated with Riddhi prior to the transfer of Riddhi's assets to Kokuyo.
- Kokuyo has not contracted with most of Riddhi's pre-merger U.S. customers, including three of them to which Riddhi made sales in 2013.
- Based on this information, the Department cannot conclude that the customer base of Kokuyo and Riddhi remained essentially the same.

*Kokuyo's Rebuttal Comments:*

- Kokuyo has submitted a list of its customers (including quantity and value) that spans the period April 1, 2013, through March 31, 2014.<sup>35</sup> The time period reflected in the customer list spans the December 2013 event that necessitated the CCR Request.
- Although the listing of customers indicates that Kokuyo supplied only a few of Riddhi's customers, it is important to note that the list only reflects three months of Kokuyo's operations, compared to nine months of Riddhi's operations.

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<sup>29</sup> See CCR Request at Exhibits 7 and 8.

<sup>30</sup> *Id.*, at Exhibit 11.

<sup>31</sup> *Id.*, at Exhibit 13.1.

<sup>32</sup> See Post-Preliminary Rebuttal Comments at Exhibit A-2.

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

<sup>34</sup> *Id.*, at 4.

<sup>35</sup> See CCR Request at Exhibit 19.

- Further, Kokuyo has submitted purchase orders already received from several of Riddhi's former customers.<sup>36</sup> Regarding the customers of Kokuyo that are not listed in Exhibit 19 of the CCR Request as having been customers of Riddhi, Kokuyo provided information indicating that negotiations to supply these customers began prior to the December 2013 business transfer.<sup>37</sup>
- Kokuyo demonstrated the continuity of its customer base by providing documentation indicating that Riddhi's customers consented to transferring their existing purchase orders to Kokuyo.<sup>38</sup> Further, the consent of transfer documents included in the CCR Request are merely sample letters and, thus, do not constitute the complete universe of consent to transfer letters received by Kokuyo.
- Contrary to Petitioners' claims, it is common for businesses to experience a certain degree of turnover in its customer base from month-to-month and year-to-year. Such was the case with respect Riddhi/Kokuyo during the April 1, 2013, through March 31, 2014, period. Therefore, a degree of turnover in the customer base should not lead the Department to conclude that Kokuyo is not the successor-in-interest to Riddhi.

**Department's Position:** We disagree with Petitioners and continue to find that the turnover in Kokuyo's customer base relative to that of Riddhi was not so large as to warrant the Department to conclude that Kokuyo is not the SII to Riddhi. While the data supplied by Kokuyo indicate that only two of its customers overlapped with Riddhi's, the time period reflected contains nine months of sales information for Riddhi and only three months of sales information for Kokuyo. Further, the time period does not reflect the months in 2014 in which the seasonal demand for school notebooks is historically greater, which typically falls in the first five months of the year.

Additionally, Kokuyo has provided several pieces of information that demonstrate a sufficient degree of continuity of its customer base. For example, Kokuyo supplied purchase orders from several of Riddhi's former customers.<sup>39</sup> With respect to customers of Kokuyo that are not listed as customers of Riddhi, Kokuyo has indicated that negotiations with these customers were initiated by Riddhi.<sup>40</sup> Also, Kokuyo has provided the consent to transfer existing purchase orders it received from several of Riddhi's customers.<sup>41</sup> Therefore, based on this information, we continue to find that the business transfer in December 2013 did not result in changes to the customer base that would preclude the Department from determining that Kokuyo is the SII to Riddhi.

**Comment 5:** Whether Kokuyo's Supplier Base is the Same as Riddhi's

*Petitioners' Comments*

- Kokuyo purchases jumbo paper rolls from fewer than a half of Riddhi's prior paper suppliers.
- The Department's preliminary conclusion that the suppliers Kokuyo has in common with Riddhi "accounted for the majority of Riddhi's paper volume during the FY 2013-2014,"

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<sup>36</sup> *Id.*, at Exhibits 20 and 23.

<sup>37</sup> *Id.*, at 10.

<sup>38</sup> *Id.*, at Exhibit 24.

<sup>39</sup> *Id.*, at 8-10 and Exhibits 20-26.

<sup>40</sup> *Id.*, at 10.

<sup>41</sup> *Id.*, at Exhibit 24.

does not account for wide swings in the companies' use of suppliers. For example, Kokuyo purchased a significant percentage of its paper from a minor supplier of Riddhi, and it almost entirely dropped Riddhi's largest supplier.

- Kokuyo failed to substantiate its claim that suppliers of Riddhi have agreed to transfer all the pending purchase orders to Kokuyo.

#### *Kokuyo's Rebuttal Comments*

- The quantity and product Kokuyo purchased is essentially the same as Riddhi. For example, the listing of supplier quantity and value of purchases provided in the CCR Request indicates an overlap between the suppliers of Riddhi and Kokuyo.<sup>42</sup>
- Kokuyo has submitted letters from several of its suppliers in which the suppliers offer their consent to the December 2013 business transfer, as well as letters from other suppliers in which they agree to transfer all pending purchase orders from Riddhi to Kokuyo.<sup>43</sup>
- Petitioners wrongly focus on the number of suppliers that changed after the December 2013 business transfer rather than focus on the volume accounted for by the suppliers retained by Kokuyo. The suppliers retained by Kokuyo accounted for the majority of Kokuyo's paper volume during fiscal year 2013-2014.<sup>44</sup>

**Department's Position:** We disagree with Petitioners and continue to find that the business transfer in December 2013 did not result in changes to the supplier base that would preclude the Department from determining that Kokuyo is the successor-in-interest to Riddhi. Rather than focus on the number of suppliers retained, we instead focused our analysis on the volume acquired from the suppliers of Riddhi and Kokuyo. We find that this analysis provides the best means of gauging the continuity of Riddhi's and Kokuyo's supplier base because if the suppliers retained by Kokuyo accounted for the majority of Kokuyo's paper volume during fiscal year 2013-2014, it implies that Kokuyo continues the business relation with the major suppliers of Riddhi. Based on the supplier list of the major raw material (*i.e.*, paper) and the listing of supplier quantity and value of purchases provided in the CCR Request, we find there is overlap between the suppliers of Riddhi and Kokuyo.<sup>45</sup> Moreover, this information indicates that, in terms of volume, the suppliers retained by Kokuyo accounted for the majority of Kokuyo's paper volume in the period following the December 2013 business transfer.<sup>46</sup> Petitioners attempt to diminish the overlap in volume among Kokuyo's retained suppliers by arguing that the volumes Kokuyo acquired from each of these suppliers differed from the amounts acquired by Riddhi. However, we do not find these variations are sufficient to find that Kokuyo's supplier base was significantly different from that of Riddhi's. As noted above, businesses routinely alter the volumes acquired from their suppliers from one period to the next. Further, despite the variations in purchase volumes, the fact remains that Riddhi and Kokuyo relied on the same core group of suppliers for the majority of their raw material purchases.<sup>47</sup>

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<sup>42</sup> *Id.*, at Exhibits 15(a), 15(b), 16, and 17.

<sup>43</sup> *Id.*, at Exhibit 18.

<sup>44</sup> *Id.*, at Exhibits 15(a) and 15(b).

<sup>45</sup> *Id.*, at 8 and Exhibits 15(a) and 15(b).

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*, at Exhibits 15(a) and 15(b).

