



UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

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Investigation
Public Document
Office VII: GHC

DATE: May 1, 2014

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Antidumping Duty Investigation of Monosodium Glutamate from
the Republic of Indonesia: Decision Memorandum for the
Affirmative Preliminary Determination of Sales at Less Than Fair
Value and Postponement of Final Determination

I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that monosodium glutamate (MSG) from the Republic of Indonesia (Indonesia) is being sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are shown in the “Preliminary Determination” section of the accompanying *Federal Register* notice.

II. BACKGROUND

On September 16, 2013, the Department received an antidumping duty (AD) petition concerning imports of MSG from Indonesia filed in proper form by Petitioner.¹ On October 23, 2013, the Department initiated an AD investigation of MSG from Indonesia.²

On October 24, 2013, we placed on the record of this investigation the U.S. import data of MSG from Indonesia obtained from U.S. Customs and Border Protection, and invited interested parties to comment on these data and the Department’s respondent selection methodology.³ Petitioner submitted comments on respondent selection on November 6, 2013, which the Department considered in its analysis. Subsequently, on December 12, 2013, the Department selected two mandatory respondent companies for examination in this investigation, PT Cheil Jedang

¹ Ajinomoto North America Inc. (Petitioner).

² See *Monosodium Glutamate From the People’s Republic of China, and the Republic of Indonesia: Initiation of Antidumping Duty Investigations*, 78 FR 65278 (October 31, 2013) (*Initiation Notice*).

³ See the October 24, 2013, Department Memorandum, “Antidumping Duty Investigation of Monosodium Glutamate from the Republic of Indonesia.”



Indonesia (Cheil Jedang) and PT Cheil Samsung Indonesia (Cheil Samsung).⁴ No parties requested treatment as a voluntary respondent. We issued AD questionnaires to both mandatory respondents on December 20, 2013. On January 6, 2014, Cheil Jedang notified the Department that Cheil Samsung merged with its affiliate Cheil Jedang in December 2004, and was dissolved by operation of law, and that Cheil Jedang was the surviving entity. On March 28, 2014, the Department initiated a sales-below-cost investigation of MSG sold by Cheil Jedang after analyzing Petitioner's request for such an investigation.⁵ Between January 24 and April 18, 2014, Cheil Jedang timely responded to all of the Department's questionnaires. Between February 6 and April 29, 2014, Petitioner submitted comments on Cheil Jedang's questionnaire responses.

III. PERIOD OF INVESTIGATION

The period of investigation (POI) is July 1, 2012, through June 30, 2013. This period corresponds to the four most recent fiscal quarters prior to the month of filing of the petition, which was September 2013.⁶

IV. POSTPONEMENT OF PRELIMINARY DETERMINATION

On February 5, 2014, the Department fully postponed the deadline for issuing this preliminary determination to no later than 190 days after the date on which it initiated this investigation.⁷ Accordingly, the revised deadline for the preliminary determination of this investigation is now May 1, 2014.

V. SCOPE OF THE INVESTIGATION

The scope of the investigation covers MSG, whether or not blended or in solution with other products. Specifically, MSG that has been blended or is in solution with other product(s) is included in this scope when the resulting mix contains 15 percent or more of MSG by dry weight. Products with which MSG may be blended include, but are not limited to, salts, sugars, starches, maltodextrins, and various seasonings. Further, MSG is included in the investigation regardless of physical form (including, but not limited to, substrates, solutions, dry powders of any particle size, or unfinished forms such as MSG slurry), end-use application, or packaging.

MSG has a molecular formula of $C_5H_8NO_4Na$, a Chemical Abstract Service (CAS) registry number of 6106-04-3, and a Unique Ingredient Identifier (UNII) number of W81N5U6R6U.

Merchandise covered by the scope of the investigation is currently classified in the Harmonized Tariff Schedule (HTS) of the United States at subheading 2922.42.10.00. Merchandise subject to the investigation may also enter under HTS subheadings 2922.42.50.00, 2103.90.72.00,

⁴ See the December 12, 2013, Department Memorandum, "Antidumping Duty Investigation of Monosodium Glutamate from Indonesia: Respondent Selection."

⁵ See the March 28, 2014, Department Memorandum, "Petitioner's Allegation of Home Market Sales at Prices Below the Cost of Production for P.T. Cheil Jedang Indonesia and Cheil Jedang America, Inc." (COP Initiation).

⁶ See 19 CFR 351.204(b)(1).

⁷ See *Monosodium Glutamate From the People's Republic of China and the Republic of Indonesia: Postponement of Preliminary Determinations in the Antidumping Duty Investigations*, 79 FR 6886 (February 5, 2014).

2103.90.74.00, 2103.90.78.00, 2103.90.80.00, and 2103.90.90.91. The tariff classifications, CAS registry number, and UNII number are provided for convenience and customs purposes; however, the written description of the scope is dispositive.

In the *Initiation Notice*, the Department invited interested parties to “raise issues regarding product coverage.” We received no comments regarding the scope of the investigation.

VI. POSTPONEMENT OF FINAL DETERMINATION AND EXTENSION OF PROVISIONAL MEASURES

Pursuant to section 735(a)(2) of the Act, on April 23 and April 28, 2014, Petitioner and Cheil Jedang, respectively, requested that the Department postpone the final determination, and Cheil Jedang requested that provisional measures be extended.⁸ In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(e), because (1) our preliminary determination is affirmative, (2) the requesting exporter, Cheil Jedang, accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the request and are postponing the final determination no later than 135 days after the publication of the preliminary determination notice in the *Federal Register*, and we are extending provisional measures from four months to a period not to exceed six months. Suspension of liquidation will be extended accordingly.

VII. AFFILIATION

Section 771(33) of the Act, in pertinent part, identifies persons that shall be considered “affiliated” or “affiliated persons” as: (1) two or more persons directly or indirectly controlling, controlled by, or under common control with, any person (section 771(33)(F) of the Act); or (2) any person who controls any other person and such other person (section 771(33)(G) of the Act). Section 771(33) of the Act further stipulates that a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person, and the Statement of Administrative Action (SAA) notes that control may be found to exist within corporate or family groupings.⁹ 19 CFR 351.102(b)(3) states that in determining whether control over another person exists within the meaning of section 771(33) of the Act, the Department will not find that control exists unless the relationship has the potential to impact decisions concerning the production, pricing, or cost of the subject merchandise or foreign like product. We examined record evidence to determine whether affiliations between each respondent and any of the following entities existed during the POI: (1) other producers of MSG, (2) suppliers of inputs used to produce MSG; (3) reported home market customers; and (4) reported U.S. customers.

⁸ See the April 23, 2014, Letter from Petitioner, “Monosodium Glutamate from Indonesia: Request to Postpone Final Determination;” see also the April 28 Letter from Cheil Jedang, “Antidumping Duty Investigation of Monosodium Glutamate from Indonesia: Conditional Request to Postpone the Final Determination.”

⁹ See SAA, at 838 (stating that control may exist within the meaning of section 771(33) of the Act in the following types of relationships: (1) corporate or family groupings, (2) franchises or joint ventures, (3) debt financing, and (4) close supplier relationships in which either party becomes reliant upon the other).

Cheil Jedang manufactures and sells subject merchandise with production in Indonesia and distribution operations in Indonesia and around the world. Cheil Jedang is domiciled in Jakarta, Indonesia, while its Indonesian manufacturing plants are located in the cities of Jombang and Pasuruan. CJ Cheil Jedang Corporation (CJCJ), registered in Korea, holds a 99.99 percent ownership interest in Cheil Jedang.¹⁰ Record information indicates that CJ America is a wholly owned subsidiary of CJCJ, and is a U.S. importer and distributor of subject merchandise. Therefore, Cheil Jedang and CJ America are directly involved in the production or sale of merchandise under investigation in the United States. Thus, we find that CJCJ's ownership of Cheil Jedang and CJ America results in operational control or direction that has the potential to impact decisions concerning the production, pricing, and cost of the subject merchandise. As a result, we find that Cheil Jedang and CJ America are affiliated through the common control of their parent, CJCJ, under section 771(33)(F) of the Act.

VIII. DISCUSSION OF METHODOLOGY

A. Fair Value Comparisons

To determine whether sales of MSG from Indonesia to the United States were made at LTFV, we compared the constructed export price (CEP) to the normal value (NV), as described in the "U.S. Price" and "Normal Value" section of this memorandum, below. As described further below, in accordance with section 777A(d)(1)(A) of the Act, we compared weighted-average CEPs to POI weighted-average NVs for Cheil Jedang.

B. Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by the mandatory respondents in the home market that fit the description in the "Scope of the Investigation" section of this memorandum to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market, where appropriate. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade.

In making product comparisons, we matched foreign like products based on the physical characteristics established by the Department and reported by the mandatory respondents in the following order of importance: purity and blend. The goal of the product characteristic hierarchy is to identify the best possible matches with respect to the characteristics of the merchandise. While variations in cost may suggest the existence of variation in product characteristics, such variations do not constitute differences in products in and of themselves. As the Department noted "...selection of model match characteristics {is based} on unique measurable physical characteristics that the product can possess" and "differences in price or cost, standing alone, are not sufficient to warrant inclusion in the Department's model-match of characteristics which a respondent claims to

¹⁰ See Cheil Jedang's January 24, 2014 Questionnaire Response, at 1 and 6-8.

be the cause of such differences.”¹¹ Parties will have the opportunity to comment on the product characteristics for the final determination.

C. 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 CEPs or export prices (EPs) (the average-to-average or A-to-A method), unless the Secretary determines that another method is appropriate in a particular situation. In recent LTFV investigations, the Department examined 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. In order to determine which comparison method to apply, in recent proceedings, the Department applied a “differential pricing” (DP) analysis for determining whether application of the A-to-T method is appropriate pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.¹² The Department finds that the DP analysis used in recent proceedings may be instructive for purposes of examining whether to apply an alternative comparison method in this LTFV investigation.¹³ The Department intends to 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 DP analysis used in this preliminary determination requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods.¹⁴ If such a pattern is found, then the DP analysis evaluates whether such differences can be taken into account when using the A-to-A method to calculate the weighted-average dumping margin. The DP analysis used here evaluates all purchasers, regions, and time periods to determine whether there exists a pattern of prices that differ significantly. The analysis

¹¹ See *Notice of Final Determination of Sales at Less Than Fair Value; Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Turkey*, 65 FR 15123 (March 21, 2000), and accompanying Issues and Decision Memorandum at Model Match Comment 1.

¹² See, e.g., *Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products From Japan: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 78 FR 69371 (November 19, 2013) (*Flat-Rolled Steel from Japan*).

¹³ See, e.g., *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 accompanying Issues and Decision Memorandum at Comment 5; see also *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review and New Shipper Reviews; 2011-2012*, 78 FR 40692 (July 8, 2013); *Certain Activated Carbon From the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 26748 (May 8, 2013); *Certain Steel Threaded Rod From the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 21101 (April 9, 2013) (*Steel Threaded Rod*); *Polyester Staple Fiber From Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 17637 (March 22, 2013) (*Polyester Staple Fiber*).

¹⁴ As noted above, the DP analysis has been utilized in recent AD investigations and several recent AD administrative reviews to determine the appropriate comparison methodology. See, e.g., *Steel Threaded Rod; Circular Welded Carbon Steel Pipes and Tubes From Thailand: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 21105 (April 9, 2013); *Polyvinyl Alcohol From Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2010-2012*, 78 FR 20890 (April 8, 2013); and *Polyester Staple Fiber*.

incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the customer codes as reported. Regions are defined using the reported destination code (*i.e.*, zip codes), which are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POI 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 all 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 DP 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* coefficient is calculated 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 used 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 (*i.e.*, 0.8) 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 were found to pass the Cohen’s *d* test, if the calculated Cohen’s *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

Next, the “ratio test” assesses the extent of the significant price differences for all sales as measured by the Cohen’s *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test 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 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 DP 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 DP approach used in this preliminary determination, including arguments for modifying the group definitions used in this proceeding.

Results of the DP Analysis

Based on the results of the DP analysis, the Department finds that over 66 percent of Cheil Jedang's U.S. sales pass the Cohen's *d* test, and confirm the existence of a pattern of CEPs for comparable merchandise that differ significantly among purchasers, regions, or time periods. Further, the Department determines that the A-to-A method can appropriately account for such differences because there is not a meaningful difference in the weighted-average dumping margins when calculated using the A-to-A method and an alternative method based on the A-to-T method applied to all U.S. sales which pass the Cohen's *d* test. Accordingly, the Department determines to use the A-to-A method for all U.S. sales to calculate the preliminary weighted-average dumping margin for Cheil Jedang.¹⁵

D. U.S. Price/Constructed Export Price

For all of Cheil Jedang's U.S. reported sales, the Department based U.S. price on CEP in accordance with section 772(b) of the Act, because either the first sale to an unaffiliated party was made after importation, or because the first sale to an unaffiliated party was made prior to importation by Cheil Jedang's U.S. affiliate, CJ America.¹⁶ Section 772(b) of the Act defines CEP as "the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation . . . by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter." In accordance with section 772(b) of the Act, we used CEP methodology for Cheil Jedang because the subject merchandise was first sold in the United States by a U.S. seller affiliated with the producer. We calculated CEP based on the delivered price to unaffiliated purchasers in the United States. We made adjustments, where appropriate, from the starting price for billing adjustments, early payments, royalties, and miscellaneous revenue. We also made deductions for any movement expenses, (*i.e.*, foreign inland freight, international freight, marine insurance, and U.S. inland freight, and U.S. duties), in accordance with section 772(c)(2)(A) of the Act. In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we calculated CEP by deducting selling expenses associated with economic activities in the United States, which includes direct and indirect

¹⁵ See the May 1, 2014, Department Memorandum, "Antidumping Duty Investigation of Monosodium Glutamate (MSG) from Indonesia; PT. Cheil Jedang (CJ) Indonesia Preliminary Determination Analysis Memorandum," (Preliminary Analysis Memorandum).

¹⁶ See Cheil Jedang's January 24, 2014 Questionnaire Response at 13-26.

selling expenses. Finally, we made an adjustment for profit allocated to these expenses in accordance with section 772(d)(3) of the Act.¹⁷

E. Normal Value

1. Home Market Viability

In accordance with sections 773(a)(1)(A) and (B) of the Act, to determine whether the home market is viable for calculating NV, we compared Cheil Jedang's volume of home market sales of MSG to the volume of its U.S. sales of MSG. Based on this comparison, we find that Cheil Jedang's POI home market sales of MSG were greater than five percent of the aggregate volume of its U.S. sales.¹⁸ Therefore, we used home market sales as the basis for NV, in accordance with section 773(a)(1)(B) of the Act.

2. Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP sales.¹⁹ The LOT for NV is based on the starting prices of sales in the home market or, when NV is based on constructed value, those of the sales from which we derived selling, general, and administrative expenses (SG&A) and profit.²⁰ For EP, the LOT is based on the starting price, which is usually the price from the exporter to the importer.²¹ For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.²² In this investigation, Cheil Jedang reported only CEP sales to the United States.²³ We obtained information from Cheil Jedang regarding the marketing stages involved in making its reported home market and U.S. sales, including a description of the selling activities performed by each respondent for each channel of distribution.²⁴ Cheil Jedang argues that the Department should grant it a CEP offset.²⁵

Cheil Jedang reported that it sells to distributors and to industrial end users in the home market, and that it performs the same selling functions to all types of home market customers.²⁶ As such, Cheil Jedang's home market sales were made through two channels of distribution (*i.e.*, to distributors and to end users).²⁷ Our analysis of the company's home market selling functions leads us to conclude that sales through both channels of distribution were conducted at the same LOT. Cheil Jedang also reported that all of its U.S. sales are CEP sales that are made by its

¹⁷ See Preliminary Analysis Memorandum.

¹⁸ See Cheil Jedang's January 24, 2014 Questionnaire Response at Exhibit A-1.

¹⁹ See also section 773(a)(7)(A) of the Act.

²⁰ See 19 CFR 351.412(c)(1)(iii).

²¹ See 19 CFR 351.412(c)(1)(i).

²² See 19 CFR 351.412(c)(1)(ii).

²³ See Cheil Jedang's February 21, 2014 Questionnaire Response, at C-10.

²⁴ See Cheil Jedang's January 24, 2014, Questionnaire Response, at 26, and at Exhibit A-12.

²⁵ See *id.*, at 26.

²⁶ See *id.*, at 25.

²⁷ See *id.*

affiliate, CJ America.²⁸ Cheil Jedang also reported two channels of distribution for its U.S. sales: “traditional CEP sales,” where subject merchandise is shipped from CJ America’s warehouse to the unaffiliated U.S. customer, and “direct CEP sales,” where the subject merchandise is shipped directly from Cheil Jedang to the unaffiliated U.S. customer.²⁹ Our review of the differences regarding CJ America’s selling activities and functions for its traditional CEP sales and direct CEP sales leads us to conclude preliminarily that the differences are minor, and the expenses associated with these differences are captured elsewhere.³⁰ Therefore, we preliminarily find that all of Cheil Jedang’s U.S. sales were made at the same level of trade. Our review of Cheil Jedang’s selling functions for its home market and U.S. sales lead us to conclude that Cheil Jedang provides significantly more selling activities and functions for its MSG sales in the home market than it does for MSG sales in the U.S. market, as its affiliate CJ America performs most of these tasks for U.S. sales. We find that record information does not provide an appropriate basis to determine whether the difference in LOT affects price comparability. As a result, pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f), we are preliminarily granting a CEP offset to Cheil Jedang.

3. Cost of Production

As noted in the Background section above, we received an allegation from Petitioner that Cheil Jedang made home market sales below the cost of production (COP) during the POI. Based on our analysis of this allegation, we found that there were reasonable grounds to believe or suspect that Cheil Jedang’s home market sales of MSG were made at prices below its COP. Accordingly, on March 28, 2014, we initiated a sales-below-cost investigation of Cheil Jedang’s sales.³¹

i. *Calculation of COP*

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the cost of materials and fabrication for the foreign like product, plus an amount for general and administrative (G&A) expenses, interest expenses, selling expenses, and comparison market packing costs.³² We examined the cost data and determined that our quarterly cost methodology is not warranted. Therefore, we applied our standard methodology of using annual costs based on the reported data, as adjusted below.³³

We relied on Cheil Jedang’s submitted COP data except as follows. We adjusted the reported G&A expenses to exclude royalty payments, as the Department preliminarily determines to treat royalties as a direct selling expense instead of as a component of COP. In addition, because we preliminarily determine to include as our model-matching criteria “purity” and “blend” only, we

²⁸ *See id.*

²⁹ *See id.*, at 22-24.

³⁰ *See id.*, at Exhibit A-12.

³¹ *See* COP Initiation.

³² *See* the “Test of Comparison Market Sales Prices” section below, for treatment of comparison market selling expenses.

³³ *See Flat-Rolled Steel from Japan*, and accompanying Preliminary Decision Memorandum at 14.

weight-averaged the costs for all reported CONNUMs having the same “purity” and “blend” characteristics.³⁴

ii. Test of Comparison Market Sales Prices

On a product-specific basis, pursuant to section 773(a)(1)(B)(i) of the Act, we compared the adjusted weighted-average COP to the home market sales prices of the foreign like product, in order to determine whether the sale prices were below the COPs. For purposes of this comparison, we used COPs exclusive of selling and packing expenses. The prices were net of billing adjustments, movement charges, direct and indirect selling expenses and packing expenses, where appropriate.³⁵

iii. Results of the COP Test

Section 773(b)(1) of the Act provides that where sales made at less than the COP “have been made within an extended period of time in substantial quantities” and “were not at prices which permit recovery of all costs within a reasonable period of time” the Department may disregard such sales when calculating NV. Pursuant to section 773(b)(2)(C)(i) of the Act, we did not disregard below-cost sales that were not made in “substantial quantities,” (*i.e.*, where less than 20 percent of sales of a given product were at prices less than the COP). We disregarded below-cost sales when they were made in substantial quantities, (*i.e.*, where 20 percent or more of the respondent’s sales of a given product were at prices less than the COP and where “the weighted average per unit price of the sales . . . is less than the weighted average per unit cost of production for such sales).”³⁶ Finally, based on our comparison of prices to the weighted-average COPs for the POI, we considered whether the prices would permit the recovery of all costs within a reasonable period of time.³⁷

For Cheil Jedang, we disregarded below-cost sales for this preliminary determination where 20 percent or more of the sales of a given product control number (CONNUM) were priced below their COP, and used the remaining sales of that CONNUM as the basis for determining NV, in accordance with section 773(b)(1) of the Act.³⁸

4. Price-to-Constructed Value Comparison

Where we were unable to find home market sales of such or similar merchandise for use as the basis for NV, in accordance with section 773(a)(4) of the Act, we based NV on constructed value (CV). Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Act.

³⁴ For further discussion, *see* the May 1, 2014, Department Memorandum to Neal M. Halper, “Cost of Production and Constructed Value Adjustments for the Preliminary Determination for Cheil Jedang,” which is incorporated by reference.

³⁵ *See* Preliminary Analysis Memorandum.

³⁶ *See* section 773(b)(2)(C)(ii) of the Act.

³⁷ *See* section 773(b)(2)(D) of the Act.

³⁸ *See* Preliminary Analysis Memorandum.

5. Constructed Value

In accordance with section 773(e) of the Act, and where applicable, we calculated CV based on the sum of the material and fabrication costs, SG&A expenses, profit, and U.S. packing costs. We calculated the material and fabrication costs component of CV as described above in the “Cost of Production” section of this memorandum. 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 Cheil Jedang in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the comparison market.

6. Calculation of Normal Value Based on Comparison Market Prices

We based NV for Cheil Jedang on delivered prices to unaffiliated customers in the home market. Where appropriate, we also added freight revenue to the starting price and capped it by the amount of freight expenses incurred, in accordance with our practice.³⁹ We made deductions, where appropriate, from the starting price for inland freight expenses, and inland insurance expenses under section 773(a)(6)(B)(ii) of the Act. For inland freight expenses, we included an amount for credit expenses based on the amount of associated freight revenue added to starting price. In addition, we made deductions pursuant to section 773(a)(6)(C) of the Act for home market credit expenses and direct selling expenses (*i.e.*, circumstance of sale adjustments). In accordance with sections 773(a)(6)(A) and (B) of the Act, we also deducted home market packing costs and added U.S. packing costs.

IX. CURRENCY CONVERSION

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

X. VERIFICATION

As provided in section 782(i) of the Act and 19 CFR 351.307, we intend to verify information relied upon in making our final determination.

³⁹ *See id.*

XI. CONCLUSION

We recommend applying the above methodology for this preliminary determination.

✓
Agree

Disagree

Paul Piquado
Paul Piquado
Assistant Secretary
for Enforcement and Compliance

1 MAY 2014
Date