



A-560-826  
Investigation  
**Public Document**  
E&C Office VII: GHC JMN

DATE: September 22, 2014

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

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

SUBJECT: Issues and Decision Memorandum for the Final Affirmative  
Determination in the Less Than Fair Value Investigation of  
Monosodium Glutamate from the Republic of Indonesia

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## I. SUMMARY

In this final determination, the Department of Commerce (the Department) finds that monosodium glutamate (MSG) from the Republic of Indonesia (Indonesia) is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is July 1, 2012, through June 30, 2013.

We analyzed the comments submitted by interested parties in this investigation. As a result of this analysis, and based on our findings at verification, we made changes to the margin calculations for the respondent in this investigation, PT Cheil Jedang Indonesia (CJI), and its U.S. affiliate, CJ America (CJA) (collectively, CJ). We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below is the complete list of the issues in this investigation for which we received comments from parties:

1. **Treatment of CJI's Import Duties on Imported Raw Materials into Bonded Zones**
2. **Treatment of CJA's Indirect Selling Expenses**
3. **Treatment of CJA's Royalty Expenses**
4. **Treatment of CJI's Credit Expenses**
5. **Minor Calculation Error Regarding Currency Conversions**

## II. BACKGROUND

On May 8, 2014, the Department published the *Preliminary Determination* in the LTFV investigation of MSG from Indonesia.<sup>1</sup> The Department conducted on-site verification of CJI and CJA from June 2, through June 18, 2014.<sup>2</sup> On June 6, 2014, CJ requested that the Department conduct a hearing in this investigation.<sup>3</sup> On September 3, 2014, CJ withdrew its request for a hearing.<sup>4</sup>

We invited parties to comment on the *Preliminary Determination*. On August 1, 2014, we received timely filed case briefs from Petitioner<sup>5</sup> and from CJ.<sup>6</sup> CJ timely filed a rebuttal brief on August 8, 2014.<sup>7</sup> Based on our analysis of the comments received, as well as our findings at verification, we recalculated the weighted-average dumping margins from the *Preliminary Determination*.

## III. SCOPE OF THE INVESTIGATION

Subsequent to the *Preliminary Determination*, the U.S. International Trade Commission (the ITC) contacted the Department regarding the scope language for this investigation and its companion antidumping duty (AD) investigation on MSG from the People's Republic of China (PRC).<sup>8</sup> Specifically, the ITC sought clarification on the written descriptions of anhydrous and monohydrous forms of MSG and their chemical formula references. As a result, we conducted independent research on this issue, and placed our findings on the records of this investigation and its companion AD investigation on MSG from the PRC for comment.<sup>9</sup> Petitioner is the only party that commented on this scope issue.<sup>10</sup>

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<sup>1</sup> See *Monosodium Glutamate From the Republic of Indonesia: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 79 FR 26406 (May 8, 2014) (*Preliminary Determination*).

<sup>2</sup> See the Department Memoranda, "Verification of the Cost Response of PT Cheil Jedang Indonesia in the Less-Than-Fair-Value Investigation of Monosodium Glutamate from Indonesia," (July 11, 2014) (CJI's Cost VR); "Verification of the Sales Responses of Cheil Jedang Indonesia in the Antidumping Duty Investigation of Monosodium Glutamate (MSG) from Indonesia," (July 21, 2014) (CJI VR); and "Verification of the CEP Sales Responses of CJ America, Inc. in the Antidumping Duty Investigation of Monosodium Glutamate (MSG) from Indonesia," (July 21, 2014) (CJA VR).

<sup>3</sup> See the Letter to the Secretary, "Antidumping Duty Investigation of Monosodium Glutamate from Indonesia: Hearing Request," (June 6, 2014).

<sup>4</sup> See the Letter to the Secretary, "Antidumping Duty Investigation of Monosodium Glutamate from Indonesia: Hearing Request Withdrawal," (September 3, 2014).

<sup>5</sup> See the Letter to the Secretary, "Antidumping Duty Investigation on Monosodium Glutamate from Indonesia: Petitioner's Case Brief," (August 1, 2014) from Ajinomoto North America, Inc. (Petitioner) (Petitioner's Case Brief).

<sup>6</sup> See the Letter to the Secretary, "Antidumping Duty Investigation of Monosodium Glutamate from Indonesia: Case Brief of PT. Cheil Jedang Indonesia and CJ America," (August 1, 2014) (CJ's Case Brief).

<sup>7</sup> See the Letter to the Secretary, "Antidumping Duty Investigation of Monosodium Glutamate from Indonesia: Rebuttal Brief of PT. Cheil Jedang Indonesia and CJ America, Inc.," (August 8, 2014) (CJ's Rebuttal Brief).

<sup>8</sup> See, e.g., *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).

<sup>9</sup> See the Department Memorandum, "Antidumping Duty Investigation of Monosodium Glutamate from the Republic of Indonesia; Notification of Inconsistency in Scope and Request for Comment," (July 9, 2014).

<sup>10</sup> See the Letter to the Secretary, "Antidumping Duty Investigation on Monosodium Glutamate from China and Indonesia: Comments on Scope," (July 21, 2014) (Petitioner's Scope Comments).

In its scope comments, Petitioner states that the existing scope language covers both anhydrous and monohydrated forms of MSG, as it intended when filing the Indonesia and PRC MSG petitions. Petitioner goes on to explain that the scopes' inclusion of MSG "whether or not blended or in solution with other products" and "regardless of physical form (including, but not limited to, substrates, solutions, dry powders or any particle size, or unfinished forms such as MSG slurry)," is evidence of Petitioner's intention.<sup>11</sup> Petitioner states that while it believed the current scope language applies to both anhydrous and monohydrated forms of MSG, it provided a proposed revision to the scope language in response to our request. Petitioner explains that the revisions are intended to clarify the scope language in order to eliminate any confusion on whether both the anhydrous and monohydrated forms of MSG are covered by the scope.<sup>12</sup> Below is the revised scope language as submitted by Petitioner. Petitioner's revised language is noted in **bold underline**.

The scope of this investigation covers monosodium glutamate (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% 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 this investigation regardless of physical form (including, but not limited to, **in monohydrate or anhydrous form, or as** substrates, solutions, dry powders of any particle size, or unfinished forms such as MSG slurry), end-use application, or packaging.

MSG **in monohydrate form** has a molecular formula of  $C_5H_8NO_4Na \cdot H_2O$ , a Chemical Abstract Service (CAS) registry number of 6106-04-3, and a Unique Ingredient Identifier (UNII) number of W81N5U6R6U. **MSG in anhydrous form has a molecular formula of  $C_5H_8NO_4Na$ , a CAS registry number of 142-47-2, and a UNII number of C3C196L9FG.**

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

We recommend adopting this revised scope language for the final determination.

#### IV. MARGIN CALCULATIONS

We calculated constructed export price (CEP), normal value (NV), and cost of production (COP) using the same methodology stated in the *Preliminary Determination*, except as follows:

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<sup>11</sup> See Petitioner's Scope Comments at 2.

<sup>12</sup> *Id.*, at 3.

- we are now relying on CJI's and CJA's revised home market and U.S. sales computer files submitted by CJ in its July 14, 2014, submission;
- we disallowed the treatment of CJI's import duties as a direct home market selling expense and are treating the duty payments as a cost of manufacture (COM), and have adjusted CJI's reported costs accordingly (*see* comment 1);
- we are using the revised financial expense ratio reported by CJI in its May 15, 2014 submission;
- we are revising CJA's indirect selling expense ratio based on our findings at verification (*see* comment 2);
- we are revising CJA's royalty expense ratio for its U.S. sales (*see* comment 3);
- we are adjusting CJI's reported home market credit expense to account for home market sales that were paid in multiple payments (*see* comment 4), and;
- we corrected a currency conversion error regarding the CEP profit calculation (*see* comment 5).

## V. DISCUSSION OF THE ISSUES

### **Comment 1: Treatment of CJI's Import Duties on Imported Raw Materials into Bonded Zones**

#### *CJ's Comments:*

- CJI manufactures MSG at two factories designated as bonded zones in Indonesia. The company does not pay any customs duties for material imported for entry into the bonded zone, if the raw materials are used in the production of MSG that is exported. However, CJI must pay duties on the imported material when it sells the finished product in the home market.
- CJI notes that it records the import duty payments made on the sale of MSG in the Indonesian market in a cost of sales sub-account. CJI considers them to be a cost of selling and treated these duties as a direct selling expense on home market sales.
- CJI argues that to treat these expenses as a material cost (as proposed in CJI's Cost VR at 2) would be contrary to section 773(f)(1)(A) of the Act and the Department's policy because such treatment would be inconsistent with CJI's books and records. CJI asserts that the Department's general policy in calculating COP and constructed value (CV) is to rely on a company's books and records, assuming such records are kept in accordance with generally accepted accounting principles in the producing country.
- CJI argues that, while it is correct in some cases that the Department treats import duties as a material cost, this is insufficient here, where such duties are not collected upon importation of the raw materials nor collected upon export. In such instances, CJI argues that the Department must also adjust U.S. price.
- CJI asserts that the statute at section 772(c)(1)(B) directs the Department to increase U.S. price by "the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of exportation of the subject merchandise to the United States."
- CJI argues that, consistent with the statute and Department precedent, assuming the Department does not deduct the duty payments at issue to determine NV, as reported by

CJI, the Department should calculate the average per-unit amount of any uncollected duties, which should then be added to the U.S. price for each U.S. sale as a duty drawback adjustment. This amount should also be added to the direct material costs for each CONNUM for the COP and CV calculations.

- CJI contends that, inasmuch as 100 percent of its MSG raw material inputs were imported, it therefore meets the Department's two-pronged test to qualify for a duty drawback adjustment (*i.e.*, that the import duty and the rebate or exemption are directly linked to and dependent on one another, and whether there were sufficient imports of imported material to account for drawback or exemption granted for the export of the manufactured product).

***Petitioner's Comments:***

- For the final determination, the Department should treat these payments of customs duties as a component of COM, not as a direct selling expense in the home market.
- The Department has a long-standing practice to include transportation charges, import duties, and any other expenses associated with obtaining the materials in Direct Material Costs.
- The Department's Section D questionnaire specifically states that Direct Material Costs "should include transportation charges, import duties, and other expenses normally associated with obtaining the materials that become an integral part of the finished product." The Department's Cost Verification Report reiterates this practice.
- CJI's payments of exempted customs duties are simply what they are: customs duties paid at a later time. These payments are customs duties regardless of how CJI treats them in its accounting system.
- CJI's accounting treatment for imported materials into non-bonded zones reveals the true nature of these payments of customs duties. In cases where CJI paid customs duties on materials imported into a non-bonded zone, it included those duties in material costs and in the reported COM.
- The delayed payment of customs duties for products sold in the same market should be treated the same way in the Department's calculations.
- All customs duties paid by CJI for imported materials, regardless of the timing of such payments, should be treated as part of materials costs and COM.

***CJ's Rebuttal Comments:***

- Petitioner's arguments that the duties paid by CJI upon the sale of MSG in Indonesia should be added to the COM are based on a misreading of the definition of Direct Materials Cost contained in the Department's questionnaire.
- With regard to the Department's long-standing practice to include transportation charges, import duties, and any other expenses associated with obtaining the materials in Direct Materials Costs, Petitioner fails to appreciate that for these raw materials, there were no import duties paid in obtaining the materials that entered the duty-free zone.
- As a result, no duties were paid "in obtaining the raw material." It was not until the subsequent sale in Indonesia that an amount equal to the duties associated with the raw materials used in the production of the MSG sold in Indonesia was assessed and paid.

For this reason, CJI records these expenses differently, as a cost of sales, rather than it does for the normal duties paid upon importation, which it records as a COP.

- Should the Department disagree with CJI's treatment of these expenses as direct selling expenses in the home market, the Department should rely on the alternative methodology proposed by CJI in its case brief (*i.e.*, apply a duty drawback adjustment).

### ***Department's Position:***

We disagree with CJI that import duties paid on inputs of raw materials incorporated into finished products (*i.e.*, MSG) sold in the home market constitute selling expenses. For this final determination, as discussed below, we disallowed these payments as direct selling expenses and instead added them to CJI's reported raw material costs.

The inclusion in manufacturing costs of import duties paid on raw material inputs is consistent with our COP reporting requirements. Section D of the Department's standard AD questionnaire specifies that reported direct material costs are to include "transportation charges, *import duties*, and other expenses normally associated with obtaining the materials that become an integral part of the finished product" (emphasis added).<sup>13</sup> Although levied upon the sale of finished MSG in the Indonesian market, the import duties at issue are clearly associated with "obtaining the materials that become an integral part of the finished product," and they should therefore be included in the COM.<sup>14</sup>

While the Department's explicit reporting requirements are instructive as to the proper classification of the duty payments at issue, the treatment of these import duties in CJI's normal books and records likewise indicates that they are more appropriately accounted for as a manufacturing cost. Section 773(f)(1)(A) of the Act specifies that "{c}osts shall normally be calculated based on the records of the exporter or producer, if such records are kept in accordance with the generally accepted accounting principles of the exporting country..." CJI views the inclusion of these duties as a manufacturing cost to be inconsistent with its records, which charge the duty payments to a "special cost of *sales* sub-account" (emphasis in original).<sup>15</sup> As such, CJI concludes that they are properly considered and reported as a direct selling expense, as they are a "cost of selling."<sup>16</sup> We do not agree with the respondent's characterization of these customs duty payments as a selling expense. The general ledger account used to record these payments is one of several that are included in the company's total cost of sales. The cost of sales, which reflects the raw material, labor, and overhead expenses incurred to manufacture finished goods for sale, is presented separately from the company's selling and administrative expenses on the income statement.<sup>17</sup> The treatment of the customs duties at issue as a COM is

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<sup>13</sup> See section IV of the Department's antidumping questionnaire.

<sup>14</sup> We further note that the requirements set forth in our questionnaire are based upon established accounting practice. On a company's balance sheet, the value of raw material inventory includes all expenditures incurred in obtaining those materials and bringing them to the factory for use in the production of finished goods. These costs include not only the purchase price of the raw material, but other incidental expenses such as transportation costs, insurance while in transit, handling costs charged by the supplier, *etc.* See *Wiley GAAP 2012: Interpretation and Application of Generally Accepted Accounting Principles: Chapter 9 – Inventory*, John Wiley and Sons, Inc. (2012).

<sup>15</sup> See CJ's Case Brief at 8-9.

<sup>16</sup> *Id.*

<sup>17</sup> See CJI's May 15, 2014, questionnaire response at Exhibit SD-4.

not, as CJI asserts, “inconsistent with {its} books and records.”<sup>18</sup> Rather, the manner in which these payments are recorded in the normal course of business (*i.e.*, as part of the total cost of sales, separately from selling or administrative expenses) establishes that they should be included as a production cost.

CJI also imports raw materials for its facilities located *outside* the bonded customs zones. In such instances, the company must pay any customs duties on the imported materials upon their entry.<sup>19</sup> These duties are recorded in CJI’s normal books and records as a raw material cost and are therefore included in the COM (and the cost of sales when the products are sold).<sup>20</sup> For reporting purposes, CJI included payments made under this scheme in the COP.<sup>21</sup> The import duties at issue should also be reported as such. In CJI’s accounting records, both types of import duties (*i.e.*, those paid on material imports into non-bonded areas and those paid on materials entered into bonded zones only when finished goods are sold in the home market) are recorded not as selling or administrative expenses, but in general ledger accounts that ultimately become part of the cost of sales. Regardless of where the materials were entered, any duties paid on these inputs constitute a production cost, as they are expenses incurred in obtaining raw material production inputs.

For this final determination, we disallowed the treatment of the import duties at issue as a direct home market selling expense. For the reasons discussed above, these duty payments are properly included in the COM, and we adjusted CJI’s reported costs accordingly.

CJ asserts that, should the Department decline to treat the import duties in question as a selling expense, it should make a duty drawback adjustment to U.S. price for *exempted* duties that are not collected on raw materials imported into bonded zones used in finished goods that are subsequently exported, in accordance with section 772(c)(1)(B) of the Act.<sup>22</sup> CJ contends that the Department uses a two-prong test to determine whether a company qualifies for this adjustment: 1) the import duties and their rebates and/or exemptions must be directly linked to, and dependent upon, one another, and 2) the company must demonstrate that there were sufficient imports of the imported material to account for the duty drawback or exemption granted for the exported manufactured product.<sup>23</sup> According to CJ, at its home market sales verification the company provided documentation demonstrating the amount of raw material consumed in the production of MSG on which its duty calculation was made.<sup>24</sup> CJI also cites to its April 16, 2014, section D response, claiming that this shows that 100 percent of those raw materials were imported. Therefore, CJ concludes, CJI has satisfied the Department’s standards for the drawback adjustment.<sup>25</sup>

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<sup>18</sup> See CJ’s Case Brief at 8-9.

<sup>19</sup> See CJI’s April 16, 2014, questionnaire response at 21-22.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* (“To the extent that CJI paid import duties for raw material that entered Indonesia outside the bonded zone, those import duties are included in the raw material cost...”)

<sup>22</sup> See CJ Case Brief at 10.

<sup>23</sup> *Id.*, at 12.

<sup>24</sup> *Id.*, at 13.

<sup>25</sup> *Id.*

In accordance with section 772(c)(1)(B) of the Act, the duty drawback adjustment is an adjustment to the U.S. price to account for import duties “which have been rebated, or which have not been collected, by reason of the exportation of the subject merchandise to the United States.”<sup>26</sup> Under section 772(c)(1)(B) of the Act, the Department will increase the starting price by the duty drawback (or, in this case, duty exemption) if the exporter or producer meets two criteria: 1) the import duty and rebate or exemption must be directly linked to, and dependent on, one another; and 2) the company must demonstrate that there were sufficient volumes of the imported material to account for the duty drawback received for the export of the manufactured product.<sup>27</sup> The party requesting the adjustment has the burden of demonstrating that it is entitled to the adjustment.<sup>28</sup> We note that in its original questionnaire response, CJ did not claim a duty drawback adjustment, stating that it “did not receive any duty drawback on exports of MSG.”<sup>29</sup> In determining whether a company has met the Department’s two-prong standard for qualifying for the adjustment under section 772(c)(1)(B) of the Act, the Department carefully analyzes the record to examine the criteria for receiving a duty drawback adjustment under the program.<sup>30</sup> CJ reported the customs duties that it paid on its imported raw materials during the POI,<sup>31</sup> but did not provide any more information on the Indonesian bonded zone program or on the exemption from import duties under this program. For example, CJ did not provide information pertaining to the amount of raw materials imported that were subject to exemption<sup>32</sup> or the amount of exempted duties. In short, CJ has not satisfied the two prongs of the above test. Therefore, we will not make an adjustment to CJI’s U.S. starting price under section 772(c)(1)(B) of the Act for the final determination. We will continue to examine this issue in any future administrative review if an AD order is issued in this proceeding.

## **Comment 2: Treatment of CJA’s Indirect Selling Expenses**

### ***Petitioner’s Comments:***

- For its reported U.S. sales, CJ reported separate U.S. indirect selling expense ratios for certain divisions of its U.S. sales arm, CJA. For the final determination, the Department should instead apply a company-wide indirect selling expense ratio for CJA because the selling expense ratios as reported are unreasonable and unsupported.

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<sup>26</sup> See, e.g., *Notice of Final Results of the Eleventh Administrative Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea*, 71 FR 7513 (February 13, 2006), and accompanying Issues and Decision Memorandum at Comment 2.

<sup>27</sup> *Id.*, see also, e.g., *Certain Oil Country Tubular Goods from India: Preliminary Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, and Postponement of Final Determination*, 79 FR 10493 (February 25, 2014) (*OCTG from India Prelim*), and accompanying Preliminary Decision Memorandum at 13 (unchanged in the final determination).

<sup>28</sup> See 19 CFR 351.401(b)(1); see also *Fujitsu Gen. Ltd. v. United States*, 88 F.3d 1034, 1040 (Fed. Cir. 1996).

<sup>29</sup> See CJI’s February 21, 2014, Section B&C questionnaire response at C-40.

<sup>30</sup> See, e.g., *OCTG from India Prelim*, and accompanying Preliminary Decision Memorandum at 13, and *Certain Oil Country Tubular Goods From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances, in Part*, 79 FR 41973 (July 18, 2014) and accompanying Issues and Decision Memorandum at 15 (explaining that the Department normally examines the requirements of a drawback scheme to ensure it satisfies the statute with respect to duty drawback adjustments under U.S. law).

<sup>31</sup> See CJI VR at Exhibit 13, “Other Direct Selling Expense.”

<sup>32</sup> CJ cites to Exhibit D-5 of its April 16, 2014, questionnaire response for its claim that 100 percent of its raw materials were imported. However, this exhibit only covers two raw materials, and the purpose of the exhibit is to document purchases of major inputs from affiliated parties.

- CJA provided cost center designations for certain divisions in its accounting systems, but it failed to explain and to support how the actual amounts recorded in each cost center are allocated. In the absence of any supporting information, it is impossible to tell whether amounts were appropriately allocated between certain divisions.
- While the Department's regulations at 19 CFR 351.401(g)(2) requires a respondent to calculate its allocated expenses "on as specific a basis as feasible," the respondent nevertheless must allocate its selling expenses on a reasonable basis that is adequately supported by the factual record. In cases where the respondent fails to justify such an allocation, the Department rejects it as potentially distortive.
- To account for the unexplained nature of certain reported values, the Department can make adjustments in the denominator of the indirect selling expenses, total sales.
- If the Department allows CJA's division-specific indirect selling expense ratios, it may set an inappropriate precedent for respondents in future cases.

***CJ's Rebuttal Comments:***

- The Department sought detailed additional supporting information for CJA's calculation of its divisional indirect selling expense rates, and reconciled these expenses to audited financial statements.
- CJA's reported indirect selling expenses were fully verified. As demonstrated at verification, CJA's divisions market very different product ranges and have uniquely different customer bases. Further, each division services different types of customers that require a different sales effort.
- There is no basis for the Department to resort to any form of facts available with respect to CJA's indirect selling expenses.

***Department's Position:***

At CJA's CEP verification, we were able to tie the reported indirect selling expenses for CJA's divisions to its audited financial statements and trial balance without exception.<sup>33</sup> Moreover, CJA explained that it allocated only the selling expenses of these two divisions to its U.S. sales because these are the only divisions involved in the sale of subject merchandise. In addition, it explained that distinct expenses were calculated for different sales because each of the two divisions services separate channels of distribution and customers. As petitioner notes, we require selling expenses to be reported on as specific a basis as feasible. Our examination of the record leads us to conclude that CJA has properly reported its U.S. indirect selling expenses for each of its divisions in question, and that it is not necessary for the Department to apply a single, company-wide indirect selling expense ratio for CJA's sales for the final determination. For the final determination, we will use CJA's updated indirect selling expense ratios that were provided at verification.<sup>34</sup>

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<sup>33</sup> See CJA VR at 7.

<sup>34</sup> *Id.*, at 2 and 7.

### **Comment 3: Treatment of CJA's Royalty Expenses**

#### ***CJ's Comments:***

- In the *Preliminary Determination*, the Department reclassified royalty payments reported by CJI from a production cost to a selling expense. CJI reported these royalty payments as part of the COP, consistent with the manner in which the payments are recorded in the company's books and records.
- In reclassifying these royalty payments in the *Preliminary Determination*, the Department correctly applied the royalty rate to the selling price by CJI in the home market. However, the Department incorrectly applied this royalty rate to the gross unit price charged by CJA to its customers in the United States.
- The provision for payment of these royalty payments should be applied on sales made by CJI, and not on re-sales made by any of its affiliated companies.
- To calculate the amount of the royalty expense for CJA correctly, the Department should calculate CJA's royalty expense based on the first sale in the transaction chain made by CJI, and not on the sale from CJA to U.S. customer.
- At CJI's verification, CJ provided an effective royalty rate to apply to CJA's sales to the first unaffiliated U.S. customer.

#### ***Department's Position:***

The Department reviewed the record regarding these royalty expenses, particularly the information that we examined at CJI's verification.<sup>35</sup> We agree that the royalty rate should be applied to the sales price charged by CJI, not CJA. This is demonstrated by the royalty agreement, which says the royalty rate is to be applied to MSG sales made by CJI, and not based on the resales of MSG by any of its affiliated companies.<sup>36</sup> Because we do not have the sales prices charged by CJI, for the final determination, we will apply the effective royalty rate (*i.e.*, a recalculated royalty rate that takes into consideration the difference between CJI's and CJA's prices) provided at CJI's verification to CJA's U.S. sales.

### **Comment 4: Treatment of CJI's Credit Expenses**

#### ***CJ's Comments:***

- For certain sales where its customers paid CJI in multiple installments, CJ contends that it correctly reported the payment date as the date of last installment payment, which is the date the receivable was cleared by CJI. At CJI's verification, the company provided the dates upon which the first installment payments were made for these sales transactions.
- In its case brief, CJ contends that the additional payment information provided at verification is not necessary, and that its credit expenses can be calculated using the payment date information as originally reported. However, should the Department find that it is necessary to adjust CJI's reported credit expense based on the actual number of days the payment invoices were outstanding, it provided payment dates from which the

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<sup>35</sup> *Id.*, at 11 and at Exhibit 18.

<sup>36</sup> See CJ's February 21, 2014, questionnaire response at B-35, and at Exhibits B-13 and B-14.

Department can calculate a simple average pay date, which can be used to recalculate CJI's credit expense.

***Department's Position:***

Our questionnaire explains that credit expenses should be calculated and reported based on the number of days between the date of shipment to the customer and the date of payment.<sup>37</sup> In doing so, the Department is attempting to account for differences in imputed costs between comparison market and U.S. sales, specifically differences between the credit periods the respondent is willing to extend to its comparison market and U.S. customers. Such differences are not fully accounted for unless the Department knows how long the respondent waited for complete payment by its customers, not just the first or last payments. Therefore, for the final determination, we will adjust CJI's credit expenses based on the payment information the company provided as a minor correction at the beginning of verification to account for all payment installments.<sup>38</sup>

**Comment 5: Minor Calculation Error Regarding Currency Conversions**

***CJ's Comment:***

- In calculating CEP profit in the *Preliminary Determination*, the Department's margin program did not convert the field AVGCOST (which is reported in U.S. dollars) to Indonesian Rupiah in calculating the field COGSU for U.S. sales. The Department should correct this error for the final determination.

***Department's Position:***

We will correct this currency conversion error for the final determination.

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<sup>37</sup> See, e.g., *id.*, at B-31, Credit Expenses.

<sup>38</sup> See CJI VR at 2, and 9-10.

**VI. RECOMMENDATION**

Based on our analysis of the comments received, we recommend adopting all of the above positions. If this recommendation is accepted, we will publish the final determination of this investigation and the final weighted-average dumping margins in the *Federal Register*.

✓  
Agree

\_\_\_\_\_  
Disagree

Paul Piquado  
Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

22 SEPTEMBER 2014  
Date