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Investigation  
POI: 1/1/2014 – 12/31/2014  
Public Document  
E&C/Office II: BW

DATE: January 8, 2016

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  
Certain Uncoated Paper from Indonesia

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## I. SUMMARY

The Department of Commerce (the Department) determines that certain uncoated paper (uncoated paper) from 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). We analyzed the comments of the interested parties. As a result of this analysis and based on our findings at verification,<sup>1</sup> we made certain changes to the margin calculations for the sole participating respondent in this case, APRIL.<sup>2</sup> Moreover, we continued to base the final margin for the two non-cooperating respondents, Great Champ Trading Limited (Great Champ) and APP/SMG,<sup>3</sup> on adverse facts available (AFA). We recommend that you approve the positions described in the “Discussion of the Issues” section of this memorandum. The estimated weighted-average dumping margins are shown in the “Final Determination” section of the accompanying Federal Register notice.

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<sup>1</sup> See the Memorandum to the File from Heidi K. Schriefer and Ji Young Oh, Senior Accountants, through Neal M. Halper, Office Director, entitled “Verification of the Cost Response of APRIL Fine Paper Macao Offshore Limited in the Antidumping Duty Investigation of Certain Uncoated Paper from Indonesia,” dated October 20, 2015 (APRIL Cost Verification Report); and the Memorandum to the File from Blaine Wiltse, Senior Analyst, AD/CVD Operations, Office II, through Melissa Skinner, Director, AD/CVD Operations, Office II, entitled “Verification of the Sales Responses of PT Anugerah Kertas Utama (AKU), PT Riau Andalan Kertas (RAK), and APRIL Fine Paper Macao Commercial Offshore Limited (AFPM) (collectively, APRIL) in the Antidumping Duty Investigation of Certain Uncoated Paper from Indonesia,” dated October 22, 2015 (APRIL Sales Verification Report).

<sup>2</sup> APRIL is the name collectively used for the following three affiliated companies: APRIL Fine Paper Macao Commercial Offshore Limited (AFPM)/PT Anugerah Kertas Utama (AKU)/PT Riau Andalan Kertas (RAK).

<sup>3</sup> APP/SMG is the name collectively used for the following three affiliated companies: Indah Kiat Pulp & Paper TBK/Pabrik Kertas Tjiwi Kimia/PT. Pindo Deli Pulp and Paper Mills.

## II. BACKGROUND

On August 26, 2015, the Department published in the Federal Register the Preliminary Determination of this antidumping duty (AD) investigation.<sup>4</sup>

In August and September 2015, the Department verified the sales and cost data reported by APRIL, in accordance with section 782(i) of the Act.

On October 2, 2015, Gartner Studios, Inc. submitted its case brief on the scope of the investigations.<sup>5</sup> On October 19, 2015, American Greetings Corporation (American Greetings) submitted its case brief regarding the scope of the investigations.<sup>6</sup> On October 29, 2015, Petitioners<sup>7</sup> submitted their rebuttal brief regarding the scope of the investigations.<sup>8</sup>

Additionally, in October and November 2015, Petitioners and APRIL submitted case and rebuttal briefs. Based on our analysis of the comments received, as well as our verification findings, we revised the weighted-average dumping margin for APRIL from that calculated in the Preliminary Determination. For Great Champ and APP/SMG, because these companies failed to cooperate by not acting to the best of their ability to comply with a request for information, including failing to respond to the Department's initial questionnaire, we continued to base their dumping margins on AFA. As AFA, we are assigning these companies the highest transaction-specific dumping margin calculated for APRIL. For further discussion, see Comment 1.

The Department is issuing a scope comments decision memorandum for the final determinations of the AD and countervailing duty investigations of uncoated paper from various countries, which is incorporated by reference in, and hereby adopted by, this final determination.<sup>9</sup>

We conducted this investigation in accordance with section 735(b) of the Act.

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<sup>4</sup> See Certain Uncoated Paper From Indonesia: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 80 FR 51771 (August 26, 2015) (Preliminary Determination), and accompanying Preliminary Decision Memorandum.

<sup>5</sup> See Letter to Secretary Pritzker from Gartner Studios, Inc., "Certain Uncoated Paper from Australia, Brazil, the People's Republic of China, Indonesia, and Portugal: Case Brief" (October 2, 2015).

<sup>6</sup> See Letter to Secretary Pritzker from American Greetings, "Certain Uncoated Paper from Australia, Brazil, the People's Republic of China, Indonesia, and Portugal: Case Brief of American Greetings Corporation" (October 19, 2015).

<sup>7</sup> Petitioners are United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW); Domtar Corporation; Finch Paper LLC; P.H. Glatfelter Company; and Packaging Corporation of America.

<sup>8</sup> See Letter to Secretary Pritzker from Petitioners, "Certain Uncoated Paper from Australia, Brazil, the People's Republic of China, Indonesia, and Portugal: Scope Rebuttal Brief" (October 29, 2015).

<sup>9</sup> See the Department's Memorandum to the File, "Less-Than-Fair-Value Investigations of Certain Uncoated Paper from Australia, Brazil, the People's Republic of China, Indonesia, and Portugal; and Countervailing Duty Investigations of Certain Uncoated Paper from the People's Republic of China and Indonesia: Scope Comments Decision Memorandum for the Final Determinations," dated concurrently with this memorandum.

### III. PERIOD OF INVESTIGATION

The period of investigation (POI) is January 1, 2014, through December 31, 2014. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was January 2015.<sup>10</sup>

### IV. MARGIN CALCULATIONS

We calculated export price and normal value (NV) using the same methodology stated in the Preliminary Determination,<sup>11</sup> except as follows:

1. We revised our margin calculations for APRIL to take into account our findings from the sales and cost verifications;<sup>12</sup>
2. We revised our margin calculations for APRIL to take into account the results of the Department's differential pricing analysis. For further discussion, see the APRIL Final Calc Memo;<sup>13</sup>
3. Consistent with our findings at verification,<sup>14</sup> we removed APRIL's inland insurance expenses from its home market database. See the APRIL Final Calc Memo at 2;
4. Consistent with our findings at verification,<sup>15</sup> we used APRIL's revised control number-specific home market and U.S. per-unit packing expenses in APRIL's margin calculation. See the APRIL Final Calc Memo at 3;
5. We found that certain of APRIL's home market sales are outside the ordinary course of trade, and, as a result, we removed these sales from our final margin calculations. See Comment 2.
6. We revised our margin calculations for APRIL to treat its two manufacturing companies as a single entity and to accept its reported payment dates and U.S. rebate amounts. See Comment 4;
7. We did not make the adjustments that were applied to APRIL's per-unit variable and fixed overhead costs in the preliminary determination. See Comment 5;

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<sup>10</sup> See 19 CFR 351.204(b)(1).

<sup>11</sup> See Preliminary Determination and accompanying Preliminary Decision Memorandum, at pages 8-17.

<sup>12</sup> See the APRIL Cost Verification Report; and the APRIL Sales Verification Report. See also the Memorandum to the File from Blaine Wiltse, Senior Analyst, entitled, "Final Determination Calculations for APRIL," dated January 8, 2016 (APRIL Final Calc Memo), at 2-3.

<sup>13</sup> See the APRIL Final Calc Memo, at 1-2.

<sup>14</sup> See the APRIL Sales Verification Report, at 3 and 28.

<sup>15</sup> Id., at 3, 4, and 30-33; see also the APRIL Cost Verification Report at Verification Exhibit 21 (page 2).

8. We revised AKU's and RAK's total costs to reflect the consumption of the purchased sheeter rolls at each producer's standard costs. As a result, we adjusted the total manufacturing costs reported for all products for AKU and RAK. See Comment 7;
9. We revised AKU's and RAK's allocation of the total POI pulp, filler, and other material consumption costs between semi-finished sheeter rolls and finished customer rolls to exclude double-counted quantities. See Comment 7;
10. We revised APRIL's reported costs to include the import duties that were paid during the POI;<sup>16</sup> and
11. We revised APRIL's consolidated financial expense ratio to exclude interest income generated by long-term receivables and other bank charges from the numerator and packing expenses from the denominator. See Comment 8.

## **V. LIST OF COMMENTS**

### General Issue

1. Selection and Corroboration of the AFA Rate for Great Champ and APP/SMG

### APRIL-Specific Comments

2. Stock Lot Sales
3. Unreported Home Market Rebates
4. Additional Changes to APRIL's Margin Program
5. APRIL's Variable and Fixed Overhead Costs
6. APRIL's Costs Associated with Broke Paper
7. Adjustments to APRIL's Cost Reconciliation
8. Calculating APRIL's Financial Expenses

## **VI. DISCUSSION OF COMMENTS**

### General Issue

#### **Comment 1: Selection and Corroboration of the AFA Rate for Great Champ and APP/SMG**

In the Preliminary Determination, we assigned a preliminary dumping margin of 51.75 percent to APP/SMG and Great Champ, based on AFA, because both companies failed to participate in this investigation. This rate was the highest transaction-specific dumping margin calculated for

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<sup>16</sup> See the Memorandum to Neal M. Halper, Director, Office of Accounting, from Heidi K. Schriefer, Senior Accountant, entitled, "Cost of Production and Constructed Value Calculation Adjustments for the Final Determination – APRIL Fine Paper Macao Offshore Limited," dated January 8, 2016 (APRIL Final Cost Calculation Memo), at 2.

APRIL. It was unnecessary to corroborate this rate because it was obtained in the course of this investigation and, therefore, is not secondary information.<sup>17</sup>

Petitioners argue that, for the final determination, the Department should instead use as AFA the highest rate contained on the record of this investigation, which is 66.82 percent (the highest rate contained in the petition).<sup>18</sup> Petitioners maintain that use of this rate fulfills the purpose of AFA by ensuring that the non-participating respondents do not obtain a more favorable outcome than had they cooperated fully, and it is also consistent with the recent amendments to the Act.<sup>19</sup>

Petitioners note that the Department declined to use the highest petition rate as AFA in the Preliminary Determination because it found it was unable to corroborate it, given that the petition rate was higher than the transaction-specific margins calculated for APRIL. However, Petitioners disagree that lower margins from cooperating parties serve to discredit the petition rate. Petitioners argue that, to the contrary, the Department should expect non-cooperating parties to dump at rates higher than those in the petition (otherwise it would be to their advantage to cooperate).

According to Petitioners, the SAA defines the term “corroborate” as an agency’s “satisfy{ing itself} that the secondary information to be used has probative value.”<sup>20</sup> Petitioners contend that the Department met this standard during its review of the petition information prior to the initiation of this case, and thus the petition margin was corroborated then. Petitioners further assert that the Department’s initial finding that information had probative value continues to be valid for the final determination -- just as similar findings in other cases have been sufficient<sup>21</sup> – and this fact has been recognized and upheld by the Court of Appeals for the Federal Circuit (CAFC) in KYD.<sup>22</sup> Thus, Petitioners maintain that the margins of an individual cooperative respondent do not nullify the Department’s previous determination that the information in the petition was corroborated. Therefore, Petitioners urge the Department to base the final AFA rate on the highest rate in the petition (subject to the caveat noted above that there is no higher rate available).

No other interested party commented on this issue.

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<sup>17</sup> See section 776(c) of the Act; see also Statement of Administrative Action, H.R. Doc. 103-No. 316, Vol. 1, 103d Cong., 2d Sess. (1994) (SAA) at 199 (providing examples of secondary information).

<sup>18</sup> However, Petitioners argue that, should the Department compute a higher transaction-specific margin for APRIL (based on changes to that company’s final margin calculations), it should use the transaction-specific rate as AFA. Petitioners agree that this rate would be primary information and, thus, not subject to corroboration.

<sup>19</sup> See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015) (TPEA).

<sup>20</sup> See SAA, at 199.

<sup>21</sup> See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Certain Lined Paper Products from Indonesia, 71 FR 47171 (August 16, 2006) (Lined Paper from Indonesia), and accompanying Issues and Decision Memorandum, at 23.

<sup>22</sup> See KYD, Inc. v. United States, 607 F.3d 760 (CAFC 2010) (KYD) (“{t}he relevant inquiry focuses on the nature of the information, not on whether the source of the information was referenced in or included with the petition.”). According to Petitioners, KYD stands for the proposition that the independent nature of the information used in a corroboration exercise is what is important, and, thus, information found in petitions may well be used as valid sources of corroborating data.

**Department’s Position:** We disagree with Petitioners and for the final determination continue to use the highest-transaction specific dumping margins calculated for APRIL as the AFA rate for APP/SMG and Great Champ.

Section 776(a) of the Act provides that, subject to section 782(d) of the Act, the Department shall apply “facts otherwise available” if: (1) necessary information is not on the record; or (2) an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party an opportunity to remedy or explain the deficiency. If the party fails to remedy or satisfactorily explain the deficiency within the applicable time limits, subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate.

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (TPEA), which made numerous amendments to the AD and CVD law, including amendments to section 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act.<sup>23</sup> The amendments to the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this investigation.<sup>24</sup>

Section 776(b) of the Act provides that the Department may use an adverse inference in applying the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. In doing so, and under the TPEA, the Department is not required to determine, or make any adjustments to, a weighted-average dumping margin based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information.<sup>25</sup> Further, section 776(b)(2) of the Act states that an adverse inference may include reliance on information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or other information placed on the record.<sup>26</sup>

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<sup>23</sup> See TPEA. The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the ITC. See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015, 80 FR 46793 (August 6, 2015).

<sup>24</sup> *Id.*, 80 FR 46794-95. The 2015 amendments may be found at: <https://www.congress.gov/bill/114thcongress/house-bill/1295/text/pl>.

<sup>25</sup> See section 776(b)(1)(B) of the Act; TPEA, section 502(1)(B).

<sup>26</sup> See 19 CFR 351.308(c).

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal.<sup>27</sup> Secondary information is defined as information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.<sup>28</sup> Further, and under the TPEA, the Department is not required to corroborate any dumping margin applied in a separate segment of the same proceeding.<sup>29</sup>

Finally, under the new section 776(d) of the Act, the Department may use any dumping margin from any segment of a proceeding under an antidumping order when applying an adverse inference, including the highest of such margins.<sup>30</sup> The TPEA also makes clear that when selecting an AFA margin, the Department is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party.<sup>31</sup>

Petitioners argue that for the final determination the Department should use as AFA the highest rate contained in the petition and that the petition rate has been corroborated. As discussed below, we disagree.

As we explained in the Preliminary Determination,<sup>32</sup> we are unable to corroborate the petition margins because they are significantly higher than the highest calculated transaction-specific dumping margin for APRIL (i.e., 17.39 percent). Accordingly, we continue to determine that we are unable to corroborate the 66.82 percent dumping margin contained in the petition.

In an investigation, the Department’s general practice with respect to the assignment of adverse rates is to assign the higher of the highest petition rate or the highest calculated dumping margin of any respondent in the investigation.<sup>33</sup> Petitioners argue that the Department should expect non-cooperating parties to dump at rates higher than the petition rate. While such an inference may be permissible,<sup>34</sup> it is not appropriate to use the petition rate here. Other information on the record and obtained during the course of the investigation fails to corroborate, pursuant to section 776(c) of the Act, the secondary information contained in the petition. The SAA states that the Department may employ an adverse inference “to ensure that the party does not obtain a

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<sup>27</sup> See 19 CFR 351.308(d).

<sup>28</sup> See SAA, at 870.

<sup>29</sup> See section 776(c)(2) of the Act; TPEA, section 502(2).

<sup>30</sup> See section 776(d)(1)-(2) of the Act; TPEA, section 502(3).

<sup>31</sup> See section 776(d)(3) of the Act; TPEA, section 502(3).

<sup>32</sup> See Preliminary Determination, and accompanying Preliminary Decision Memorandum, at 20.

<sup>33</sup> See, e.g., Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value, 80 FR 61362 (October 13, 2015), and accompanying Issues and Decision Memorandum, at Comment 20.

<sup>34</sup> See, e.g., Rhone Poulenc, Inc. v. United States, 899 F.2d 1185, 1190 (Fed. Cir. 1990).

more favorable result by failing to cooperate than if it had cooperated fully.”<sup>35</sup> In this case, the Department has done so by selecting the highest transaction-specific margin, a significantly higher rate than the weighted average dumping margin of the cooperating company.

Petitioners argue that the Department’s acceptance of the petition at the initiation stage means that the Department has already determined that the information in the petition has probative value. They argue that the margin in the petition here was corroborated by independent information when it was first calculated and the Department initiated this investigation. Petitioners cite to KYD and Lined Paper from Indonesia in support of this assertion. Petitioners’ reliance on KYD and Lined Paper from Indonesia is misplaced.

The court in KYD stated that the Department’s choice of the 122.88 percent AFA rate was well grounded because the margin was supported not only by evidence submitted with the petition, but also by the high-volume transaction-specific margins for cooperative companies.<sup>36</sup> Here, as discussed above, the Department also made the comparison between the petition rates and the highest transaction-specific margin and determined that because the 66.82 percent dumping margin in the petition was significantly higher than APRIL’s highest transaction-specific margin, we are unable to corroborate.<sup>37</sup>

In Lined Paper from Indonesia, the Department specifically stated that “the Petition is the only usable information on the record because there are no prior determination margins and no other respondents in this proceeding.”<sup>38</sup> Here, in contrast, there is a participating respondent that has provided information during the course of the investigation that the Department also examines and considers relevant for purposes of corroboration.

## **Comment 2: Stock Lot Sales**

In its initial questionnaire response, APRIL stated that it did not make any sales of uncoated paper produced as a result of production overruns in the home or U.S. markets during the POI,<sup>39</sup> nor did it sell any non-prime merchandise.<sup>40</sup> However, in a subsequent submission, APRIL informed the Department that it had, in fact, made a home market sale of an overrun (which it

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<sup>35</sup> See SAA, at 870; and Certain Polyester Staple Fiber from Korea: Final Results of the 2005-2006 Antidumping Duty Administrative Review, 72 FR 69663, 69664 (December 10, 2007); see also Steel Threaded Rod From Thailand: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances, 78 FR 79670 (December 31, 2013), and accompanying Preliminary Decision Memorandum, at page 4, unchanged in Steel Threaded Rod From Thailand: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances, 79 FR 14476 (March 14, 2014).

<sup>36</sup> See KYD, at 766.

<sup>37</sup> See Preliminary Determination, and accompanying Preliminary Decision Memorandum, at 20.

<sup>38</sup> See Lined Paper from Indonesia, and accompanying Issues and Decision Memorandum, at 19.

<sup>39</sup> See APRIL’s June 3, 2015, response to section B of the Department’s questionnaire at 9 and APRIL’s June 3, 2015, response to section C of the Department’s questionnaire, at 8.

<sup>40</sup> Id.

termed a “stock lot” sale).<sup>41</sup> At verification, APRIL indicated that it made other, similar sales of stock lot merchandise during the POI, and these sales consisted of second quality products and mill overruns. At our request, APRIL provided a list of the relevant transactions.

Petitioners assert that APRIL’s stock lot sales were not made in the ordinary course of trade because these are of secondary merchandise which APRIL could not sell without marketing it as a lower-quality product and discounting the price. Thus, Petitioners contend that the Department cannot use APRIL’s stock lot sales in its calculation of NV. Indeed, Petitioners argue that the existence of APRIL’s stock lot sales call into question the reliability of APRIL’s entire universe of home market sales, and, thus, the Department must apply total AFA to APRIL in the final determination.

Petitioners make the following arguments in support of their contention: 1) the existence of APRIL’s stock lot sales was new information because APRIL did not reveal these sales until the Department asked about them at verification; and 2) it appears from a review of APRIL’s home market database that there are additional stock lot sales in it, which are not on the list of transactions provided at verification. With respect to the first point, Petitioners note that the Department specifically asked for information on overruns and seconds in its initial questionnaire, and, as a result, APRIL was aware that it should have reported stock lot information prior to verification; further, Petitioners contend that the information finally provided at verification was not simply a minor correction because APRIL had deliberately withheld it. With respect to the second point, Petitioners assert that the home market database contains sales that are similarly-priced to APRIL’s stock lot sales. They further stated that, because the record contains insufficient information to show that APRIL has identified all stock lot sales, the Department cannot have confidence that it has excluded all of these sales from its dumping comparisons. Without reliable home market sales information, Petitioners add, the Department runs the risk of erroneously comparing home market sales of discounted seconds to U.S. sales of undiscounted prime merchandise. Therefore, Petitioners assert that the Department should reject APRIL’s home market sales reporting as unverifiable under section 782(i) of the Act, and determine a dumping margin for APRIL using AFA.

Finally, Petitioners argue that AFA for APRIL is warranted because APRIL did not act to the best of its ability to provide information regarding its sales of stock lot merchandise. Petitioners contend that home market price is one of the four elements critical to the calculation of a dumping margin, along with information regarding U.S. sales, cost of production (COP), and constructed value, and, where usable data for any of these elements are not on the record, the Department is unable to make reasonable price-to-price comparisons and calculate an accurate dumping margin.<sup>42</sup> Petitioners assert that Department has previously determined that the use of total AFA is appropriate where one of these critical elements fails verification, as the flaw makes all price-to-price comparisons impossible, and the courts have upheld these determinations.<sup>43</sup>

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<sup>41</sup> See APRIL’s August 14, 2015, response to the Department’s second supplemental section B questionnaire (2<sup>nd</sup> Supp B Response), at 3-4.

<sup>42</sup> Petitioners cite Steel Auth. of India, Ltd. v. United States, 25 CIT 482, 486, 149 F. Supp. 2d 921, 927-28 (2001) (Steel Authority of India).

<sup>43</sup> Petitioners cite Heveafil Sdn. Bhd. v. United States, 25 CIT 147, 151, judgement entered, 25 CIT 965 (2001) (Heveafil); Steel Authority of India, 25 CIT at 487, 149 F. Supp. 2d at 928; and Certain Steel Threaded Rod

Petitioners argue that, consistent with those cases, here, APRIL made no effort to correct the information reported in its home market sales until confronted with the issue by the Department at verification. For these reasons, Petitioners assert that the Department should decline to use APRIL's selectively-submitted home market sales information and instead apply total AFA to APRIL in the final determination.

However, Petitioners contend that, if the Department decides that total AFA is not appropriate, the Department should, at a minimum, apply partial AFA to APRIL's home market prices. Specifically, Petitioners request that the Department assume that all of APRIL's reported home market sales have been discounted by the same amount as certain stock lot sales examined at verification. Petitioners claim that this step is necessary to prevent APRIL from benefiting from its failure to fully cooperate with regard to reporting its stock lot sales.

APRIL contends that AFA is not warranted, either in whole or in part. APRIL disagrees that it withheld information from the Department, provided unverifiable home market sales information, significantly impeded the Department's investigation, or failed to act to the best of its ability in providing its home market sales information. APRIL notes that it disclosed the existence of a stock lot sale in a supplemental questionnaire response, and it also stated at that time that customers cannot make claims on stock lot sales.<sup>44</sup> Therefore, APRIL maintains that the details of its stock lot sales was not information withheld from the Department, nor was this new information discovered at verification; rather, the information gathered at verification simply corroborated, supported, and clarified information already on the record.

APRIL also disputes Petitioners' assertion that the list of stock lot invoices it provided at verification was incomplete. APRIL maintains that Petitioners both misread the Department's verification report and misunderstood the data on the record. According to APRIL, the report clearly states that APRIL made stock lot and non-stock lot sales at similar prices, and the Department verified this fact;<sup>45</sup> further, APRIL notes that the list of potentially unreported stock lot sales provided in Petitioners' case brief actually contains an invoice that was among the stock lot sales provided by APRIL at verification. Thus, APRIL argues that Petitioners' argument has no merit and should be rejected.

With respect to the significance of the data provided at verification, APRIL claims that it is common for the Department to accept such minor revisions without the application of AFA.<sup>46</sup>

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from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 74 FR 8907 (February 27, 2009) (PRC Threaded Rod), and accompanying Issues and Decision Memorandum, at Comment 5. Petitioners also cite Papierfabrik Aug. Koehler SE v. United States, 7 F. Supp. 3d 1304 (CIT 2014), appeal docketed, No. 15-1489 (Fed. Cir. March 25, 2015) (Kohler), where the Court of International Trade (CIT) upheld the Department's application of total AFA to a respondent that failed to report certain unfavorable home market sales.

<sup>44</sup> See 2<sup>nd</sup> Supp B Response, at 3-4.

<sup>45</sup> See APRIL's Sales Verification Report, at 12.

<sup>46</sup> In support of this assertion, APRIL cites Stainless Steel Bar from Germany: Final Results of Antidumping Duty Administrative Review, 71 FR 42802 (July 28, 2006) and accompanying Issues and Decision Memorandum, at Comment 2, where the Department stated, "{W}e disagree with Petitioners that the number of revisions to the data causes the submitted data to be suspect in accuracy or reliability such that facts available are warranted. During the course of an antidumping proceeding, it is not uncommon for respondents to revise or correct

APRIL contends that investigations are complex, and, given that this is the first investigation in which APRIL has been involved, it is unsurprising that APRIL made inadvertent minor errors. However, APRIL maintains that the Department has repeatedly recognized that cooperative respondents can submit corrections without being subject to an AFA finding.<sup>47</sup> APRIL notes that stock lot sales represent a miniscule portion of its home market sales, and the Department successfully verified its reported information; thus, APRIL claims that, when looked at in the context of its entire home market sales listing, its misreporting of its stock lot sales can be seen as a minor error.

Finally, APRIL contends that the cases cited by Petitioners are not on point. Specifically, APRIL notes that the respondents at issue in Heveafil, Steel Authority of India, and PRC Threaded Rod failed verification (among other things), while the respondent in Kohler transshipped subject merchandise. APRIL maintains that none of these situations apply in the instant investigation. Therefore, APRIL argues that the Department should rely on APRIL's home market sales data in the final determination.

**Department's Position:** For the reasons discussed below, we disagree with Petitioners that we should base APRIL's final dumping margin on total AFA under section 776 of the Act. Contrary to Petitioners' assertions that APRIL failed to provide requested information, APRIL informed the Department that it made stock lot sales in a supplemental questionnaire response.<sup>48</sup> Further, although we found additional stock lot sales during verification of APRIL's home market sales data, based on the totality of our findings during verification, we find that APRIL has now provided complete and accurate information related to its stock lot transactions. Further, we note that the total number of these sales is insignificant, given that the total quantity of these 33 transactions represent less than one tenth of one percent of APRIL's total home market sales by volume.<sup>49</sup>

Specifically, our verification report states:

During our review of the products subject to this investigation, we noted that APRIL sold one product with a unique weight ... in the home market. According to company officials, this product was "stock lot" merchandise which had been left over from an export sale and sold from inventory in the home market. When asked whether APRIL sold other "stock lot" merchandise in the home market during the POI, company officials indicated that it did, and these sales consisted of second quality products and mill overruns. Company officials explained that stock lot merchandise is sold from inventory usually in a mix of products in order

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information previously submitted to the Department."

<sup>47</sup> As support for this assertion, APRIL cites Large Residential Washers From the Republic of Korea, 77 FR 75988 (December 26, 2012), and accompanying Issues and Decision Memorandum at Comment 10; Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea, 77 FR 17413 (March 26, 2012), and accompanying Issues and Decision Memorandum at Comment 20; and Galvanized Steel Wire From Mexico, 77 FR 17427 (March 26, 2012), and accompanying Issues and Decision Memorandum, at Comments 5 and 6.

<sup>48</sup> See 2<sup>nd</sup> Supp B Response, at 3-4.

<sup>49</sup> See APRIL's Sales Verification Report, at 12.

to fill a container and are on an “as-is” basis. Company officials further explained that APRIL’s price list provides discounts for stock lot merchandise.... A list of APRIL’s POI home market stock lot sales is contained in verification exhibit 35. This list shows that 44 invoices during the POI contained stock lot merchandise, 33 of which were reported in APRIL’s home market sales listing, while the other 11 were shown not to be sales of the merchandise under consideration...<sup>50</sup>

We disagree with Petitioners’ claim that APRIL failed to identify all stock lot sales at verification and that the home market database is tainted as a result. At verification, APRIL provided a list of stock lot sales which it had compiled through a manual review of all purchase orders and invoices issued during the POI. We tested this list for completeness by identifying reported sales with low prices and/or quantities (i.e., sales of potential “stock lot” merchandise) and examining source documentation for them. Specifically, our verification report states:

To ensure that the company was complete in identifying its stock lot sales, we selected all reported home market sales smaller than one metric ton (MT) and reviewed the associated invoices. Of these 38 invoices, we found that 11 were stock lot sales by tying the invoices and sales confirmations to the mill stock lot listings; these invoices are all included on the list of stock lot sales in verification exhibit 35...

Using the 11 stock lot invoices noted above, we identified reported home market sales of the same product codes with similar prices and quantities. We then requested the following invoices for further examination: 5070060775, 5070060776, 5070061785, 5170026224, 5170026531, 5170026743, 5170026267, 5170026336, 5070062591, 5070062436, 5070062704, and 5170026407. After examining these invoices, we found that five of these were stock lot sales, while seven were not. We confirmed that the five sales were included on the stock lot list. We noted no discrepancies.<sup>51</sup>

In their case brief, Petitioners state that they performed a similar analysis, and, like the Department, they found sales not deemed to be stock lot transactions with prices in the same range as stock lot sales. However, as noted above, we determined at verification that price alone is insufficient to identify stock lot sales; further, we found no instance where APRIL’s list of stock lot transactions was inaccurate or incomplete. Thus, we disagree that the record supports a finding that APRIL’s home market database is unusable because it contains unidentified stock lot transactions.

With respect to Petitioners’ argument that APRIL should have reported that it had multiple stock lot sales sooner, we note that where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. In this proceeding,

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<sup>50</sup> See APRIL Sales Verification Report, at 2.

<sup>51</sup> Id., at 12 (emphasis added).

although APRIL initially reported that it did not make any stock lot sales, it subsequently corrected this error by informing the Department that it did make a home market sale of such merchandise. Although we discovered additional stock lot sales at verification, they were few in number and APRIL provided complete information on these transactions; further, we verified this information.<sup>52</sup>

Finally, we agree with Petitioners that APRIL's stock lot sales are outside the ordinary course of trade. According to 19 CFR 351.102(b)(35):

The Secretary may consider sales or transactions to be outside the ordinary course of trade if the Secretary determines, based on an evaluation of all of the circumstances particular to the sales in question, that such sales or transactions have characteristics that are extraordinary for the market in question. Examples of sales that the Secretary might consider as being outside the ordinary course of trade are sales or transactions involving off-quality merchandise or merchandise produced according to unusual product specifications, merchandise sold at aberrational prices or with abnormally high profits, merchandise sold pursuant to unusual terms of sale, or merchandise sold to an affiliated party at a non-arm's length price.

Further, section 771(15) of the Act defines "ordinary course of trade" as "the conditions and practices which, for a reasonable time prior to the exportation of the subject merchandise, have been normal in the trade under consideration with respect to merchandise of the same class or kind." In addition to sales that are below cost and not at arm's length, the SAA provides that other types of sales or transactions will be considered outside the ordinary course of trade when they have characteristics that are not "ordinary,"<sup>53</sup> as compared to sales or transactions generally made in the same market.<sup>54</sup> Additionally, the SAA directs the Department to avoid basing NV on sales which are extraordinary for the market in question, particularly when the use of such sales would lead to irrational or unrepresentative results.<sup>55</sup>

In this case, APRIL's stock lot sales differ from its non-stock lot transactions in a number of ways. Specifically, these sales are: 1) either of second quality or produced as a result of mill overruns; 2) made from inventory; 3) sold on an "as-is" and "unclaimed" basis, which means that the customer cannot make a quality claim against the mill; 4) always of unbranded merchandise (or paper repacked to remove the brand name); 5) sold infrequently, and only at the specific request of the mill; and 6) priced to include a "stock lot" discount as an inducement to the customer.<sup>56</sup> In contrast, non-stock lot sales are of prime merchandise produced to order at the request of the customer and sold year-round. Non-stock lot sales may also be of specific paper brands, and the customers may file quality claims with respect to them.

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<sup>52</sup> See 2<sup>nd</sup> Supp B Response, at 3-4.

<sup>53</sup> In CEMEX, S.A. v. United States, 19 CIT 587 (1995), the Court notes that "ordinary course of trade is determined on a case-by-case basis by examining all of the relevant facts and circumstances."

<sup>54</sup> See SAA, at 164.

<sup>55</sup> Id.

<sup>56</sup> See APRIL Sales Verification Report, at 11-12.

Because APRIL only made 33, out of several thousand, sales of stock lot merchandise in the home market, and these sales had the unusual characteristics noted above, we find that they were made outside the ordinary course of trade.<sup>57</sup> Therefore, we removed these sales from our margin calculations for purposes of the final determination.

### **Comment 3: Unreported Home Market Rebates**

At verification, the Department found that APRIL paid certain rebates to home market customers that had not been reported in its home market sales listing. APRIL requests that the Department make an adjustment for these rebates in the final determination, using the information taken at verification. APRIL contends that this adjustment would be consistent with the Department's practice in Wooden Bedroom Furniture, where the Department treated a respondent's free-of-charge items as sales discounts, and Pasta from Italy, where the Department included free goods in its margin calculations.<sup>58</sup>

Petitioners disagree that the Department should make the requested adjustment, arguing that the rebates in question are, in essence, new factual information provided at verification, and the Department should not allow APRIL to benefit from its failure to report them. Indeed, Petitioners contend that APRIL's failure precluded any meaningful review of the rebates, and they allege that the record is not sufficiently detailed to permit the Department to link them to specific home market sales, nor for the Department to attribute them solely to sales of uncoated paper. Finally, Petitioners assert that Wooden Bedroom Furniture is factually distinct because the discounts in that case related to U.S. sales, and, thus, the Department's inclusion of them in the margin calculation did not benefit the respondent.

**Department's Position:** In this case, APRIL reported that it granted rebates to home market customers on a quarterly and annual basis.<sup>59</sup> At verification, we also discovered that APRIL granted an additional rebate to certain home market customers.<sup>60</sup> These unreported rebates related to a specific time period and were based on sales of particular product groups.<sup>61</sup> Although APRIL has asked that we take these unreported rebates into account in our

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<sup>57</sup> See, e.g., Welded Carbon Steel Standard Pipe and Tube Products From Turkey: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2013-2014, 80 FR 76674 (December 10, 2015), and accompanying Issues and Decision Memorandum at Comment 10; and Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 4385, 4386 (January 22, 2013), unchanged in Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 29113 (May 17, 2013).

<sup>58</sup> See Final Determination of Sales at Less Than Fair Value: Wooden Bedroom Furniture From the People's Republic of China, 69 FR 67313 (November 17, 2004) (Wooden Bedroom Furniture), and Notice of Final Results of the Eighth Administrative Review of the Antidumping Duty Order on Certain Pasta From Italy and Determination to Revoke in Part, 70 FR 71464 (November 29, 2005) (Pasta from Italy) and accompanying Issues and Decision Memorandum, at Comment 12.

<sup>59</sup> See APRIL's section B response, dated June 3, 2015, at 25.

<sup>60</sup> See the APRIL Sales Verification Report, at 26-27.

<sup>61</sup> Id.

margin calculations for the final determination, as discussed below, we find that the record contains insufficient information to permit an accurate adjustment.<sup>62</sup> Therefore, we did not rely on the information found at verification for APRIL's additional home market rebates.

The Department's regulations, at 19 CFR 351.401(b), state "In making adjustments to ... normal value, the Secretary will adhere to the following principles: (1) The interested party that is in possession of the relevant information has the burden of establishing to the satisfaction of the Secretary the amount and nature of a particular adjustment..." Here, the record does not contain information which is essential for an accurate calculation. Specifically, the record neither contains: 1) the per-unit amounts of the specific rebates and the products on which those rebates were granted; nor 2) the underlying information from which the Department could easily compute accurate per-unit amounts.<sup>63</sup> Thus, while the record contains some verified information with respect to these rebates, it is too incomplete to be useable for the final determination. Therefore, consistent with 351.401(b)(1), we made no adjustment to account for these rebates for purposes of the final determination.

#### **Comment 4: Additional Changes to APRIL's Margin Program**

Petitioners and APRIL request that the Department make additional changes to APRIL's margin program for the final determination. Specifically, Petitioners request that the Department treat APRIL's two affiliated factories as a single entity, consistent with the Department's determination to collapse these companies in this investigation.<sup>64</sup> In addition, APRIL requests that we rely on its reported payment dates in instances where payment preceded invoice date (instead of setting the credit period to zero),<sup>65</sup> as well as its reported U.S. rebates (instead of basing them on information contained in APRIL's rebate agreements).<sup>66</sup> APRIL argues that the

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<sup>62</sup> Under certain circumstances, the Department may determine to accept information found at verification that a respondent previously omitted or incorrectly reported. See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From India, 69 R 76916 (December 23, 2004) and accompanying Issues and Decision Memorandum, at Comment 11 (where the Department used an interest rate discovered at verification to calculate third country credit expenses); and Notice of Final Determination of Sales at Not Less Than Fair Value: Certain Color Television Receivers from Malaysia, 69 FR 20592 (April 16, 2004) and accompanying Issues and Decision Memorandum, at Comment 8 (where the Department used U.S. discount information taken at verification, rather than AFA, despite the fact that the respondent did not report these discounts and, thus, neither the Department nor other interested parties had the ability to review them prior to verification). However, as we informed APRIL, our acceptance of information does not guarantee that we will be able to use it in the final determination. See, e.g., the August 20, 2015, letter to APRIL at 2, and accompanying verification agenda, which notified APRIL of this general principle. See also the APRIL Sales Verification Report at 2, where we identified as an unresolved issue the treatment of APRIL's home market rebates.

<sup>63</sup> For example, the record does not contain a list of the product codes within specific product groups (*i.e.*, brands of paper) to which these rebates were applied.

<sup>64</sup> See the Memorandum for Melissa G. Skinner, Director, Office II, AD/CVD Operations, from Shannon Morrison, International Trade Compliance Analyst, Office II, AD/CVD Operations, entitled, "Antidumping Duty Investigation of Certain Uncoated Paper from Indonesia: Preliminary Determination of Affiliation/Single Entity Treatment of April Fine Paper Macao Limited (AFPM), PT Anugerah Kertas Utama (AKU), and PT Riau Andalan Kertas (RAK)," dated August 19, 2015 (Collapsing Memo).

<sup>65</sup> See the APRIL Preliminary Calc Memo, at 2.

<sup>66</sup> See Preliminary Decision Memorandum, at 12; and APRIL Preliminary Calc Memo, at 5.

Department successfully verified its reported information, and, thus it should use it in the final determination consistent with its practice.<sup>67</sup>

Petitioners disagree that the Department should accept APRIL's U.S. rebates because the Department found at verification that one of APRIL's customers would have qualified for an increased rebate, but for the existence of a mathematical error in its calculations. Because: 1) the Department's questionnaire required APRIL to report "rebates that have not been paid"; and 2) APRIL has stated that it would pay the full rebate amount if the customer challenged it, Petitioners argue that the Department should continue to include the full amount under the rebate agreement for this customer. Finally, Petitioners assert that Washers from Korea supports their argument, instead of APRIL's, because it stands for the proposition that all rebates must be reported in order for the reporting methodology to be acceptable.

No party submitted additional rebuttal comments.

**Department's Position:** We reviewed the information on the record and, consistent with our practice, agree with both parties regarding the changes to the treatment of the two manufacturers and home market payment dates. As Petitioners correctly note, we determined to collapse APRIL's manufacturers into a single entity;<sup>68</sup> in addition, we verified the accuracy of APRIL's reported payment information. Therefore, we revised APRIL's margin program to make the appropriate corrections.<sup>69</sup>

With respect to U.S. rebates, we disagree with Petitioners that it would be appropriate to take into account rebates which have not been, and may never be, paid. The Department's questionnaire requires respondents to report rebates for which a final payment has not yet been made, but such reporting is for rebates which the respondent has provided for in its accounting records and which the customer expects to receive. In this situation, the record does not contain information indicating that the potential rebates may ever be claimed. Thus, we did not include these speculative amounts in our calculations for the final determination.

#### **Comment 5: Variable and Fixed Overhead Costs**

In the preliminary determination, the Department revised APRIL's reported per-unit variable and fixed overhead costs to ensure that the total actual overhead costs from the company's financial accounting system were captured.<sup>70</sup> On August 28, 2015, subsequent to the preliminary determination, APRIL submitted a revised cost database in response to the Department's final supplemental section D questionnaire (August 28 section D response).

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<sup>67</sup> See Notice of Final Determination of Sales at Less Than Fair Value: Large Residential Washers From the Republic of Korea, 77 FR 75988 (December 26, 2012) (Washers from Korea), and accompanying Issues and Decision Memorandum, at Comment 5.

<sup>68</sup> See Collapsing Memo.

<sup>69</sup> See the APRIL Final Calc Memo, at 3.

<sup>70</sup> See APRIL Preliminary Calc Memo, at 2.

APRIL argues that the post preliminary cost database, which was verified by the Department, accounts for the total actual variable and fixed overhead costs from its financial accounting system.<sup>71</sup> Therefore, APRIL contends that the upward adjustments made by the Department at the preliminary determination are no longer necessary for the final determination.

Petitioners argue that for the final determination the Department should rely on the variable and fixed overhead costs that have been in fact verified.<sup>72</sup>

**Department's Position:** For the final determination, we did not make the adjustments that were applied to APRIL's per-unit variable and fixed overhead costs in the preliminary determination.<sup>73</sup> At the cost verification, the Department confirmed that the allocation methodology employed in APRIL's post preliminary submission captures the total actual variable and fixed overhead costs from the company's financial accounting system.<sup>74</sup> Therefore, for the final determination we relied on APRIL's revised per-unit variable and fixed overhead costs which were submitted on October 30, 2015, and were examined by the Department at the cost verification.<sup>75</sup>

#### **Comment 6: APRIL's Costs Associated with Broke Paper**

Petitioners propose three separate adjustments to broke (*i.e.*, paper scrap) costs for the final determination. First, Petitioners argue that APRIL failed to fully account for the recycled broke consumption costs from its normal books and records. In support of this contention, Petitioners point to the company's August 28 section D response where APRIL states that direct material costs were revised to include the cost of pulp produced from broke which had been inadvertently excluded from the company's prior reporting. To analyze the impact of this revision, Petitioners compared the August 28 cost database to the prior cost database, finding that the increase in direct materials was significantly smaller than the total reported broke offsets. Given the relatively larger broke offset, Petitioners anticipated a larger increase to direct materials as a result of adding the recycled broke consumption costs. Thus, Petitioners conclude that APRIL included the full offset related to the broke generated, but failed to include the full cost of the broke that was recycled and consumed in paper production. According to Petitioners, APRIL's total reported scrap offsets are justified only if mirrored by the inclusion of equivalent costs for the broke that was reintroduced into paper production. As this was not the case, Petitioners urge the Department to adjust APRIL's reported direct material costs in the final determination to incorporate the total broke consumption costs from the company's normal books and records.<sup>76</sup>

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<sup>71</sup> See APRIL's Case Brief, at 6-7.

<sup>72</sup> See Petitioners' Rebuttal Brief, at 8.

<sup>73</sup> See APRIL Final Cost Calculation Memo, at 1.

<sup>74</sup> See APRIL Cost Verification Report, at 22-23.

<sup>75</sup> We note that pursuant to the Department's request APRIL submitted a revised cost database on October 30, 2015, that incorporates the first day minor corrections from the cost verification. See APRIL's October 30, 2015, "Submission of Revised Databases."

<sup>76</sup> See Petitioners' Case Brief, at 12-16.

Second, Petitioners argue that the total broke consumption costs from APRIL's normal books and records are understated since their assigned value appears to be more reflective of pulp rather than finished good values. Specifically, Petitioners contend that broke should be assigned the same per metric ton value as the finished paper products, or at a minimum the semi-finished paper rolls, from which the broke was generated. Accordingly, for the final determination, Petitioners also urge the Department to increase APRIL's reported direct material costs so that the broke consumption quantities reflect a value equal to the average production cost for the finished subject merchandise.<sup>77</sup>

Lastly, Petitioners argue that APRIL has inaccurately reported the total quantity of broke that was generated during the production of subject merchandise. Petitioners base this assumption on APRIL's POI inventory movement schedules which show that the quantities of semi-finished goods consumed exceeded the quantities of cut size and folio finished goods produced by more than the broke quantities generated. Consequently, for the final determination, Petitioners request that the Department increase APRIL's broke consumption costs by an amount equal to the additional broke quantities valued at the average production cost for the finished subject merchandise.<sup>78</sup>

In rebuttal, APRIL argues that the cost of broke consumed in production has been fully captured in the reported costs, and, therefore, no adjustments are needed in the final determination. First, APRIL submits that Petitioners' initial adjustment is constructed on a misstatement made by APRIL in its August 28 section D response. According to APRIL, it can be deduced from other portions of the record that it was other miscellaneous expenses, not broke costs, which were mistakenly omitted from APRIL's prior filings. Thus, APRIL holds that Petitioners' analysis and consequent argument is without merit since the August 28 section D response reflected a correction to include the cost of other miscellaneous expenses, not broke consumption costs. Moreover, APRIL submits that no adjustment is necessary since the Department found no discrepancies in its verification of APRIL's total reported raw material costs.<sup>79</sup>

APRIL also disagrees with Petitioners' second adjustment to revalue broke at the cost of producing the underlying finished paper that produced the broke. APRIL contends that it assigned the standard cost for semi-finished goods, rather than the inventoried standard cost for broke generated, to the broke later consumed in production. Consequently, APRIL argues that no adjustment is necessary since the costs verified by the Department already reflect broke valued at the cost of the underlying semi-finished goods from which the broke was produced.<sup>80</sup>

Finally, APRIL submits that Petitioners' last adjustment for broke quantities is based on a logically flawed calculation and should be disregarded. Specifically, APRIL points out that Petitioners improperly compared the semi-finished goods consumed in the production of both subject and non-subject merchandise to the production of only subject merchandise. Therefore,

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<sup>77</sup> *Id.*, at 16.

<sup>78</sup> *Id.*, at 17-18.

<sup>79</sup> *See* APRIL's Rebuttal Brief, at 7-9.

<sup>80</sup> *Id.*, at 9.

APRIL concludes that no adjustment is needed in the final determination with regard to the reported broke consumption costs.<sup>81</sup>

**Department's Position:** For the reasons explained below, we disagree with Petitioners that any adjustments are warranted with regard to broke. Consequently, for the final determination, we did not adjust APRIL's reported costs for the broke that was generated, recycled, and subsequently reintroduced as an input into the production of paper.

To evaluate the merits of Petitioners' proposed adjustments for broke, the Department reexamined APRIL's methodology for reporting direct material costs. For reporting purposes, APRIL used its product-specific standard costs to allocate the total actual pulp, filler, and other material costs to the products produced.<sup>82</sup> The standard costs were obtained from APRIL's product-specific bill of materials (BOMs), *i.e.*, the "recipes" used to produce each product.<sup>83</sup> These BOMs include the total standard quantities and values of pulp, filler, and other materials required to produce each product.<sup>84</sup> Thus, the allocation base for pulp (*i.e.*, the product-specific standard pulp cost) comprises pulp consumed in all forms, including pulp produced from recycled broke. Likewise, filler and other materials were allocated using the product-specific standard filler and other material costs. Finally, any other minor direct material costs that were not otherwise captured (*e.g.*, inventory adjustments, etc.) were also allocated using the product-specific standard other material costs.<sup>85</sup> Based on our cost verification, it was to these other material expenses to which APRIL's August 28 section D response was intended to refer.<sup>86</sup> The final step of APRIL's reported direct material cost calculation is an allocation of the variance between the aggregate direct material costs allocated to the products produced and the total company-wide actual direct material costs from APRIL's financial accounting system.<sup>87</sup> This step ensures that the total actual direct material costs have been accounted for in APRIL's reporting.

Hence, the pertinent question before the Department is whether the total actual broke consumption costs from APRIL's normal books and records were included in the total actual direct material costs that were allocated to the products produced. Based on the Department's cost verification, we can confirm that the total company-wide actual direct material costs, upon which the reported per-unit direct material costs were based, include the total broke consumption costs from APRIL's financial accounting system. Specifically, the Department's cost verification report notes that APRIL records the cost of broke inventory that is recycled into pulp

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<sup>81</sup> See APRIL's Rebuttal Brief, at 9-10.

<sup>82</sup> See APRIL Cost Verification Report, at 6.

<sup>83</sup> *Id.*

<sup>84</sup> See, *e.g.*, *Id.*, at Exhibit 9, page 18; where the sample BOM identifies the total standard value of short fiber and filler required to produce a standard quantity of product.

<sup>85</sup> See, *e.g.*, *Id.*, at Exhibit 7, pages 13, 17, and 63-65.

<sup>86</sup> *Id.*

<sup>87</sup> As noted in the APRIL Cost Verification Report, APRIL's direct material costs were calculated in three basic steps: 1) calculation of semi-finished direct material costs; 2) calculation of finished goods direct material costs; and, 3) application of the direct materials cost variance. *Id.*, at 17-20.

in the semi-finished goods consumption account on the trial balance.<sup>88</sup> Then, in the overall reconciliation worksheets, the Department verified that this account was included in the total company-wide direct material costs which were then fully allocated to the products produced under APRIL's reporting methodology.<sup>89</sup> Therefore, based on these facts, we find that the total cost of broke consumed during the POI was included in the total actual costs that APRIL allocated to the products produced. As such, we do not find that Petitioners' first proposed adjustment has merit.

Next, regarding the valuation of broke in APRIL's normal books and records, we disagree with Petitioners' proposed adjustment for two reasons. First, we do not agree with the premise that the scrap recovered in the course of manufacturing a finished good should be assigned the same production cost as the primary product that is being produced. The scrap and byproducts generated during production cannot be used for the same applications as the finished products from which they are generated. Consequently, scrap and byproducts have relatively lower values when compared to their primary product counterparts and are typically assigned a value that approximates their anticipated sales revenue.<sup>90</sup> Here, all of the broke that was generated by APRIL was recycled and reintroduced as pulp in the paper making stage of production.<sup>91</sup> Hence, we do not find it unreasonable that broke was inventoried at a value that more closely approximates the input pulp rather than the output finished paper products that are sold to the public.<sup>92</sup>

Nevertheless, APRIL both generates and consumes broke; therefore, there are two sides of the per-unit calculations to consider – the scrap offset when broke is generated (*i.e.*, a decrease to primary product costs) and the direct material cost when broke is consumed (*i.e.*, an increase to primary product costs). Based on the inventory movement schedules for broke, APRIL produced and consumed virtually equal quantities of broke throughout the POI.<sup>93</sup> As noted by the Department, these quantities entered and exited inventory at the same per-unit average value.<sup>94</sup> Thus, any adjustment to one side of the calculation, *e.g.*, to the cost of broke consumed which increases the per-unit costs, would also require an adjustment to the opposing side of the calculation, *e.g.*, to the cost of broke generated which increases the scrap offset and decreases the per-unit costs. Because APRIL generated and consumed broke at an equivalent rate, a

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<sup>88</sup> See Id., at 22.

<sup>89</sup> Id., at 20 and 24; Exhibit 5, pages 5-6; and Exhibit 8, page 1.

<sup>90</sup> See, e.g., Certain Oil Country Tubular Goods from the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances, 79 FR 41983 (July 18, 2014) (OCTG from Korea) and accompanying Issues and Decision Memorandum, at Comment 33, where the Department notes that the respondent's use of the prior month scrap sales value to value current month scrap generated was reasonable.

<sup>91</sup> See APRIL Cost Verification Report, at 6 and 22.

<sup>92</sup> While APRIL argues that its broke consumption values reflect semi-finished good values, we infer that this is after the additional processing that is required to transform the broke into pulp prior to reintroduction in the paper making process. See, e.g., Id., at Exhibit 13, page 4, where the internally-produced slush pulp that is produced from broke enters semi-finished goods slush pulp inventory prior to consumption in the paper making stage.

<sup>93</sup> See Id., at Exhibit 12, page 1.

<sup>94</sup> Id., at 22.

reevaluation of broke would have virtually no impact on the per-unit costs. We, therefore, do not find that Petitioners' second proposed adjustment has merit.

Finally, we also disagree with Petitioners' third proposed adjustment for broke quantities. As noted by APRIL, Petitioners are comparing the semi-finished consumption quantities for both subject and non-subject merchandise to the finished production quantities for only subject merchandise. During the POI, APRIL produced folio and cut sheet paper products which are subject merchandise and non-subject customer rolls.<sup>95</sup> The non-subject customer rolls were either produced in a continuous process from slush pulp or were produced from semi-finished stock in inventory.<sup>96</sup> It is the customer rolls that were produced from semi-finished stock that Petitioners failed to account for in their calculations. Once these non-subject customer rolls are considered, the variance between APRIL's input semi-finished good and output finished good quantities more closely approximates the broke production quantities. Thus, based on these facts, we do not find that Petitioners' third proposed adjustment has merit.

Based on the foregoing, we did not adjust APRIL's reported broke costs for the final determination.

#### **Comment 7: Adjustments to APRIL's Cost Reconciliation**

At the cost verification, the Department found that APRIL improperly excluded from the overall cost reconciliation a portion of the costs related to semi-finished sheeter rolls that were transferred between APRIL's two collapsed paper manufacturing companies. Specifically, the Department noted that, while APRIL excluded the sheeter rolls from the producer-seller's total manufacturing costs at the producer-seller's standard cost, APRIL included the sheeter rolls in the purchaser-consumer's total manufacturing costs at the purchaser-consumer's standard cost, *i.e.*, at two different standard costs. Under this methodology, there was a mismatch between the total standard costs excluded from the seller's costs and the total standard costs included in the purchaser's costs. The Department, therefore, evaluated these differences and proposed an adjustment to ensure that the total sheeter roll standard costs excluded from one producer's overall reconciliation equaled the total sheeter roll standard costs that were included in the other producer's overall reconciliation.<sup>97</sup>

Petitioners support the Department's findings, but argue that the Department's proposed adjustment does not go far enough. According to Petitioners, the Department failed to consider the cost of transporting the transferred sheeter rolls between the two facilities and other additional accounting costs. Because there is no information available on the record that would allow the Department to determine these additional costs, Petitioners submit that as facts available the Department should include in each paper manufacturer's overall cost reconciliation the total transfer price for the transferred sheeter rolls and then adjust the reported per-unit costs accordingly.<sup>98</sup>

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<sup>95</sup> *Id.*, at 8.

<sup>96</sup> *Id.*, at 8 and 18.

<sup>97</sup> *Id.*, at 2.

<sup>98</sup> *See* Petitioners' Case Brief, at 18-20.

APRIL does not dispute the Department's findings with regard to the overall cost reconciliation, but contends that Petitioners' arguments have no merit and ignore record evidence. First, APRIL points out that the two paper manufacturers are located at the same facility; therefore, there are no transport costs associated with the transfer of sheeter rolls between the two companies. Second, APRIL argues that the Department's cost verification report clearly illustrates how the sheeter roll sales between the two collapsed companies are structured and confirms that no additional adjustment is necessary.<sup>99</sup>

**Department's Position:** We disagree with Petitioners' proposed adjustment to the costs of the sheeter rolls transferred between APRIL's two collapsed paper manufacturers. Although separately incorporated, the two paper manufacturers in reality represent two paper machines that are located within the same production facility.<sup>100</sup> Hence, the Department agrees with APRIL that there are no transportation costs associated with transferring the sheeter rolls between the two paper manufacturing companies. While there may be some overhead costs associated with the internal transfer of the sheeter rolls between the two paper machines, these costs would be minimal and subsumed in the conversion costs that have already been recognized and fully allocated to the finished products produced by each paper manufacturer.<sup>101</sup>

Consequently, we did not apply Petitioners' proposed adjustments to the overall reconciliation for the final determination. Instead, we have revised APRIL's total costs for the Department's cost verification findings with regard to the transferred sheeter rolls. Specifically, we adjusted APRIL's reported costs for the net cost difference attributable to the mismatch between the producers' and purchasers' standard costs for the transferred sheeter rolls.

### **Comment 8: Calculating APRIL's Financial Expenses**

Petitioners argue that APRIL's consolidated financial expense ratio should be adjusted to exclude interest income related to long-term receivables from the numerator and packing expenses from the denominator. Additionally, Petitioners disagree with APRIL's claim that, because other bank charges have been reported as transaction-specific adjustments in the sales databases, they should be excluded from the numerator of the consolidated financial expense ratio. While conceding that a portion of the other bank charges were reported as sales expenses, Petitioners contend that APRIL failed to account for the total amount of other bank charges from the consolidated financial statements. As proof, Petitioners note that the aggregate bank charges reported in the sales databases fall significantly short of the total amount of bank charges that APRIL wishes to exclude from the consolidated financial expense ratio. Consequently, for the

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<sup>99</sup> See APRIL's Rebuttal Brief, at 10-11.

<sup>100</sup> See APRIL Cost Verification Report, at 4 and 7.

<sup>101</sup> At the cost verification, the Department tied both the transfer prices and the producer-sellers' inventoried costs for the transferred sheeter rolls to each company's financial accounting system. Thus, after adjusting the purchaser-consumers' transferred in sheeter roll costs to reflect the producer-sellers' total transferred out sheeter roll costs, the Department finds that the total costs of the transferred sheeter rolls have been captured. The residual differences between the transfer prices paid and the transferred sheeter roll costs are intercompany profit. *Id.*, at 10-11.

final determination, Petitioners urge the Department to adjust the consolidated financial expense ratio to exclude only the amounts related to long-term interest income and packing expenses, not bank charges.<sup>102</sup>

APRIL rebuts that Petitioners have failed to consider that the financial expense rate is calculated at the consolidated level. Thus, it is perfectly sensible that the bank charges from APRIL Holdings' consolidated financial statements would not add to the total bank charges from the sales databases since the consolidated figures include not only the reported bank charges, but also those related to multiple entities, to non-scope product sales, and to third country only sales.

**Department's Position:** We agree with both Petitioners and APRIL, in part, and adjusted the financial expense ratio to exclude long-term interest income, packing expenses, and other bank charges. First, when calculating the financial expense ratio, it has been the Department's long-standing practice to include interest income only if it is earned on short-term assets.<sup>103</sup> For packing expenses, we note that these expenses are not included in the per-unit costs to which the ratio will be applied; therefore, it is consistent to likewise exclude packing expenses from the denominator of the financial expense ratio.

Finally, with regard to other bank charges, the record demonstrates that the types of transactions that APRIL posted to this account were reported to the Department on a transaction-specific basis in the sales databases.<sup>104</sup> While Petitioners are correct that this means the total consolidated figure has not been accounted for in the reported costs, we agree with APRIL that as a selling adjustment that the Department normally applies on a transaction-specific sales basis, the remaining balance in the account applies to sales of merchandise not under consideration and should be excluded. Therefore, we excluded the other bank charges from the numerator of the financial expense ratio.

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<sup>102</sup> See Petitioners' Case Brief, at 20-23.

<sup>103</sup> See, e.g., Narrow Woven Ribbons With Woven Selvedge from Taiwan: Final Results of Antidumping Duty Administrative Review; 2012-2013, 80 FR 19635 (April 13, 2015) and accompanying Issues and Decision Memorandum, at Comment 9; and, Notice of Final Determination of Sales at Less Than Fair Value: Certain Pasta from Italy, 61 FR 30326, 30359 (June 14, 1996).

<sup>104</sup> See APRIL's supplemental section C questionnaire response, dated August 19, 2015, at 19.

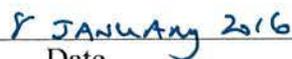
## VII. CONCLUSION

We recommend applying the above methodology for this final determination.

  
\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

  
\_\_\_\_\_  
Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

  
\_\_\_\_\_  
Date