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Investigation  
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April 14, 2014

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

**FROM:** Gary Taverman *ST*  
Senior Advisor  
for Antidumping and Countervailing Duty Operations

**SUBJECT:** Decision Memorandum for Preliminary Determination of the  
Antidumping Duty Investigation of Chlorinated Isocyanurates  
from Japan

## SUMMARY

The Department of Commerce ("Department") preliminarily determines that chlorinated isocyanurates ("isos") from Japan is being, or is likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Tariff Act of 1930, as amended ("the Act"). The period of investigation ("POI") is July 1, 2012, through June 30, 2013.

## Background

On August 29, 2013, the Department received an antidumping duty ("AD") petition concerning imports of isos from Japan, filed in proper form by Clearon Corp. and Occidental Chemical Corporation ("Petitioners").<sup>1</sup> On September 25, 2013, the Department initiated an AD investigation on isos from Japan.<sup>2</sup> On October 31, 2013, the U.S. International Trade Commission determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of isos from Japan.<sup>3</sup>

<sup>1</sup> See Petition for the Imposition of Antidumping Duties on Chlorinated Isocyanurates from Japan, dated August 29, 2013 ("Petition").

<sup>2</sup> See *Chlorinated Isocyanurates from Japan: Initiation of Antidumping Duty Investigation*, 78 FR 58997 (September 25, 2013) ("Initiation Notice").

<sup>3</sup> See *Investigation Nos. 701-TA501 and 731-TA-1226 (Preliminary) Chlorinated Isocyanurates*, 78 FR 66767 (November 6, 2013).



## Initiation of Cost Investigation

### *Shikoku<sup>4</sup> and Nankai<sup>5</sup>*

On February 14 and March 6, 2014, respectively, Petitioners timely alleged, pursuant to 19 CFR 351.301(c)(2)(ii)(A), that Shikoku and Nankai made sales of isos in the home market at prices below cost of production (“COP”) during the POI. On March 4 and March 18, 2014, the Department initiated investigations to determine whether these companies made sales of isos in the home market at prices below the COP during the POI and requested that they submit responses to section D of the AD questionnaire.<sup>6</sup> On March 21 and April 4, 2014, Shikoku and Nankai submitted their section D responses.

## Period of Investigation

The POI is July 1, 2012, through June 30, 2013. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the Petition, which was August 2013.<sup>7</sup>

## Tolling of Deadlines and Postponement of Preliminary Determination

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.<sup>8</sup> Therefore, all deadlines in this investigation have been extended by 16 days. If the new deadline falls on a non-business day, in accordance with the Department’s practice, the deadline will become the next business day.<sup>9</sup> The tolled deadline for the preliminary determination of this investigation was February 21, 2014. Based on a timely request from Petitioners, on February 10, 2014, the Department postponed the deadline for the preliminary determination by 50 days to April 14, 2014, pursuant to section 733(c)(1)(A) of the Act, and 19 CFR 351.205(e).<sup>10</sup>

## Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Act, on March 21, 2014, Shikoku, one of the mandatory respondents in this proceeding, requested that the Department postpone the final determination and that provisional measures be extended from a four-month period to a six-month period. In accordance with section 733(d) of the Act and 19 CFR 351.210(b), because (1) our preliminary

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<sup>4</sup> Shikoku Chemicals Corporation (“Shikoku”).

<sup>5</sup> Nankai Chemical Co., Ltd. (“Nankai”).

<sup>6</sup> See Memorandum to James Doyle, Director, AD/CVD Operations, Office V, from The Team “Petitioners’ Allegation of Home Market Sales at Prices Below the Cost of Production for Shikoku Chemicals Corporation” (March 4, 2014).

<sup>7</sup> See 19 CFR 351.204(b)(1).

<sup>8</sup> See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, “Deadlines Affected by the Shutdown of the Federal Government” (October 18, 2013).

<sup>9</sup> See *Notice of Clarification: Application of “Next Business Day” Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

<sup>10</sup> See *Chlorinated Isocyanurates from Japan: Postponement of Preliminary Determination of Antidumping Duty Investigation*, 79 FR 7643 (February 10, 2014).

determination is affirmative, (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the request and are postponing the final determination until no later than 135 days after the publication of the preliminary determination notice in the *Federal Register*. Suspension of liquidation will be extended accordingly. The Department is further extending the application of the provisional measures from a four-month period to a six-month period.<sup>11</sup>

### Pre-Preliminary Determination Comments

On March 27, 2014, Petitioners filed pre-preliminary determination comments on the record.<sup>12</sup>

### Scope of the Investigation

The products covered by this investigation are chlorinated isocyanurates. Chlorinated isocyanurates are derivatives of cyanuric acid, described as chlorinated s-triazine triones. There are three primary chemical compositions of chlorinated isocyanurates: (1) trichloroisocyanuric acid ("TCCA") ( $\text{Cl}_3(\text{NCO})_3$ ), (2) sodium dichloroisocyanurate (dihydrate) ( $\text{NaCl}_2(\text{NCO})_3 \times 2\text{H}_2\text{O}$ ), and (3) sodium dichloroisocyanurate (anhydrous) ( $\text{NaCl}_2(\text{NCO})_3$ ). Chlorinated isocyanurates are available in powder, granular and solid (e.g., tablet or stick) forms.

Chlorinated isocyanurates are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.50.4000, 3808.94.5000, and 3808.99.9500 of the Harmonized Tariff Schedule of the United States ("HTSUS"). The tariff classification 2933.69.6015 covers sodium dichloroisocyanurates (anhydrous and dihydrate forms) and trichloroisocyanuric acid. The tariff classifications 2933.69.6021 and 2933.69.6050 represent basket categories that include chlorinated isocyanurates and other compounds including an unfused triazine ring. The tariff classifications 3808.50.4000, 3808.94.5000 and 3808.99.9500 cover disinfectants that include chlorinated isocyanurates. The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the investigation is dispositive.

### Scope Comments

In accordance with the preamble to the Department's regulations,<sup>13</sup> the Department set aside a period of time for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*.<sup>14</sup> No interested party submitted any scope comments.

### Respondent Selection

In the *Initiation Notice*, the Department notified the public that the Department intended to select

<sup>11</sup> See 19 CFR 351.210(e)(2).

<sup>12</sup> See Letter to the Secretary of Commerce from Petitioners "Pre-Preliminary Determination Comments" (March 27, 2014). Given the close proximity to the deadline for the preliminary determination and the current time constraints, we were unable to consider all of Petitioners' comments for this preliminary determination but will do so for purposes of the final determination.

<sup>13</sup> See *Antidumping Duties; Countervailing Duties*, 62 FR 27323 (May 19, 1997).

<sup>14</sup> See *Initiation Notice*, 78 FR at 58998.

respondents based on U.S. Customs and Border Protection (“CBP”) data for U.S. imports of isos from Japan during the POI under the HTSUS subheadings listed in the scope of the investigation.<sup>15</sup> On September 19, 2013, the Department released CBP import data to interested parties.<sup>16</sup> Shikoku and Petitioners submitted comments regarding the data for respondent selection. On November 26, 2013, in accordance with section 777A(c)(1) of the Act, the Department selected Shikoku and Mitsubishi Corp. (“Mitsubishi”) for individual examination in this investigation because they accounted for the largest volume of exports of Japanese isos to the United States.<sup>17</sup> The Department issued its AD questionnaire to Shikoku and Mitsubishi on November 27, 2013. On January 8, 2014, the Department revised the selection of respondents for individual examination based on the evidence Mitsubishi provided and selected Nankai for individual examination.<sup>18</sup> Specifically, based on information Mitsubishi provided in its filings, the Department determined that Mitsubishi was not the first party in the chain of distribution of the sale that had knowledge that the sale was destined for the United States but, rather, was an intermediary trading company.

### Affiliation Determinations

Section 771(33) of the Act, provides that:

The following persons shall be considered to be ‘affiliated’ or ‘affiliated persons’:

- (A) Members of a family, including brothers and sisters (whether by the whole or half-blood), spouse, ancestors, and lineal descendants.
- (B) Any officer or director of an organization and such organization.
- (C) Partners.
- (D) Employer and employee.
- (E) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and such organization.
- (F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.
- (G) Any person who controls any other person and such other person.

Based on the information contained in Shikoku’s questionnaire responses, we preliminarily find that Shikoku is affiliated with its U.S. importer, Shikoku International Corporation (“SIC”), pursuant to sections 771(33)(B), (E) and (G) of the Act, based on the sharing of a common officer/director, and more than five percent ownership and control.<sup>19</sup> Accordingly, the Department calculated dumping margins on Shikoku’s U.S. sales of isos during the POI using

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<sup>15</sup> *Id.*, 78 FR at 59000.

<sup>16</sup> See Memorandum to the File from Julia Hancock, Senior International Trade Compliance Analyst, Office 9 “Customs Data of U.S. Imports of Chlorinated Isocyanurates” (September 19, 2013).

<sup>17</sup> See Memorandum to Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, from James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, “Chlorinated Isocyanurates from Japan: Respondent Selection” (November 26, 2013).

<sup>18</sup> See Memorandum to Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, from James C. Doyle, Director, Office V, Enforcement and Compliance “Chlorinated Isocyanurates from Japan: Revised Respondent Selection Memorandum” (January 7, 2014).

<sup>19</sup> See Shikoku’s Section A Response at A-6 through A-11.

SIC's sales to the first unaffiliated U.S. customer. Additionally, we preliminarily find that Shikoku, Shikoku Kosan Corporation, and Shikoku Analytical Laboratories are affiliated, pursuant to sections 771(B) and (E) of the Act, based on common officer/director and more than five percent ownership.<sup>20</sup> Accordingly, the Department performed the arm's-length test of Shikoku's home market isos sales to its affiliates, Shikoku Kosan Corporation and Shikoku Analytical Laboratories. Further, we preliminarily find that Shikoku and its U.S. importer, SIC, are not affiliated with SIC's Customer A<sup>21,22</sup> pursuant to section 771(33) of the Act. For a full discussion of the proprietary details of this issue, *see* Shikoku Affiliation Memo dated concurrently with, and hereby adopted by, this memorandum.

### All Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated "all others" rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely under section 776 of the Act.

Specifically, this rate of 63.71 percent is based on a weighted average using each company's publicly ranged values for U.S. exports of subject merchandise. Because we cannot apply our normal methodology of calculating a weighted-average margin due to requests to protect business-proprietary information, we find this rate to be the best proxy of the actual weighted-average margin determined for these respondents.<sup>23,24</sup>

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<sup>20</sup> *Id.*, at Exhibits A-4 and A-5.

<sup>21</sup> Because the identity of Customer A is business proprietary information, for further discussion, *see* Memorandum to the File through Scot Fullerton, Program Manager, Office V, from Julia Hancock, Senior International Trade Analyst, Office V, "Antidumping Duty Investigation of Chlorinated Isocyanurates from Japan: Preliminary Determination of Affiliation for Shikoku Chemicals Corporation" (April 14, 2014) ("Shikoku Affiliation Memo"), and hereby adopted by, this memorandum.

<sup>22</sup> On March 28, 2014, Shikoku submitted a supplemental questionnaire regarding it and SIC's relationship with Customer A. *See* Shikoku's Second Supplemental Section A Questionnaire Response (March 28, 2014). Additionally, on April 2, 2014, Shikoku submitted a late supplement to Shikoku's Second Supplemental Section A Questionnaire Response, which the Department determined to accept and permit the information to remain on the record. *See* Shikoku's April 2, 2014, Additional Materials Pertaining to March 21<sup>st</sup> Supplemental Section A Questionnaire (April 2, 2014); Memorandum to the File, from Julia Hancock, Senior International Trade Analyst, Office V, "Chlorinated Isocyanurates from Japan: Antidumping Duty Investigation: April 2, 2014, Submission of Shikoku Chemicals Corporation" ("April 3, 2014). Given the close proximity to the deadline for the preliminary determination and the current time constraints, we were unable to consider all of the information contained within Shikoku's March 28, 2014, response and April 2, 2014, response for this preliminary determination. However, the Department will consider the information in Shikoku's March 28, 2014, response and April 2, 2014, response for the final determination and may supplement Shikoku on its and SIC's relationship with Customer A. This information will be examined in the context of verification.

<sup>23</sup> *See, e.g., Certain Frozen Warmwater Shrimp From India: Final Results of Antidumping Duty Administrative Review, Partial Rescission, and Final No Shipment Determination*, 76 FR 41205, 41205 (July 13, 2011).

<sup>24</sup> *See* Memorandum to the File from Julia Hancock and Jerry Huang, Senior Case Analysts, Office V, Enforcement and Compliance, Subject: Chlorinated Isocyanurates from Japan: Calculation of All-Others' Rate in Preliminary Determination (April 14, 2014).

## Determination of the Comparison Method

### *A. Differential Pricing Analysis*

Pursuant to 19 CFR 351.414(c) (2013), the Department calculates dumping margins by comparing weighted-average normal values (“NVs”) to weighted-average export prices (“EPs”) (or constructed export prices (“CEPs”)) (the average-to-average method) unless the Secretary determines another method is appropriate in a particular situation. The Department’s regulations also provide that dumping margins may be calculated by comparing NVs, based on individual transactions, to EPs (or CEPs) of individual transactions (transaction-to-transaction method) or, when certain conditions are satisfied, by comparing weighted-average NVs to EPs (or CEPs) of individual transactions (average-to-transaction method).<sup>25</sup> In recent investigations, the Department applied a “differential pricing” analysis for determining whether application of the average-to-average method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1).<sup>26</sup> The Department may determine that in particular circumstances, consistent with section 777A(d)(1)(B) of the Act, it is appropriate to use the average-to-transaction method. The Department will continue to develop its approach in this area based on comments received in this investigation and on the Department’s additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating weighted-average dumping margins.

The differential pricing analysis used in this preliminary determination requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differs significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average to average method to calculate the weighted-average dumping margin. The differential pricing analysis used in this preliminary determination evaluates all purchasers, regions, and time periods to determine whether a pattern of significant price differences exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the customer codes reported by Nankai and Shikoku. Regions are defined using the reported destination code (*i.e.*, zip code or state designation) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POI being examined based upon the reported date of sale. For purposes of analyzing sales transactions by customer, region and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region, and time period, that the Department uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen’s *d* test is applied when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts

<sup>25</sup> See 19 CFR 351.414(b)(1) and (2).

<sup>26</sup> See, *e.g.*, *Xanthan Gum From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33350 (June 4, 2013), and accompanying Issues and Decision Memorandum at Comment 3.

for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen's *d* coefficient is calculated to evaluate the extent to which the net prices to a particular purchaser, region, or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen's *d* test: small, medium or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant if the calculated Cohen's *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for 66 percent or more of the value of total sales, then the identified pattern of EPs that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen's *d* test as an alternative to the average-to-average method and application of the average-to-average method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the average-to-average method.

If both tests in the first stage (*i.e.*, the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of EPs that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether using only the average-to-average method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average to average method only. If the difference between the two calculations is meaningful, this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if 1) there is a 25 percent or greater relative change in the weighted-average dumping margin between the average-to-average method and the appropriate alternative method where both rates are above the *de minimis* threshold, or 2) the resulting weighted-average dumping margin moves across the *de minimis* threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in this preliminary determination, including arguments for modifying the group definitions used in this proceeding.

*B. Results of the Differential Pricing Analysis*

*i. Nankai*

Based on the results of the differential pricing analysis, the Department finds that more than 66 percent of Nankai's export sales confirm the existence of a pattern of EPs for comparable merchandise that differ significantly among time periods. Further, the Department determines that the average-to-average method can appropriately account for such differences because there is not a meaningful difference in the weighted-average dumping margins when calculated using the average-to-average method and the average-to-transaction method. Accordingly, the Department preliminarily determines that it is appropriate to use the average-to-average method for all U.S. sales in making comparisons of EP and NV for Nankai.<sup>27</sup>

*ii. Shikoku*

Based on the results of the differential pricing analysis, the Department finds that more than 33 percent but less than 66 percent of Shikoku's export sales confirm the existence of a pattern of CEPs for comparable merchandise that differ significantly among time periods. Further, the Department determines that the average-to-average method can appropriately account for such differences because there is not a meaningful difference in the weighted-average dumping margins when calculated using the average-to-average method and the average-to-transaction method. Accordingly, the Department preliminarily determines that it is appropriate to use the average-to-average method for all U.S. sales in making comparisons of CEP and NV for Shikoku.<sup>28</sup>

**DISCUSSION OF METHODOLOGY**

**A. Fair Value Comparisons**

To determine whether Nankai's and Shikoku's sales of isos from Japan to the United States were made at LTFV, we compared EP, or CEP where appropriate, to the NV as described in the "Export Price," "Constructed Export Price," and "Normal Value" sections of this memo, below. In accordance with section 777A(d)(1)(B) of the Act, we compared weighted-average EPs for Nankai and weighted-average CEPs for Shikoku to POI weighted-average NVs.

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<sup>27</sup> See Memorandum to the File, through Scot Fullerton, Program Manager, Office V, from Jerry Huang, Senior Analyst, re; Calculations Performed for Nankai Chemical Co., Ltd. ("Nankai") for the Preliminary Determination in the Antidumping Duty Investigation of Chlorinated Isocyanurates from Japan ("Japan"), ("Nankai Prelim Analysis Memo"), dated concurrently with this memorandum and herein incorporated by reference.

<sup>28</sup> See Memorandum to the File, through Scot Fullerton, Program Manager, Office V, from Julia Hancock, Senior Analyst, re; Calculations Performed for Shikoku Chemicals Corporation ("Shikoku") for the Preliminary Determination in the Antidumping Duty Investigation of Chlorinated Isocyanurates from Japan ("Japan"), ("Shikoku Prelim Analysis Memo"), dated concurrently with this memorandum and herein incorporated by reference.

## B. Product Comparisons

In making product comparisons, we matched foreign like products based on the physical characteristics established by the Department and reported by Nankai and Shikoku, respectively, in the following order of importance: chemical structure, free available chlorine content, physical form, and packaging.<sup>29,30</sup> The goal of the product characteristic hierarchy is to identify the best possible matches with respect to the characteristics of the merchandise. While variations in cost may suggest the existence of variation in product characteristics, such variations do not constitute differences in products in and of themselves. As the Department noted "...selection of model match characteristics {is based} on unique measurable physical characteristics that the product can possess," and "differences in price or cost, standing alone, are not sufficient to warrant inclusion in the Department's model-match of characteristics which a respondent claims to be the cause of such differences."<sup>31</sup>

## C. Date of Sale

19 CFR 351.401(i) states that, in identifying the date of sale of the merchandise under consideration or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business. Additionally, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.<sup>32</sup> The Court of International Trade ("CIT") stated that a "party seeking to establish a date of sale other than invoice date bears the burden of producing sufficient evidence to 'satisfy' the Department that a different date better reflects the date on which the exporter or producer establishes the material terms of sale."<sup>33</sup> Alternatively, the Department may exercise its discretion to rely on a date other than invoice date if the Department "provides a rational explanation as to why the alternative date 'better reflects' the date when 'material terms' are established."<sup>34</sup> The date of sale is generally the date on which the parties establish the material terms of the sale,<sup>35</sup> which normally includes the price, quantity, delivery terms and payment terms.<sup>36</sup>

<sup>29</sup> See Letter from Scot Fullerton, Program Manager, Office V, Enforcement & Compliance, to Nankai Chemical Company, Ltd., Re: Chlorinated Isocyanurates from Japan: Antidumping Duty Questionnaire (January 8, 2014) at B-8 and B-9.

<sup>30</sup> In Shikoku's supplemental Section B questionnaire response, Shikoku noted that it identified a reporting error in how it reported the packaging product characteristic of the CONNUM and corrected this error. See Shikoku's Supplemental Section B Questionnaire Response (March 26, 2014) at B-1. Given the close proximity to the deadline for the preliminary determination and the current time constraints, we were unable to supplement this issue for consideration for the preliminary determination. However, the Department will supplement Shikoku on this issue after the preliminary determination. This information will be examined in the context of verification.

<sup>31</sup> See *Notice of Final Determinations of Sales at Less Than Fair Value; Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from Turkey*, 65 FR 15 123 (March 21, 2000), and accompanying Issues and Decision Memorandum, at Model Match Comment 1.

<sup>32</sup> See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)).

<sup>33</sup> See *Allied Tube*, 132 F. Supp. 2d at 1090 (brackets and citation omitted).

<sup>34</sup> See *SeAH Steel Corp. v. United States*, 25 CIT 133, 135 (CIT 2001).

<sup>35</sup> See 19 CFR 351.401(i).

<sup>36</sup> See *USEC Inc. v. United States*, 31 CIT 1049, 1055 (CIT 2007).

### *Nankai*

Nankai reported the invoice date to the first unaffiliated customer as the date of sale for both home market sales and U.S. sales.<sup>37</sup> In light of the Department's preference for using a uniform date of sale under section 19 CFR 351.401(i), the Department preliminarily used the invoice date as the date of sale for all of Nankai's sales of merchandise under consideration made during the POI.

### *Shikoku*

For Shikoku's home market sales, Shikoku reported two channels of distribution for its home market sales of isos during the POI.<sup>38</sup> For both channels, Shikoku reported the date of shipment as its date of sale in the home market because changes in the quantity and price of the merchandise can and did change up to the time of shipment, which is set a few days after receipt of the purchase order.<sup>39</sup> Shikoku stated that the delivery note issued to the customer when the merchandise is shipped from the factory to the home market customer establishes the quantity and price of the merchandise and thus the terms of sale.<sup>40</sup> According to Shikoku, it issues monthly invoices to the home market customer for merchandise delivered during that period and that the delivery note confirms physical shipment of the merchandise.<sup>41</sup> Because the delivery note issued to the home market customers establishes the material terms of sale and the date of shipment (*i.e.*, the date of the delivery note) precedes the date of invoice, the Department used the date of shipment as Shikoku's date of sale in the home market.

For Shikoku's U.S. sales, Shikoku reported two channels of distribution for its U.S. sales of isos during the POI. The two channels-of-distribution are: 1) U.S. Channel 1: CEP sales shipped directly from Shikoku in Japan to SIC's U.S. customers; and 2) U.S. Channel 2: CEP sales that Shikoku ships from Japan to SIC in the United States where SIC subsequently withdraws from inventory for delivery to the U.S. customer.<sup>42</sup> For U.S. Channel 1, Shikoku stated that the quantity and price for each sale are fixed at the time of shipment from Japan directly to SIC's unaffiliated U.S. customers.<sup>43</sup> The record evidence shows that the date of shipment for sales made through U.S. Channel 1 is based on the "shipment report."<sup>44</sup> According to Shikoku, SIC issues the invoice to the unaffiliated U.S. customer when delivery is confirmed by the customer, which results in a delay between the date of shipment and the date of invoice.<sup>45</sup>

For U.S. Channel 2, Shikoku stated that the quantity and price of each sale are fixed when the merchandise is withdrawn from inventory and shipped to the U.S. customer.<sup>46</sup> According to

<sup>37</sup> See Nankai's Section C questionnaire response ("SCQR"), dated February 19, 2014, at 12.

<sup>38</sup> See Shikoku's Section A Response, (December 23, 2013) at A-10.

<sup>39</sup> See Shikoku's Supplemental Section A Response (March 18, 2014) at 16 and Exhibit 17.

<sup>40</sup> See Shikoku's Supplemental Section B Response (March 26, 2014) at 2.

<sup>41</sup> *Id.*

<sup>42</sup> See Shikoku's Section A Response at A-11 and A-12.

<sup>43</sup> See Shikoku's Supplemental Section C Response (March 21, 2014) at 4-5.

<sup>44</sup> *Id.*, at Exhibit SC-4.

<sup>45</sup> *Id.*, at 4-5 and Exhibit SC-4.

<sup>46</sup> See Shikoku's Supplemental Section A Response at 12.

Shikoku, the "Order Release" authorizes the warehouse to release the merchandise for shipment to SIC's unaffiliated U.S. customers, and is the basis for the date of shipment for sales through U.S. Channel 2.<sup>47</sup> There is typically a small delay of time from when the merchandise is shipped to the unaffiliated U.S. customer, for U.S. channel 2, and the date that SIC issues the invoice for these sales.<sup>48</sup> Because the shipment document issued to the unaffiliated U.S. customer for both U.S. Channel 1 and U.S. Channel 2 establishes the material terms of sale, and the date of shipment precedes the date of invoice, the Department used the date of shipment as Shikoku's date of sale in the U.S. market.

#### D. Export Price ("EP")

Section 772(a) of the Act defines EP as "the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c)." As explained below, we based the U.S. price on EP for Nankai.

For Nankai, in accordance with section 772(a) of the Act, the Department based the U.S. price on EP for sales to the United States because the first sale to an unaffiliated party was made before the date of importation and the use of CEP was not otherwise warranted. The Department calculated EP based on the sales price to unaffiliated purchasers in the United States. We also made adjustments for credit expenses and certain indirect selling expenses, as appropriate. We made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act; these expenses included, where appropriate, foreign inland freight, foreign warehousing, foreign brokerage and handling, international freight, and marine insurance.<sup>49</sup>

#### E. Constructed Export Price ("CEP")

In accordance with section 772(b) of the Act, CEP is the price at which the merchandise under consideration is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter.

For purposes of this investigation, Shikoku classified all of its sales of isos to the United States as CEP sales. Shikoku reported that it sold the merchandise under consideration to its affiliated U.S. importer, SIC, which then re-sold the merchandise to the unaffiliated U.S. customer. Further, we concluded that EP, as defined by section 772(a) of the Act, was not otherwise warranted. We calculated CEP based on the packed, delivered prices to unaffiliated purchasers in the United States. We made adjustments to the prices for billing adjustments, *i.e.*, discounts reported by SIC. We adjusted these prices for movement expenses, including foreign inland freight, warehousing in the country of manufacture, brokerage and handling incurred in the country of manufacture, international freight, marine insurance, U.S. brokerage and handling,

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<sup>47</sup> *Id.*, at Exhibit 18.

<sup>48</sup> See Shikoku's Supplemental Section A Response at 12.

<sup>49</sup> See Nankai Prelim Analysis Memo.

U.S. inland freight, U.S. warehousing, U.S. inland freight from the warehouse to the unaffiliated U.S. customer, other U.S. transportation expenses<sup>50</sup>, and U.S. customs duties, in accordance with section 772(c)(2)(A) of the Act. In accordance with section 772(d)(1) of the Act, we also deducted selling expenses associated with economic activities occurring in the United States, which includes commissions, direct selling expenses (credit expenses and royalties) and indirect selling expenses (inventory carrying costs and indirect selling expenses). Pursuant to the Department's practice, we recalculated Shikoku's credit expenses by subtracting discounts from the gross unit price.<sup>51</sup> In accordance with section 772(f) of the Act, the Department calculated the CEP profit rate using the expenses incurred by Shikoku and its U.S. importer/affiliate, SIC, related to their sales of the foreign like product in the comparison market and their sales of the merchandise under consideration in the United States and the profit associated with those sales.

### Normal Value

#### A. Home Market Viability

To determine whether there was a sufficient volume of sales in Japan to serve as a viable basis for calculating NV, we compared Nankai and Shikoku's volume of home market sales of the foreign like product to the company's U.S. sales volumes, in accordance with section 773(a)(1)(B) of the Act. As the volume of home market sales of the foreign like product exceeded five percent of Nankai and Shikoku's aggregate U.S. sales volumes of the subject merchandise, we preliminarily determine that the home market was viable for comparison purposes.<sup>52</sup>

#### B. Affiliated Party Transactions and Arm's-Length Test

The Department may calculate NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the exporter or producer, *i.e.*, sales were made at arm's-length prices.<sup>53</sup> The Department excludes home market sales to affiliated customers that are not made at arm's-length prices from our margin analysis because we consider them to be outside the ordinary course of trade. Consistent with 19 CFR 351.403(c) and (d) and our practice, "the Department may calculate normal value based on sales to affiliates if satisfied that the transactions were made at arm's length."<sup>54</sup>

To test whether Nankai and Shikoku's home market sales to affiliated customers were made at arm's-length prices, the Department compared these prices to the prices of sales of comparable merchandise to unaffiliated customers, net of all discounts and rebates, movement charges, direct

<sup>50</sup> See Shikoku's Section C Response at C-21 and C-22.

<sup>51</sup> See *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Critical Circumstances Determination: Bottom Mount Combination Refrigerator-Freezers From Mexico*, 76 FR 67688 (November 2, 2011).

<sup>52</sup> See Nankai's Section A Response at A-3 and Exhibit A-1; Shikoku's Section A Response at A-2 and Exhibit A-1.

<sup>53</sup> See 19 CFR 351.403(c).

<sup>54</sup> See *China Steel Corp. v. United States*, 264 F. Supp. 2d 1339, 1365 (CIT 2003) (citing *Light-Walled Rectangular Pipe and Tube From Mexico: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 55352, 55355 (September 7, 2011)).

selling expenses, and packing. Pursuant to 19 CFR 351.403(c) and in accordance with our practice, when the prices charged to an affiliated customer were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise comparable to that sold to the affiliated customer, the Department determined that the sales to that affiliated customer were at arm's-length prices.<sup>55</sup> The Department excluded from its analysis all of Nankai and Shikoku's sales to an affiliated customer for consumption in the home market where we determined that these sales, on average, were not sold at arm's-length prices.<sup>56</sup>

### C. Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Act and the Statement of Administrative Action accompanying the Uruguay Round Agreements Act,<sup>57</sup> to the extent practicable, the Department determines NV based on sales in the comparison market at the same level of trade ("LOT") as EP or CEP. Pursuant to 19 CFR 351.412(c)(1), in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either home market or third-country prices), we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and CEP profit under section 772(d) of the Act.<sup>58</sup> Where NV is based on constructed value ("CV"), we determine the NV LOT based on the LOT of the sales from which we derive selling, general, and administrative expenses, and profit for CV, where possible.

To determine whether comparison market sales are at a different LOT than EP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer.<sup>59</sup> If the comparison market sales are at a different LOT and the difference affects price comparability, as described in 19 CFR 351.412(d) and as manifested in a pattern of consistent price differences between the sales on which NV is based and the comparison market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act.

Shikoku reported that it made its home market sales through two channels-of-distribution: 1) Home Market Channel 1: Shikoku's sales offices sell directly to distributors that resell Shikoku's isos merchandise to retailers and end-users; and 2) Home Market Channel 2: Shikoku sells isos products directly to distributors and industrial end-users.<sup>60</sup> The Department finds that the selling activities in the two channels of distribution in the home market are essentially the same, such as sales forecasting, direct sales personnel, market research, technical assistance, etc.<sup>61</sup> The Department notes that there are different levels of selling activities in the two channels of distribution for advertising, sales promotion, distributor/dealer training, packing, and

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<sup>55</sup> See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69187 (November 15, 2002).

<sup>56</sup> See Nankai's Section A Response at A-2 and Shikoku's Section A Response at A-2; see also Nankai Prelim Analysis Memo and Shikoku Prelim Analysis Memo for a detailed discussion of the Arm's-Length-Test.

<sup>57</sup> See H.R. Doc. No. 316, 103d Cong., 2d Sess. 829-831 (1994).

<sup>58</sup> See *Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314 (Fed. Cir. 2001).

<sup>59</sup> See 19 CFR 351.412(c)(2).

<sup>60</sup> See Shikoku's Section A Response at A-11.

<sup>61</sup> *Id.*, at A-14 to A-16 and Exhibit A-10.

sales/marketing support.<sup>62</sup> However, in totality, the level of selling activities are essentially the same in the two channels of distribution and thus, the Department finds that Shikoku's home market sales are at a single level of trade.

In the U.S. market, Shikoku sold the merchandise to its U.S. importer/affiliate, SIC, through two channels of distribution (*i.e.*, direct sales from Japan through the U.S. importer/affiliate, SIC, to the unaffiliated U.S. customer; and SIC's sales that were held in inventory in SIC's unaffiliated U.S. warehouses, which shipped the merchandise to the unaffiliated U.S. customer) to the unaffiliated U.S. customers, who were primarily tableters, and to a limited extent, distributors and repackers.<sup>63</sup> Therefore, the Department considered Shikoku's CEP sales in the United States to constitute only one LOT. The Department compared the selling activities reported by Shikoku at the CEP LOT with its selling activities at the comparison market LOT. The Department found that sales at the comparison market LOT involved high levels of sales forecasting, strategic/economic planning, distributor/dealer training, packing, sales/marketing support, market research, technical assistance, and provide after-sales service. In contrast, the Department finds that these identical selling activities were at a much lower level for sales at the CEP LOT.<sup>64</sup> Additionally, the Department finds that sales at the CEP LOT involved engineering services, advertising, sales promotion, and direct sales personnel compared to the sales in the comparison market.<sup>65</sup> Therefore, we considered the comparison market sales to be at a different LOT and at a more advanced stage of distribution than the CEP LOT.

In contrast to the many selling activities performed by Shikoku for sales in Japan, the record shows the relatively limited selling functions that Shikoku performs for sales to its U.S. affiliate, SIC. For example, in the home-market, Shikoku had high levels of sales forecasting, market research, engineering services, advertising, distributor/dealer training, and sales marketing support. In contrast, for its sales to the U.S. affiliate, SIC, Shikoku had no advertising, engineering services, or sales marketing support.

The Department also considered the role played by Shikoku's U.S. importer/affiliate, SIC, to be relevant in its decision to grant a CEP offset to Shikoku.<sup>66</sup> In such cases, the Department found that evidence showing that the U.S. affiliate performs significant selling activities in the U.S. market supports the conclusion that the foreign producer's sales in the comparison market are made at a more advanced LOT than CEP sales. The Department's reasoning, as explained in past cases, is that if the U.S. affiliate performs significant selling activities in the U.S. market that are handled by the foreign producer in the comparison market, then the comparison-market LOT is necessarily more advanced than the CEP LOT, which excludes the activities performed

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<sup>62</sup> *Id.*, at Exhibit A-10.

<sup>63</sup> *Id.*, at A-13.

<sup>64</sup> *Id.*, at Exhibit A-10.

<sup>65</sup> *Id.*, at Exhibit A-10.

<sup>66</sup> *See, e.g., Stainless Steel Sheet and Strip in Coils from Germany; Notice of Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 45024, 45029 (August 6, 2006) (finding that in the home market the respondent made sales "further down the chain of distribution by providing certain downstream selling functions that are normally performed by the affiliated resellers in the U.S. market") (unchanged in *Stainless Steel Sheet and Strip in Coils from Germany; Notice of Final Results of Antidumping Duty Administrative Review*, 71 FR 74897 (December 13, 2006)).

by the U.S. affiliate from the price, pursuant to section 772(d) of the Act.<sup>67</sup> Thus, the Department finds that Shikoku's CEP LOT is different from its home-market LOT and at a less advanced stage of distribution than the home-market level of trade.

Because the comparison market LOT was different from the CEP LOT, the Department could not match to sales at the same LOT in the comparison market. Moreover, because the CEP LOT did not exist in the comparison market, there is no basis for an LOT adjustment. Therefore, for Shikoku's CEP sales, the Department made a CEP offset adjustment in accordance with section 773(a)(7)(B) of the Act. The CEP offset adjustment to NV is subject to a cap, which is calculated as the sum of comparison market indirect selling expenses up to the amount of U.S. indirect selling expenses deducted from CEP.

#### D. Cost of Production

As noted in the "Background" section above, we received allegations from Petitioners that Nankai and Shikoku made home market sales at prices below the COP. Based on our analysis of these allegations, we initiated a company-specific investigation on Nankai and Shikoku, respectively, to determine whether sales of isos in the home market were made at prices below their COPs.

##### 1. Calculation of COP

We calculated each respondent's COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for selling, general and administrative ("SG&A") expenses, in accordance with section 773(b)(3) of the Act.<sup>68</sup>

Based on our review of the record evidence, neither Nankai nor Shikoku appear to have experienced significant changes in the cost of manufacturing during the POI. Therefore, we followed our normal methodology of calculating an annual weighted-average cost. The Department relied on the COP data provided by the respondents in its most recently submitted cost database for the COP calculation, except as follows. For Shikoku, we calculated and applied an adjustment to the reported cost of manufacturing to reflect the market value of an input purchased from an affiliated supplier. We also adjusted the cost of goods sold denominator of the general and administrative expenses ratio to exclude packing expenses.<sup>69</sup>

##### 2. Test of Comparison Market Sales Prices

Pursuant to section 773(b) of the Act, we compared the weighted average of the COP for the POI to the per-unit price of the comparison market sales of the foreign like product to determine

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<sup>67</sup> See *Certain Frozen Warmwater Shrimp from Thailand: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 47551 (September 16, 2009), and accompanying Issues and Decision Memorandum at Comment 8.

<sup>68</sup> See "Test of Comparison Market Sales Prices" section, below, for treatment of comparison market selling expenses.

<sup>69</sup> For additional details, see Memorandum to Neal M. Halper, Director, Office of Accounting, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Shikoku Chemicals Corporation," dated April 14, 2014.

whether these sales had been made at prices below the COP within an extended period of time in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. The Department determined the net comparison market prices for the below cost test by subtracting from the gross unit price any applicable movement charges, discounts, rebates, billing adjustments, direct and indirect selling expenses, and packing expenses.<sup>70</sup>

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of sales of a given product were at prices less than the COP, we disregarded no below-cost sales of that product because we determined that the below-cost sales were not made in substantial quantities. Where 20 percent or more of a respondent's home market sales of a given model were at prices less than the COP, we disregarded the below-cost sales because (1) they were made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act and (2) based on our comparison of prices to the weighted average COP, they were at prices which would not permit the recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act.

### 3. Results of the COP Test

Our cost test for Nankai and Shikoku indicated that for comparison market sales of certain products, more than 20 percent were sold at prices below the COP within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time. Thus, in accordance with section 773(b)(1) of the Act, we disregarded these below-cost sales and used the remaining above-cost sales to determine NV.<sup>71</sup>

### 4. Constructed Value

In accordance with section 773(e) of the Act, we calculated CV for Nankai and Shikoku based on the sum of its material and fabrication costs, SG&A expenses, profit, and U.S. packing costs. We calculated the COP component of CV as described above in the "Cost of Production" section of this memorandum. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by Nankai and Shikoku in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the comparison market.

### 5. Calculation of Normal Value Based on Comparison Market Prices

For those comparison products for which there were an appropriate number of sales at prices above the COP for Shikoku, we based NV on comparison market prices. We calculated NV based on packed, ex-factory or delivered prices to unaffiliated customers in Japan.

When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, the Department also made adjustments for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. The Department

<sup>70</sup> See Nankai Prelim Analysis Memo; Shikoku Prelim Analysis Memo.

<sup>71</sup> *Id.*

based this adjustment on the difference in the variable cost of manufacturing for the foreign like products and the merchandise under consideration.<sup>72</sup>

We adjusted the starting price for foreign inland freight to the distribution warehouse, foreign inland freight from distribution warehouse to the customer, and warehousing expenses, pursuant to section 773(a)(6)(B) of the Act. Additionally, the Department has not treated Shikoku's reported freight revenue as an addition to Shikoku's price, pursuant to section 772(c)(1) of the Act or as a price adjustment under 19 CFR 351.102(b)(38). The Department stated that, although we will offset freight expenses with freight revenue, where freight revenue earned by a respondent exceeds the freight charge incurred for the same type of activity, the Department will cap freight revenue at the corresponding amount of freight charges incurred because it is inappropriate to increase gross unit selling price for subject merchandise as a result of profit earned on the sale of services (*i.e.*, freight).<sup>73</sup> Instead, the Department followed its past practice of offsetting the total expenses for foreign inland freight by Shikoku's reported freight revenue.<sup>74</sup>

Pursuant to section 773(a)(6)(B)(ii) of the Act, the Department did not deduct Shikoku's reported discounts as a billing adjustment from the starting price. In its home market database, Shikoku reported a discount that Shikoku provided for certain customers. The Department will grant adjustments to the price, such as discounts, rebates, and post-sale price adjustments that affect the net outlay of funds by the purchaser.<sup>75</sup> Because there is no documentary record evidence that these reported adjustments affected the net outlay of funds by the purchaser, the Department is not treating these adjustments as discounts.<sup>76</sup> Due to the proprietary nature of these transactions, for further discussion, *see* Shikoku Prelim Analysis Memo.

The Department made adjustments for differences in packing, in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act, and in circumstances of sale (imputed credit expenses and certain reported direct selling expenses (*i.e.*, advertising expenses, warranty expenses, and bank charges), in accordance with section 773(a)(6)(c)(iii) of the Act and 19 CFR 351.410. Additionally, the Department did not treat Shikoku's reported technical service expenses as a direct selling expense. In its questionnaire responses, Shikoku stated that it reported all technical service expenses as direct selling expenses and thus reported no technical

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<sup>72</sup> See 19 CFR 351.411(b); Shikoku Prelim Analysis Memo.

<sup>73</sup> See *Multilayered Wood Flooring From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 76 FR 64318 (October 18, 2011), and accompanying Issues and Decision Memorandum at Comment 39; *Certain Orange Juice From Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Antidumping Duty Order in Part*, 75 FR 50999 (August 18, 2010), and accompanying Issues and Decision Memorandum at Comment 2.

<sup>74</sup> See *Circular Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review*, 77 FR 61738 (October 11, 2012) and accompanying Issues and Decision Memorandum at Comment 3.

<sup>75</sup> See *Antidumping Duties, Countervailing Duties; Final Rule*, 62 FR 27296, 27300 (*Final Rule*) and 19 CFR 351.102 (definition of price adjustment) and 19 CFR 351.401(c).

<sup>76</sup> See *Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Canada: Final Results of Antidumping Duty Administrative Reviews and Determination to Revoke in Part*, 64 FR 2173 (January 13, 1999) and accompanying Issues and Decision Memorandum at Comment 1; *Notice of Final Determination of Sales at Less Than Fair Value: Hand Trucks and Certain Parts Thereof from the People's Republic of China*, 69 FR 60980 (October 14, 2004) and accompanying Issues and Decision Memorandum at Comment 5.

services expenses as indirect selling expenses.<sup>77</sup> The Department notes that Shikoku's reported technical service expenses includes maintenance for merchandise that the Department is unable to determine whether it should be classified as subject merchandise for the preliminary determination, as discussed below.<sup>78</sup> The Department is treating Shikoku's technical service expenses as an indirect selling expense because there is insufficient record evidence to determine that all reported technical service expenses are directly related to sales of Shikoku's isos products in the home market and Shikoku's isos customers.<sup>79</sup>

Moreover, the Department is not making an adjustment, either as a direct or indirect selling expense, for Shikoku's reported other direct selling expense for providing certain merchandise<sup>80</sup> to some of Shikoku's customers and the freight expenses for providing this merchandise. In its questionnaire responses, Shikoku stated that the expense of providing this merchandise to Shikoku's customers bears a direct relationship to future sales of Shikoku's isos products in the home market. However, the Department finds there is insufficient record evidence to conclusively establish that this merchandise is subject merchandise, that this merchandise is shipped with isos products, that this merchandise is only compatible with Shikoku's isos products, and that this merchandise, either directly or indirect, bears a relationship to the sale of Shikoku's isos in the home market.<sup>81</sup> Accordingly, because there is insufficient record evidence to determine how to treat the expense incurred for providing this merchandise to some of Shikoku's customers and the accompanying freight cost, the Department is not making an adjustment to Shikoku's NV by the reported expenses for this merchandise. However, the Department will further request supplemental information from Shikoku on this issue for consideration in the final determination. This information will be examined by the Department in the context of verification.

In accordance with 19 CFR 351.410(e), the Department also made adjustments to Shikoku's NV for indirect selling expenses and inventory carrying costs incurred in the comparison market. Additionally, in accordance with 19 CFR 351.410(e), the Department made an adjustment for U.S. market sales where commissions were granted on sales in one market and not in the other market. Specifically, because commissions were paid only in the U.S. market, the Department made a downward adjustment to NV for the lesser of: (1) the amount of commission paid in the home market; or (2) the amount of the indirect selling expenses incurred in the home market on U.S. sales.<sup>82</sup> In accordance with sections 773(a)(6)(A) and (B) of the Act, the Department also deducted home market packing costs, and added U.S. packing costs.

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<sup>77</sup> See Shikoku's Section B Supplemental Response at 8-9.

<sup>78</sup> *Id.*

<sup>79</sup> See *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews*, 64 FR 35590 (July 1, 1999) and accompanying Issues and Decision Memorandum at Comment 1.

<sup>80</sup> Because of the business proprietary information of this merchandise, for further discussion, see Shikoku Prelim Analysis Memo.

<sup>81</sup> Because of the business proprietary information, for further discussion, see Shikoku Prelim Analysis Memo.

<sup>82</sup> See 19 CFR 351.410(e); *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 10943, (February 25, 2014) and accompanying Decision Memorandum at Calculation of Normal Value Based on Comparison Market Prices.

**Currency Conversion**

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

**Verification**

As provided in section 782(i) of the Act, the Department intends to verify information relied upon in making our final determination.

**International Trade Commission Notification**

In accordance with section 733(f) of the Act, we notified the ITC of our preliminary affirmative determination of sales at LTFV. Section 735(b)(2) of the Act requires the ITC to make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of isos, or sales (or the likelihood of sales) for importation, of the merchandise under consideration within 45 days of our final determination.

We will make our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(1) of the Act.

**RECOMMENDATION**

We recommend applying the above methodology for this preliminary determination.

✓  
Agree

\_\_\_\_\_  
Disagree

*Paul Piquado*  
Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

14 APRIL 2014  
(Date)