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August 5, 2016

MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for Preliminary Results of Antidumping
Duty Administrative Review and Preliminary Determination of No
Shipments: Polyethylene Terephthalate Film, Sheet, and Strip from
Taiwan; 2014-2015

Summary

The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on polyethylene terephthalate film, sheet, and strip from Taiwan (PET Film). This review covers Nan Ya Plastics Corporation (Nan Ya) and Shinkong Materials Technology Corporation (SMTC). The period of review (POR) is July 1, 2014, through June 30, 2015. We preliminarily find that Nan Ya did not sell PET Film in the United States below normal value (NV). We also preliminarily find that SMTC had no reviewable sales during the POR.

Background

In July 2002, the Department published in the *Federal Register* an antidumping duty order PET film from Taiwan.¹ Subsequently, on July 1, 2015, the Department published in the Federal

¹ See *Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Taiwan*, 67 FR 44174 (July 1, 2002).



Register a notice of opportunity to request an administrative review of the antidumping duty order on PET film from Taiwan for the period July 1, 2014, through June 30, 2015.²

On July 31, 2015, in accordance with section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b)(1), Petitioners³ requested reviews of Nan Ya and SMTC.⁴ On September 2, 2015, accordance with 19 CFR 351.221(c)(1)(i), the Department published a notice of initiation of administrative review of the antidumping duty order on PET Film from Taiwan.⁵ On September 3, 2015, the Department issued its standard questionnaire to both Nan Ya and SMTC.⁶ Nan Ya submitted its questionnaire responses between October 6, 2015 and June 27, 2016.⁷

As explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll all administrative deadlines by four business days due to the closure of the Federal Government in January 2016 for Snowstorm Jonas.⁸ On March 10, 2016, in accordance with section 751(a)(3)(A) of the Act, the Department extended the due date for the preliminary results by an additional 120 days (from the tolled deadline of April 7, 2016) to August 5, 2016.⁹

Scope of the Order

The products covered by the antidumping duty order are all gauges of raw, pretreated, or primed PET film, whether extruded or coextruded. Excluded are metalized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches thick. Imports of polyethylene terephthalate film, sheet, and strip are currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3920.62.00.90. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the AD order is dispositive.

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 80 FR 37583 (July 1, 2015).

³ DuPont Teijin Films, Mitsubishi Polyester Film, Inc., and SKC, Inc. (Petitioners). Petitioners are interested parties within the meaning of section 771(9) of the Act.

⁴ See the July 31, 2015 letter from Petitioners “Polyethylene Terephthalate (PET) Film, Sheet, and Strip from Taiwan: Request for Antidumping Duty Administrative Review.”

⁵ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 80 FR 53106 (September 2, 2015).

⁶ See Letter to the Record from Jacqueline Arrowsmith, “Request For Information Antidumping Duty Administrative Review Shinkong Materials Technology Corporation Taiwan Polyethylene Terephthalate Film, Sheet And Strip,” dated September 3, 2015 (PET Film Questionnaire).

⁷ See Nan Ya’s Section A questionnaire response, dated October 6, 2015; Sections B, C, and D questionnaire responses, filed November 3, 2015; Supplemental Questionnaire Response, dated March 10, 2016.; and Supplemental Questionnaire Response, dated June 27, 2016.

⁸ See Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement & Compliance, regarding “Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas,” (January 27, 2016). The deadline was extended from April 1, 2016 to April 7, 2016.

⁹ See the March 10, 2016 memorandum to the File “Polyethylene Terephthalate Film, Sheet and Strip from Taiwan: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review – 2014-2015.”

Preliminary Finding of No Shipments for SMTC

On September 16, 2015, SMTC,¹⁰ timely submitted a letter to the Department stating that it did not make any sales or shipments to the United States during the POR.¹¹ On November 17, 2015, the Department placed U.S. Customs and Border Protection (CBP) entry packages on the record.¹² On December 1, 2015, SMTC submitted comments regarding the CBP Entry Packages.¹³ Petitioners did not submit comments in this proceeding with respect to any matter, including the entries in question or the CBP packages. On June 29, 2016, we sent CBP a no shipment inquiry.

The Department preliminarily finds that SMTC's claim of no shipments or entries of subject merchandise for consumption is substantiated. Based upon the SMTC's certifications and the evidence on the record, we are satisfied that SMTC had no reviewable transactions during the POR. (The details of our analysis of the entry packages and SMTC's comments are proprietary.)¹⁴ Consistent with our automatic assessment regulation, we find it appropriate to instruct CBP to liquidate any existing entries of merchandise produced by SMTC and exported by any other parties at the all others rate should we continue to find at the time of our final results that it had no shipments of subject merchandise from Taiwan.¹⁵

Comparisons to Normal Value

Pursuant to section 773(a)(1)(B) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether Nan Ya's sales of subject merchandise from Taiwan to the United States were made at less than NV, the Department compared the export price (EP) to the NV as described in the "Export Price" and "Normal Value" sections of this memorandum.

A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates weighted-average dumping margins by comparing weighted-average normal values to weighted-average export prices (or

¹⁰ In the *Preliminary Results* for the 2008-2009 antidumping duty administrative review, we determined that for the purposes of calculating an antidumping margin, SMTC, and its parent company Shinkong Synthetic Fibers Corporation (SSFC), should be treated as a single entity. See *Polyethylene Terephthalate Film, Sheet and Strip from Taiwan: Preliminary Results of Antidumping Duty Administrative Review*, 75 FR 49902 (August 16, 2010), (unchanged in the *Final Results* for the 2008-2009 antidumping duty administrative review (*Polyethylene Terephthalate Film, Sheet and Strip from Taiwan: Final Results of Antidumping Duty Administrative Review*, 76 FR 9745 (February 22, 2011)).

¹¹ See Letter to the Department from SMTC, "Polyethylene Terephthalate Film from Taiwan; No Shipment Certification," dated September 16, 2015.

¹² See Memorandum to All Interested Parties, dated November 17, 2015, regarding "Antidumping Duty Administrative Review of Polyethylene Terephthalate Film, Sheet and Strip from Taiwan: U.S. Customs Entries."

¹³ See Letter to the Department from SMTC, "Polyethylene Terephthalate Film from Taiwan: Comments on CBP Entry Packages," dated December 1, 2015 (Comments on CBP Entry Packages).

¹⁴ See Memorandum to the File from Jacqueline Arrowsmith, "Shinkong Materials Technology Corporation (SMTC)'s December 1, 2015 Comments on CBP Entry Packages to Corroborate SMTC's No Shipments Claim," dated concurrently with the *Preliminary Results*.

¹⁵ See *Brass Sheet and Strip From Germany: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2013-2014*, 80 FR 61369 (October 13, 2015).

constructed export prices) (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, the Department examines whether to compare weighted-average normal values with the export prices (or constructed export prices) of individual sales (*i.e.*, the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in less-than-fair-value investigations.¹⁶

In recent investigations, the Department applied a “differential pricing” analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.¹⁷ The Department finds that the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating a respondent's weighted-average dumping margin.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of export prices (or constructed export prices) for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchaser, region and time period to determine whether a pattern of prices that differ significantly exists. 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 analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported customer codes. Regions are defined using the reported destination code (*i.e.*, zip code) 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 period of review based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region and time period, that the Department uses in making comparisons between export price (or constructed export price) and normal value for the individual dumping margins.

¹⁶ See *Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012) and the accompanying Issues and Decision Memorandum at comment 1; see also *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (Ct. Int'l Trade 2014).

¹⁷ See, e.g., *Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar From Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); and *Welded Line Pipe From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* coefficient is a generally recognized statistical measure of the extent of the difference between the mean (*i.e.*, weighted-average price) of a test group and the mean (*i.e.*, weighted-average price) of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region or time period each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s *d* coefficient is used to evaluate the extent to which the prices to the particular purchaser, region or time period differ significantly from the 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 (0.2, 0.5 and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are found to pass the Cohen’s *d* test, if the calculated Cohen’s *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

Next, the “ratio test” assesses the extent of the significant price differences for all sales as measured by the Cohen’s *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test account for 66 percent or more of the value of total sales, then the identified pattern of prices 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 prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, the Department examines 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 comparison 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, then this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative comparison method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if 1) there is a 25 percent relative change in the weighted-average dumping margins 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 margins between the average-to-average method and the appropriate alternative method move across the *de minimis* threshold.

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

B. Results of the Differential Pricing Analysis

For Nan Ya, based on the results of the differential pricing analysis, the Department preliminarily finds that 45.03 percent of the value of U.S. sales pass the Cohen's *d* test,¹⁸ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test.¹⁹ Thus, for these preliminary results, the Department is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Nan Ya.²⁰

Product Comparisons

In accordance with section 771(16) of the Act, we compared prices for products sold in the U.S. market with prices for products sold in the home market which were either identical or most similar in terms of the physical characteristics to the merchandise described in the "Scope of the Order" section of this memorandum. In the order of importance, these physical characteristics are grade, specification, thickness, thickness category, and surface treatment. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product based on the characteristics listed above.

Date of Sale

The Department's regulations at 19 CFR 351.401(i) state that the Department normally will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The regulation provides further that the Department may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established.

¹⁸ See the Memorandum to the File from Jacqueline Arrowsmith, "Analysis for the Preliminary Results of the Administrative Review of PET Film from Taiwan" dated concurrently with the *Federal Register* Notice (Nan Ya Preliminary Analysis Memorandum) at 2.

¹⁹ *Id.*

²⁰ *Id.*

In the instant review, Nan Ya reported date of shipment from the factory (what Nan Ya refers to as the delivery note date) as the date of sale for its home market.²¹ Our review of the record indicates that shipment date and invoice date are the same.²² Therefore, we preliminarily determine that invoice date is the appropriate date of sale for Nan Ya's home market sales, consistent with our regulatory preference in 19 CFR 351.401(i).

However, for its U.S. sales, Nan Ya reported that it issues commercial invoices after merchandise is shipped from the factory. Given this fact, Nan Ya reported its shipment date as the date of sale for its U.S. sales. The Department's long-standing practice is to rely on shipment date where it precedes invoice date as the date of sale.²³ We analyzed the information on the record and, consistent with 19 CFR 351.401(i), we preliminarily determine that the reported date of shipment from the factory is the appropriate dates of sale for Nan Ya's U.S. sales under review.

Export Price

For sales to the United States, the Department calculated EP in accordance with section 772(a) of the Act because the merchandise was sold prior to importation by the exporter or producer outside the United States to the first unaffiliated purchaser in the United States. We calculated EP based on packed prices to customers in the United States. We made deductions from U.S. price for domestic inland freight from plant to port of exportation as well as brokerage and handling charges incurred in the country of manufacture in accordance with section 772(c)(2)(A) of the Act.

²¹ See Nan Ya's Questionnaire Response at B-16 and C-12.

²² *Id.*

²³ See, e.g., *Seamless Refined Copper Pipe and Tube From Mexico: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 33482 (June 12, 2015), and accompanying Issues and Decision Memorandum at Comment 1; *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 Thailand*, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10.

Normal Value

A. Home Market Viability as Comparison Market

To determine whether there was a sufficient volume of sales of PET Film in the home market to serve as a viable basis for calculating NV, the Department compared the volume of the respondent's home market sales of the foreign like product to their volume of U.S. sales of the subject merchandise in accordance with section 773(a) of the Act. Pursuant to section 773(a)(1)(B) of the Act, because its aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable for comparison purposes for Nan Ya.

B. Level of Trade

In accordance with section 773(a)(1)(B) of the Act and the Statement of Administrative Action accompanying the Uruguay Round Agreements Act,²⁴ to the extent practicable, the Department determines NV based on sales in the comparison market at the same level of trade (LOT) as the EP. Pursuant to 19 CFR 351.412(c)(1), the NV LOT is based on the starting price of the sales in the comparison market or, when NV is based on constructed value (CV), the starting price of the sales from which we derive the adjustments to CV for selling expenses and profit. For EP sales, the U.S. LOT is based on the starting price of the sales in the U.S. market, which is usually from the exporter to the importer.

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.²⁵ If the comparison market sales are at a different LOT and the difference affects price comparability, 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 a LOT adjustment under section 773(a)(7)(A) of the Act.

Nan Ya reported that it sold to end-users and distributors in its home market, and that most of its selling functions were performed at the same or similar levels of intensity in both channels of distribution.²⁶ Because the selling activities to Nan Ya's customers did not vary for sales in the home market through its two channels of distribution, we preliminarily determine that there is one LOT in the home market. Nan Ya only reported one channel of distribution in the U.S. market, therefore, we preliminarily determine that there is one LOT in the U.S. market.²⁷

Nan Ya also provided the Department with information on its selling activities in the home and U.S. markets.²⁸ We find that Nan Ya provided mostly similar level of customer support services

²⁴ See H.R. Doc. No. 316, 103d Cong., 2d Sess. 829-831 (1994).

²⁵ See 19 CFR 351.412(c)(2).

²⁶ See Nan Ya's Section A response of October 6, 2015 at A-10, Exhibit A-3.a, and Exhibit A-3.c.

²⁷ *Id.*, at Exhibit A-3.a.

²⁸ *Id.*, at Exhibit A-3.c.

on their U.S. sales (all of which were EP) as it did on its home market sales, and that the minor differences that do exist do not establish a distinct and separate LOT.

Record evidence shows that Nan Ya performed essentially the same services to customers in both markets. While we found minor differences between the home and U.S. markets, we determine that for Nan Ya the EP and the starting price of home market sales represent the same stage in the marketing process, and are, thus, at the same LOT. For this reason, we preliminarily find that a LOT adjustment for Nan Ya is not warranted. As there are no CEP sales, no CEP offset is appropriate.

C. Cost of Production Analysis

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 countervailing duty law, including amendments to section 773(b)(2) of the Act, regarding the Department's requests for information on sales at less than cost of production.²⁹ 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.³⁰ Section 773(b)(2)(A)(ii) of the Act controls all determinations in which the complete initial questionnaire has not been issued as of August 6, 2015. It requires the Department to request constructed value and cost of production information from respondent companies in all AD proceedings.³¹ Accordingly, the Department requested this information from Nan Ya.³² We preliminarily determine that Nan Ya in fact made sales in the home market during the POR that were below the costs of production (COP) in its home market.

1. Calculation of Cost of Production

We calculated the COP on a product-specific basis, based on the sum of the respondent's costs of materials and fabrication for the foreign like product plus amounts for general and administrative expenses, interest expenses, and the costs of all expenses incidental to preparing the foreign like product for shipment in accordance with section 773(b)(3) of the Act.

We relied on Nan Ya's COP/CV data submitted as part of its questionnaire responses to the Department's original and supplemental questionnaires.³³

²⁹ See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015).

³⁰ 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) (Applicability Notice).

³¹ *Id.*, 80 FR at 46794-46795.

³² The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

³³ See Nan Ya's Section D questionnaire, dated November 3, 2015, and Nan Ya's Supplemental Questionnaire Response, dated March 10, 2016 for the revised dataset.

2. Test of Comparison Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP for the POR to the per-unit price of the comparison market sales of the foreign like product to determine whether these sales by Nan Ya had been made at prices below the COP. In particular, in determining whether to disregard home market sales made at prices below their COP, we examined whether such sales were made within an extended period of time in substantial quantities and at prices which permitted the recovery of all costs within a reasonable period of time, in accordance with section 773(b) of the Act.³⁴ We determined the net comparison market prices for the below-cost test by adjusting the gross unit price for all applicable movement charges, discounts, rebates, billing adjustments, direct and indirect selling expenses, and packing expenses excluding all adjustments for imputed expenses.³⁵

3. Results of the Cost of Production Test

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 did not disregard 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 the respondent's home market sales of a given product 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 of the COPs, 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. Because we are applying our standard annual weighted-average cost methodology in these preliminary results, we also applied our standard cost-recovery test with no adjustments.

Our cost test for Nan Ya indicated that for home 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 in our analysis as outside of the ordinary course of trade and used the remaining sales to determine NV.³⁶

³⁴ See Nan Ya Preliminary Analysis Memorandum.

³⁵ *Id.*

³⁶ *Id.*

D. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on the prices Nan Ya reported for home market sales to unaffiliated customers that we determined were within the ordinary course of trade. In accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(c), we made, where indicated, circumstance-of-sale adjustments for home market direct selling expenses, including imputed credit expenses, bank charges, and warranty expenses as well as for discounts and rebates. We then made adjustments in accordance with 19 CFR 351.410(e) for indirect selling expenses incurred on comparison market or U.S. sales. In addition, we made deductions from NV, consistent with section 773(a)(6)(B)(ii) of the Act, for movement expenses. We also made adjustments for differences in domestic and export packing expenses in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act.³⁷

When comparing U.S. sale prices with NVs based on comparison market sale prices of similar, but not identical, merchandise, we also made adjustments for physical differences in merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like products and the subject merchandise.³⁸

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A of the Act and 19 CFR 351.415, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. The exchange rates are available on the Enforcement and Compliance web site at <http://enforcement.trade.gov/exchange/index.html>.³⁹

Recommendation

We recommend applying the above methodology for these preliminary results.

✓

Agree

Disagree

Ronald K. Lorentzen

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

August 5, 2016

(Date)

³⁷ See Nan Ya Preliminary Analysis Memorandum for further details.

³⁸ See 19 CFR 351.411(b).

³⁹ See also Nan Ya Preliminary Analysis Memorandum at Attachment "Nan Ya's U.S. Market Sales and Margin Program Output and Log."