



A-533-843

Administrative Review  
POR: 9/1/2018-8/31/2019

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January 7, 2021

**MEMORANDUM TO:** Jeffrey I. Kessler  
Assistant Secretary  
for Enforcement and Compliance

**FROM:** James Maeder  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**SUBJECT:** Decision Memorandum for the Preliminary Results of  
Antidumping Duty Administrative Review: Certain Lined Paper  
Products from India; 2018-2019

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## **I. SUMMARY**

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on certain lined paper products (CLPP) from India, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). The review covers 13 producers or exporters of the subject merchandise, and we selected Navneet Education Ltd. (Navneet) and Super Impex as the mandatory respondents. The period of review (POR) is September 1, 2018 through August 31, 2019. We preliminarily determine that Navneet and Super Impex did not make sales of the subject merchandise at less than normal value (NV) during the POR.

If these preliminary results are adopted in the final results of this review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of subject merchandise during the POR. We invite interested parties to comment on these preliminary results. Unless the deadline is extended pursuant to section 751(a)(3)(A) the Act, we will issue the final results no later than 120 days after the publication of these preliminary results.

## II. BACKGROUND

On September 28, 2006, Commerce published the *Order* in the *Federal Register*.<sup>1</sup> On September 3, 2019, we published in the *Federal Register* a notice of opportunity to request an administrative review of the *Order* for the POR.<sup>2</sup>

Several interested parties submitted timely requests for an administrative review of the *Order*, pursuant to section 751(a)(1) of the Act, and 19 CFR 351.213(b). On September 30, 2019, the following companies each self-requested a review: Cellpage Ventures Private Limited (Cellpage); Kokuyo Riddhi Paper Products Pvt. Ltd. (Kokuyo); Lotus Global Private Limited (Lotus); Navneet; Pioneer Stationery Pvt. Ltd. (Pioneer); PP Bafna Ventures Private Limited (PP Bafna); SAB International; SGM Paper Products (SGM); and Super Impex.<sup>3</sup> On September 30, 2019, the Association of American School Paper Suppliers and its individual members (the petitioners), filed a request for review of the following ten producers/exporters of CLPP from India: Goldenpalm Manufacturers PVT Limited (Goldenpalm); Kokuyo; Lodha Offset Limited (Lodha); Magic International Pvt. Ltd. (Magic); Marisa International (Marisa); Navneet; Pioneer; SAB; SGM; and Super Impex.<sup>4</sup>

On November 12, 2019, in accordance with 19 CFR 351.221(c)(1)(i), we published in the *Federal Register* a notice of initiation for this administrative review covering the 13 companies for which we received a request for review.<sup>5</sup> On December 18, 2019, pursuant to section 777A(c)(2)(B) of the Act, we selected Navneet and Super Impex, the producers and exporters accounting for the largest volume of the subject merchandise that could reasonably be examined,

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<sup>1</sup> See *Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from the People's Republic of China; Notice of Antidumping Duty Orders: Certain Lined Paper Products from India, Indonesia and the People's Republic of China; and Notice of Countervailing Duty Orders: Certain Lined Paper Products from India and Indonesia*, 71 FR 56949 (September 28, 2006) (*Order*).

<sup>2</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 84 FR 45949 (September 3, 2019).

<sup>3</sup> See Cellpage's Letter, "Certain Lined Paper Products from India: Request for Administrative Review of Anti-Dumping Duty," dated September 30, 2019; *see also* Kokuyo's Letter, "Certain Lined Paper Products from India: Request for Administrative Review of Anti-Dumping Duty of Kokuyo Riddhi Paper Products Private Limited," dated September 30, 2019; Lotus' Letter, "Certain Lined Paper Products from India: Request for Administrative Review of Anti-Dumping Duty of Lotus Global Private Limited," dated September 30, 2019; Navneet's Letter, "Certain Lined Paper Products from India: Request for Antidumping Administrative Review of Navneet Education Ltd.," dated September 30, 2019; Pioneer's Letter, "Certain Lined Paper Products from India: Request for Administrative Review of Anti-Dumping Duty of Pioneer Stationery Private Limited," dated September 30, 2019; PP Bafna's Letter, "Certain Lined Paper Products from India: Request for Administrative Review of Anti-Dumping Duty of PP Bafna Ventures Private Limited," dated September 30, 2019; SAB's Letter, "Certain Lined Paper Products from India: Request for Administrative Review of Anti-Dumping Duty of SAB International," dated September 30, 2019; SGM's Letter, "Certain Lined Paper Products from India: Request for Administrative Review of AntiDumping Duty of SGM Paper Products," dated September 30, 2019; and Super Impex's Letter, "Certain Lined Paper Products from India: Request for Administrative Review of Anti-Dumping Duty of Super Impex," dated September 30, 2019.

<sup>4</sup> See Petitioners' Letter, "Certain Lined Paper Products from India: Request for Administrative Review," dated September 30, 2019.

<sup>5</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 61011 (November 12, 2019).

as mandatory respondents.<sup>6</sup> On December 18, 2019, Commerce issued the standard antidumping questionnaire to Navneet and Super Impex.<sup>7</sup>

On February 20, 2020, the petitioners submitted a letter requesting that Commerce verify Navneet and Super Impex's responses in this administrative review.<sup>8</sup>

On April 24, 2020, Commerce tolled all deadlines in administrative reviews by 50 days.<sup>9</sup> On June 11, 2020, Commerce further extended the time limit for completion of the preliminary results of the review to no later than November 18, 2020.<sup>10</sup> On July 21, 2020, Commerce further tolled all deadlines in administrative reviews by an additional 60 days.<sup>11</sup>

On November 23 and December 18, 2020, the petitioners filed comments and other factual information regarding Navneet and Super Impex in advance of the preliminary results.<sup>12</sup> Super Impex and Navneet filed comments in advance of the preliminary results on December 23 and 28, 2020, respectively.<sup>13</sup>

### *Navneet*

Navneet submitted its response to section A of Commerce's initial questionnaire on January 15, 2020,<sup>14</sup> and its response to sections B, C, and D of the initial questionnaire on February 14, 2020.<sup>15</sup> On May 14, 2020, the petitioners submitted comments on Navneet's response to Commerce's initial questionnaire.<sup>16</sup>

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<sup>6</sup> See Memorandum, "Antidumping Duty Administrative Review of Certain Lined Paper Products from India: Respondent Selection," dated December 18, 2019.

<sup>7</sup> See Commerce's Letter, dated December 18, 2019 (Navneet Initial Questionnaire); *see also* Commerce's Letter, dated December 18, 2019 (Super Impex Initial Questionnaire).

<sup>8</sup> See Petitioners' Letter, "Certain Lined Paper Products from India: Request for Verification," dated February 20, 2020.

<sup>9</sup> See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID-19," dated April 24, 2020.

<sup>10</sup> See Memorandum, "Certain Lined Paper Products from India: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review; 2018-2019," dated June 11, 2020.

<sup>11</sup> See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews," dated July 21, 2020.

<sup>12</sup> See Petitioners' Letters, "Certain Lined Paper Products from India: Submission of Other Factual Information – Navneet Verification Reports," dated November 23, 2020; "Certain Lined Paper Products from India: Submission of Other Factual Information – CV Profit and Selling Expense Information," dated November 23, 2020 (Arora Financial Statements); and "Lined Paper Products from India: Pre-Preliminary Comments," dated December 18, 2020.

<sup>13</sup> See Super Impex's Letter, "Certain Lined Paper Products from India: Super Impex Pre-Preliminary Comments," dated December 23, 2020; *see also* Navneet's Letter, "Certain Lined Paper Products from India: Reply of Navneet Education Limited to Petitioner Pre-Preliminary Comments," dated December 28, 2020.

<sup>14</sup> See Navneet's Letter, "Certain Lined Paper Products from India: Response of Navneet to Antidumping Questionnaire, Section A," dated January 15, 2020 (Navneet's AQR).

<sup>15</sup> See Navneet's Letter, "Certain Lined Paper Products from India: Response of Navneet Education Limited to Antidumping Questionnaire, Sections B, C, and D," dated February 14, 2020 (Navneet's BCDQR).

<sup>16</sup> See Petitioners' Letter, "Certain Lined Paper Products from India: Deficiency Comments on Super Impex's Initial Questionnaire Responses," dated May 14, 2020.

Commerce issued a supplemental questionnaire to Navneet on May 22, 2020,<sup>17</sup> to which the company responded on June 22, 2020.<sup>18</sup> On August 24, 2020, the petitioners submitted comments on Navneet's response to Commerce's supplemental questionnaire.<sup>19</sup> On November 23, 2020,<sup>20</sup> Commerce issued a second supplemental questionnaire to Navneet, to which the company responded on December 7, 2020.<sup>21</sup>

### *Super Impex*

Super Impex submitted its response to section A of Commerce's initial questionnaire on January 23, 2020,<sup>22</sup> and its response to sections B, C, and D of the initial questionnaire on February 18, 2020.<sup>23</sup> On May 14, 2020, the petitioners submitted comments on Super Impex's response to Commerce's initial questionnaire.<sup>24</sup>

Commerce issued a supplemental questionnaire and an addendum to Super Impex on April 29 and May 28, 2020,<sup>25</sup> to which the company responded on June 23, 2020.<sup>26</sup> On August 24, 2020, the petitioners submitted comments on Super Impex's response to Commerce's supplemental questionnaires.<sup>27</sup> On September 22, 2020, Commerce issued a third supplemental questionnaire to Super Impex,<sup>28</sup> to which the company responded on October 5, 2020.<sup>29</sup> On November 23, the

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<sup>17</sup> See Commerce's Letter, "Antidumping Duty Administrative Review of Certain Lined Paper Products from India, 2018-2019; Sections A-D Supplemental Questionnaire," dated May 22, 2020.

<sup>18</sup> See Navneet's Letter, "Certain Lined Paper Products from India: Response of Navneet Education Limited to First Supplemental Antidumping Questionnaire," dated June 22, 2020 (Navneet SQR1).

<sup>19</sup> See Petitioners' Letter, "Certain Lined Paper Products from India: Deficiency Comments on Navneet's and Super Impex's Supplemental Questionnaire Responses," dated August 24, 2020.

<sup>20</sup> See Commerce's Letter, "Antidumping Duty Administrative Review of Certain Lined Paper Products from India, 2018-2019; Sections B, C, and D Supplemental Questionnaire," dated November 23, 2020.

<sup>21</sup> See Navneet's Letter, "Certain Lined Paper Products from India: Response of Navneet Education Limited to Supplemental Antidumping Questionnaire," dated December 7, 2020.

<sup>22</sup> See Super Impex's Letter, "Certain Lined Paper Products from India: Super Impex's Response to Section A of the Original Antidumping Questionnaire," dated January 23, 2020.

<sup>23</sup> See Super Impex's Letter, "Certain Lined Paper Products from India: Super Impex's Response to Section C&D of the Original Antidumping Questionnaire," dated February 18, 2020.

<sup>24</sup> See Petitioners' Letter, "Certain Lined Paper Products from India: Deficiency Comments on Super Impex's Initial Questionnaire Responses," dated May 14, 2020.

<sup>25</sup> See Commerce's Letter, "Antidumping Duty Review of Certain Lined Paper Products from India: First Supplemental Questionnaire for Sections A, C and D," dated April 29, 2020; *see also* Commerce's Letter, "Antidumping Duty Review of Certain Lined Paper Products from India – Addendum to First Supplemental Questionnaire for Sections A, C and D," dated May 28, 2020.

<sup>26</sup> See Super Impex's Letter, "Certain Lined Paper Products from India: Super Impex Response to Supplemental Antidumping Questionnaire," dated June 23, 2020; *see also* Super Impex's Letter, "Certain Lined Paper Products from India: Super Impex Response to Addendum to Supplemental Antidumping Questionnaire," dated June 23, 2020.

<sup>27</sup> See Petitioners' Letter, "Certain Lined Paper Products from India: Deficiency Comments on Navneet's and Super Impex's Supplemental Questionnaire Responses," dated August 24, 2020.

<sup>28</sup> See Letter, "Antidumping Duty Review of Certain Lined Paper Products from India: Second Supplemental Questionnaire for Sections A, C and D," dated September 22, 2020.

<sup>29</sup> See Super Impex's Letter, "Certain Lined Paper Products from India: Super Impex Response to 2<sup>nd</sup> Supplemental Antidumping Questionnaire," dated October 5, 2020.

petitioners submitted comments on Super Impex's response to Commerce's initial questionnaire.<sup>30</sup>

### III. SCOPE OF THE *ORDER*

The scope of the *Order* includes certain lined paper products, typically school supplies (for purposes of this scope definition, the actual use of or labeling these products as school supplies or non-school supplies is not a defining characteristic), composed of or including paper that incorporates straight horizontal and/or vertical lines on ten or more paper sheets (there shall be no minimum page requirement for looseleaf filler paper), including but not limited to such products as single- and multi-subject notebooks, composition books, wireless notebooks, looseleaf or glued filler paper, graph paper, and laboratory notebooks, and with the smaller dimension of the paper measuring 6 inches to 15 inches (inclusive) and the larger dimension of the paper measuring 8-3/4 inches to 15 inches (inclusive). Page dimensions are measured size (not advertised, stated, or "tear-out" size), and are measured as they appear in the product (*i.e.*, stitched and folded pages in a notebook are measured by the size of the page as it appears in the notebook page, not the size of the unfolded paper). However, for measurement purposes, pages with tapered or rounded edges shall be measured at their longest and widest points. Subject lined paper products may be loose, packaged or bound using any binding method (other than case bound through the inclusion of binders board, a spine strip, and cover wrap). Subject merchandise may or may not contain any combination of a front cover, a rear cover, and/or backing of any composition, regardless of the inclusion of images or graphics on the cover, backing, or paper. Subject merchandise is within the scope of this order whether or not the lined paper and/or cover are hole punched, drilled, perforated, and/or reinforced. Subject merchandise may contain accessory or informational items including but not limited to pockets, tabs, dividers, closure devices, index cards, stencils, protractors, writing implements, reference materials such as mathematical tables, or printed items such as sticker sheets or miniature calendars, if such items are physically incorporated, included with, or attached to the product, cover and/or backing thereto.

Specifically excluded from the scope of the *Order* are:

- unlined copy machine paper;
- writing pads with a backing (including but not limited to products commonly known as "tablets," "note pads," "legal pads," and "quadrille pads"), provided that they do not have a front cover (whether permanent or removable). This exclusion does not apply to such writing pads if they consist of hole-punched or drilled filler paper;
- three-ring or multiple-ring binders, or notebook organizers incorporating such a ring binder provided that they do not include subject paper;
- index cards;
- printed books and other books that are case bound through the inclusion of binders board, a spine strip, and cover wrap;
- newspapers;
- pictures and photographs;

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<sup>30</sup> See Petitioners' Letter, "Certain Lined Paper Products from India: Deficiency Comments on Super Impex's Second Supplemental Questionnaire Response," dated November 23, 2020.

- desk and wall calendars and organizers (including but not limited to such products generally known as “office planners,” “time books,” and “appointment books”);
- telephone logs;
- address books;
- columnar pads & tablets, with or without covers, primarily suited for the recording of written numerical business data;
- lined business or office forms, including but not limited to: pre-printed business forms, lined invoice pads and paper, mailing and address labels, manifests, and shipping log books;
- lined continuous computer paper;
- boxed or packaged writing stationery (including but not limited to products commonly known as “fine business paper,” “parchment paper”, and “letterhead”), whether or not containing a lined header or decorative lines;
- Stenographic pads (“steno pads”), Gregg ruled (“Gregg ruling” consists of a single- or double-margin vertical ruling line down the center of the page. For a six-inch by nine-inch stenographic pad, the ruling would be located approximately three inches from the left of the book.), measuring 6 inches by 9 inches.

Also excluded from the scope of the *Order* are the following trademarked products:

- Fly™ lined paper products: A notebook, notebook organizer, loose or glued note paper, with papers that are printed with infrared reflective inks and readable only by a Fly™ pen-top computer. The product must bear the valid trademark Fly™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- Zwipes™: A notebook or notebook organizer made with a blended polyolefin writing surface as the cover and pocket surfaces of the notebook, suitable for writing using a specially-developed permanent marker and erase system (known as a Zwipes™ pen). This system allows the marker portion to mark the writing surface with a permanent ink. The eraser portion of the marker dispenses a solvent capable of solubilizing the permanent ink allowing the ink to be removed. The product must bear the valid trademark Zwipes™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- FiveStar®Advance™: A notebook or notebook organizer bound by a continuous spiral, or helical, wire and with plastic front and rear covers made of a blended polyolefin plastic material joined by 300 denier polyester, coated on the backside with PVC (poly vinyl chloride) coating, and extending the entire length of the spiral or helical wire. The polyolefin plastic covers are of specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). Integral with the stitching that attaches the polyester spine covering, is captured both ends of a 1" wide elastic fabric band. This band is located 2-3/8" from the top of the front plastic cover and provides pen or pencil storage. Both ends of the spiral wire are cut and then bent backwards to overlap with the previous coil but specifically outside the coil diameter but inside the polyester covering. During construction, the polyester covering is sewn to the front and rear covers face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. Both free ends (the ends not sewn to the cover and back) are stitched with a

turned edge construction. The flexible polyester material forms a covering over the spiral wire to protect it and provide a comfortable grip on the product. The product must bear the valid trademarks FiveStar®Advance™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

- FiveStar Flex™: A notebook, a notebook organizer, or binder with plastic polyolefin front and rear covers joined by 300 denier polyester spine cover extending the entire length of the spine and bound by a 3-ring plastic fixture. The polyolefin plastic covers are of a specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). During construction, the polyester covering is sewn to the front cover face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. During construction, the polyester cover is sewn to the back cover with the outside of the polyester spine cover to the inside back cover. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. Each ring within the fixture is comprised of a flexible strap portion that snaps into a stationary post which forms a closed binding ring. The ring fixture is riveted with six metal rivets and sewn to the back plastic cover and is specifically positioned on the outside back cover. The product must bear the valid trademark FiveStar Flex™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

Merchandise subject to the *Order* is typically imported under headings: 4811.90.9035, 4811.90.9080, 4820.30.0040, 4810.22.5044, 4811.90.9050, 4811.90.9090, 4820.10.2010, 4820.10.2020, 4820.10.2030, 4820.10.2040, 4820.10.2050, 4820.10.2060, and 4820.10.4000 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS headings are provided for convenience and customs purposes; however, the written description of the scope of this order is dispositive.

#### **IV. PRELIMINARY DETERMINATION OF NO SHIPMENTS**

In order to select mandatory respondents in this review, on November 13, 2019, Commerce issued quantity and value (Q&V) questionnaires to all producers/exporters of subject merchandise upon which a review was initiated.<sup>31</sup> On November 19 and 26, 2019, Lodha and Marisa timely submitted their respective Q&V responses to Commerce, in which each reported that it had no exports or sales of subject merchandise into the United States during the POR.<sup>32</sup> In response to the non-shipment claims of Lodha and Marisa, on December 6, 2019, we issued a no-shipments inquiry to CBP requesting that it review Lodha and Marisa's no-shipments claims.<sup>33</sup> On December 11, 2019, CBP affirmed Marisa's no-shipments claim; therefore, because there is no other information calling the company's claim into question, we preliminarily determine that Marisa did not have any shipments of subject merchandise during the POR.<sup>34</sup>

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<sup>31</sup> See Memorandum, "Service of Quantity and Value Questionnaires," dated November 19, 2019.

<sup>32</sup> See Lodha's Letter, "Response to Quantity & Value Questionnaire," dated November 19, 2019; see also Marisa International's Letter, "Certain Lined Paper Products from India: Marisa International ("Marisa") No Export or Sales of Subject Merchandise," dated November 26, 2019.

<sup>33</sup> See Memorandum, "No Shipment Inquiry," dated December 10, 2019.

<sup>34</sup> See Memorandum, "Request for Entry Summary," dated January 27, 2020 at Attachment (CBP's No Shipments-Inquiry Response).

Consistent with Commerce's practice, we will not rescind the review with respect to Marisa but, rather, will complete the review and issue instructions to CBP based on the final results.<sup>35</sup>

With respect to Lodha, its no-shipments claim was contradicted by information from CBP.<sup>36</sup> Therefore, based on information from CBP, we preliminarily find Lodha had shipments of subject merchandise during the POR.<sup>37</sup> Accordingly, we are including Lodha among the group of companies that are subject to the non-selected rate. See below for further discussion of the firms subject to the non-selected rate.

## V. COMPANIES NOT SELECTED FOR INDIVIDUAL EXAMINATION

Commerce did not select: Cellpage; Goldenpalm; Kokuyo; Lodha; Lotus; Magic; Pioneer; PP Bafna; SAB International; or SGM (collectively, the Non-Selected Companies) for individual examination. Thus, these companies remain non-selected respondents for which Commerce must determine an AD rate, pursuant to section 777A(c)(1) of the Act.

The Act and Commerce's regulations do not address the establishment of a rate to be applied to companies not selected for examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when calculating the rate for companies which were not selected for individual review in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally "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 {on the basis of facts available}."

In this review, we have preliminarily calculated weighted-average dumping margins for both mandatory respondents that are 0.00 percent. We have not calculated any weighted-average dumping margins which are not zero, *de minimis*, or determined entirely on the basis of facts available. Accordingly, Commerce has preliminarily assigned to the companies not individually examined a margin of 0.00 percent.

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<sup>35</sup> See, e.g., *Certain Frozen Warmwater Shrimp from Thailand; Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Review, Preliminary Determination of No Shipments; 2012-2013*, 79 FR 15951, 15952 (March 24, 2014), unchanged in *Certain Frozen Warmwater Shrimp from Thailand: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Partial Rescission of Review; 2012-2013*, 79 FR 51306, 51307 (August 28, 2014).

<sup>36</sup> See CBP's No Shipments-Inquiry Response; see also Memorandum, "Release of U.S. Customs and Border Protection Information Relating to December 20, 2019, Entry Document Request," dated January 29, 2020 (Entry Document Request), in which the respondent's actual entry data during the POR was provided by CBP.

<sup>37</sup> See CBP's No Shipments-Inquiry Response; see also Entry Document Request.



## VI. DISCUSSION OF THE METHODOLOGY

### A. Date of Sale

Under 19 CFR 351.401(i), we will normally use the date of invoice, as recorded in the producer or exporter's records kept in the ordinary course of business, as the date of sale. The regulation provides further that we may use a date other than the date of invoice if Commerce is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.<sup>38</sup> We have a long-standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established.<sup>39</sup>

Navneet reported the commercial invoice date as the date of sale in the home market.<sup>40</sup> We reviewed the sales and shipment documentation submitted by Navneet (*e.g.*, purchase order, order acknowledgement, commercial invoice, packing list, and tax invoice), and we preliminarily determine that the material terms of sale are set at the invoice date.<sup>41</sup> For U.S. sales, Navneet reported the purchase order date as the date of sale because the material terms of sale (*i.e.*, price, quantity, and delivery terms) are set in the purchase order and are not subsequently changed.<sup>42</sup> We reviewed sales and shipment documentation for U.S. sales (*e.g.*, purchase order, pro forma invoice, sales order, commercial invoice, tax invoice, packing list, bill of lading, domestic freight invoice, customs broker's invoice, and bank payment note), and we preliminarily determine that the material terms of sale are set at the purchase order date.<sup>43</sup> Based on this information, in accordance with 19 CFR 351.401(i), we are preliminarily relying on the commercial invoice date for Navneet's home market date of sale and the purchase order date for Navneet's U.S. sales.

Super Impex reported commercial invoice date or shipment date (*i.e.*, tax invoice date), whichever is earlier, as the date of sale for all U.S. market sales.<sup>44</sup> We reviewed sales and shipment documentation for Super Impex's U.S. market sales and confirmed that the material terms of sale are set at the earlier of commercial invoice date or shipment date.<sup>45</sup> Thus, in accordance with 19 CFR 351.401(i), we are preliminarily relying on the earlier of commercial invoice date or the shipment date for Super Impex's U.S. date of sale.

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<sup>38</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>39</sup> See, *e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum (IDM) at Comment 10; *see also* *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002), and accompanying IDM at Comment 2.

<sup>40</sup> See Navneet's AQR at A-35; *see also* Navneet's BCDQR at B-25.

<sup>41</sup> See Navneet's AQR at Exhibit A-7.

<sup>42</sup> See Navneet's AQR at A-35, *see also* Navneet's BCDQR at C-24; and Navneet SQR1 at 22.

<sup>43</sup> See Navneet's AQR at Exhibit A-8.

<sup>44</sup> See Super Impex's AQR at A-17 *see also* Super Impex's CDQR at C-22. As explained in Section VI.E.1. "Home Market Viability and Comparison Market Selection" *infra*, Super Impex reported no sales of the foreign like product in the home market.

<sup>45</sup> See Super Impex's AQR at Exhibits A-4 (a) and A-4(B).

## B. Comparisons to NV

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

### 1. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates a weighted-average dumping margin by comparing weighted-average NVs to weighted-average EPs or constructed export prices (CEPs) (*i.e.*, the average-to-average (A-A) method) unless Commerce determines that another method is appropriate. In a less-than-fair-value (LTFV) investigation, Commerce examines whether to compare weighted-average NVs with the EPs (or CEPs) of individual sales (*i.e.*, the average-to-transaction (A-T) 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 Commerce's examination of this question in the context of an administrative review, Commerce nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in a LTFV investigation.<sup>46</sup>

In numerous investigations, Commerce has applied a "differential pricing" analysis for determining whether application of the A-T method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.<sup>47</sup> Commerce finds that the differential pricing analysis used in certain investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and on Commerce's additional experience with addressing the potential masking of dumping that can occur when Commerce uses the A-A 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 EPs or CEPs 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 there exists a pattern of prices that differ significantly. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the A-A 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

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<sup>46</sup> 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 accompanying IDM at Comment 1; see also *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (CIT 2014), *aff'd* 862 F. 3d 1322 (Fed. Cir. 2017).

<sup>47</sup> 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); see also *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).

reported consolidated 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 Commerce 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* 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 A-T method to all sales as an alternative to the A-A method. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an A-T method to those sales identified as passing the Cohen’s *d* test as an alternative to the A-A method, and application of the A-A method to those sales identified as not passing the Cohen’s *d* test. If 33 percent or less of the value of total sales passes the Cohen’s *d* test, then the results of the Cohen’s *d* test do not support consideration of an alternative to the A-A method.

If both tests in the first stage (*i.e.*, the Cohen’s *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, Commerce examines whether using only the A-A method can appropriately account for such differences. In considering this question, Commerce 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 A-A method only. If the difference between the two calculations is meaningful, then this demonstrates that the A-A 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 A-A 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 A-A 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.<sup>48</sup>

## 2. Results of the Differential Pricing Analysis

For Navneet, based on the results of the differential pricing analysis, Commerce preliminarily finds that 40.46 percent of the value of U.S. sales pass the Cohen's *d* test,<sup>49</sup> and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce 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. Thus, for these preliminary results, Commerce is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Navneet.

For Super Impex, based on the results of the differential pricing analysis, Commerce preliminarily finds that 87.89 percent of the value of U.S. sales pass the Cohen's *d* test,<sup>50</sup> which confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce 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 all U.S. sales. Thus, for these preliminary results, Commerce is applying the A-A method to all U.S. sales to calculate

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<sup>48</sup> The Court of Appeals for the Federal Circuit (CAFC) in *Apex Frozen Foods v. United States*, 862 F. 3d 1322 (Fed. Cir. July 12, 2017) affirmed much of Commerce's differential pricing methodology. We ask that interested parties present only arguments on issues which have not already been decided by the CAFC.

<sup>49</sup> See Memorandum, "Preliminary Results of Antidumping Duty Administrative Review of Certain Lined Paper Products from India (2018-2019): Calculation Analysis of Sales and Cost of Production for Navneet Education Ltd. (Navneet)," dated concurrently with this memorandum (Navneet Preliminary Calculation Memorandum) at "Differential Pricing Analysis."

<sup>50</sup> See Memorandum, "Preliminary Results of Antidumping Duty Administrative Review of Certain Lined Paper Products from India (2018-2019): Calculation Analysis of Sales and Cost of Production for Super Impex," dated concurrently with this memorandum (Preliminary Calculation Memorandum for Super Impex) at Section III for details.

the weighted-average dumping margin for Super Impex.

### C. Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by Navneet and Super Impex sold in the U.S. and comparison markets on the basis of the comparison product, which was either identical or most similar in terms of the physical characteristics to the product sold in the United States. When making this comparison, we considered all products sold in the home market as described in the “Scope of the Order” section of this memorandum above (*i.e.*, the foreign like product) that were in the ordinary course of trade for purposes of determining an appropriate NV for comparison to the U.S. EP. In order to define products sold in the home and U.S. markets, we relied on the following eight physical characteristics: (1) form, (2) paper volume, (3) brightness, (4) binding type, (5) cover material, (6) back material, (7) number of inserts, and (8) insert material. If contemporaneous comparison market sales were reported of merchandise that were identical to subject merchandise sold in the U.S. market, then we calculated NV based on the monthly weighted-average home market prices of all such sales. If there were no contemporaneous comparison market sales of identical merchandise, then we identified comparison market sales of the most similar merchandise that were contemporaneous with the U.S. sales in accordance with 19 CFR 351.414(d)(3), and calculated NV based on the monthly weighted-average comparison market prices of all such sales. Where there were no sales of identical or similar merchandise made in the ordinary course of trade in the comparison market, we calculated NV based on constructed value (CV).

### D. Export Price

According to section 772(a) of the Act, EP is 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 the 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 section 772(c) of the Act. Pursuant to section 772(b) of the Act, CEP is “the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by 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, as adjusted under {sections 772(c) and (d) of the Act}.”

In accordance with section 772(a) of the Act, for Navneet and Super Impex’s U.S. sales, we used the EP methodology because both firms sold subject merchandise outside of the United States directly to the first unaffiliated purchaser in the United States prior to importation. We based EP on packed prices to the first unaffiliated purchaser in the United States. Where appropriate, we adjusted the EP prices to reflect discounts, rebates, and billing adjustments.

For Navneet and Super Impex, in accordance with section 772(c)(2)(A) of the Act, we made deductions, where appropriate, for movement expenses, inland freight, brokerage and handling, international freight, marine insurance, commissions, warranty expenses, other direct selling expenses, and U.S. customs duties. In addition, when appropriate, we increased EP by an amount equal to the countervailing duty (CVD) rate attributed to export subsidies in the most

recently completed CVD administrative review, in accordance with section 772(c)(1)(C) of the Act.

## E. Normal Value

### 1. Home Market Viability and Comparison Market Selection

In accordance with section 773(a)(1)(C) of the Act, to determine whether there was a sufficient volume of sales of CLLP in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home-market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), we compared the volume of Navneet and Super Impex's respective home-market sales of the foreign like product to the volume of their respective U.S. sales of the subject merchandise. Based on this comparison, we determine that Navneet had a viable home market during the period of review but Super Impex did not.<sup>51</sup> Consequently, for Navneet, we based NV on home-market sales to unaffiliated purchasers made in the usual quantities in the ordinary course of trade, described in detail below.

With respect to Super Impex, it reported no sales of foreign like product in the home market.<sup>52</sup> When sales in the home market are not viable, section 773(a)(1)(B)(ii) of the Act provides that sales to a particular third-country market may be utilized if: (1) the prices in such market are representative; (2) the aggregate quantity of the foreign like product sold by the producer or exporter in the third-country market is five percent or more of the aggregate quantity of the subject merchandise sold in or to the United States; and (3) Commerce does not determine that a particular market situation in the third-country market prevents a proper comparison with the U.S. price.

In this review, neither Super Impex's sales to any third country nor the aggregate quantity of the foreign like product sold by Super Impex in the third-country markets is five percent or more of the aggregate quantity of the subject merchandise sold in or to the United States.<sup>53</sup> Therefore, we based Super Impex's NV on CV in accordance with sections 773(a)(4) and 773(e) of the Act.

### 2. Level of Trade

In accordance with section 773(a)(1)(B) of the Act, and to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade as the EP.<sup>54</sup> Pursuant to 19 CFR 351.412(c)(1)(iii), the level of trade for NV is based on the starting price of the sales in the comparison market or, when NV is based on constructed value, the starting price of the sales from which we derive selling, general and administrative expenses (SG&A), and profit.

To determine if NV sales are at a different level of trade than EP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and

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<sup>51</sup> See Navneet's AQR at Exhibit A-1; *see also* Super Impex's AQR at A-3 and Exhibit A-1.

<sup>52</sup> See Super Impex's AQR at A-3 and Exhibit A-1.

<sup>53</sup> See Super Impex's AQR Exhibit A-1.

<sup>54</sup> See section 773(a)(7) of the Act.

the unaffiliated customer.<sup>55</sup> Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.<sup>56</sup> If the comparison-market sales are at a different level of trade and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the level of trade of the export transaction, we make a level-of-trade adjustment to NV under section 773(a)(7)(A) of the Act.

#### *Navneet*

Navneet identified seven channels of distribution in the home market: (1) full service sales of Navneet/Youva/HQ-brand channel products to distributors (channel one); (2) sales of limited service Boss-branded products to distributors (channel two); (3) sales to retail chains with their own distribution networks (channel three); (4) sales to institutional end-users who purchase materials for their own use (channel four); (5) sales to schools for end-use and for resale to students (channel five); (6) full service sales of Navneet/Youva/HQ-branded products to super-stockists (*i.e.*, regional warehouse distributors) who in turn sell to smaller distributors (channel seven); and (7) sales made directly to end-users through an e-commerce website (channel eight).<sup>57</sup> With respect to the U.S. market, Navneet reported that it made sales through one channel of distribution, *i.e.*, sales to U.S. importers and distributors (channel six), which were all EP sales.<sup>58</sup>

Among its seven home market marketing channels, channels one and seven are full-service channels to wholesale customers. In channel one (distributors with full-service merchandising), Navneet states that it designs and produces products on its own account, maintains the products in regional and clearing and forwarding (C&F) warehouses nationwide, delivers products to distributors from local warehouses and issues invoices to distributors, and actively participates in advertising at the retail and consumer levels.<sup>59</sup> In channel seven (full service sales of Navneet-branded products to super-stockists who then sell to distributors), Navneet also designs and produces products on its own account; sells to super-stockists, who maintain the products in their own warehouses; and actively participates in advertising at the retail and consumer levels.<sup>60</sup> In both channels one and seven, Navneet states that it is actively involved with direct advertising aimed at the retailers and end-users.<sup>61</sup> Navneet provides printed advertising materials for retail displays to support the sales of products in channels one and seven.<sup>62</sup>

In channels three, four, and five (sales to chain stores, institutions, and schools), Navneet engages in a lower level of selling activities.<sup>63</sup> In channels one, three, five, and seven, Navneet

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<sup>55</sup> See 19 CFR 351.412(c)(2).

<sup>56</sup> See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732 (November 19, 1997).

<sup>57</sup> See Navneet's AQR at A-13 to A-27.

<sup>58</sup> *Id.* at A-26 to A-27.

<sup>59</sup> *Id.* at A-13 to A-16.

<sup>60</sup> *Id.* at A-16 to A-18.

<sup>61</sup> *Id.* at A-13 to A-18, A-29 and Exhibit A-6.

<sup>62</sup> *Id.*

<sup>63</sup> *Id.* at A-21 to A-25 and Exhibit A-6.

reported providing advertising for its Navneet/Youva/HQ brands.<sup>64</sup> In channel two, limited service sales of Boss-branded products, Navneet reported performing no downstream selling or promotional activities and no brand advertising for its generic Boss-branded products.<sup>65</sup> In channel three, Navneet reported providing a moderate level of downstream selling activities in the form of general brand advertising materials which indirectly supports sales to retail chains.<sup>66</sup>

In channel eight, Navneet sells small quantities of product directly to end users through an e-commerce website.<sup>67</sup> Since channel eight involves direct sales to the end-user and there is no reselling, Navneet provides only a low level of downstream selling activities and does not provide advertising canvassers or other promotional activities or retail assistance.<sup>68</sup> However, this channel involves retail sales to consumers, so Navneet engages in additional activities that it does not perform in its other sales channels, such as creating and maintaining an online retail portal, employing customer service agents to assist customers with placing orders, warehouse order fulfillment, delivery by mail or courier to the customer, and creating a consumer payment processing system to receive and process payments from consumers via bank transfer or credit card.<sup>69</sup>

For all home market channels, Navneet produces for its own account, and for all home market channels with the exception of channel seven, Navneet holds sales inventory in its own warehouses before shipping products to its customers' warehouse.<sup>70</sup> In all cases, Navneet accepts and processes orders, issues invoices and shipping documents, and collects payment.

Based on the sales process and selling function information provided by Navneet, we preliminarily determine that the levels of selling activities for channel eight (e-commerce sales directly to end-users) are at a higher level of intensity than the levels of selling activities in the other distribution channels in the home market due to the selling activities required to run an e-commerce website, fulfill orders, and process payments for retail customers. In addition, consistent with prior reviews, we find that limited-service sales in channels two, three, four, and five in the home market are at a lower level of intensity than the level of selling activities in distribution channels one and seven (full-service sales to distributors and full-service sales to super-stockists, respectively) in the home market due to the lower level of involvement in selling activities after shipment. Therefore, we find that the home-market channels of distribution constitute three LOTs: (1) LOT1, which consists of channel eight, (2) LOT2, which consists of channels one and seven; and (3) LOT3, which consists of channels two, three, four, and five, as reported by Navneet in its database.

In the U.S. market, Navneet made only EP sales of subject merchandise.<sup>71</sup> There was a single channel of distribution for U.S. sales – sales to importers/distributors who distribute the products

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<sup>64</sup> *Id.* at A-14 to A-24 and Exhibit A-6.

<sup>65</sup> *Id.* at A-18 to A-20.

<sup>66</sup> *Id.* at A-20 to A-21.

<sup>67</sup> *Id.* at A-24 to A-25.

<sup>68</sup> *Id.* at A-25.

<sup>69</sup> *Id.* at A-24 to A-25 and Exhibit A-6.

<sup>70</sup> *Id.* at A-13 to A-30.

<sup>71</sup> *Id.* at A-2.



to retailers (channel six).<sup>72</sup> Navneet manufactures products for the U.S. market to order, and ships them directly from the factory to the port for export, without holding them in an intermediate warehouse.<sup>73</sup> After shipment, Navneet has no further involvement in the sale. Therefore, the U.S. sales channel has a low level of selling activities, with no downstream selling or promotional activities. All marketing, selling, and distribution activities are carried out by the importers/distributors for the U.S. market.<sup>74</sup>

Based on our analysis of the selling activities in the home market and in the U.S. market, we find that Navneet's home market sales in LOT3 are at the same level of trade as the U.S. sales. Therefore, we have compared U.S. sales to Navneet's reported LOT3 sales in its home market sales database and have not made a LOT adjustment.

### *Super Impex*

During the POR, Super Impex's sales to the United States market were all made through one channel of distribution and to one category of customer, trading companies.<sup>75</sup> Our analysis of the selling activities in the U.S. market supports that there is only one level of trade for all sales in the U.S. market.<sup>76</sup> However, because Super Impex did not have viable comparison market sales, we did not make a LOT adjustment for Super Impex, pursuant to section 773(a)(1)(B)(i) of the Act and 19 CFR 351.412(c)(1).<sup>77</sup>

### F. Sales to Affiliates

We exclude comparison 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.<sup>78</sup> To test whether the respondents' comparison market sales are made at arm's-length prices, we compare the prices of sales of comparable merchandise to affiliated and unaffiliated customers, net of all rebates, movement charges, and direct selling expenses. Pursuant to 19 CFR 351.403(c) and in accordance with our practice, when the prices charged to an affiliated party are, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise comparable to that sold to the affiliated party, we determine that the sales to the affiliated party are at arm's-length prices.<sup>79</sup> Navneet reported that all sales in the home market during the POR were made to unaffiliated customers.<sup>80</sup> Super Impex reported that all its sales during the POR were made to unaffiliated trading companies.<sup>81</sup> Therefore, because both Navneet and Super Impex did not report any sales to affiliated customers, we did not perform the arm's length test.

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<sup>72</sup> *Id.* at A-26 to A-27.

<sup>73</sup> *Id.* at A-26.

<sup>74</sup> *Id.* at A-26 to A-27 and Exhibit A-6.

<sup>75</sup> See Super Impex's AQR at A-13-A-14.

<sup>76</sup> *Id.* and Exhibit A-5.

<sup>77</sup> See Preliminary Calculation Memorandum for Super Impex for further details.

<sup>78</sup> See 19 CFR 351.403(c).

<sup>79</sup> See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002).

<sup>80</sup> See Navneet's AQR at A-2.

<sup>81</sup> See Super Impex's AQR at A-14.

## G. Cost of Production Analysis

Pursuant to section 773(b)(2)(A)(ii) of the Act, Commerce required that both mandatory respondents provide CV and cost of production (COP) information to determine if there were reasonable grounds to believe or suspect that sales of foreign like product had been made at prices that represented less than the COP of the product.

### 1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated a weighted-average COP, by model, based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses (G&A) and interest expenses. For Navneet, in accordance with section 773(f)(2) of the Act, we have applied the transactions disregarded rule to adjust its reported costs for these preliminary results to account for the full acquisition cost of product design services received from an affiliate.<sup>82</sup> For Super Impex, we have not made any adjustments to its COP for these preliminary results. In addition, based on the review of record evidence, we find that both Navneet and Super Impex did not appear to experience significant changes in the cost of manufacturing during the POR such that we might consider using shorter averaging periods. Therefore, for both Navneet and Super Impex, we followed our normal methodology of calculating a weighted-average cost for the POR. For Navneet and Super Impex, we relied on the reported annual data.

### 2. Test of Comparison Market Prices and COP

As required under section 773(b) of the Act, for Navneet, we compared the company-specific weighted-average COP to the company-specific comparison market sales prices of the foreign like product to determine whether these sales had been made at prices below the COP within an extended period of time (*i.e.*, normally a period of one year) in substantial quantities and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. On a model-specific basis, we compared Navneet's COP to the comparison market prices, less any applicable movement charges, discounts, rebates, and direct and indirect selling expenses.

### 3. Results of the COP Test

Pursuant to sections 773(b)(1)(A) and (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 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 (b)(2)(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.

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<sup>82</sup> See Navneet Preliminary Calculation Memorandum at "Transactions Disregarded Rule."

Our cost test indicates that Navneet had certain comparison market sales that were sold at prices below the COP within an extended period of time in substantial quantities and were at prices which would not permit the recovery of all costs within a reasonable period of time.<sup>83</sup> Thus, in accordance with section 773(b)(1) of the Act, we disregarded certain below-cost sales and used the remaining above-cost sales to determine NV.

#### H. Calculation of NV Based on Comparison Market Prices

We calculated NV for Navneet based on the reported packed, ex-factory, or delivered prices to unaffiliated comparison-market customers.<sup>84</sup>

With respect to Navneet, in accordance with section 773(a)(6)(C)(iii) of the Act, we made adjustments, where appropriate, to NV for certain billing adjustments, rebates, and early payment discounts. We also made deductions from the starting price, where appropriate, for certain movement expenses (*i.e.*, inland freight and warehousing expenses) and for certain direct selling expenses (*e.g.*, credit expenses), pursuant to section 773(a)(6)(B)(ii) of the Act.<sup>85</sup>

We also added U.S. packing costs and deducted home-market packing costs, in accordance with sections 773(a)(6)(A) and (B)(i) of the Act.<sup>86</sup>

When comparing U.S. sales with comparison-market sales of similar, but not identical, merchandise, we 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. We based this adjustment on the difference in the variable cost of manufacturing of the foreign-like product and that of the subject merchandise.<sup>87</sup>

#### I. Calculation of NV Based on Constructed Value

For Navneet, in accordance with section 773(a)(4) of the Act, we used CV as the basis for NV when there were no above cost sales of the foreign like product in the comparison market. We calculated CV in accordance with section 773(e) of the Act. We included the cost of materials and fabrication, SG&A expenses, U.S. packing expenses, and profit in the calculation of CV. 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 Navneet in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the comparison market. When appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Act, 19 CFR 351.410, and 19 CFR 351.412 for COS differences and LOT differences. For comparisons to EP, we made cost of sales adjustments by deducting home market direct selling expenses from and adding U.S. direct selling expenses to CV.

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<sup>83</sup> See Navneet Preliminary Calculation Memorandum at Attachment 3 for details.

<sup>84</sup> See Navneet Preliminary Calculation Memorandum at Attachment 1.

<sup>85</sup> See Navneet Preliminary Calculation Memorandum at Attachment 1 at “4-B-i: CALCULATION OF AGGREGATE VARIABLES” and “4-B-ii: CALCULATION OF NET PRICES.”

<sup>86</sup> See Navneet Preliminary Calculation Memorandum at Attachments 1 and 4.

<sup>87</sup> See 19 CFR 351.411(b).

For Super Impex, because Super Impex had no viable comparison market, we based Super Impex's NV on CV, in accordance with section 773(a)(4) of the Act. Section 773(e) of the Act directs us to calculate CV based on the sum of Super Impex's cost of materials and fabrication employed in producing the subject merchandise, plus amounts for G&A, profit, interest expenses, and U.S. packing costs. We calculated the cost of materials and fabrication, G&A and interest based on information submitted by Super Impex in its original and supplemental questionnaire responses. Our approach in this regard is consistent with our practice.<sup>88</sup>

In this review, however, selling expenses and profit cannot be calculated for Super Impex under the preferred method set forth in section 773(e)(2)(A) of the Act because Super Impex has no viable home market or third country market. In situations where we cannot calculate CV profit and selling expenses under section 773(e)(2)(A) of the Act, section 773(e)(2)(B) of the Act establishes three alternative methods:

- (i) the use of the actual amounts incurred and realized by the specific exporter or producer in connection with the production and sale in the foreign country of merchandise that is in the same general category of products as the subject merchandise;
- (ii) the use of the weighted average of the actual amounts incurred and realized by exporters or producers (other than the respondent) in connection with the production and sale of the foreign like product, in the ordinary course of trade, for consumption in the foreign country; or
- (iii) based on any other reasonable method, except that the amount for profit may not exceed the amount realized by exporters or producers (other than the respondent) in connection with the sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise (*i.e.*, the "profit cap").

The statute does not establish a hierarchy for selecting among the alternatives for calculating CV profit and selling expenses. Moreover, as noted in the SAA,<sup>89</sup> "the selection of an alternative will be made on a case-by-case basis, and will depend, to an extent, on available data."<sup>90</sup> Thus, Commerce has discretion to select from any of the three alternative methods, depending on the information available on the record.

In weighing the alternative information and determining which source to use, we first determined which products fit within "the same general category of products as the subject merchandise." The term "general category of products" is not defined in the statute. However, the SAA provides that the term "encompasses a category of merchandise broader than the foreign-like

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<sup>88</sup> See *Certain Lined Paper Products from India, Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments: 2015-2016*, FR 82 46764 (October 6, 2017), and accompanying Preliminary Decision Memorandum (*CLPP India 2015-2016 Prelim*), unchanged in *Certain Lined Paper Products from India, Final Results of Antidumping Duty Administrative Review: 2015-2016*, FR 83 16054 (April 13, 2018), and accompanying IDM (*CLPP India 2015-2016 Final*).

<sup>89</sup> See Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol 1 (1994) (SAA) at 840 ("At the outset, it should be emphasized, consistent with the Antidumping Agreement, new section 773(e)(2)(B) does not establish a hierarchy or preference among these alternative methods. Further, no one approach is necessarily appropriate for use in all cases.")

<sup>90</sup> See SAA at 840.

product.”<sup>91</sup>

With each of the statutory alternatives in mind, we evaluated the data available and weighed each of the alternatives to determine which surrogate data source most closely fulfills the aim of the statute. We note that we could not rely on alternative (i), *i.e.*, profit for the same general category of products as subject merchandise, because the record evidence shows that Super Impex did not make any sales in the same general category during the POR.

We also note that we could not rely on alternative (ii), *i.e.*, profit for other exporters or producers subject to the review, because the production and sale of the foreign like product of Navneet, the other mandatory respondent in this review, are not in “the same general category of products as the subject merchandise.” In four of the previous reviews in this case, Commerce determined not to rely on Navneet’s financial statements for purposes of calculating CV ratios, because Commerce determined that Navneet’s production and sale of the foreign like product are not in “the same general category of products as the subject merchandise.”<sup>92</sup>

In the instant review, the record submitted by Navneet indicated that Navneet is organized into four broad divisions: Stationery (including the subject merchandise), Publications (books), Education Services, and Other. Navneet further stated that its business is the production of educational books, children’s books, general books, and stationery products and further stated that sales of subject merchandise account for a minority of its sales.<sup>93</sup> Concerning Super Impex, it is a small firm that is only engaging in the manufacturing and sales of school note books and paper products.<sup>94</sup> Based on our review of Super Impex’s sales and cost records, we confirmed that school note books and paper products are the only line of business in which Super Impex engaged during the POR. Accordingly, we continue to determine that Navneet’s financial statements are not an appropriate surrogate for Super Impex’s CV ratios because the majority of the production and sales of Navneet’s foreign like products during the POR are not in “the same general category of products as the subject merchandise.”

Because we continue to determine that Navneet’s financial statements are not an appropriate surrogate for Super Impex’s CV ratios, we are relying on the alternative under subsection (iii) of section 773(e)(2)(B) of the Act, *i.e.*, any other reasonable method to determine the appropriate data to use to calculate CV profit, for the preliminary results.

In choosing a reasonable method, we find the specific language of both the preferred and alternative methods indicates a preference that the profit and selling expenses reflect: (1) production and sales in the foreign country; and (2) the foreign like product, *i.e.*, the merchandise

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<sup>91</sup> *Id.*

<sup>92</sup> See *CLPP India 2015-2016 Prelim*, unchanged in *CLPP India 2015-2016 Final*; see also *Certain Lined Paper Products from India: Final Results of Antidumping Duty Administrative Review; 2012–2013*, 80 FR 19278 (April 10, 2015) (*CLPP India 2012-2013 Final*), and accompanying IDM at Comment 1; and *Certain Lined Paper Products from India: Notice of Preliminary Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 60628 (October 7, 2015), and accompanying Preliminary Decision Memorandum, unchanged in *Certain Lined Paper Products from India: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 81 FR 5986 (February 4, 2016).

<sup>93</sup> See Navneet’s AQR A-5.

<sup>94</sup> See Super Impex’s AQR at A-5.

under consideration. In evaluating the different alternatives available under subsection (iii), we also followed the analysis established in *Pure Magnesium from Israel*.<sup>95</sup> In *Pure Magnesium from Israel*, Commerce set out three criteria for choosing among surrogate data under section 772(e)(2)(B)(iii) of the Act: (1) the similarity of the potential surrogate company's business operations and products to the respondent's business operations and products; (2) the extent to which the financial data of the surrogate company reflects sales in the home market and does not reflect sales to the United States; and (3) the contemporaneity of the data to the POR. In *CTVs from Malaysia*, Commerce added a fourth criterion - the extent to which the customer base of the surrogate and the respondent were similar (e.g., original equipment manufacturers versus retailers).<sup>96</sup> These criteria have since been adopted by Commerce in recent cases for choosing among surrogate data under section 772(e)(2)(B)(iii) of the Act.<sup>97</sup>

In this review Super Impex submitted financial statement data for two companies for use in calculating CV ratios: Sundaram Multi Pap limited (Sundaram), and Gopi Paper Mart (Gopi).<sup>98</sup> The petitioners did not make any comments on the Sundaram and Gopi surrogate financial statements. The petitioners submitted financial statement data for one company, Arora Gifts Private Limited (Arora), for use in calculating CV ratios.<sup>99</sup> Under the first criterion established in *Pure Magnesium from Israel*, we find that all three surrogate companies for which we have financial statement data are engaged in the business of manufacturing and sale of school and office stationery notebooks or paper products in India, i.e., merchandise in the same general category of the subject merchandise. Under the second criterion established in *Pure Magnesium from Israel*, we also find that the sales of the surrogate companies reflect domestic sales of merchandise in the same general category of the subject merchandise because either 100 percent or a majority of their revenue is from domestic sales of the merchandise in the same general category of the subject merchandise (i.e., office and school supplies). Therefore, we find the business operations and products are like those of Super Impex.<sup>100</sup>

In addition, we preliminarily determine that the 2018-2019 financial statements of all three surrogate companies are contemporaneous and they also reflect the production and sales of comparable merchandise (i.e., office and school supplies) in the Indian Market.<sup>101</sup> Thus, consistent with Commerce's previous reviews of this case,<sup>102</sup> as noted above, we are relying on any other reasonable method to determine the appropriate data to use to calculate CV profit, for the preliminary results. Therefore, in accordance with section 773(e)(2)(B)(iii) of the Act, we find that the publicly available 2018-19 financial statements of Sundaram, Gopi, and Arora

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<sup>95</sup> See *Notice of Final Determination of Sales at Less Than Fair Value: Pure Magnesium from Israel*, 66 FR 49349 (September 27, 2001) (*Pure Magnesium from Israel*), and accompanying IDM at Comment 8.

<sup>96</sup> See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Color Television Receiver from Malaysia*, 69 FR 20592 (April 16, 2004) (*CTVs from Malaysia*), and accompanying IDM at Comment 26.

<sup>97</sup> See, e.g., *Certain Oil Country Tubular Goods from the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances*, 79 FR 41983 (July 18, 2014), and accompanying IDM at Comment 1.

<sup>98</sup> See Super Impex's SQR1 at Exhibit S1-2.b for Sandaram and Exhibit S1-2.c for Gopi.

<sup>99</sup> See Arora Financial Statements at Exhibits 1 and 2.

<sup>100</sup> See Super Impex's SQR1 at Exhibit S1-2.b and S1-2.c; see also Arora Financial Statements at Exhibits 3, 4, 5, and 6.

<sup>101</sup> See Super Impex's SQR1; see also Arora Financial Statements at Exhibit 1.

<sup>102</sup> See *CLPP India 2012-2013 Final* IDM at Comment 1; see also *CLPP India 2015-2016 Prelim*, unchanged in *CLPP India 2015-2016 Final*.

constitute the best available surrogate data source for purposes of calculating the CV ratios. Therefore, for the preliminary results, we calculated the CV ratios used for Super Impex based on a simple average of the CV selling expense and profit ratios of Sundaram Gopi, and Arora, which were calculated using each companies' 2018-19 audited financial statements.<sup>103</sup>

## VII. CURRENCY CONVERSION

We made currency conversions into U.S. dollars in accordance with section 773A of the Act and 19 CFR 351.415, based on the exchange rates in effect on the date of the U.S. sales as certified by the Federal Reserve Bank.<sup>104</sup>

## VIII. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

☒

Agree

☐

Disagree

1/7/2021

X



Signed by: JEFFREY KESSLER

Jeffrey I. Kessler  
Assistant Secretary  
for Enforcement and Compliance

<sup>103</sup> See Super Impex's SQR1 at Exhibit S1-2.b for Sandaram and Exhibit S1-2.c for Gopi; *see also* Super Impex's SQR1 at Exhibit S1-2.a for Super Impex's summary sheet of the CV profit calculation; and Arora Financial Statements at Exhibits 1 and 2 for Arora's 2018-2019 financial statements and summary sheet of the CV profit calculation.

<sup>104</sup> The exchange rates are available on the Enforcement and Compliance website at <http://enforcement.trade.gov/exchange/index.html>.