DATE: April 3, 2018

MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance

FROM: James Maeder
Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Certain Uncoated Paper from Indonesia

SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on certain uncoated paper (uncoated paper) from Indonesia. The review covers one producer/exporter of the subject merchandise, APRIL.\(^1\) The period of review (POR) is August 26, 2015, through February 28, 2017. We preliminarily find that subject merchandise has not been sold at less than normal value (NV).

BACKGROUND

In March 2016, Commerce published in the *Federal Register* an AD order on uncoated paper from Indonesia.\(^2\) Subsequently, on March 6, 2017, Commerce published in the *Federal Register* Amended Final Affirmative Antidumping Determinations for Brazil and Indonesia and Antidumping Duty Orders, 81 FR 11174 (March 3, 2016).

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\(^1\) Commerce selected PT Anugerah Kertas Utama (AKU), PT Riau Andalan Kertas (RAK), and APRIL Fine Paper Macao Offshore Limited (collectively, APRIL) as a mandatory respondent in this investigation. Further, as discussed below, for these preliminary results, Commerce has preliminarily determined to collapse, and treat as a single entity, this company and two affiliated parties, PT Sateri Viscose International (SVI) and A P Fine Paper Trading (Hong Kong) Limited (AFPHK).

\(^2\) See *Certain Uncoated Paper from Australia, Brazil, Indonesia, the People’s Republic of China, and Portugal: Amended Final Affirmative Antidumping Determinations for Brazil and Indonesia and Antidumping Duty Orders*, 81 FR 11174 (March 3, 2016).
a notice of opportunity to request an administrative review of the AD order on uncoated paper from Indonesia for the period August 26, 2015, through February 28, 2017.\(^3\)

Pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b)(1), in March 2017, Commerce received requests to conduct an administrative review from APRIL, as well as an additional producer/exporter, APP (comprised of Pindo Deli Pulp and Paper Mills, PT. Indah Kiat Pulp and Paper Tbk, and PT. Pabrik Kertas Tjiwi Kimia Tbk).\(^4\) In May 2017, in accordance with 19 CFR 351.221(c)(1)(i), we published a notice of initiation of administrative review on uncoated paper from Indonesia for these companies,\(^5\) and we issued the AD questionnaire to them.\(^6\) However, APP subsequently timely withdrew its request for administrative review, in accordance with 19 CFR 351.213(d)(1).\(^7\) Because no other interested party requested a review of APP, we subsequently rescinded the review with respect to that company.\(^8\)

In May 2017, APRIL requested that Commerce modify its reporting period to January 1, 2016, through February 28, 2017, in light of the fact that Commerce did not order suspension of APRIL’s U.S. entries of subject merchandise until January 2016 (i.e., after the affirmative final determination for APRIL in the less-than-fair-value (LTFV) investigation).\(^9\) After considering this request, we permitted APRIL to not report U.S. sales of uncoated paper which entered the United States prior to the suspension of liquidation; however, we continued to require APRIL to report cost data for the entire POR (i.e., August 26, 2015, through February 28, 2017).\(^10\) Subsequently, Commerce permitted APRIL to modify its cost reporting period, such that this period began on September 1, 2015.\(^11\)

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\(^3\) See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review, 82 FR 12551 (March 6, 2017).


\(^10\) See Department Letter re: 1st Administrative Review of Certain Uncoated Paper from Indonesia, dated May 22, 2017, where we instructed APRIL to provide: 1) a list of all those unreported U.S. sales of merchandise falling within the scope of the order in this proceeding; and 2) supporting documentation that links each of those sales to an entry date prior to January 20, 2016. Furthermore, we did not alter the POR for APRIL’s reporting of its home market sales.

In June 2017, we received APRIL’s responses to sections A through D of the questionnaire \(i.e.,\) the sections relating to general information, comparison market sales, U.S. sales, and cost of production (COP)/constructed value (CV), respectively.\(^ {12}\) From July through October 2017, we issued supplemental sections A and D questionnaires to APRIL. We received responses to these supplemental questionnaires during this same period.\(^ {13}\)

On November 6, 2017, Commerce postponed the preliminary results of this review until April 2, 2018.\(^ {14}\) Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through January 22, 2018. As a result, the revised deadline for the preliminary results of this review is now April 3, 2018.\(^ {15}\)

From December 2017 through February 2018, we issued supplemental sections B and C questionnaires to APRIL. We received responses to these supplemental questionnaires from December 2017 through March 2018.\(^ {16}\)

In March 2018, we collapsed APRIL’s new affiliated reseller, AFPHK, and APRIL’s new affiliated producer, SVI, into APRIL, and, thus, we are treating these companies as a single entity in this proceeding.\(^ {17}\)

SCOPE OF THE ORDER

The merchandise subject to the order includes uncoated paper in sheet form; weighing at least 40 grams per square meter but not more than 150 grams per square meter; that either is a white paper with a GE brightness level\(^ {18}\) of 85 or higher or is a colored paper; whether or not surface-


\(^{13}\) See APRIL’s July 25, 2017 Supplemental Section A Questionnaire Response (APRIL July 25, 2017 SAQR); APRIL’s September 1, 2017 Supplemental Section D Questionnaire Response; APRIL’s October 3, 2017 Second Supplemental Section D Questionnaire Response (APRIL October 3, 2017 SDQR); and APRIL’s October 27, 2017 Third Supplemental Section D Questionnaire Response.


\(^{15}\) See Memorandum, “Deadlines Affected by the Shutdown of the Federal Government,” dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by three days.

\(^{16}\) See APRIL’s December 20, 2017 Supplemental Section B Questionnaire Response; APRIL’s February 27, 2018 First Supplemental Section C Questionnaire Response (APRIL February 27, 2018 SCQR); and APRIL’s March 1, 2018 Second Supplemental Section C Questionnaire Response.


\(^{18}\) One of the key measurements of any grade of paper is brightness. Generally speaking, the brighter the paper the better the contrast between the paper and the ink. Brightness is measured using a GE Reflectance Scale, which measures the reflection of light off a grade of paper. One is the lowest reflection, or what would be given to a totally black grade, and 100 is the brightest measured grade. “Colored paper” as used in this scope definition means a paper with a hue other than white that reflects one of the primary colors of magenta, yellow, and cyan (red, yellow, and blue) or a combination of such primary colors.
decorated, printed (except as described below), embossed, perforated, or punched; irrespective of the smoothness of the surface; and irrespective of dimensions (Certain Uncoated Paper).

Certain Uncoated Paper includes (a) uncoated free sheet paper that meets this scope definition; (b) uncoated ground wood paper produced from bleached chemi-thermo-mechanical pulp (BCTMP) that meets this scope definition; and (c) any other uncoated paper that meets this scope definition regardless of the type of pulp used to produce the paper.

Specifically excluded from the scope are (1) paper printed with final content of printed text or graphics and (2) lined paper products, typically school supplies, composed of paper that incorporates straight horizontal and/or vertical lines that would make the paper unsuitable for copying or printing purposes. For purposes of this scope definition, paper shall be considered “printed with final content” where at least one side of the sheet has printed text and/or graphics that cover at least five percent of the surface area of the entire sheet.

Imports of the subject merchandise are provided for under Harmonized Tariff Schedule of the United States (HTSUS) categories 4802.56.1000, 4802.56.2000, 4802.56.3000, 4802.56.4000, 4802.56.6000, 4802.56.7020, 4802.56.7040, 4802.57.1000, 4802.57.2000, 4802.57.3000, and 4802.57.4000. Some imports of subject merchandise may also be classified under 4802.62.1000, 4802.62.2000, 4802.62.3000, 4802.62.5000, 4802.62.6020, 4802.62.6040, 4802.69.1000, 4802.69.2000, 4802.69.3000, 4811.90.8050 and 4811.90.9080. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

AFFILIATION AND COLLAPSING

Legal Framework

Section 771(33) of the Act, in pertinent part, identifies persons that shall be considered “affiliated” or “affiliated persons” as: two or more persons directly or indirectly controlling, controlled by, or under common control with, any person. Section 771(33) of the Act further stipulates that “a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person,” and the Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA) notes that control may be found to exist within corporate groupings. Commerce’s regulations at 19 CFR 351.102(b)(3) state that in determining whether control over another person exists within the meaning of section 771(33) of the Act, Commerce will not find that control exists

19 See section 771(33)(F) of the Act.
20 See section 771(33) of the Act.
21 See SAA, H.R. Doc. No. 103-316, vol. 1, at 838 (1994) (stating that control may exist within the meaning of section 771(33) of the Act in the following types of relationships: (1) corporate or family groupings, (2) franchises or joint venture agreements, (3) debt financing, and (4) close supplier relationships in which either party becomes reliant upon the other).
unless the relationship has the potential to impact decisions concerning the production, pricing, or cost of the subject merchandise or foreign like product.\(^2\)

Section 351.401(f)(1) of Commerce’s regulations states that Commerce will treat two or more affiliated producers as a single entity where they have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities and Commerce concludes that there is a significant potential for the manipulation of price or production. Section 351.401(f)(2) of Commerce’s regulations further states that, in identifying a significant potential for manipulation, Commerce may consider factors including: (1) the level of common ownership; (2) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and (3) whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers.

While 19 CFR 351.401(f) refers to producers, Commerce has found it to be instructive in determining whether non-producers should be collapsed and has applied these criteria in determining whether non-producers likewise should be collapsed.\(^3\)

Affiliation and Single Entity Analysis

As noted in the “Background” section above, in June 2017, APRIL submitted a response to section A of the questionnaire. In this submission, APRIL indicated that it had a new affiliated reseller, AFPHK, and a new affiliated producer, SVI.\(^4\) In this submission, APRIL stated that AFPHK acted as the exporter and importer of record for APRIL’s U.S. sales of subject merchandise and that SVI produced in-scope merchandise on the same site as APRIL’s other production entities.\(^5\)

We analyzed the information on the record and determined that AFPHK and SVI are affiliated with APRIL, pursuant to section 771(33)(F) of the Act.\(^6\) In addition, based on the evidence provided in APRIL’s questionnaire response, we also determined that AFPHK and SVI should be collapsed with APRIL and treated as a single entity in this review. This finding is based on the determination that APRIL and SVI have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure their

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\(^2\) See also Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27298 (May 19, 1997).


\(^5\) Id.

\(^6\) Because our analysis discusses business proprietary information, our analysis is contained in a separate memorandum. See Collapsing Memo.
manufacturing priorities. Further, the level of common ownership among APRIL, AFPHK, and SVI, as well as the extent to which their operations are intertwined, presents a significant potential for the manipulation of price or production of subject merchandise, pursuant to 19 CFR 351.401(f). As a result, we have treated these companies as a single entity for purposes of this review.

DISCUSSION OF THE METHODOLOGY

Normal Value Comparisons

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), in order to determine whether APRIL’s sales of subject merchandise from Indonesia to the United States were made at less than NV, Commerce compared the export price (EP) to the NV as described in the “Export Price” and “Normal Value” sections of this memorandum.

Determination of the Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EP or constructed export prices (CEP) (i.e., the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In LTFV investigations, Commerce examines whether to compare weighted-average NVs with the EPs or CEPs 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 Commerce’s examination of this question in the context of administrative reviews, 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 LTFV investigations.

In recent investigations, Commerce has applied a “differential pricing” analysis for determining whether application of the average-to-average method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act. Commerce 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. Commerce will continue to develop its approach in this area based on comments received in this

27 Id. at 7.
28 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 JBF RAK LLC v. United States, 790 F.3d 1358, 1363-65 (Fed. Cir. 2015) (“{t}he fact that the statute is silent with regard to administrative reviews does not preclude Commerce from filling gaps in the statute to properly calculate and assign antidumping duties”) (citations omitted).
29 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).
and other proceedings, and on Commerce’s additional experience with addressing the potential masking of dumping that can occur when Commerce 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 prices for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all U.S. 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 consolidated customer codes reported by the respondent. 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 POR based upon the U.S. 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 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 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, Commerce examines whether using only the average-to-average 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 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 \textit{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 \textit{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.

Results of the Differential Pricing Analysis

For APRIL, based on the results of the differential pricing analysis, Commerce preliminarily finds that 97.80 percent of the value of U.S. sales pass the Cohen’s \(d\) test,\(^{31}\) 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 all U.S. sales.\(^{32}\) 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 APRIL.

\(^{31}\) See Memorandum, “Calculations for APRIL for the Preliminary Results,” dated concurrently with this memorandum (APRIL Preliminary Calculation Memo).

\(^{32}\) Id.
Product Comparisons

In accordance with section 771(16)(A) of the Act, we considered all products produced by APRIL covered by the description in the “Scope of the Order” section, above, and sold in the home market during the POR to be foreign like products for purposes of determining NV for the merchandise sold in the United States. Pursuant to 19 CFR 351.414(f), we compared APRIL’s U.S. sales of uncoated paper to its sales of uncoated paper made in the home market within the contemporaneous window period, which extends from three months prior to the month of the first U.S. sale until two months after the month of the last U.S. sale.

Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, according to section 771(16)(B) of the Act, we compared U.S. sales to sales of the most similar foreign-like product or CV, as appropriate. In making the product comparisons, we matched foreign like products based on the physical characteristics to the product sold in the United States. In the order of importance, these physical characteristics are as follows: folio, color, embossing/watermark, basis weight, sheet size, brightness, recycled weight, printing, perforated, punched, and package branding.

Date of Sale

Section 351.401(i) of Commerce’s regulations states that, normally, Commerce 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. However, the regulations permit Commerce to use a different date other than the date of the invoice if it better reflects the date on which the exporter or producer establishes the material terms of sale.

APRIL reported the earlier of the invoice date or the shipment date as the date of sale for sales made to the home market and the United States. Accordingly, consistent with Commerce’s findings in the original LTFV investigation that the material terms of sale for APRIL’s home market and U.S. sales are fixed no later than the time of shipment and our practice, we have accepted APRIL’s date of sale reporting methodology for the purposes of these preliminary results of review.

Export Price

For all U.S. sales made by APRIL, we used EP methodology, in accordance with section 772(a) of the Act, because the subject merchandise was sold by the producer/exporter outside of the

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33 See APRIL June 26, 2017 BQR, at 18; and APRIL June 26, 2017 CQR, at 16.
35 See, e.g., Certain Frozen Warmwater Shrimp from Thailand: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review, 72 FR 52065 (September 12, 2007), and accompanying IDM at Comment 1.
United States directly to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise warranted based on the facts of record.

We calculated EP based on the packed prices to the first unaffiliated purchaser in the United States. We made deductions from the starting price for movement expenses (i.e., international freight, marine insurance, foreign inland freight, foreign brokerage and handling expenses, and foreign port charges), where appropriate, in accordance with section 772(c)(2)(A) of the Act. Because Commerce found no export subsidies for APRIL in the most recently-completed segment of the companion counterviable duty proceeding, we did not make an adjustment, pursuant to section 772(c)(1)(C) of the Act, to APRIL’s reported U.S. price for counterviable export subsidies.

**Duty Drawback**

Section 772(c)(1)(B) of the Act states that the price used to establish EP shall be increased by “the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the subject merchandise to the United States.” In determining whether a respondent is entitled to duty drawback, we look for a reasonable link between the duties imposed and those rebated or exempted. We do not require that the imported material be traced directly from importation through exportation. We do require, however, that the company meet our “two-pronged” test in order for this adjustment to be made to U.S. prices. The first prong of the test is that the import duty and its rebate or exemption be directly linked to, and dependent upon, one another (or the exemption from import duties is linked to exportation). The second prong of the test is that the company must demonstrate that there were sufficient imports of materials to account for the duty drawback or exemption granted for the export of the manufactured product.

In this case, APRIL claimed an adjustment to EP for duty drawback. However, APRIL based its duty drawback calculation, in part, on imports of indirect materials not used as raw material inputs in the production of subject merchandise. Further, APRIL failed to demonstrate with respect to the remaining imports that there was sufficient volume of imported materials to account for the duty drawback claimed (i.e., APRIL provided the value of imported materials and subsequent exports, rather than the volume, and it did not link the quantity of materials imported to the quantity of finish product exported). Therefore, we preliminarily determine that APRIL has not satisfied the second prong of Commerce’s test. As a result, we have preliminarily denied APRIL’s duty drawback claim.

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36 See Certain Uncoated Paper from Indonesia: Final Affirmative Countervailing Duty Determination, 81 FR 3104 (January 20, 2016), and accompanying IDM at Appendix.
37 See Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments, 71 FR 61716, 61723-24 (October 19, 2006); Saha Thai Steel Pipe (Public) Co. v. United States, 635 F.3d 1335, 1340-41 (Fed. Cir. 2011) (Saha Thai).
38 See Saha That, 635 F.3d at 1340-41; Notice of Final Results of the Eleventh Administrative Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea, 71 FR 7513 (February 13, 2006), and accompanying IDM at Comment 2.
39 See APRIL June 26, 2017 CQR at 34-36 and Exhibit C-14 (A-C); APRIL October 3, 2017 SDQR at 5-8 and Exhibits SD2-7, SD2-8, and SD2-9; and APRIL February 27, 2018 SCQR at 15-16 and Exhibit SC-16.
Normal Value

A.  Home Market Viability

In order to determine whether there is a sufficient volume of sales 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 APRIL’s home market sales of the foreign like product to the volume of its U.S. sales of subject merchandise, in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404. Based on this comparison, we preliminarily determined that, pursuant to 19 CFR 351.404(b), the aggregate volume of home market sales of the foreign like product for APRIL was sufficient to permit a proper comparison with U.S. sales of the subject merchandise. Consequently, pursuant to section 773(a)(1)(B)(i) of the Act and 19 CFR 351.404(c)(1)(i), we based APRIL’s NV on its home market sales.

B.  Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, Commerce will calculate NV based on sales at the same level of trade (LOT) as the U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. In order to determine whether the comparison market sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (i.e., the chain of distribution), including selling functions and class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (i.e., NV based on either home market or third country prices), we consider the starting prices before any adjustments.

When Commerce is unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the EP, Commerce may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it possible, we make an LOT adjustment under section 773(a)(7)(A) of the Act.

In this administrative review, we obtained information from APRIL regarding the marketing stages involved in making the reported home market and U.S. sales. In the U.S. market, APRIL

40 See 19 CFR 351.412(c)(2).
41 Id.; see also Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Antidumping Duty Order in Part, 75 FR 50999 (August 18, 2010) (OJ from Brazil), and accompanying IDM at Comment 7.
42 Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling, general and administrative (SG&A) expenses, and profit for CV, where possible. See 19 CFR 351.412(c)(1).
reported sales to distributors/retailers through one channel of distribution (i.e., direct sales to unaffiliated U.S. customers). We examined the selling activities performed for these sales and found that APRIL performed the following selling functions: sales forecasting, strategic/economic planning, personnel training/exchange, sales promotion, order/input processing, employment of direct sales personnel, sales/marketing support, market research, technical assistance, and provision of freight and delivery. Selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery services; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Accordingly, based on the selling function categories, we find that APRIL performed sales and marketing and freight and delivery services for its EP sales. Because all sales in the United States are made through a single distribution channel and the selling activities to APRIL’s customers did not vary within this channel, we preliminarily determine that there is one LOT in the U.S. market.

With respect to the home market, APRIL reported sales to distributors/retailers through two channels of distribution (i.e., direct sales to unaffiliated home market customers in Sumatra and to other Indonesian locations). We examined the selling activities performed for these sales and found that APRIL performed the following selling functions: sales forecasting, strategic/economic planning, sales promotion, order/input processing, employment of direct sales personnel, sales/marketing support, market research, technical assistance, and provision of freight and delivery. Therefore, based on the four selling function categories listed above, we find that APRIL performed sales and marketing and freight and delivery for its home market sales. Because all the selling activities to APRIL’s home market customers did not vary between its reported distribution channels, we preliminarily determine that there is one LOT in the home market.

Finally, we compared the U.S. LOT to the home market LOT and found that the selling functions performed for U.S. and home market customers are virtually identical. Therefore, we determine that sales to the U.S. and home markets during the POR were made at the same LOT and, as a result, no LOT adjustment is warranted.

C. Cost of Production Analysis

Under the Trade Preferences Extension Act of 2015, numerous amendments to the AD and CVD laws were made. Pursuant to the amendment of section 773(b)(2)(A) of the Act, Commerce required that 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

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44 We note that APRIL claims to provide “sales promotion” services in making its U.S. sales; however, it did not report any expenses that could be considered applicable to these type of services (e.g., discounts, rebates, etc.). Id.


46 Id. at A-11 to A-14 and Exhibits A-6 and A-7; and APRIL June 26, 2017 BQR, at 17; and APRIL July 25, 2017 SAQR, at 21.

made at prices that represented less than the COP of the product. Commerce requested this information from APRIL.\textsuperscript{48} APRIL submitted a timely response.\textsuperscript{49}

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated APRIL’s COPs based on the sum of materials and conversion for the foreign like product, plus amounts for general and administrative expenses and interest expenses (see “Test of Comparison Market Sales Prices” section, below, for treatment of home market selling expenses). We examined the reported cost data and determined that our quarterly cost methodology is not warranted. Therefore, we followed our normal methodology of calculating an annual weighted-average cost.

We relied on the COP data submitted by APRIL except as follows:\textsuperscript{50}

- In accordance with sections 773(f)(2) and 773(f)(3) of the Act, we valued inputs purchased from affiliated suppliers at the higher of the market price, the affiliated transfer price, or the affiliates’ COP, where applicable;
- We disallowed the startup adjustment claimed by the respondent; and
- Because no cost of goods sold amount was recorded on SVI’s 2016 income statement, we used the average of the G&A expense ratios reported for APRIL’s other two producers (i.e., AKU and RAK) for SVI’s G&A expense ratio.

2. Test of Comparison Market Sales Prices

On a product-specific basis, pursuant to section 773(b) of the Act, we compared the adjusted weighted-average COP to the home market sales prices of the foreign like product in order to determine whether the sale prices were below the COP. For purposes of this comparison, we used the COP exclusive of selling and packing expenses. The prices were exclusive of any applicable movement charges, discounts and rebates, billing adjustments, direct and indirect selling expenses, and packing expenses.

3. Results of the COP Test

In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether: 1) within an extended period of time, such sales were made in substantial quantities; and 2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. In accordance with sections 773(b)(2)(B) and (C) of the Act, where less than 20 percent of a respondent’s home market sales of a given product are at prices less than the

\textsuperscript{49} See APRIL June 29, 2017 DQR.
\textsuperscript{50} See Memorandum, “Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results – APRIL,” dated concurrently with this memorandum.
COP, we disregard none of the below-cost sales of that product because we determine that in such instances the below-cost sales were not made within an extended period of time and in “substantial quantities.” Where 20 percent or more of a respondent’s sales of a given product are at prices less than the COP, we disregard the below-cost sales when: 1) the sales 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 COPs for the POR, the sales 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-average cost test in these preliminary results, we have also applied our standard cost recovery test with no adjustments.

We found that, for certain products, more than 20 percent of APRIL’s home market sales were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. We therefore disregarded these sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

For those U.S. sales of subject merchandise for which there were no comparable home market sales in the ordinary course of trade, we compared EP to CV in accordance with section 773(a)(4) of the Act.

D. Calculation of Normal Value Based on Comparison Market Prices

We based NV for APRIL on delivered prices to unaffiliated customers in the home market. We made deductions, where appropriate, from the starting price for rebates and billing adjustments, in accordance with 19 CFR 351.401(c). Regarding rebates, APRIL reported that these amounts were based on its customer’s total sales during the program’s period; therefore, we disagree with APRIL that these amounts are more appropriately considered discounts. Further, where APRIL failed to document that its customer knew the terms and conditions of the rebate program at the time of the sale, we disregarded these reported rebates, consistent with our regulations.51

We also made a deduction from the starting price for movement expenses (i.e., inland freight) under section 773(a)(6)(B)(ii) of the Act. We made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for direct selling expenses (including imputed credit expenses, advertising, and bank charges). For APRIL’s unpaid home market sales, we calculated credit expenses using a payment date of the date of the preliminary results.52 We also made adjustments, in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred in the home market up to the amount of the commissions paid on U.S. sales.

51 See 19 CFR 351.401(c); see also Modifications of Regulations Regarding Price Adjustments in Antidumping Duty Proceedings, 81 FR 15641, 15644-45 (March 24, 2016).
52 See APRIL Preliminary Calculation Memo.
We 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. When comparing U.S. sales with home 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 for the foreign like product and subject merchandise.53

E. Calculation of Normal Value Based on Constructed Value

Section 773(a)(4) of the Act provides that, where NV cannot be based on comparison market sales, NV may be based on CV. Accordingly, for those uncoated paper models for which we could not determine the NV based on home market sales, we based NV on CV.

Section 773(e) of the Act provides that CV shall be based on the sum of the cost of materials and fabrication for the imported merchandise, plus amounts for SG&A expenses, profit, and U.S. packing costs. We based SG&A and profit on the actual amounts incurred and realized by APRIL in connection with the production and sale of the foreign like product, in the ordinary course of trade, for consumption in the home market, in accordance with section 773(e)(2)(A) of the Act.

We made adjustments to CV for differences in circumstances of sale, in accordance with section 773(a)(6)(C)(iii) and (a)(8) of the Act and 19 CFR 351.410. For comparisons to EP, we made circumstance-of-sale adjustments by deducting direct selling expenses incurred on home market sales from, and adding U.S. direct selling expenses to, CV.54 We also made adjustments, when applicable, for home market indirect selling expenses, to offset U.S. commissions in EP comparisons.55

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.

53 See 19 CFR 351.411(b).
54 See 19 CFR 351.410(c).
55 See 19 CFR 351.410(e).
RECOMMENDATION

Based on our analysis, we recommend adopting the above positions in these preliminary results. If this recommendation is accepted, we will publish the preliminary results of the review and the preliminary dumping margin for APRIL in the *Federal Register*.

☑   ☐

Agree    Disagree

4/3/2018

Signed by: GARY TAVERMAN

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance