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DATE: September 30, 2013

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Import Administration

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

SUBJECT: Decision Memorandum for Partial Rescission and Preliminary
Results of Antidumping Duty Administrative Review: Certain
Lined Paper Products from India; 2011-2012

SUMMARY

In response to requests from interested parties, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty (AD) order on certain lined paper products from India. The period of review (POR) is September 1, 2011, through August 31, 2012. We initiated this review with respect to 82 Indian producers/exporters of the subject merchandise.¹ After initiation, Petitioners² withdrew their request for review in its entirety.³ Therefore, there are only two companies, Navneet Publications (India) Ltd. (Navneet) and AR Printing & Packaging (India) Pvt. Ltd. (AR Printing),⁴ remaining in this review. Of these two companies, only Navneet is subject to individual review by the Department.

Based on Petitioners' withdrawal request for review, we are rescinding this review with respect to 80 companies covered in the *Initiation Notice*. We have preliminary found that during the POR in this proceeding, Navneet made sales of subject merchandise at less than normal value (NV). We used the calculated dumping margin for Navneet in this review as the non-selected rate for AR Printing, the sole non-selected company covered in this proceeding.

If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (CBP) to assess ADs on all appropriate entries of subject

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 77 FR 65858 (October 31, 2012) (*Initiation Notice*).

² The Petitioners in this administrative review are the Association of American School Paper Suppliers (AASPS) and its individual members (hereafter Petitioners), which consist of the following companies: ACCO Brands USA LLC, Norcom Inc., and Top Flight, Inc. ACCO Brands USA LLC is a direct, wholly-owned subsidiary of ACCO Brands Corporation. See Petitioners' letter dated March 31, 2013.

³ See Petitioners' withdrawal request letter dated January 28, 2013.

⁴ These two companies were included in Petitioners' review request, but they also separately requested a review. See below for details.



merchandise made by Navneet during the POR. We will further instruct CBP to assess ADs on all appropriate entries of subject merchandise made by AR Printing during the POR.

Interested parties are invited to comment on these preliminary results. We will issue final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act).

BACKGROUND

Initiation of the Administrative Review

On September 28, 2006, the Department published in the *Federal Register* an AD order on certain lined paper products from India.⁵ On September 4, 2012, the Department issued a notice of opportunity to request an administrative review of AD and countervailing duty orders with August anniversary dates.⁶ On September 28, 2012, the Department received a letter from Petitioners requesting an administrative review of the *CLPP Order* covering 83 Indian producers/exporters (including Navneet and AR Printing). On September 30, 2012, Navneet and AR Printing separately requested reviews. On October 5, 2012, Petitioners revised their review request to cover 82 companies.⁷ Accordingly, we initiated the review with respect to 82 Indian companies on October 31, 2012.⁸ On January 28, 2013, Petitioners withdrew their request for the review in its entirety.⁹

⁵ 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) (*CLPP Order*).

⁶ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 77 FR 53863 (September 4, 2012).

⁷ Petitioners revised their review request due to a duplication of a company name: "AR PRINTING & PACKAGING (I)" and "A R PRINTING AND PACKAGING INDIA".

⁸ The 82 companies included in the *Initiation Notice* are: Abhay International; Abhinav Paper Products Pvt. Ltd.; Agility Logistics Private Limited; Almore Industries; American Scholar, Inc. and/or I-Scholar; AR Printing & Packaging (India) Pvt. Ltd.; Artisan; Akar Limited; A.L. Paper House; Ampoules & Vitals Mfg. Co. Ltd.; Apl Logistics India Pvt. Ltd.; Artesign Impex; Arun Art Printers Pvt. Ltd.; Aryan Worldwide; Avm International; Bafna Exports; Cargomar Pvt. Ltd.; Cello International Pvt. Ltd. (M/S Cello Paper Products); Chitra Exports; Corporate Stationery Pvt. Ltd.; Crane Worldwide Logistics Ind. Pvt.; Creative Divya; D.D. International; Diki Continental Exports; Dhote Offset Technokrafts Pvt.; Eagle Press; Exel India (Pvt.) Ltd.; Exim Transtrade (India) Pvt. Ltd.; Exmart International Pvt. Ltd.; Espo Trading Pvt. Ltd.; Expeditors International (India) Pvt/Expeditors Cargo Mgmt. Systems; Fatechand Mahendrakumar; FFI International; Freight India Logistics Pvt. Ltd.; Gauriputra International Ltd.; Gayatri International; Goldenpalm Manufacturers (Pvt.) Ltd.; Goyal Crafts; International Greetings Pvt. Ltd.; Karur K.C.P. Packagings Ltd.; Kejriwal Paper Ltd. and Kejriwal Exports; Krati Handcraft; Lodha Offset Limited; Luxor International Pvt. Ltd.; M.S. The Bell Match Company; Magic International Pvt. Ltd.; Mahavideh Foundation; Marisa International; Navneet Publications (India) Ltd.; Nemlaxmi Books (India) Pvt. Ltd.; Noble Shipping Pvt. Ltd.; Orient Press Ltd.; Pacific Paper Products; Paperwise Inc.; Pathfinder Business Analysis (P) Lt.; Phalada Agro Research Foundations; Pioneer Stationery Pvt. Ltd.; Polaris Software Lab Limited; Premier Exports; Pragati Offset Pvt. Ltd.; Raghunath Exporters; Rajvansh International; Ratan Papers Pvt. Ltd.; Riddhi Enterprises; SAB International; SAI Suburi International; SAR Transport Systems; SDV Intl Logistics Ltd.; Seet Kamal International; SGM Paper Products; Shivam Handicrafts; Soham Udyog; Sonal Printers Pvt. Ltd.; Sundaram Multi Pap. Ltd.; Super Impex; Super Quality Impex; Swati Growth Funds Ltd.; Swift Freight (India) Pvt. Ltd.; Ultra Engineers; V&M; Yash Laminates; Xylem Papercraft Pvt. Ltd.

⁹ See Petitioners' letter dated January 28, 2013.

Selection of Respondents for Individual Examination

In light of the large number of respondents for which an administrative review has been initiated, the Department notified interested parties of its intent to use entry data from CBP for respondent selection, in accordance with section 777A(c)(2) of the Act. On November 1, 2012, the Department placed on the record a proprietary memorandum containing the CBP entry data for imports from India during the POR.¹⁰ We subsequently released the memorandum to all interested parties with an administrative protective order (APO) and invited interested parties to comment on the use of the data for respondent selection.¹¹

On November 9, 2012, Petitioners submitted comments indicating that the CBP data query results were unreliable because the unit of measure used in the CBP data contains a mix of entries that are recorded in either kilograms or pieces, which may create additional confusion as to the actual quantity of imports attributable to the companies being reviewed. Petitioners urged the Department to issue quantity and value (Q&V) questionnaires to the companies identified in the CBP data as having produced/exported subject merchandise during the POR, so that it could obtain import figures that are based on a single unit of measure and which properly link import volumes.

Due to the variation in the unit of measure in the CBP data, we determined that we were unable to rank potential respondents based on the volume of subject merchandise, as described under section 777A(c)(2)(B) of the Act. For purposes of selecting respondents for individual examination, on November 21, 2012, the Department issued a second memorandum requesting further comments from interested parties.¹² We stated that we would use the CBP query results to identify the universe of requesting firms that had suspended entries of subject merchandise to the United States during the POR, and would issue a Q&V questionnaire to each firm identified in the CBP query results. Furthermore, we stated that we intended to use the data reported in the Q&V questionnaire responses as the basis for selecting the mandatory respondents subject to individual review.

We received no further comments from interested parties. On December 3, 2012, we issued a Q&V Questionnaire to 17 Indian producers/exporters for which CBP data showed entries which are subject to the *CLPP Order* during the POR.¹³ Seven of the 17 Q&V recipients provided

¹⁰ The request for CBP data covered the following Harmonized Tariff Schedule of the United States (HTSUS) numbers: 4810.22.5044, 4811.90.9050, 4820.10.2010, 4820.10.2020, 4820.10.2030, 4820.10.2040, 4820.10.2060, 4820.10.4000, and the companies for which a review was initiated.

¹¹ See Memorandum to the File, "Customs and Border Protection Data for Selection of Respondents for Individual Review," (CBP Data), dated November 1, 2012.

¹² See "Respondent Selection and Customs and Border Protection (CBP) Data Query Results: Request for Further Comments" dated November 21, 2012.

¹³ See the Department's Memorandum to the File, titled "Issuance of Quantity and Value Questionnaires," dated December 3, 2012. The 17 companies are: Ampoules & Vials Mfg. Co., Ltd.; Espo Trading Pvt Ltd.; Kejriwal Exports (AKA Kejriwal Paper Limited); Green Earth Education Limited; Lodha Offset Limited; Luxor International; Magic International (AKA Magic International Pvt. Ltd.); Marisa International; Navneet Publications (India) Ltd.; Nemlaxmi Books (India) Pvt Ltd; Pioneer Stationery Pvt. Ltd.; Premier Exports; Riddhi Enterprises; SAB International; SAR Transport Systems; SGM Paper Products; Super Impex (AKA M/S Super Impex).

Q&V responses.¹⁴ Based on our analysis of the reported Q&V responses and our current resource constraints, the Department determined to select Navneet and Super Impex (AKA M/S Super Impex) as the mandatory respondents for this review on January 8, 2013.¹⁵

Requests for Information and Petitioners' Withdrawal of Review

On January 8, 2013, the Department issued an AD questionnaire to Navneet and Super Impex (AKA M/S Super Impex). The due date for the questionnaire response was February 14, 2013.

On January 28, 2013, Petitioners withdrew their request for the review in its entirety.

Neither Navneet nor AR Printing withdrew their review requests. Accordingly, Petitioners' withdrawal resulted in two Indian producers/exporters, Navneet and AR Printing, remaining in the review. Petitioners filed their withdrawal request 20 days after the Department had issued its AD questionnaire to the two originally selected mandatory respondents. Because of the resource constraints of our office, time constraints, and the complexities of the case (*e.g.*, applying a new "differential pricing" analysis in this proceeding), the Department determined that it was too late to issue a questionnaire to AR Printing, a *pro se* company. Accordingly, after Petitioners' withdrawal request, only one mandatory respondent (Navneet) remained in the review,¹⁶ along with one non-selected respondent, AR Printing.

Navneet submitted its original questionnaire responses for sections A-D on March 4, 2013. The Department issued its first supplemental questionnaire for sections A-C to Navneet on May 22, 2013, and issued section D supplemental questionnaire on July 1, 2013. Navneet submitted its responses on July 24 and July 26, 2013, respectively. On July 31, 2013, The Department issued its second supplemental questionnaire for sections A-D to Navneet, and Navneet submitted its response on August 8, 2013.

On April 26, 2013, the Department extended the time limit for the preliminary results by 120 days.¹⁷

¹⁴ They are: Super Impex (AKA M/S Super Impex); Navneet; SAB International; Riddhi Enterprises; Lodha Offset Limited; SGM Paper Products; and Pioneer Stationery Pvt. Ltd. See the Department's Memorandum to the File, titled "Selection of Respondents for Individual Examination" (Respondents Selection Memo) dated January 8, 2013.

¹⁵ See Respondents Selection Memo.

¹⁶ Because Super Impex (AKA M/S Super Impex) did not separately request a review, Super Impex (AKA M/S Super Impex) is no longer a mandatory respondent, following Petitioners' withdrawal of the review request.

¹⁷ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through Melissa Skinner, Office Director, AD/CVD Operations 3, from Cindy Robinson and George McMahon, Case Analyst, AD/CVD Operations 8, titled "Certain Lined Paper Products from India: Certain Lined Paper Products from India: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review," dated April 26, 2013.

SCOPE OF THE ORDER

The scope of this 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 this 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;
- 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 stationary (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 this 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 this 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.

PARTIAL RESCISSION OF THE 2011-2012 ADMINISTRATIVE REVIEW

As noted above, on January 28, 2013, Petitioners withdrew their request for the 2011-2012 administrative review in its entirety, which affects 80 Indian producers/exporters of the subject merchandise covered in the *Initiation Notice*. In accordance with 19 CFR 351.213(d)(1), the Department will rescind an administrative review “if a party that requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review.” The instant review was initiated on October 31, 2013.¹⁸ Therefore, the deadline to withdraw review requests was January 29, 2013. Petitioners’ withdrawal of request for review falls within the deadline. Therefore, in accordance with 19 CFR 351.213(d)(1), and consistent with our practice,¹⁹ we are rescinding this review in its entirety with the exception of the two self-requesting companies: Navneet and AR Printing.

¹⁸ See *Initiation Notice*.

¹⁹ See, e.g., *Brass Sheet and Strip from Germany: Notice of Rescission of Antidumping Duty Administrative Review*, 73 FR 49170 (August 20, 2008); see also *Certain Lined Paper Products from India: Notice of Partial Rescission of Antidumping Duty Administrative Review and Extension of Time Limit for the Preliminary Results of Antidumping Duty Administrative Review*, 74 FR 21781 (May 11, 2009).

DISCUSSION OF THE METHODOLOGY

Date of Sale

Navneet reported the invoice date as the date of sale in the home market,²⁰ and the purchase order date as the date of sale for its U.S. sales.²¹

Product Comparisons

In accordance with section 771(16) of the Act, we compared the prices of products produced by Navneet and sold in the U.S. market with the prices of comparison products sold in the home market. The comparison products were either identical or most similar in terms of the physical characteristics to the product sold in the United States. In the order of importance, these physical characteristics are (1) form, (2) paper volume, (3) brightness, (4) binding type, (5) cover material, (6) back material, (7) number of inserts, and (8) insert material.

Comparisons to Normal Value

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

A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average constructed export prices (CEPs) or EPs (the average-to-average or A-to-A method), unless the Secretary determines that another method is appropriate in a particular situation. In AD investigations, the Department examines whether to use the average-to-transaction (A-to-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 the Department’s examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in AD investigations.²² In recent investigations, the Department applied a “differential pricing” (DP) analysis for determining whether application of A-to-T comparisons is appropriate pursuant to 19 CFR

²⁰ See Navneet’s Section B Questionnaire Response, March 4, 2013, at B-25.

²¹ See Navneet’s Section C Questionnaire Response, March 4, 2013, at C-23.

²² See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Review*; 2010-2011, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum at Comment 1.

351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.²³ The Department finds the DP analysis used in these preliminary results and other recent proceedings may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review.²⁴ The Department intends to continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the A-to-A method in calculating weighted-average dumping margins.

The DP analysis used in these preliminary results requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differs significantly among purchasers, regions, or time periods.²⁵ If such a pattern is found, then the DP analysis evaluates whether such differences can be taken into account when using the A-to-A method to calculate the weighted-average dumping margin. The DP analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. For Navneet, the purchasers are based on the reported customer names and regions are defined using the reported zip codes, which 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 being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region, and time period, that the Department uses in making comparisons between EP and NV for the individual dumping margins.

In the first stage of the DP analysis used here, the "Cohen's *d* test" is applied. The Cohen's *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the

²³ See Memoranda to Paul Piquado, Assistant Secretary for Import Administration, from Abdelali Elouaradia, Director of AD/CVD Operations Office 4, entitled "Less Than Fair Value Investigation of Xanthan Gum from Austria: Post-Preliminary Analysis and Calculation Memorandum," "Less than Fair Value Investigation of Xanthan Gum from the People's Republic of China: Post-Preliminary Analysis and Calculation Memorandum for Neimenggu Fufeng Biotechnologies Co., Ltd, (aka Inner Mongolia Fufeng Biotechnologies Co., Ltd) and Shandong Fufeng Fermentation Co., Ltd," and "Less than Fair Value Investigation of Xanthan Gum from the People's Republic of China: Post-Preliminary Analysis and Calculation Memorandum for Deosen Biochemical Ltd," all dated March 4, 2013.

²⁴ See, e.g., *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and New Shipper Reviews; 2011-2012*, 78 FR 40692 (July 8, 2013); *Certain Activated Carbon From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 26748 (May 8, 2013); *Certain Steel Threaded Rod From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 21101 (April 9, 2013) (*Steel Threaded Rod*); *Polyester Staple Fiber From Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 17637 (March 22, 2013) (*Polyester Staple Fiber*).

²⁵ As noted above, the DP analysis has been utilized in recent investigations to determine the appropriate comparison methodology. It has also been used in several recent AD administrative reviews. See, e.g., *Steel Threaded Rod; Circular Welded Carbon Steel Pipes and Tubes From Thailand: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 21105 (April 9, 2013); *Polyvinyl Alcohol From Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2010-2012*, 78 FR 20890 (April 8, 2013); and *Polyester Staple Fiber*.

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

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for 66 percent or more of the value of total sales, then the identified pattern of EPs that differ significantly supports the consideration of the application of the A-to-T method to all sales as an alternative to the A-to-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-to-T method to those sales identified as passing the Cohen's *d* test as an alternative to the A-to-A method, and application of the A-to-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-to-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 EPs (or CEPs) that differ significantly such that an alternative comparison method should be considered, then in the second stage of the DP analysis, we examine whether using only the A-to-A method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the A-to-A method only. If the difference between the two calculations is meaningful, then this demonstrates that the A-to-A method cannot account for differences such as those observed in this analysis, and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if: 1) there is a 25 percent relative change in the weighted-average dumping margin between the A-to-A method and the appropriate alternative method where both rates are above the *de minimis* threshold, or 2) the resulting weighted-average dumping margin moves across the *de minimis* threshold.

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

B. Results of the DP Analysis

For Navneet, based on the results of the DP analysis, the Department finds that 12.35 percent of the value of Navneet's U.S. sales pass the Cohen's *d* test, which confirms the non-existence of a pattern of EPs for comparable merchandise that differ significantly among purchasers, regions, or time periods. Accordingly, the Department has determined to use the A-to-A method for all U.S. sales to calculate the weighted-average dumping margin for Navneet.²⁶

Export Price

For all U.S. sales made by Navneet, we used the EP methodology, in accordance with section 772(a) of the Act, because the subject merchandise was sold 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. When appropriate, we reduced the EP prices to reflect discounts.

In accordance with section 772(c)(2)(A) of the Act, we made deductions, where appropriate, for movement expenses including foreign inland freight from plant/warehouse to the port of exportation, foreign brokerage and handling, and foreign bill of lading charges. We also increased EP by an amount equal to the countervailing duty (CVD) attributed to export subsidies in the most recently completed certain lined paper products from India CVD segment²⁷ to which the respondents were subject, in accordance with section 772(c)(1)(C) of the Act.

Normal Value

A. *Home Market Viability as the Comparison Market*

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, we compared the volume of Navneet'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. Pursuant to section 773(a)(1)(B) of the Act and 19 CFR 351.404(b), because the volume of Navneet's home-market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable for Navneet. Consequently, we based NV on home-market sales to unaffiliated purchasers made in the usual quantities in the ordinary course of trade and sales made to affiliated purchasers where we find the sales were made at arm's length, described in detail below.

²⁶ In these preliminary results, the Department applied the weighted-average dumping margin calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012). In particular, the Department compared monthly weighted-average EPs with monthly weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

²⁷ For the most recently completed CVD segment for Navneet, see *Certain Lined Paper Products From India: Final Results of Countervailing Duty Administrative Review*, 74 FR 6573 (February 10, 2009).

B. Level of Trade

Section 773(a)(1)(B) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (LOT) as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).²⁸

Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.²⁹ In order to determine whether the comparison 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, class of customer (*i.e.*, customer category), and the level of selling expenses for each type of sale.

Pursuant to 19 CFR 351.412(c)(1), in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either home-market or third-country prices), we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and CEP profit under section 772(d) of the Act.³⁰ 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.

When the Department is unable to match U.S. sales with sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sales to sales at a different LOT in the comparison market. In comparing EP or CEP sales with sales at a different LOT in the comparison market, where available data make it practicable, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.*, no LOT adjustment could be calculated), then the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.³¹

In this review, Navneet stated that it has seven channels of distribution in the home market:

(1) full service Navneet brand distributor, (2) limited service Boss brand, (3) chain store “key-account,” (4) institutional end-users who purchase materials for their own use; (5) schools that purchase customized products for their own use and for reselling to students; and (7) full service sales of Navneet-brand channel to super-stockists who in turn sell to distributors.³² Navneet stated that there is only one channel of distribution for the U.S. market.

In its home market, only two of Navneet’s distribution channels are full service channels. 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 C&F (*i.e.*, clearing

²⁸ See 19 CFR 351.412(c)(2).

²⁹ 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) (*Plate from South Africa*).

³⁰ See *Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314-1315 (Fed. Cir. 2001).

³¹ See *Plate from South Africa*, 62 FR at 61732-33.

³² Navneet did not include channel 6 in its questionnaire response. Rather, Navneet indicated that channel 6 is reserved for the export channel, to maintain consistency with the previous reviews. See Navneet’s questionnaire response dated March 4, 2013, at page A-11.

and forwarding) 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.³³ In channel seven (full service sales of Navneet brand to super-stockists who then sell to distributors), Navneet states that it designs and produces products on its own account; sells to super-stockists, which maintain the products in their own warehouses; and actively participates in advertising at the retail and consumer levels.³⁴ As a result, the levels of selling activities for channels one and seven in the home market are at a different level of intensity than the levels of selling activities in the other channels of distribution in the home market. Thus, we find that the home-market channels of distribution constitute two LOTs: (1) LOT1, which consists of channels one and seven; and (2) a combined LOT2, which consists of channels two, three, four, and five, as reported by Navneet in its database.³⁵

In the U.S. market, Navneet made only EP sales of the subject merchandise. There was one channel of distribution for U.S. sales, importers/distributors, who distribute the products to retailers. Navneet produces products for the U.S. market to order, and ships them directly from the factory to the port for export, without being held in an intermediate warehouse. After shipment, Navneet has no further involvement in the sale. All marketing, selling and distribution activities are carried out by the importers/distributors for the U.S. market.³⁶ The selling activities that Navneet performs for its U.S. customers are business proprietary information.³⁷

Based on our analysis of the selling activities in the home market and in the U.S market, we find that Navneet's HM sales in LOT2 are at the same stage of marketing as the U.S. sales.

Therefore, we have compared U.S. sales to Navneet's reported LOT2 sales in its HM sales database. For more details, *see* Preliminary Calculation Memorandum for Navneet, dated September 30, 2013.

C. *Cost of Production (COP) Analysis*

Because the Department disregarded below-cost sales in the most recently completed segment of the proceeding in which Navneet participated,³⁸ we have reasonable grounds to believe or suspect that comparison market sales of the foreign like product by Navneet were made at prices below the COP during the POR, in accordance with section 773(b)(2)(A)(ii) of the Act. Therefore, we required Navneet to submit a response to Section D of the Department's questionnaire.

D. *Calculation of Cost of Production*

We calculated the COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for general and administrative and financial expense, in accordance

³³ *See id.* at page A-14.

³⁴ *See id.* at page 16.

³⁵ *See* Exhibit A.6.

³⁶ *See id.* at A-23 through A-24, and Exhibit A.6.

³⁷ *See id.* at Exhibit A.6.

³⁸ *See Certain Lined Paper Products from India: Notice of Final Results of Antidumping Duty Administrative Review*, 77 FR 14729 (March 13, 2012).

with section 773(b)(3) of the Act. We examined the cost data and determined that our quarterly cost methodology is not warranted and, therefore, we have applied our standard methodology of using annual costs based on the reported data. We relied on the COP data submitted by Navneet and made no adjustments to the submitted data for these preliminary results.

E. Test of Home Market Prices

As required under section 773(b)(2) of the Act, we compared the weighted-average COP for the POR to the per-unit price of the home-market sales of the foreign like product, to determine whether these sales had been made at prices below the COP within an extended period of time in substantial quantities and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. On a model-specific basis, we determined the net home-market prices for the below-cost test by subtracting from the gross unit price all applicable movement charges, discounts, rebates, direct and indirect selling expenses, and packing expenses.

F. Results of COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of sales of a given product were at prices less than the COP, we did not disregard the below-cost sales of that product because we determine 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 model are at prices less than the COP, we disregard the below-cost sales because (1) they are 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 POR weighted-average of their COP, they are 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.

Our cost test indicated that Navneet had certain home-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.³⁹ Thus, we have disregarded such sales and used the remaining sales as the basis for NV, in accordance with section 773(b)(1) of the Act.

G. Calculation of Normal Value Based on Comparison Market Prices

We calculated the weighted-average NV based on prices to unaffiliated customers and those to affiliated customers that passed the arm's-length test. We also based NV on home-market sales that passed the cost test. In our calculation of NV, we accounted for billing adjustments, discounts, and rebates, where appropriate. We also made deductions, where applicable, for inland freight, insurance, and handling, pursuant to section 773(a)(6)(B) of the Act. We also made adjustments for differences in circumstances of sale, in accordance with section 773(a)(6)(C)(ii) of the Act. In particular, we made circumstances-of-sale adjustments for home-market direct-selling expenses, such as imputed credit expenses and advertising expenses, and certain U.S. direct selling expenses, such as commissions. Finally, we deducted home-market

³⁹ See Navneet Preliminary Sales Analysis Memo dated September 30, 2013.

packing costs and added U.S. packing costs in accordance with sections 773(a)(6)(A) and (B) of the Act.⁴⁰

RATE FOR NON-SELECTED COMPANY

In accordance with section 777A(c)(2)(B) of the Act, the Department limited its examination of respondents, as the large number of companies involved would have made individual review impracticable.⁴¹ As discussed above in “Selection of Respondents for Individual Examination” section, the instant review initially covered 82 Indian producers/exporters, and the Department issued a Q&V questionnaire to 17 of these companies for purposes of respondent selection. Thereafter, Petitioners withdrew their review request, leaving only one mandatory respondent, Navneet, and one non-selected respondent, AR Printing, in the current review.

Generally, when calculating the margin for non-selected respondents (non-selected rate), the Department has looked to section 735(c)(5) of the Act for guidance, which provides instructions for calculating the all-others margin in an investigation. Section 735(c)(5)(A) of the Act provides that when calculating the all-others margin, the Department will exclude any zero and *de minimis* weighted-average dumping margins, as well as any weighted-average dumping margins based on total facts available. Accordingly, the Department’s normal practice has been to average the margins for selected respondents, excluding margins that are zero, *de minimis*, or based entirely on facts available.⁴² Section 735(c)(5)(B) of the Act also provides that, where all margins are zero, *de minimis* or based on total facts available, the Department may use “any reasonable method” for assigning a margin to non-selected respondents. One method contemplated by section 735(c)(5)(B) of the Act is “averaging the estimated weighted average dumping margins determined for the exporters and producers individually investigated.”

In this review, we have calculated a weighted-average dumping margin of 6.62 percent for the sole mandatory respondent, Navneet. Because we have calculated a non-zero or *de minimis* margin in this review, therefore, we are assigning the calculated rate for Navneet to the sole non-selected company, AR Printing.

Currency Conversion

For purposes of these preliminary results, we made currency conversions in accordance with section 773A(a) of the Act, based on the official exchange rates published by the Federal Reserve Bank. See Preliminary Calculation Memorandum for Navneet, dated September 30, 2013.

⁴⁰ See *id.* for more detailed information on the calculation of NV.

⁴¹ See the Department’s November 10, 2012, Memorandum entitled, “Customs and Border Protection Data for Selection of Respondents for Individual Review”.

⁴² See *Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part*, 73 FR 52823, 52824 (September 11, 2008), and accompanying Issues and Decision Memorandum at Comment 16.

RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

✓
Agree

Disagree

Paul Piquado
Paul Piquado
Assistant Secretary
for Import Administration

30 SEPTEMBER 2013
Date