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Investigation
Public Document
AD/CVD III: LRL

DATE: June 10, 2015

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Preliminary Determination in the
Antidumping Duty Investigation: Melamine from Trinidad and
Tobago

I. SUMMARY

The Department of Commerce (“the Department”) preliminarily determines that melamine from the Trinidad and Tobago is being, or is likely to be, sold in the United States at less than fair value (“LTFV”), as provided in section 733 of the Tariff Act of 1930, as amended (“the Act”). The estimated weighted-average dumping margin for the only mandatory respondent in this investigation, Methanol Holdings (Trinidad) Limited (“MHTL”), is shown in the “Preliminary Determination” section of the accompanying *Federal Register* notice.

II. BACKGROUND

On November 12, 2014, the Department received an antidumping duty (“AD”) petition concerning imports of melamine from Trinidad and Tobago, filed in proper form by Cornerstone Chemical Company (“Petitioner”).¹ On November 14, 2014, the Department requested information and clarification of certain areas of the petition.² Petitioner filed timely responses to

¹ See Petition for the Imposition of Antidumping Duties on Imports of Melamine from Trinidad and Tobago,” dated November 12, 2014 (the “Petition”).

² See letter from the Department, “Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Melamine from the People’s Republic of China and Trinidad and Tobago: Supplemental Questions,” dated November 14, 2014.



these requests. The Department initiated an AD investigation of melamine from Trinidad and Tobago on December 2, 2014, which published in the *Federal Register* on December 9, 2014.³

In the *Initiation*, we set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope), and encouraged interested parties to submit such comments by December 22, 2014.⁴ In addition, we set aside time for parties to submit comments regarding product characteristics, and invited all parties to submit comments by December 22, 2014, and rebuttal comments by January 2, 2015.⁵ We received comments on the product characteristics from Petitioner on December 22, 2014.⁶ None of the parties to the proceeding filed comments on the record concerning the scope of the investigation.

The *Initiation* stated that the petition named MHTL as the sole producer/exporter of melamine in Trinidad and Tobago, and that Petitioner provided information from an independent third-party source in support of its information.⁷ We stated that we knew of no additional producers/exporters of subject merchandise from Trinidad and Tobago, and intended to examine all known producers/exporters in this investigation (*i.e.*, MHTL).⁸ We invited interested parties to comment on this issue within five days of the publication of the *Initiation*,⁹ but received no comments.

On January 6, 2015, the U.S. International Trade Commission (“ITC”) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of melamine from Trinidad and Tobago sold in the United States at less than fair value.¹⁰

On January 15, 2015, we issued an antidumping questionnaire to MHTL.¹¹ MHTL submitted responses on February 18, 2015,¹² March 6, 2015,¹³ and March 13, 2015.¹⁴

Petitioner submitted comments on MHTL’s responses on March 23, 2015,¹⁵ and May 4, 2015.¹⁶ We issued supplemental questionnaires on March 31, 2015,¹⁷ May 1, 2015,¹⁸ May 14, 2015,¹⁹

³ See *Melamine from the People’s Republic of China and Trinidad and Tobago: Initiation of Less-Than-Fair-Value Investigations*, 79 FR 73037 (December 9, 2014) (“*Initiation*”).

⁴ *Id.*

⁵ *Id.*

⁶ See letter from Petitioner, “Melamine from the People’s Republic of China and Trinidad and Tobago: Petitioner’s Comments on Product Characteristics For AD Questionnaires,” dated December 22, 2014 (“Petitioner’s Comments on Product Characteristics”).

⁷ See *Initiation*, 79 FR at 73041 (citing Volume III of the Petition at 1 and Exhibit III-1).

⁸ *Id.*

⁹ *Id.*

¹⁰ See *Melamine from China and Trinidad and Tobago*, 80 FR 518 (January 6, 2015).

¹¹ See the Department’s letter to MHTL and the enclosed antidumping questionnaire dated January 14, 2015.

¹² See letter from MHTL, “Melamine from Trinidad and Tobago; Southern Chemical and MHTL’s Section A Questionnaire Response,” dated February 18, 2014 (“AQR”).

¹³ See letter from MHTL, “Melamine from Trinidad and Tobago; Southern Chemical and MHTL’s Sections B and C Questionnaire Responses,” dated March 6, 2015 (“BQR” and “CQR”).

¹⁴ See letter from MHTL, “Melamine from Trinidad and Tobago; MHTL’s Section D Questionnaire Response,” dated March 13, 2015 (“DQR”).

¹⁵ See letter from Petitioner, “Melamine from Trinidad & Tobago: Comments On MHTL’s Questionnaire Responses,” dated March 20, 2015.

and May 15, 2015.²⁰ MHTL submitted responses to the Department's supplemental questionnaires on April 27, 2015,²¹ May 22, 2015,²² and May 26, 2015.²³

On April 30, 2015, the Department requested comments on constructed value ("CV") profit and selling expenses.²⁴ MHTL provided comments on May 8, 2015,²⁵ and Petitioner provided comments on May 15, 2015.²⁶

On May 28, 2015, Petitioner filed comments for the Department to consider in its preliminary determination.²⁷

III. PERIOD OF INVESTIGATION

The POI is October 1, 2013, through September 30, 2014. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was November 2014.²⁸

IV. POSTPONEMENT OF PRELIMINARY DETERMINATION

On February 25, 2015, Petitioner requested a postponement of the preliminary determination.²⁹ On March 12, 2015, pursuant to section 733(c)(1)(B) of the Act and 19 CFR 351.205(b)(2), the

¹⁶ See letter from the Petitioner, "Melamine from Trinidad & Tobago: Comments On MHTL's Supplemental Sections A-C Questionnaire Responses," dated May 4, 2015.

¹⁷ See letter from the Department, "Melamine from Trinidad and Tobago: Antidumping Duty Investigation: First Supplemental Questionnaire for the Sections A, B and C Questionnaire Responses of Methanol Holdings (Trinidad) Limited ("Methanol Holdings") and ("Southern Chemical") (collectively, "Methanol Holdings")," dated March 31, 2015.

¹⁸ See letter from the Department, "Antidumping Duty Less Than Fair Value Investigation of Melamine from Trinidad and Tobago," dated May 1, 2015.

¹⁹ See letter from the Department, "Melamine from Trinidad and Tobago: Antidumping Duty Investigation: Second Supplemental Questionnaire for the Sections A, B and C Questionnaire Responses of Methanol Holdings (Trinidad) Limited ("MHTL") and ("Southern Chemical") (collectively, "MHTL")," dated May 14, 2015.

²⁰ See letter from the Department, "Melamine from Trinidad and Tobago: Antidumping Duty Investigation: Third Supplemental Questionnaire for the Sections A, B and C Questionnaire Responses of Methanol Holdings (Trinidad) Limited ("MHTL") and ("Southern Chemical") (collectively, "MHTL")," dated May 15, 2015.

²¹ See letter from MHTL, "Melamine from Trinidad and Tobago; Southern Chemical and MHTL's First Supplemental Section A-C Questionnaire Response," dated April 27, 2015 ("1st SQR").

²² See letter from MHTL, "Melamine from Trinidad and Tobago; MHTL's Supplemental Section D Questionnaire Response," dated May 22, 2015 ("SDQR").

²³ See letter from MHTL, "Melamine from Trinidad and Tobago; MHTL's Second and Third Supplemental Sections A-C Questionnaire Responses," dated May 26, 2015 ("2nd and 3rd SQR").

²⁴ See letter to all interested parties, "Antidumping Duty Investigation of Melamine from Trinidad and Tobago: Request for Constructed Value Profit and Selling Expense Comments and Information," dated April 30, 2015.

²⁵ See letter from MHTL, "Melamine from Trinidad and Tobago; Constructed Value Profit and Selling Expense Information," dated May 8, 2014 ("MHTL's CV Profit and Selling Expense Response").

²⁶ See letter from Petitioner, "Melamine from Trinidad & Tobago: Petitioner's Rebuttal Comments and Submission of Rebuttal Information Regarding Constructed Value Issues," dated May 15, 2015 ("Petitioner's CV Profit and Selling Expense Comments").

²⁷ See Letter from Petitioner, "Melamine from Trinidad & Tobago: Petitioner's Comments Regarding the Upcoming Preliminary Determination," dated May 27, 2015 ("Petitioner's Pre-Preliminary Comments").

²⁸ See 19 CFR 351.204(b)(1).

Department determined that it was appropriate to postpone the preliminary determination³⁰ and postponed the deadline for issuing the preliminary determination by 50 days.³¹

V. POSTPONEMENT OF FINAL DETERMINATION AND EXTENSION OF PROVISIONAL MEASURES

Pursuant to section 735(a)(2) of the Act, on June 8, 2015, MHTL requested the Department to postpone the final determination and extend provisional measures from four months to six months.³² In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), because: (1) our preliminary determination is affirmative; (2) the requesting exporter, MHTL, accounts for a significant proportion of exports of the subject merchandise; and, (3) no compelling reasons for denial exist, we are granting the request and are postponing the final determination until no later than 135 days after the publication of the preliminary determination notice in the *Federal Register*, and we are extending provisional measures from four months to a period not to exceed six months. Suspension of liquidation will be extended accordingly.

VI. SCOPE OF THE INVESTIGATION

The merchandise subject to this investigation is melamine (Chemical Abstracts Service (“CAS”) registry number 108-78-01, molecular formula $C_3H_6N_6$).³³ Melamine is a crystalline powder or granule typically (but not exclusively) used to manufacture melamine formaldehyde resins. All melamine is covered by the scope of this investigation irrespective of purity, particle size, or physical form. Melamine that has been blended with other products is included within this scope when such blends include constituent parts that have been intermingled, but that have not been chemically reacted with each other to produce a different product. For such blends, only the melamine component of the mixture is covered by the scope of this investigation. Melamine that is otherwise subject to this investigation is not excluded when commingled with melamine from sources not subject to this investigation. Only the subject component of such commingled products is covered by the scope of this investigation.

The subject merchandise is provided for in subheading 2933.61.0000 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Although the HTSUS subheading and CAS registry number are provided for convenience and customs purposes, the written description of the scope is dispositive.

²⁹ See Letter from Petitioner, “Melamine from Trinidad & Tobago: Request to Postpone the Preliminary Determination,” dated February 25, 2015.

³⁰ See *Melamine from the People’s Republic of China and Trinidad and Tobago: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 80 FR 12979 (March 12, 2015).

³¹ *Id.*, 80 FR at 12980.

³² See Letter from MHTL, “Melamine from Trinidad and Tobago: Southern Chemical and MHTL’s Request to Extend Final Results and Extension for Provisional Measures,” dated June 8, 2015.

³³ Melamine is also known as 2,4,6-triamino-s-triazine; 1,3,5-Triazine-2,4,6-triamine; Cyanurotriamide; Cyanurotriamine; Cyanuramide; and by various brand names.

VII. DISCUSSION OF METHODOLOGY

A. Fair Value Comparisons

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether sales of melamine from Trinidad and Tobago to the United States were made at LTFV, we compared the constructed export price (“CEP”) to the normal value (“NV”), as described in the “Constructed Export Price” and “Normal Value” sections of this memorandum.

1) *Determination of the Comparison Method*

Pursuant to 19 CFR 351.414(c)(1), the Department calculates individual dumping margins by comparing weighted-average NVs to weighted-average CEPs (the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, the Department examines whether to compare weighted-average NVs to the CEPs of individual transactions (the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act.

In order to determine which comparison method to apply, in recent proceedings, the Department applied a “differential pricing” analysis to determine whether application of the average-to-transaction comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.³⁴ The Department finds that the differential pricing analysis used in those recent proceedings may be instructive for purposes of examining whether to apply an alternative comparison method in this investigation. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department’s additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating weighted-average dumping margins.

The differential pricing analysis used in this preliminary determination requires a finding of a pattern of prices for comparable merchandise that differ significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The differential pricing analysis used in this preliminary determination evaluates all purchasers, regions, and time periods to determine whether a pattern of significant price differences exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the customer codes reported by MHTL. 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 quarters within the POI 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

³⁴ See, *e.g.*, *Xanthan Gum From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33350 (June 4, 2013), and accompanying Issues and Decision Memorandum at Comment 3.

time period, that the Department uses in making comparisons between CEP and NV for the individual dumping margins.

In the first stage of the differential pricing analysis, we apply the “Cohen’s *d* test,” which is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen’s *d* test is applied when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least 5 percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s *d* coefficient is calculated to evaluate the extent to which the net prices to a particular purchaser, region, or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen’s *d* test: small, medium or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant if the calculated Cohen’s *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

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

threshold, or 2) the resulting weighted-average dumping margin moves across the *de minimis* threshold.

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

2) *Results of the Differential Pricing Analysis*

Based on the results of the differential pricing analysis, the Department finds that more than 33 percent of MHTL's export sales pass the Cohen's *d* test, and confirm the existence of a pattern of CEPs for comparable merchandise that differ significantly among purchasers, regions, or time periods.³⁵ Further, the Department determines that the average-to-average method can appropriately account for such differences because there is no meaningful difference in the weighted-average dumping margins when calculated using the average-to-average method and an alternative method based on the average-to-transaction method applied to the U.S. sales which pass the Cohen's *d* test.³⁶ Accordingly, the Department has determined to use the average-to-average method for all U.S. sales to calculate the preliminary weighted-average dumping margin for MHTL.

VIII. PRODUCT COMPARISONS

In the *Initiation*, we set aside a period of time for parties to raise issues regarding product characteristics and model matching. As stated above, we received comments on the product characteristics from Petitioner on December 22, 2014.³⁷

The Department identified the following two criteria for matching U.S. sales of subject merchandise to NV: purity and color. These criteria were included in the questionnaires issued to MHTL,³⁸ as well as the questionnaires issued to the respondents in the concurrent investigation of melamine from the People's Republic of China ("PRC").

IX. DATE OF SALE

In identifying the date of sale of the merchandise under consideration, the Department will normally, in accordance with 19 CFR 351.401(i), "use the date of invoice, as recorded in the exporter or producer's records kept in the normal course of business." The date of sale is generally the date on which the parties agree upon all material terms of the sale. This normally includes the price, quantity, delivery terms and payment terms. MHTL reported the shipment date as the date of sale for its U.S. sales.³⁹ MHTL reports that the invoice date is based either on the date of shipment or on the agreed payment terms. MHTL explains that basing the invoice

³⁵ See Memorandum to the File, "Analysis Memorandum for the Preliminary Determination of the Antidumping Duty Investigation of Melamine from Trinidad and Tobago: Methanol Holdings, LLC" ("Preliminary Analysis Memorandum"), dated concurrently with this memorandum, at Attachment 4 at page 44.

³⁶ *Id.* at page 68.

³⁷ See Petitioner's Comments on Product Characteristics.

³⁸ See the Department's original questionnaire dated January 14, 2015, at B-8 and C-7 – C-8.

³⁹ See MHTL's CQR at C-9.

date on the agreed payment terms permits it to invoice multiple shipments on a single invoice at either the end of a week or the end of a month.⁴⁰ Thus, MHTL states that it issues the invoice either contemporaneously or after the shipment.⁴¹ Consistent with our practice, the Department has preliminarily determined to use the invoice date, or shipment date, if the invoice date is after the shipment date, as the date of sale.

X. AFFILIATION

Section 771(33) of the Act provides that:

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

- (A) members of a family, including brothers and sisters (whether by the whole or half-blood), spouse, ancestors, and lineal descendants.
- (B) any officer or director of an organization and such organization.
- (C) Partners.
- (D) Employer and employee.
- (E) Any person directly or indirectly owning, controlling, or holding with power to vote, five percent or more of the outstanding voting stock or shares of any organization and such organization.
- (F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.
- (G) Any person who controls any other person and such other person.⁴²

Section 771(33) 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 SAA notes that control may be found to exist within corporate groupings.⁴³ The Department’s regulations at 19 CFR 351.102(b) state that in determining whether control over another person exists within the meaning of section 771(33) of the Act, the Department will not find that control exists unless the relationship has the potential to impact decisions concerning the production, pricing, or cost of the subject merchandise or foreign like product.⁴⁴ We examined record evidence to determine whether affiliations with any of the following entities existed during the POI: (1) producers and exporters of the subject merchandise, (2) suppliers of inputs used to produce subject merchandise; (3) reported third-country customers; and (4) reported U.S. customers.

MHTL manufactures melamine in Trinidad and Tobago and makes all U.S. and third-country sales through affiliated selling companies from inventory maintained in unaffiliated third-party

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² See section 771(33)(A) through (G) of the Act.

⁴³ See Statement of Administrative Action (“SAA”) accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 316, 103d Cong., 2d Session (1994) at 838 (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 ventures, (3) debt financing, and (4) close supplier relationships in which either party becomes reliant upon the other).

⁴⁴ See 19 CFR 351.102(b).

distribution warehouses.⁴⁵ MHTL sells melamine in the United States using back-to-back transactions through two affiliated parties: C.P.C. Caribbean Petrochemical Company Limited (“Caribbean Petrochemical”) and Southern Chemical Corporation (“Southern Chemical”).⁴⁶ MHTL is affiliated with Caribbean Petrochemical by virtue of common ownership by the private owners of MHTL’s ultimate parent company, Proman Holding AG (“Proman AG”), and Caribbean Petrochemical’s privately-held parent company.⁴⁷ MHTL is additionally affiliated with Caribbean Petrochemical through Helm AG, a German trading company which holds substantial shares in both MHTL’s immediate parent company, Consolidated Energy Limited (“CEL”) and in Caribbean Petrochemical. Thus, MHTL and Caribbean Petrochemical are affiliated within the meaning of section 771(33)(F) of the Act. MHTL is affiliated with Southern Chemical through the common ownership by Proman Holding AG (“Proman AG”). As a consequence, MHTL and Southern Chemical are affiliated within the meaning of section 771(33)(F) of the Act.⁴⁸ MHTL sells all melamine in Italy, the third-country, through Helm AG, and its subsidiary, Helm Italia S.R.L. (“Helm Italia”).⁴⁹ Because Helm AG holds substantial shares in MHTL’s parent company, CEL,⁵⁰ Helm Italia and MHTL are affiliated within the meaning of 771(33)(F) of the Act. Neither Southern Chemical nor Helm Italia makes sales to affiliated customers in the United States or third-country markets.⁵¹ Thus, MHTL has no affiliated customers in either market.

MHTL also purchases inputs to the production of melamine from the following affiliated parties: Industrial Plant Services Limited (“IPSL”), Proman AG (Trinidad) Limited (“Proman Trinidad”) and Nitrogen 2000 Unlimited (“N2000”).⁵² MHTL reports that it is affiliated with IPSL, Proman Trinidad and N2000 by virtue of common shareholders with CEL.⁵³ Thus, these companies are affiliated within the meaning of section 771(33)(F) of the Act.

XI. CONSTRUCTED EXPORT PRICE

Section 772(b) of the Act defines CEP as “the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d).” In accordance with section 772(b) of the Act, we used the CEP methodology for MHTL because the merchandise under consideration was sold in the United States by a U.S. seller affiliated with the producer.

We calculated CEP based on the delivered price to unaffiliated purchasers in the United States. We made adjustments from the starting price (gross unit price), where appropriate, from the

⁴⁵ See AQR at 9.

⁴⁶ See AQR at 4.

⁴⁷ See AQR at Exhibit A-7 and 2nd and 3rd SQR at Exhibit SSA-2.

⁴⁸ *Id.*

⁴⁹ See AQR at 20 and 1st SQR at 5.

⁵⁰ See AQR at A-7 and 2nd and 3rd SQR at Exhibit SSA-2.

⁵¹ See AQR at 21, BQR at B-9.

⁵² See DQR at D-5. See also AQR at Exhibit A-6.

⁵³ See AQR at Exhibit A-6, and 2nd and 3rd SQR at SSA-2.

starting price for billing adjustments in accordance with 19 CFR 351.401(c).⁵⁴ We made additions to starting price for packing in accordance with section 772(c)(1)(A) of the Act.⁵⁵ We also deducted movement expenses (*e.g.*, foreign inland freight, foreign brokerage and handling, U.S. brokerage and handling, international freight, marine insurance, demurrage, port charges and terminal handling fees, U.S. inland freight, U.S. duty and warehouse expense expense) in accordance with section 772(c)(2)(A) of the Act.⁵⁶ In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we further adjusted the CEP by deducting selling expenses associated with economic activities occurring in the United States. We deducted from starting price, where appropriate, commissions, credit expenses, inventory carrying costs, indirect selling expenses and repacking.⁵⁷ We adjusted MHTL's reported U.S. indirect selling expense ratio to account for segment-specific sales and expenses incurred in Southern Chemical's melamine division.⁵⁸ Finally, we made an adjustment for profit allocated to these expenses in accordance with section 772(d)(3) of the Act.⁵⁹

XII. NORMAL VALUE

A. Comparison Market Viability

Section 773(a)(1) of the Act directs that NV be based on the price at which the foreign like product is sold in the comparison market, provided that the merchandise is sold in sufficient quantities (or value, if quantity is inappropriate) and that there is no particular market situation that prevents a proper comparison with the export price. Section 773(a)(1)(C) of the Act contemplates that quantities (or values) will normally be considered insufficient if they are less than five percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States.

In order to determine whether there was a sufficient volume of sales in the home market or in the third country to serve as a viable basis for calculating NV, we compared MHTL's volume of home-market and third-country sales of the foreign like product to the respective volume of U.S. sales of the subject merchandise in accordance with sections 773(a)(1)(B) and (C) of the Act. MHTL's aggregate volumes of sales of foreign like product in the home market was not greater than five percent of the company's sales of subject merchandise to the United States. Therefore, in accordance with Section 773(a)(1)(C) of the Act, MHTL's home market sales were not viable as a comparison market. We also tested MHTL's aggregate volumes of sales of foreign like product in the largest third-country market, Italy, and found that they were greater than five percent of MHTL's sales of subject merchandise to the United States. Therefore, MHTL's third-country sales in Italy were viable as a comparison market.

⁵⁴ See Preliminary Analysis Memorandum at Attachment 3, line numbers 7502 to 7534.

⁵⁵ *Id.* at line number 7523.

⁵⁶ *Id.* at line numbers 7508 to 7509.

⁵⁷ *Id.* at line numbers 7510 to 7521.

⁵⁸ *Id.* at line number 7514.

⁵⁹ *Id.* at line numbers 7556 to 7593.

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).⁶⁰ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.⁶¹ 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.⁶² 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.⁶³

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.⁶⁴ We preliminarily did not grant a CEP offset in accordance with 19 CFR 351.412(f) because normal value was not determined at a more advanced level of trade than the level of trade of the CEP sales.⁶⁵

C. Cost of Production

As stated in the *Initiation*, we initiated a country-wide cost investigation on sales of melamine from Trinidad and Tobago.⁶⁶

⁶⁰ See 19 CFR 351.412(c)(2).

⁶¹ 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*”).

⁶² See *Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314-1315 (Fed. Cir. 2001).

⁶³ See 19 CFR 351.412(c)(1).

⁶⁴ See *Plate from South Africa*, 62 FR at 61732-33.

⁶⁵ See Preliminary Analysis Memorandum at Attachment 3 at line number 6700. See also AQR at Exhibit A-13.

⁶⁶ See *Initiation*, 79 FR at 73040.

1) *Calculation of Cost of Production*

In accordance with section 773(b)(3) of the Act, we calculated the cost of production (“COP”) based on the sum of the cost of materials and fabrication for the foreign like product plus an amount for general and administrative (“G&A”) expenses and interest expenses (see the “Test of Home Market Sales Prices” section below for treatment of home market selling expenses and packing costs). We used the COP data submitted by MHTL in its original DQR, CV Profit and Selling Expense Response and SDQR. Based on our examination of the record evidence, MHTL did not appear to experience significant changes in the cost of manufacturing during the period of investigation. Therefore, we followed our normal methodology of calculating an annual weighted-average cost. We adjusted MHTL’s data as follows: 1) we excluded certain adjustments MHTL made to its reported fixed overhead expenses, and 2) we included certain costs in the calculation of the financial expense ratio. Specifically, we adjusted fixed overhead expenses by excluding MHTL’s calculated offset to costs related to an estimated reduction in production of melamine due to disruptions in the supply of a significant production input (*i.e.*, natural gas), and we included the amortization of certain intangible assets. We also included certain expenses in the calculation of the financial expense ratio that were classified as financial expenses in MHTL’s financial statements.⁶⁷

2) *Test of Home Market Sale Prices*

On a product-specific basis, we compared the adjusted weighted-average COP to the prices of third-country sales of the foreign like product, as required under section 773(b) of the Act, to determine whether the sales were made at prices below the COP. We compared model-specific COPs to the reported third-country prices less any applicable movement charges, direct and indirect selling expenses (excluding imputed-interest expenses), and packing expenses.⁶⁸

3) *Results of the Sales-Below-Cost Test*

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of the respondent’s sales of a given product are at prices less than the COP, we disregard none of 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 the respondent’s sales of a given product during the POI were at prices less than the COP, we determine that such sales have been made in “substantial quantities” and, thus, we disregard these below-cost sales.⁶⁹ Further, we determine that these below-cost sales were made within an extended period of time, in accordance with section 773(b)(2)(B) of the Act, because we examine below-cost sales occurring during the entire POI.⁷⁰ In such cases, because we compare prices to POI-average costs, we also determine that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. In this investigation, we

⁶⁷ See Memorandum from James J. Balog to Neal M. Halper re: Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Methanol Holdings (Trinidad) Limited, dated June 10, 2015 (“COP and CV Analysis Memorandum”).

⁶⁸ See Preliminary Analysis Memorandum at Attachment 1, lines 7447 to 7541 and 7803 to 7808.

⁶⁹ See section 773(b)(2)(C) of the Act.

⁷⁰ *Id.*

found that there were no above-cost third-country sales, and that such sales did not provide for the recovery of costs within a reasonable period of time. Therefore, we for the purposes of this investigation, we disregarded these sales and in accordance with section 773(b)(1) of the Act, and based NV on CV for MHTL.

D. Calculation of Normal Value Based on CV

In accordance with section 773(b)(1) of the Act, we used CV as the basis for normal value because MHTL did not have any above cost sales in its comparison market. We calculated CV in accordance with section 773(e) of the Act. We included the cost of materials and fabrication, selling, general and administrative (“G&A”) expenses, interest expenses, U.S. packing expenses, and profit in the calculation of CV. We relied on MHTL’s submitted materials and fabrication costs, G&A, interest expenses, and U.S. packing costs, except in instances where we determined that the information was not valued correctly, as described above.

Because MHTL does not have a viable home-country or third-country market, we are unable to calculate a CV profit ratio and CV selling expenses using the preferred method under section 773(e)(2)(A) of the Act, *i.e.*, based on the respondent’s own home-market or third-country sales made in the ordinary course of trade. When the preferred method is unavailable, we must instead rely on one of the three alternatives outlined in sections 773(e)(2)(B)(i) through (iii) of the Act. Those alternatives are:

(i) the actual amounts incurred and realized by the specific exporter or producer being examined in the investigation or review for selling, general, and administrative expenses, and for profits, in connection with the production and sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise,

(ii) the weighted average of the actual amounts incurred and realized by exporters or producers that are subject to the investigation or review (other than the exporter or producer described in clause (i)) for selling, general, and administrative expenses, and for profits, in connection with the production and sale of a foreign like product, in the ordinary course of trade, for consumption in the foreign country, or

(iii) the amounts incurred and realized for selling, general, and administrative expenses, and for profits, based on any other reasonable method, except that the amount allowed for profit may not exceed the amount normally realized by exporters or producers (other than the exporter or producer described in clause (i)) in connection with the sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise (*i.e.*, the “profit cap”).

There are five possible options for CV profit and CV selling expenses on the record of this case: (1) the profit and selling expenses reflected in the audited financial statements of an Austrian producer of melamine (*i.e.*, total company-wide profit);⁷¹ (2) the profit (but no selling expenses)

⁷¹ See MHTL’s CV Profit and Selling Expense Response at Attachment 2, Borealis AG 2014 Financial Statement, at “Income Statement.”

based on segmented financial information from the same Austrian company's financial statements for the division which includes melamine;⁷² (3) the profit and selling expenses based on segmented information from MHTL for its methanol division;⁷³ (4) the profit and selling expenses from a Japanese producer of basic chemicals, including melamine (*i.e.*, total company-wide profit and selling expenses);⁷⁴ and, (5) the profit (but no selling expenses) based on segmented financial information from the same Japanese company's financial statements for the division which includes melamine.⁷⁵

None of the proposed options satisfies the requirements under 773(e)(2)(B)(i), as neither the Austrian or Japanese information is specific to the exporter or producer and MHTL's methanol information appears to represent world-wide sales rather than sales "for consumption in the foreign country."⁷⁶ As we have no information from other respondents on the record, we cannot apply 773(e)(2)(B)(ii), and must instead determine profit and selling expenses under 773(e)(2)(B)(iii), "any other reasonable method." We are not relying on the company-wide financial statements for the Austrian and Japanese companies because it appears that the vast majority of the company-wide sales for both the Austrian and Japanese companies include products other than melamine. While the segmented information for the Austrian company includes melamine production and sales, we note that the company does not operate in Trinidad and Tobago, and the majority of these sales relate to other products (*e.g.*, fertilizers). While the segmented information for the Japanese company includes melamine, as well as other products, it did not earn a profit.

Accordingly, in selecting a reasonable source for CV profit and selling expenses data amongst the available options before us, we are using "any other reasonable method" as provided in section 773(e)(2)(B) of the Act. Specifically, we are preliminarily relying on the profit earned by, and selling expenses from, the segmented financial information from MHTL for its methanol division. We consider it reasonable under 773(e)(2)(B)(iii) to rely on MHTL's methanol division profit and selling expenses information because melamine and methanol are both petrochemicals produced in Trinidad and Tobago, and both require natural gas as a significant input

We also deducted home market packing costs and added U.S. packing costs, in accordance with sections 773(a)(6)(A) and (B) of the Act.

XIII. CURRENCY CONVERSION

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

⁷² *Id.* at "Segmented Reporting."

⁷³ See DQR at Exhibit D-7, "Reconciliation," page 2.

⁷⁴ See MHTL's CV Profit and Selling Expense Response at Attachment 3, Mitsui Chemicals Group 2014 Financial Statement at "Consolidated Statements of Operations."

⁷⁵ *Id.* at Note 20, "Segment Information."

⁷⁶ See 19 CFR 351.405(b)(2) ("Under section 773(e)(2)(B) of the Act, 'foreign country' means the country in which the merchandise is produced.").

XIV. U.S. INTERNATIONAL TRADE COMMISSION NOTIFICATION

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making all non-privileged and non-proprietary information relating to this investigation available to the ITC. We will allow the ITC access to all privileged and business proprietary information in our files, provided that the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Enforcement and Compliance.

In accordance with section 735(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of melamine from Trinidad and Tobago before the later of 120 days after the date of this preliminary determination or 45 days after our final determination.

XV. DISCLOSURE AND PUBLIC COMMENT

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.⁷⁷ Case briefs may be submitted to Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS") no later than seven days after the date on which the last verification report is issued in this proceeding and rebuttal briefs, limited to issues raised in the case briefs, may be submitted no later than five days after the deadline for case briefs.⁷⁸

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.⁷⁹ This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing, or to participate if one is requested, must do so in writing within 30 days after the publication of this preliminary determination in the *Federal Register*.⁸⁰ Requests should contain the party's name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a date, time and location to be determined. Parties will be notified of the date, time and location of any hearing.

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using ACCESS.⁸¹ Electronically filed documents must be received successfully in their entirety by 5:00 PM Eastern Time,⁸² on the due dates established above.

⁷⁷ See 19 CFR 351.224(b).

⁷⁸ See 19 CFR 351.309(d); *see also* 19 CFR 351.303 (for general filing requirements).

⁷⁹ See 19 CFR 351.309(c)(2) and (d)(2).

⁸⁰ See 19 CFR 351.310(c).

⁸¹ See 19 CFR 351.303(b)(2)(i).

XVI. VERIFICATION

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

XVII. CONCLUSION

We recommend applying the above methodology for this preliminary determination.

✓
Agree

Disagree

Paul Piquado
Paul Piquado
Assistant Secretary
for Enforcement and Compliance

10 JUNE 2015
(Date)

⁸² See 19 CFR 351.303(b)(1).