transparency in enforcement, and more effectively protect natural resources.

Under the proposed penalty policy, penalties and permit sanctions are based on three criteria: (1) A base penalty amount and permit sanction reflective of the seriousness of the violation; (2) an adjustment of the base penalty and permit sanction upward or downward to reflect particular circumstances of a specific violation; and (3) an additional amount added to the adjusted base penalty to recoup the economic benefit of noncompliance. We note that the new penalty policy is a departure from NOAA's prior practice of developing detailed penalty schedules by region and by specific types of violations with broad ranges for both penalty and permit sanctions. The new policy uses a simplified approach of one penalty and permit sanction matrix for each major statute NOAA enforces, to be applied nationally, with narrower penalty and permit sanction ranges. This approach assures that NOAA attorneys are provided with greater guidance in recommending penalties, and should assure fairness and consistency of approach across NOAA statutes, across fisheries, and across the country.

When finalized, this draft Penalty Policy will supersede previous guidance regarding assessment of penalties or permit sanctions and previous penalty and permit sanction schedules issued by the NOAA Office of the General Counsel. This Penalty Policy provides guidance for the NOAA Office of the General Counsel, but does not, nor is it intended to, create a right or benefit, substantive or procedural, enforceable at law or in equity, in any person or company.

The full penalty policy, along with examples, matrixes, and schedules, can be found at *http://www.nmfs.noaa.gov/ole/penaltypolicy.html.* NOAA is seeking public comment on all portions of the penalty policy, but specifically asks for comment in the following areas: (1) The handling of recreational, versus commercial, activity in assessing penalties—specifically, whether to create separate matrixes and/or schedules for recreational activity in the penalty policy, or to leave such distinctions as an "adjustment" factor, as currently written; (2) the evaluation of prior violations in assessing penalties—specifically, whether to create upward penalty assessments based on prior charged conduct, or only to consider prior conduct that is fully adjudicated; (3) whether the proposed use of permit sanctions in the penalty policy is appropriate; (4) whether any additional upward or downward "adjustment" factors should be considered in assessing penalties under the penalty policy; (5) whether the matrixes and schedules in the penalty policy (Appendices 2 and 3), adequately reflect an appropriate range of penalties for particular violations; and (6) whether there should be any change in the proposed method of calculating economic benefit in the penalty policy.

Dated: October 15, 2010.

Lois J. Schiffer,

General Counsel, National Oceanic and Atmospheric Administration.

[FR Doc. 2010–26417 Filed 10–15–10; 4:15 pm]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–843]

Certain Lined Paper Products From India: Notice of Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain lined paper products (CLPP) from India. For the period September 1, 2008, through August 31, 2009, we have preliminarily determined that Navneet Publications (India) Limited (Navneet) did not make sales of subject merchandise at less than normal value (NV) (*i.e.,* sales were made at *de minimis* dumping margins). If these preliminary results are adopted in the final results of this administrative review, we will instruct U.S. Customs and Border Protection (CBP) to liquidate appropriate entries without regard to antidumping duties. For the same period, we have preliminarily determined that U.S. sales have been made below NV by Super Impex. If these preliminary results are adopted in our final results, we will instruct CBP to assess antidumping duties based on the difference between the export price (EP) and NV. *See* "Preliminary Results of Review" section of this notice. Interested parties are invited to comment on these preliminary results.

DATES: *Effective Date:* October 21, 2010.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore (Navneet) or Cindy Robinson (Super Impex) AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–3692 or (202) 482–3797, respectively.

Background

On September 1, 2009, the Department issued a notice of opportunity to request an administrative review of this order for the period of review (POR) of September 1, 2008, through August 31, 2009. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 74 FR 45179 (September 1, 2009).

Pursuant to a request from the Association of American School Paper Suppliers, (petitioner),[1] the Department published in the **Federal Register** the notice of initiation of this antidumping duty administrative review with respect to 32 companies, including Navneet and Super Impex for the period September 1, 2008, through August 31, 2009. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 74 FR 54956 (October 26, 2009). (*Initiation Notice*). On October 26, 2009, the petitioner timely withdrew its request for a review of Blue Bird (India) Limited (Blue Bird).

On November 3, 2009, the Department notified interested parties of its intent to use CBP data for respondent selection. *See* Memorandum to The File, Through Melissa Skinner, Office Director, Office 3 and Through James Terpstra, Program Manager, Office 3 from Stephanie Moore, Case Analyst titled "Customs and Border Patrol Data for Selection of Respondents for Individual Review."

On November 10 and December 3, 2009, the Department received comments regarding respondent selection from the petitioner. On January 29, 2010, the Department selected Navneet and Super Impex as companies to be individually examined

[1] On September 30, 2009, the Department received a timely request to conduct an administrative review of the following 32 companies: Abhinav Paper Products Pvt. Ltd.; American Scholar, Inc., and/or I–Scholar; Ampoules & Vials Mfg. Co., Ltd.; Bafna Exports; Blue Bird India Ltd.; Cello International Pvt. Ltd (M/S Cello Paper Products); Creative Divya; Corporate Stationery Pvt. Ltd.; D.D International; Exmart International Pvt. Ltd.; Fatechand Mahendrakumar; FFI International; Freight India Logistics Pvt. Ltd.; International Greetings Pvt. Ltd.; Lodha Offset Limited; Magic International Pvt. Ltd.; Marigold ExIm Pvt. Ltd.; Marisa International; Navneet Publications (India) Ltd.; Paperwise Inc.; Pioneer Stationery Pvt. Ltd.; Premier Exports; Riddhi Enterprises; SAB International; SAR Transport Systems; Seet Kamal International; Solitaire Logistics Pvt. Ltd. (Eternity Int'l Freight, forwarder on behalf of Solitaire Logistics Pvt. Ltd.); Sonal Printers Pvt. Ltd.; Super Impex; Swati Growth Funds Ltd.; V & M; and Yash Laminates.

in this administrative review of the antidumping duty order on CLPP from India. *See* Memorandum to Melissa Skinner, Director, Office 3 Through James Terpstra, Program Manager, Office 3 from Stephanie Moore, Case Analyst titled "Antidumping Duty Administrative Review of Certain Lined Paper Products from India: Selection of Respondents for Individual Review" (Respondent Selection Memo), dated January 29, 2010.

On February 1, 2010, the Department issued an antidumping questionnaire (original questionnaire) to Navneet and Super Impex with a due date of March 9, 2010. On March 12, 2010, we granted a three-week extension until April 6, 2010, for Navneet to submit its response to the original questionnaire. On May 6, 2010, petitioner submitted deficiency comments regarding Navneet's April 6, 2010, original questionnaire response. On May 14, 2010, the Department issued a supplemental questionnaire to Navneet with a due date of May 28, 2010. On May 27, 2010, we granted a two-week extension until June 11, 2010, for Navneet to submit its response to the supplemental questionnaire.

With respect to Super Impex, we received Super Impex's sections A, C, and D responses to the Department's original questionnaire on March 9, March 30, and April 14, 2010, respectively. On March 25 and April 30, 2010, petitioner submitted deficiency comments on Super Impex's sections A, C, and D questionnaire response. On May 10 and June 24, 2010, we issued the first and second supplemental questionnaires, respectively, to Super Impex, and Super Impex submitted its responses on June 2 and July 7, 2010, respectively. Petitioner submitted additional deficiency comments on Super Impex's first supplemental response on July 17, 2010. On July 19, 2010, petitioner provided pre-verification comments. On July 20, 2010, petitioner provided comments on certain new factual information contained in Super Impex's second supplemental questionnaire response.

On May 18, 2010, the Department extended the time limits for the preliminary results. *See Certain Lined Paper Products from India and People's Republic of China: Extension of Time Limits for the Preliminary Results of Antidumping Duty Administrative Reviews,* 75 FR 27706 (May 18, 2010).

The Department conducted the sales and cost verification of Super Impex from August 2 through August 13, 2010, in Mumbai, India. At verification, the Department's verification team requested that Super Impex provide updated sales and cost of production (COP) files to reflect the minor corrections presented to the verification team. On August 11, 2010, we received Super Impex's minor correction provided at the outset of the verification, and on August 18, 2010, we received Super Impex's revised U.S. sales and COP databases.

Period of Review

The period of review (POR) is September 1, 2008, through August 31, 2009.

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 loose leaf filler paper) including but not limited to such products as single- and multi-subject notebooks, composition books, wireless notebooks, loose leaf 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 8¾ 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 2⅜″ 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 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 the order is dispositive.

Verification

As provided in section 782(i) of the Act, we have verified information provided by Super Impex in the administrative review of the order on subject merchandise from India using standard verification procedures, including the examination of relevant sales and cost information, financial records, and the selection and review of original documentation containing relevant information. Our verification results are outlined in the public version of our verification report dated October 7, 2010, which is on file in the Central Records Unit (CRU) in Room 7046 of the Department's main building.

Product Comparisons

In accordance with section 771(16) of the Tariff Act of 1930, as amended (the Act), all products produced by Navneet covered by the description in the "Scope of the Order" section above and sold in India during the POR are considered to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We have relied on eight criteria to match U.S. sales of subject merchandise to comparison market sales of the foreign like product: (1) Form, (2) paper volume, (3) brightness, (4) binding type, (5) cover material, (6) back material, (7) number of inserts, and (8) insert material. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed above.

For purposes of the preliminary results, where appropriate, we have calculated the adjustment for differences in merchandise based on the difference in the variable cost of manufacturing (VCOM) between each U.S. model and the most similar home market model selected for comparison.

Normal Value Comparisons

To determine whether sales of CLPP from Navneet to the United States were made at less than NV, we compared EP to the NV, as described in the "Export Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted-average prices for NV and compared these to individual U.S. transaction prices.

Export Price

For all U.S. sales made by Navneet and Super Impex, 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) rate attributed to export subsidies in the most recently completed countervailing duty administrative review of CLPP from India, in accordance with section 772(c)(1)(C) of the Act.

Normal Value

Selection of Comparison Market

To determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared Navneet's and Super Impex's volume of home market sales of the foreign like product to the volume of their U.S. sales of the subject merchandise. Pursuant to sections 773(a)(1)(B) and 773(a)(1)(C) of the Act, because Navneet had an aggregate volume of home market sales of the foreign like product that 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. Super Impex reported that it made no sales to the home market and that its sales to third countries were not viable. *See* Super Impex's Section A Response, dated March 9, 2010, at A–3 and A–4. Therefore, for Super Impex, we used constructed value (CV) as the basis for calculating NV, in accordance with section 773(a)(4) of the Act.

Section 773(a)(1)(C)(i) of the Act applies to the Department's determination of NV if the foreign like product is not sold (or offered for sale) for consumption in the exporting country. When sales in the home market are not viable, section 773(a)(1)(B)(ii) of the Act provides that sales to a particular third country market may be utilized if: (1) The prices in such market are representative; (2) the aggregate quantity of the foreign like product sold by the producer or exporter in the third country market is five percent or more of the aggregate quantity of the subject merchandise sold in or to the United States; and (3) the Department does not determine that a particular market situation in the third country market prevents a proper comparison with the U.S. price.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, the Department determines NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP transactions. In order to perform the LOT analysis, we examine the selling functions provided to different customer categories to evaluate the LOT in a particular market. Specifically, we compare the selling functions performed for home market sales with those performed with respect to the EP or CEP transactions, after deductions for economic activities occurring in the United States, pursuant to section 772(d) of the Act and 19 CFR 351.412, to determine if the home market LOT constituted a different LOT than the EP or CEP LOT.

Consistent with 19 CFR 351.412, to determine whether comparison market sales were at a different LOT, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated (or arm's-length) customers. If the comparison market sales were at a different LOT and the differences affect price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we will make an LOT adjustment under section 773(a)(7)(A) of the Act.

Navneet reported that it has five channels of distribution or five LOTs in the home market (*i.e.,* distributors with merchandising—full service; distributors with no merchandising—limited service; retail chain stores; institutional end-users who purchase materials for their own use; and schools that purchase customized products for their own use and for selling to students).

Section 351.412(c)(2) of the Department's regulations provides that the Department will determine that sales are made at different LOTs if they are made at different marketing stages (or their equivalent). Substantial differences in selling activities are a necessary, but not a sufficient, condition for determining that there is a difference in the stage of marketing. Some overlap in selling activities will not preclude a determination that sales are at different stages of marketing.

Our analysis of the selling activities for Navneet shows that Navneet performs similar selling activities for different customer categories, although some of the activities were at different levels of intensity. Moreover, some selling activities within the claimed LOT1 are at a higher level of intensity than the same selling activities in the claimed LOT2 through LOT5. In addition, there is overlap among the channels of distribution for the different customer categories between LOT1 and LOT2 through LOT5 customers. Although there are differences in intensity of selling activities among LOT2 through LOT5 customers, this, in and of itself, does not show a substantial difference in selling activities that would form the basis for finding distinct LOTs. *See, Certain Lined Paper Products From India: Notice of Preliminary Results of Antidumping Duty Administrative Review,* 74 FR 51558, 51563 (October 7, 2009) (*Preliminary Results*), unchanged in the final results of the *Second Administrative Review*,[2] and accompanying Issues and Decision Memorandum at Comment 5. The differences in Navneet's selling activities chart indicate that there are two LOTs in the home market: (1) LOT1 and (2) a combined LOT2, which is comprised of Navneet's reported LOT2 through LOT5. The selling activities in the combined LOT2 in the home market are comparable to the selling activities in the LOT in the U.S. market. Due to the proprietary nature of this issue, please refer to Navneet's Preliminary Calculation Memorandum for further discussion, dated October 7, 2010 (Preliminary Calculation Memorandum).

In the U.S. market, Navneet reported that its sales were made through one channel of distribution to one customer category, and therefore, at one LOT. The Department has determined that Navneet's home market sales in the combined LOT2 are at the same stage of marketing as the U.S. sales. We only compared home market sales in the combined LOT2 to the U.S. sales and determined that no LOT adjustment for Navneet's sales to the United States was necessary.

Although Navneet reported that it has five channels of distribution or five LOTs in the home market, Navneet states that without intending to waive its right to make further argument on this point, it has acceded to the Department's level of trade definitions in reporting its sales in this review. *See* Navneet's Questionnaire Response, dated April 6, 2010, at page B–39. Thus, Navneet, in its home market database reported two LOTs: LOT1 sales to distributors with full-service downstream merchandising, and a combined LOT2, which consists of sales made through channels two through five.

Cost of Production Analysis

We are investigating Navneet's costs because during the most recently completed segment of the proceeding in which Navneet participated (the *Second Administrative Review*), the Department found and disregarded sales that failed the cost test.

In accordance with section 773(b)(3) of the Act, we calculated a weighted-average cost of production (COP) based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for selling, general and

[2] *See Certain Lined Paper Products from India: Notice of Final Results of Antidumping Duty Administrative Review,* 75 FR 7563 (February 22, 2010).

administrative expenses (SG&A) and packing expenses. For these preliminary results, we have adjusted Navneet's reported cost of manufacturing to include common production costs not allocated to divisions and other common production costs of the stationery division not allocated to subdivisions.

Consistent with the Department's methodology in the second administrative review, we calculated the COP and constructed value (CV) of all CONNUMs sold in the home market to exclude the central excise tax on raw material inputs. *See Preliminary Results* at 51564, unchanged in the final results of the *Second Administrative Review.*

Test of Comparison Market Prices

As required under section 773(b)(2) of the Act, we compared the weighted-average COP to the per-unit price of the comparison market sales of the foreign like product, to determine whether these sales were 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. We determined the net comparison market prices for the below-cost test by subtracting from the gross unit price any applicable movement charges, discounts, rebates, direct and indirect selling expenses and packing expenses which were excluded from COP for comparison purposes.

Results of COP Test

Pursuant to section 773(b)(1) of the Act, we may disregard below-COP sales in the determination of NV if these sales have been made within an extended period of time in substantial quantities and were not at prices which permit recovery of all costs within a reasonable period of time. Where 20 percent or more of a respondent's sales of a given product during the POR were at prices less than the COP for at least six months of the POR, we determined that sales of that model were made in "substantial quantities" within an extended period of time, in accordance with sections 773(b)(2)(B) and (C) of the Act. Where prices of a respondent's sales of a given product were below the per-unit COP at the time of sale and below the weighted-average per-unit costs for the POR, we determined that sales were not 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 such cases, we disregarded the below-cost sales in accordance with section 773(b)(1) of the Act.

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities."

We tested and identified below-cost home market sales for Navneet. We disregarded individual below-cost sales of a given product and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act. *See* Preliminary Calculation Memorandum.

Calculation of Normal Value Based on Comparison Market Prices

For Navneet, we based home market prices on packed prices to unaffiliated purchasers in India. Where appropriate, in accordance with section 773(a)(6)(B) of the Act, we deducted from the starting price inland freight. Pursuant to 19 CFR 351.401(c), we deducted rebates and discounts. In accordance with sections 773(a)(6)(A) and (B) of the Act, we added U.S. packing costs and deducted comparison market packing, respectively.

In addition, for comparisons made to EP sales, we made adjustments for differences in circumstances of sale (COS) pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(b) by deducting direct selling expenses incurred for home market sales (credit expense) and adding U.S. direct selling expenses (*i.e.,* credit directly linked to sales transactions). In accordance with section 773(a)(1)(B)(i) of the Act, we based NV on LOT2 sales. *See* the "Level of Trade" section above.

Finally, consistent with section 773(a)(6)(B)(iii) of the Act, we made an adjustment for central excise taxes that Navneet paid on raw material inputs used to produce merchandise that was sold in the home market that were not paid on the same inputs used to produce merchandise that was exported from India. Under Indian law, Navneet was prohibited from charging this excise tax on sales of school supplies. In addition, the excise tax that Navneet paid on inputs into school supplies was not refunded and was not otherwise recovered by Navneet. Therefore, we find the tax is included in the price and adjustment is warranted. For products other than school supplies, Navneet reported home market selling prices net of the excise tax.

Calculation of Normal Value Based on Constructed Value

In accordance with section 773(a)(4) of the Act, we based Super Impex's NV on CV. In accordance with section 773(e) of the Act, we calculated CV based on the sum of Super Impex's cost of materials and fabrication for the foreign like product, plus amounts for SG&A, profit, and U.S. packing costs. We calculated the cost of materials and fabrication based on the CV information provided by Super Impex in its section D response. Because Super Impex does not have Indian sales of the foreign like product or third country sales, the Department does not have comparison market selling expenses or profit to use in its calculations, as directed by section 773(e) of the Act. As an alternative, the Department has used as selling expenses and profit for Super Impex, data from the March 31, 2009 financial statements of two Indian companies which are already on the records: Blue Bird and Navneet. We found that both Blue Bird and Navneet produce and sell merchandise within the same general category of products as the foreign like product in the Indian market.[3] For purposes of these preliminary results, we calculated the selling expenses and profit for Super Impex based on the simple average ratios of the respective selling expenses and profit of Blue Bird and Navneet. *See* Memorandum from Cindy Robinson to Melissa Skinner, Director, AD/CVD Operations, Office 3, Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results—Super Impex Paper Limited, dated October 7, 2010 (COP/CV Memo).

Currency Conversion

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

Non-Selected Rate

The statute and the Department's regulations do not directly address the establishment of rates to be applied to companies not selected for individual examination where the Department limited its examination in an administrative review pursuant to section 777A(c)(2) of the Act. However, the Department normally determines the rates for non-selected companies in

[3] On July 19, 2010, petitioner also placed on record the March 31, 2009, financial statements of Cello Writing Instruments & Containers Private Limited (Cello). However, we found that Cello is not a producer and seller of merchandise within the same general category of products as the foreign like product in the Indian market. Therefore, for purposes of these preliminary results, we have not included Cello's data in the derivation of selling and profit ratios for Super Impex. *See* COP/CV Memo.

reviews in a manner that is consistent with section 735(c)(5) of the Act. Section 735(c)(5)(A) of the Act instructs the Department to calculate an all-others rate using the weighted average of the dumping margins established for the producers/exporters individually examined, excluding any zero or *de minimis* margins or any margins based on total facts available.

In this review, Super Impex is the only respondent for which the Department has calculated a company-specific rate that is not zero, *de minimis,* or based on total facts available. Therefore, for purposes of these preliminary results, the 29 remaining non-selected companies subject to this review will receive the rate calculated for Super Impex in this review. *See also* the "Suspension of Liquidation" section, below.

Preliminary Results of the Review

We preliminarily determine that weighted-average dumping margins exist for the following respondents for the period September 1, 2008, through August 31, 2009, as follows:

Manufacturer/exporter	Weighted average margin (percent)
Navneet Publications (India) Ltd	*De minimis.*
Super Impex	2.12.

Review-Specific Average Rate Applicable to the 29 Non-Selected Companies Subject to This Review:

Manufacturer/exporter	Weighted average margin (percent)
Abhinav Paper Products Pvt. Ltd	2.12
American Scholar, Inc. and/or I–Scholar	2.12
Ampoules & Vials Mfg. Co. Ltd	2.12
Bafna Exports	2.12
Cello International Pvt. Ltd. (M/S Cello Paper Products)	2.12
Corporate Stationary Pvt. Ltd	2.12
Creative Divya	2.12
D.D International	2.12
Exmart International Pvt. Ltd	2.12
Fatechand Mahendrakumar	2.12
FFI International	2.12
Freight India Logistics Pvt. Ltd	2.12
International Greetings Pvt. Ltd	2.12
Lodha Offset Limited	2.12
Magic International	2.12
Marigold Exlm Pvt. Ltd	2.12
Marisa International	2.12
Paperwise Inc	2.12
Pioneer Stationery Pvt. Ltd	2.12
Premier Exports	2.12
Riddhi Enterprises	2.12
SAB International	2.12
Sar Transport Systems	2.12
Seet Kamal International	2.12
Solitaire Logistics Pvt. Ltd. (Eternity Int'l Freight, forwarder on behalf of Solitaire Logistics Pvt. Ltd.)	2.12
Sonal Printers Pvt Ltd	2.12
Swati Growth Funds Ltd	2.12
V & M	2.12
Yash Laminates	2.12

Public Comment

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties to this proceeding in accordance with 19 CFR 351.224(b). Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review. *See* 19 CFR 351.309(c)(ii). Rebuttal briefs are limited to issues raised in the case briefs and may be filed no later than five days after the time limit for filing the case briefs. *See* 19 CFR 351.309(d). Parties submitting arguments in this proceeding are requested to submit with the argument: (1) A statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities, in accordance with 19 CFR 351.309(d)(2). Further, parties submitting case and/or rebuttal briefs are requested to provide the Department with an additional electronic copy of the public version of any such comments on a computer diskette. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

An interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Any hearing, if requested, ordinarily will be held two days after the due date of the rebuttal briefs in accordance with 19 CFR 351.310(d)(1). The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, or at a hearing, if requested, within 120 days of publication of these preliminary results, unless extended.

See section 751(a)(3)(A) of the Act, and 19 CFR 351.213(h).

Assessment Rate

Upon completion of the final results of this administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), the Department will calculate importer-specific assessment rates for each respondent based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of those sales. Where the respondent did not report the entered value for U.S. sales, we have calculated importer-specific assessment rates for the merchandise in question by aggregating the dumping margins calculated for all U.S. sales to each importer and dividing this amount by the total quantity of those sales. To determine whether the duty assessment rates were *de minimis,* in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer-specific *ad valorem* rates based on the estimated entered value. Where the assessment rate is above *de minimis,* we will instruct CBP to assess duties on all entries of subject merchandise by that importer. Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (*i.e.,* less than 0.50 percent). The Department intends to issue assessment instructions directly to CBP 15 days after publication of the final results of this review.

The Department clarified its "automatic assessment" regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR produced by the respondents subject to this review for which the reviewed companies did not know that the merchandise which it sold to an intermediary (*e.g.* a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediary involved in the transaction. For a full discussion of this clarification, see *id.*

Cash Deposit Requirements

To calculate the cash deposit rate for Navneet, we divided its total dumping margin by the total net value of its sales during the review period. For the responsive companies which were not selected for individual review, we have calculated a cash deposit rate based on the simple average of the cash deposit rates calculated for the companies selected for individual review. In this instance, there is only one non-AFA rate which we applied.

The following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of CLPP from India entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for companies subject to this review will be the rate established in the final results of this review, except if the rate is less than 0.5 percent and, therefore, *de minimis,* no cash deposit will be required; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent final results for a review in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent final results for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 3.91 percent, the all-others rate established in the LTFV investigation. *See Lined Paper Orders.*[4] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These preliminary results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: October 7, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–26191 Filed 10–20–10; 8:45 am]

BILLING CODE 3510–DS–P

[4] *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) (*Lined Paper Orders*).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XZ75

Atlantic Highly Migratory Species; Advisory Panel

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; solicitation of nominations.

SUMMARY: NMFS solicits nominations for the Atlantic Highly Migratory Species (HMS) Advisory Panel (AP). NMFS consults with and considers the comments and views of the HMS AP when preparing and implementing Fishery Management Plans (FMPs) or FMP amendments for Atlantic tunas, swordfish, sharks, and billfish. Nominations are being sought to fill one-third (11) of the seats on the HMS AP for a 3-year appointment. Individuals with definable interests in the recreational and commercial fishing and related industries, environmental community, academia, and non-governmental organizations will be considered for membership in the HMS AP.

DATES: Nominations must be received on or before November 22, 2010.

ADDRESSES: You may submit nominations and requests for the Advisory Panel Statement of Organization, Practices, and Procedures by any of the following methods:

- *E-mail: HMSAP.Nominations@noaa.gov.* Include in the subject line the following identifier: "HMS AP Nominations."
- *Mail:* Brian Parker, Highly Migratory Species Management Division, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.
- *Fax:* 301–713–1917.

FOR FURTHER INFORMATION CONTACT: Craig Cockrell at (301) 713–2347 x128.

SUPPLEMENTARY INFORMATION: