

DEPARTMENT OF COMMERCE**International Trade Administration**

(A-405-803)

Purified Carboxymethylcellulose from Finland; Notice of Preliminary Determination of Antidumping Duty Administrative Review

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

SUMMARY: In response to requests from Aqualon Company, a division of Hercules Inc., (Petitioner) and respondents Noviant OY, CP Kelco OY; Noviant Inc., and CP Kelco U.S. Inc. (collectively, CP Kelco), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on purified carboxymethylcellulose (CMC) from Finland. The review covers exports of the subject merchandise to the United States produced by CP Kelco. The period of review (POR) is December 27, 2004, through June 30, 2006.

We preliminarily find that CP Kelco made sales at less than normal value during the POR. If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties based on differences between the export price (EP) or constructed export price (CEP) and normal value (NV).

EFFECTIVE DATE: August 7, 2007.

FOR FURTHER INFORMATION CONTACT: Tyler Weinhold or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1121 or (202) 482-0649, respectively.

SUPPLEMENTARY INFORMATION:**Background**

The Department published the antidumping duty order on CMC from Finland on

July 11, 2005. *See Notice of Antidumping Duty Orders: Purified Carboxymethylcellulose from Finland, Mexico, the Netherlands, and Sweden*, 70 FR 39734 (July 11, 2005). On July 3, 2006, the Department published the notice of opportunity to request an administrative review of CMC from Finland for the period December 27, 2004, through June 30, 2006. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 71 FR 37890 (July 3, 2006).

On July 26, 2006, petitioners requested a review of all producers of CMC, including Noviant OY for the period December 27, 2004 through June 30, 2006 (the POR). CP Kelco requested an administrative review of sales by CP Kelco and various affiliates for the same period. On July 27, 2006, Petitioner modified its request to include producer CP Kelco OY as well as producer Noviant OY. On August 30, 2006, the Department published in the **Federal Register** a notice of initiation of this antidumping duty administrative review. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 71 FR 51573 (August 30, 2006).

On September 11, 2006, the Department issued its standard antidumping duty questionnaire to CP Kelco. CP Kelco submitted its response to section A of the Department's antidumping duty questionnaire on October 17, 2006 (CP Kelco's October 17, 2006 section A questionnaire response). CP Kelco submitted its response to sections B and C of the Department's questionnaire on November 21, 2006 (CP Kelco's November 21, 2006 sections B and C response).

On December 8, 2006, Petitioner alleged that during the POR, CP Kelco made sales of foreign like product at prices below the cost of production in the home market. On February 5, 2007, the Department initiated an investigation to determine whether CP Kelco's sales of CMC were made at prices below CP Kelco's cost of production. *See Memorandum from Tyler Weinhold to Richard Weible, Director, Office 7, AD/CVD Enforcement, Regarding Petitioner's Allegation of Sales Below the Cost of Production for Noviant CMC OY and CP Kelco OY*, dated February 5, 2007. The preliminary results of this investigation are discussed in the "Normal Value" section of this notice, below. On February 6, 2007, the Department sent a letter to CP Kelco requesting that the company respond to section D of the Department's antidumping questionnaire (cost of production). CP Kelco submitted its section D response on February 27, 2007.

On February 23, 2007, the Department issued a supplemental questionnaire for sections A, B, and C, to which CP Kelco responded on April 5, 2007 (CP Kelco's April 5, 2007 supplemental questionnaire response). On April 3, 2007, the Department issued a supplemental questionnaire for sections A, B, and C, to which CP Kelco responded on May 15, 2007 (CP Kelco's May 15, 2007 supplemental

questionnaire response). On April 6, 2007, the Department issued a supplemental questionnaire for section D, to which CP Kelco responded on April 30, 2007.

Because it was not practicable to complete this review within the normal time frame, on April 5, 2007, the Department published in the **Federal Register** a notice of the extension for the preliminary results of this review. *See Purified Carboxymethylcellulose from Finland, Sweden, the Netherlands, and Mexico: Extension of Time Limits for Preliminary Determinations of Antidumping Duty Administrative Reviews*, 72 FR 16767 (April 5, 2007). This extension established the deadline for these preliminary results as July 31, 2007.

From April 23 through 25, 2007, the Department conducted verification of U.S. sales made through CP Kelco U.S. Inc. and Noviant U.S., Inc. (collectively CP Kelco U.S.). *See the Verification section, below.* From May 14 through May 18, 2007, the Department conducted a verification of CP Kelco's EP and home market (HM) sales. From May 21 through May 25, 2007, the Department conducted verification of CP Kelco's costs of production.

On June 7, 2007, the Department issued a fourth supplemental questionnaire for sections A, B, and C, to which CP Kelco responded on June 18, 2007 (CP Kelco's June 18, 2007, supplemental questionnaire response). At the request of the Department, on June 29, 2007 CP Kelco submitted new home market and U.S. sales databases to address revisions to the reporting methodology for viscosity and degree of substitution for certain products. CP Kelco also submitted a new cost of production database on June 29, 2007 to address these revisions and to correct a minor error involving the calculation of packing costs disclosed at the May 21 through May 25, 2007, cost of production verification. *See Memorandum to the File, from Joseph Welton and Theresa Deeley, regarding "Verification of the Cost Response of CP Kelco OY in the Antidumping Duty Administrative Review of Carboxymethylcellulose from Finland," dated July 3, 2007.*

Scope of the Order

The merchandise covered by this order is all purified carboxymethylcellulose (CMC), sometimes also referred to as purified sodium CMC, polyanionic cellulose, or cellulose gum, which is a white to off-white, non-toxic, odorless, biodegradable powder, comprising sodium CMC that has been refined and

purified to a minimum assay of 90 percent. CMC does not include unpurified or crude CMC, CMC Fluidized Polymer Suspensions, and CMC that is cross-linked through heat treatment. CMC is CMC that has undergone one or more purification operations which, at a minimum, reduce the remaining salt and other by-product portion of the product to less than ten percent. The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States at subheading 3912.31.00. This tariff classification is provided for convenience and customs purposes; however, the written description of the scope of the order is dispositive.

Verification

As mentioned above in the "Background" section of this notice, from April 23 through 25, 2007, the Department conducted verification of U.S. sales made through CP Kelco U.S. From May 14 through 18, 2007, the Department conducted verification of CP Kelco's EP and HM sales. From May 21 through May 25, 2007 the Department conducted verification of CP Kelco's costs of production. As provided in section 782(i) of the Tariff Act of 1930, as amended (the Tariff Act), we verified sales and costs of production information provided by CP Kelco, using standard verification procedures such as the examination of relevant sales and financial records. Our verification results are outlined in the public and proprietary versions of our CEP, HM/EP, and costs of production verification reports, which are on file in the Central Records Unit (CRU) in room B-099 of the main Department building. See Memorandum to the File, from the Tyler Weinhold and Patrick Edwards, regarding "Sales Verification of Sections A-C Questionnaire Responses submitted by CP Kelco OY, Noviant OY, CP Kelco U.S. Inc. And Noviant Inc. (collectively, CP Kelco) in the Antidumping Duty Administrative Review of Purified Carboxymethylcellulose from Finland - Verification of United States Affiliates CP Kelco U.S. Inc. and Noviant U.S. Inc. (Collectively, CP Kelco U.S.)" dated July 31, 2007 (the CEP Verification Report); Memorandum to the File, from Tyler Weinhold and Mark Flessner, regarding "Sales Verification of Sections A-C Questionnaire Responses submitted by CP Kelco OY, Noviant OY, CP Kelco U.S. Inc. and Noviant Inc. in the Antidumping Duty Administrative Review of Purified Carboxymethylcellulose (CMC) from Finland" (the Home Market and EP Verification Report); and Memorandum

to the File, from Joseph Welton and Theresa Deeley, regarding "Verification of the Cost Response of CP Kelco OY in the Antidumping Duty Administrative Review of Carboxymethylcellulose from Finland" dated July 31, 2007.

Successor-In-Interest

On February 9, 2006, Noviant OY, the respondent in this review, was purchased by a holding company within the CP Kelco group. Prior to the purchase, Noviant OY changed its name to CP Kelco OY and began to operate under that trade name. On January 1, 2006, Noviant Inc., Noviant OY's affiliated U.S. importer/reseller merged with CP Kelco U.S. Inc. The resulting corporation is named CP Kelco U.S. Inc., and has operated and done business under that trade name since the merger. Because entries have been made under the names of both Noviant OY and CP Kelco OY during the POR, the Department must make a successorship determination in order to apply the appropriate and necessary company-specific cash deposit rates.

In determining whether CP Kelco OY is the successor to Noviant OY for purposes of applying the antidumping duty law, the Department examines a number of factors including, but not limited to, changes in: (1) management, (2) production facilities, (3) suppliers, and (4) customer base. See, e.g., *Brass Sheet and Strip from Canada; Final Results of Antidumping Duty Administrative Review*, 57 FR 20460 (May 13, 1992) (*Brass from Canada*); *Steel Wire Strand for Prestressed Concrete from Japan: Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 55 FR 7759 (March 5, 1990) (unchanged in final results of review, 55 FR 28796 (July 13, 1990)); and *Industrial Phosphoric Acid From Israel; Final Results of Antidumping Duty Changed Circumstances Review*, 59 FR 6944 (February 14, 1994). While examining these factors alone will not necessarily provide a dispositive indication of succession, the Department will generally consider one company to have succeeded another if that company's operations are essentially inclusive of the predecessor's operations. See *Brass from Canada*. Thus, if the evidence demonstrates, with respect to the production and sale of the subject merchandise, that the new company is essentially the same business operation as the former company, the Department will assign the new company the cash deposit rate of its predecessor.

The evidence on the record indicates that CP Kelco OY is the successor to Noviant OY. See, e.g., CP Kelco's

October 17, 2006, section A questionnaire response at pages 7, 8, 10, and 11; CP Kelco's April 5, 2007, supplemental questionnaire response at pages 3, 4, 6 to 10, 16 and 43 through 54 and Exhibits A-20, A-21, A-22, A-23, A-33 and A-35; and the Home Market and EP Verification Report at Verification Exhibit 6. Specifically, the evidence shows CP Kelco OY has the same customers and suppliers, uses the same production facilities, and sells material under the same product names and commercial brands as did Noviant OY. See, e.g., CP Kelco's October 17, 2006, Section A questionnaire response at Exhibits A-8, A-14, and A-16, CP Kelco's April 5, 2007, supplemental questionnaire response at Exhibits A-24, A-28, and A-29, and the Home Market and EP Verification Report at pages 8 and 9 and Verification Exhibit 6. We also reviewed CP Kelco OY's and Noviant OY's organizational structures and officers before and after the merger and confirmed there were only minimal changes. See the Home Market and EP Verification Report at Verification Exhibit 6. See also, the CEP Verification Report at page 8, Verification Exhibit 2, and pages 229 of Verification Exhibit 3.

CP Kelco's responses and information obtained during the Department's verifications confirmed that the purchase of Noviant OY had little effect on the company's operations in Finland, other than the resulting name change from Noviant OY to CP Kelco OY. The primary purpose of the acquisition was to unify CP Kelco's and Noviant's international marketing and sales forces and to broaden Noviant OY's marketing scope worldwide under the unified "CP Kelco" name.

We found CP Kelco continued to market the same products under the same product names and commercial brands as a result of the merger. See, e.g., CP Kelco's October 17, 2006, section A questionnaire response at Exhibits A-9, A-14, and A-16, and the Home Market and EP Verification Report at pages 18 through 20.

CP Kelco operates entirely out of the same production facility as Noviant OY. See, e.g., CP Kelco's October 17, 2006, section A questionnaire response at page A-7, CP Kelco's April 5, 2007, supplemental questionnaire response at page 52 and Exhibits A-24, and the Home Market and EP Verification Report at pages 6 and Verification Exhibit 3. We found no pattern of significant changes in CP Kelco's suppliers as a result of the merger. See, e.g., CP Kelco's April 5, 2007, supplemental questionnaire response at pages 52 through 54, and the Home Market and EP Verification Report at

pages 6 and 9 through 12 and Verification Exhibit 3.

We found that there were no significant changes in CP Kelco's Home Market or U.S. sales processes. *See, e.g.*, CP Kelco's November 21, 2006, sections B and C questionnaire response at Exhibits B-2, and C-2, CP Kelco's April 5, 2007, supplemental questionnaire response at pages 45 through 51 and the HM and EP Verification Report at pages 14 through 18. We found no pattern of significant changes in CP Kelco's U.S. or HM customers. *See, e.g.*, CP Kelco's October 17, 2006, section A questionnaire response at Exhibits A-8, CP Kelco's November 21, 2006, sections B and C questionnaire response at Exhibits B-2, and C-2, CP Kelco's April 5, 2007, supplemental questionnaire response at page 54 and Exhibits A-28, and A-29.

We found no significant changes in CP Kelco's home market sales personnel. *See, e.g.* the HM and EP Verification Report at pages 14 through 18. With respect to sales through Noviant Inc.'s successor, CP Kelco U.S., while customer care and logistics functions were transferred from Atlanta, Georgia, to Chicago, Illinois, and San Diego, California, those former Noviant employees did not relocate; a single new customer care representative was hired in Chicago and the existing CP Kelco U.S. logistics staff in San Diego took over logistics functions relating to CMC. *See, e.g.*, the CEP Verification Report at pages 6 through 8.

Our analysis of corporate management changes as a result of the merger indicates that neither the Noviant OY/CP Kelco OY nor the U.S. affiliates, Noviant Inc. and CP Kelco U.S. experienced significant shifts in senior executive management. *See* CP Kelco's April 5, 2007, supplemental questionnaire response at pages 43 through 45 and 52, the Home Market Verification Report at pages 4 through 6 and Exhibit 4 and the CEP Verification Report at pages 5 to 8, and Exhibits 2 through 4. We found that, with one exception, senior managers in place at Noviant OY prior to the merger with CP Kelco OY are still in place following the acquisition of Noviant OY. The same holds true for senior management of the U.S.-based entities, Noviant Inc. and CP Kelco U.S., where we found that only one senior manager left the company following the merger.

Despite these changes, CP Kelco OY's management staff is substantially the same as Noviant OY's. In addition, evidence on the record shows that CP Kelco OY uses the same CMC production facilities and suppliers as used by Noviant OY. Evidence on the

record also shows that CP Kelco OY also provides CMC to the same customers and has the same sales processes as Noviant OY. Therefore, we preliminarily find CP Kelco OY is the successor to Noviant OY for purposes of this proceeding, and for the application of the antidumping law.

Use of Facts Available

Section 776(a)(1) of the Tariff Act of 1930, as Amended (The Tariff Act) provides that the Department will, subject to section 782(d) of the Tariff Act, use the facts otherwise available in reaching a determination if "necessary information is not available on the record." In accordance with section 776(a)(1) of the Tariff Act, for these preliminary results we find it necessary to use partial facts available in those instances where the respondent did not provide certain information necessary to conduct our analysis.

CP Kelco reported in its questionnaire responses that it "factors" its accounts receivables through an affiliated financial institution (*i.e.*, sells the rights to the outstanding payments of its unpaid invoices to that financial institution). **SEE, E.G.**, November 21, 2006, sections B and C questionnaire response at pages B-13 and C-13 and CP Kelco's April 5, 2007 supplemental questionnaire response at pages 78, 79, and 80, and at exhibits B-20, B-21, B-22, B-23, and B-24. As a result of our review of the factoring process during the verifications in Finland, and Atlanta, Georgia, we found that CP Kelco incurred transaction expenses on its factored sales in both the U.S. and home markets. These expenses are fees charged by the affiliated financial institution to CP Kelco for purchasing its accounts receivable and remitting payment to CP Kelco at an earlier date than payment would have been received from the invoiced customer. For a further description and analysis of CP Kelco's factoring methodology, *see* Memorandum from Tyler Weinhold to the File Regarding Analysis of Data Submitted by Noviant Inc., CP Kelco U.S. Inc., Noviant OY Inc., and CP Kelco OY Inc., (collectively, CP Kelco) in the Preliminary Results of the 2004-2006 Administrative Review of the Antidumping Duty Order on Purified Carboxymethylcellulose (CMC) from Finland (A-405-803), dated July 31, 2007 (the Preliminary Analysis Memorandum). We preliminarily determine that normal value and net U.S. price should be adjusted for these expenses. However, because we did not ask CP Kelco to provide this information on a transaction-specific basis, there is not sufficient information on the record

to make a transaction-specific adjustment for these factoring charges.

Pursuant to section 776(a)(1) of the Tariff Act, it is appropriate to use the facts otherwise available to make this adjustment. The methodology used to make these adjustments is discussed in the EP, CEP, and NV sections of this notice, below. We find that CP Kelco reported all information requested to the best of its ability. Therefore, we have not made an adverse inference in our use of partial facts available. We intend to ask CP Kelco to report its actual factoring expenses on a transaction-specific basis in a later submission, and we intend to consider this information in our final results.

Fair Value Comparisons

To determine whether sales of CMC in the United States were made at less than fair value, we compared U.S. price to NV, as described in the "Export Price," "Constructed Export Price," and "Normal Value" sections of this notice. In accordance with section 777A(d)(2) of the Tariff Act, we calculated monthly weighted-average NVs and compared these to individual U.S. transactions. Because we determined CP Kelco made both EP and CEP sales during the POR, we used both EP and CEP as the basis for U.S. price in our comparisons. These calculations are described in further detail in the Preliminary Analysis Memorandum.

Product Comparisons

In accordance with section 771(16) of the Tariff Act, we considered all products produced by CP Kelco covered by the description in the "Scope of the Order" section, above, and sold in the HM during the POR, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We relied on five characteristics to match U.S. sales of subject merchandise to comparison sales of foreign like product (listed in order of priority): 1) grade; 2) viscosity; 3) degree of substitution; 4) particle size; and 5) solution gel characteristics. *See* The Department's September 27, 2006, antidumping duty questionnaire at Appendix 5. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of these product characteristics and the reporting instructions listed in the Department's September 11, 2005, questionnaire. Because there were sales of identical or similar merchandise in the home market suitable for comparison to each U.S. sale, we did

not compare any U.S. sales to constructed value (CV).

Export Price

Section 772(a) of the Tariff Act defines EP as “the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States. . .,” as adjusted under section 772(c). In accordance with section 772(a) of the Tariff Act, we used EP for a number of CP Kelco’s U.S. sales. We have preliminarily found that these sales are properly classified as EP sales because these sales were made before the date of importation and were sales directly to unaffiliated U.S. customers.

We based EP on the packed, delivered duty paid or free-on-board (FOB)-warehouse prices to unaffiliated customers in the United States. We made adjustments for price or billing adjustments and discounts, where applicable. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Tariff Act, which included, where appropriate, foreign inland freight, international freight, marine insurance, and U.S. brokerage and handling. We also reduced movement expenses, where appropriate, by the amount of certain freight revenue paid by the customer. We made adjustments for direct expenses (credit expenses) in accordance with section 772(c)(2)(A) of the Tariff Act.

Based upon our findings at verification, we also made a deduction from EP for the factoring charges incurred by CP Kelco on its U.S. accounts receivable. See the “Facts Available” section, above. For the EP sales examined at verification, we used CP Kelco’s verified factoring charges to represent this expense. There was not enough information on the record to calculate a transaction-specific adjustment for CP Kelco’s other EP sales upon which CP Kelco incurred factoring charges (*i.e.*, the sales not examined at verification). Therefore, for the remaining EP sales upon which CP Kelco incurred factoring charges, we based the deduction upon the average ratio of factoring charges to the invoice value incurred by CP Kelco on both the EP and CEP sales examined at verification. However, we only made this adjustment for those EP sales for which CP Kelco reported a factoring date (those sales which were factored).

Constructed Export Price

In accordance with section 772(b) of the Tariff Act, CEP is “the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter,” as adjusted under sections 772(c) and (d) of the Tariff Act. In accordance with section 772(b) of the Tariff Act, we used CEP for a number of CP Kelco’s U.S. sales because CP Kelco sold merchandise to affiliate CP Kelco U.S. in the United States which, in turn, sold subject merchandise to unaffiliated U.S. customers. See the “Successor-In-Interest” section, above. We have preliminarily found that these U.S. sales are properly classified as CEP sales because they occurred in the United States and were made through CP Kelco’s U.S. affiliate, CP Kelco U.S., to unaffiliated U.S. customers.

We based CEP on the packed, delivered duty paid or FOB warehouse prices to unaffiliated purchasers in the United States. We made adjustments for price or billing errors and early payment discounts, where applicable. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Tariff Act, which included, where appropriate, foreign inland freight, foreign brokerage and handling, international freight, marine insurance, customs duties, U.S. brokerage, U.S. inland freight, and U.S. warehousing expenses. We also reduced movement expenses, where appropriate, by the amount of certain freight revenue paid by the customer. In accordance with section 772(d)(1) of the Tariff Act, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (credit costs), inventory carrying costs, and indirect selling expenses. We also made an adjustment for profit in accordance with section 772(d)(3) of the Tariff Act.

Based upon our findings at verification, we made a deduction from CEP for the factoring charges incurred by CP Kelco on its U.S. accounts receivable. See the “Facts Available” section, above. For the CEP sales examined at verification, we used CP Kelco’s verified factoring charges to represent this expense. There was not enough information of the record to calculate a transaction-specific adjustment for CP Kelco’s other CEP sales upon which CP Kelco incurred

factoring charges (*i.e.*, the sales not examined at verification). Therefore, for the remaining home market sales upon which CP Kelco incurred factoring charges, we based the deduction upon the average ratio of factoring charges to the invoice value incurred by Kelco on both the EP and CEP sales examined at verification. However, we only made this adjustment for those sales for which CP Kelco reported a factoring date (those sales which were factored).

Normal Value

A. Selection of Comparison Market

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product was equal to or greater than five percent of the aggregate volume of U.S. sales), we compared the respondent’s volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1) of the Tariff Act. As CP Kelco’s aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined the home market was viable. Therefore, we have based NV on home market sales in the usual commercial quantities and in the ordinary course of trade.

B. Cost of Production Analysis

As explained above in the Background section of this notice, on December 8, 2006, Petitioner alleged that CP Kelco made sales of the foreign like product at prices below the cost of production in the home market during the POR. The Department found there were reasonable grounds to believe or suspect that sales in the home market were made at prices below the cost of production. Therefore, pursuant to section 773(b)(1) of the Tariff Act, we initiated a cost investigation on February 5, 2007, to determine whether CP Kelco’s sales made during the POR were at prices below its COP. See Memorandum from Tyler Weinhold to Richard Weible, Director, Office 7, AD/CVD Enforcement, Regarding Petitioner’s Allegation of Sales Below the Cost of Production for Noviant CMC OY and CP Kelco OY, dated February 5, 2007.

C. Calculation of Cost of Production (COP)

In accordance with section 773(b)(3) of the Tariff Act, we calculated the weighted-average COP for each model

based on the sum of CP Kelco's materials and fabrication costs for the foreign like product, plus an amount for home market selling expenses, general and administrative (G&A) expenses, financial expenses, and packing costs. We relied on the COP data submitted by CP Kelco, except for the changes noted below.

1. Under section 773 (f)(3) of the Tariff Act (*i.e.*, the "Major Input Rule"), we increased CP Kelco's reported cost of manufacturing based on the difference between its affiliated supplier's cost of steam and the net transfer price charged to CP Kelco after deducting revenues received from selling excess steam.
2. We revised CP Kelco's reported G&A expense ratio to include goodwill amortization costs as recognized in CP Kelco's normal books and records. We also revised the cost of goods sold denominator of the G&A expense ratio based on the verified packing costs.
3. We revised the cost of goods sold denominator of the reported financial expense ratio of parent company JM Huber to include JM Huber's depreciation expenses, and to deduct packing and freight costs.

See Memorandum to Neal Halper from Joe Welton, Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results - CP Kelco OY, dated July 31, 2007.

D. Test of Home Market Prices

We compared the weighted-average COP of CP Kelco's home market sales to home market sales prices of the foreign like product (net of billing adjustments, discounts, any applicable movement expenses, direct and indirect selling expenses, and packing), as required under section 773(b) of the Tariff Act in order to determine whether these sales had been made at prices below the COP. In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Tariff Act, whether such sales were made in substantial quantities within an extended period of time, and whether such sales were made at prices which would permit recovery of all costs within a reasonable period of time.

E. Results of the Cost Test

Pursuant to section 773(b)(2)(C) of the Tariff Act, where less than 20 percent of CP Kelco's sales of a given model were at prices less than the COP, we did not disregard any below-cost sales of that model because these below-cost sales were not made in substantial quantities. Where 20 percent or more of CP Kelco's

home market sales of a given model were at prices less than the COP, we disregarded the below-cost sales because such sales were made: (1) within an extended period of time and in "substantial quantities" within the POR, in accordance with section 773(b)(2)(B) and (C) of the Tariff Act, and (2) at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Tariff Act (*i.e.*, the sales were made at prices below the weighted-average per-unit COP for the POR). In this review, we have disregarded such sales from our margin calculation. We used the remaining sales as the basis for determining NV, if such sales existed, in accordance with section 773(b)(1) of the Tariff Act.

F. Price-to-Price Comparisons

We calculated NV based on prices to unaffiliated customers. We made adjustments for billing adjustments, early payment discounts, and rebates, where appropriate. We made deductions, where appropriate, for foreign inland freight, pursuant to section 773(a)(6)(B) of the Tariff Act. We offset inland freight for any freight revenue (revenue received from customers for invoice items covering transportation expenses). In addition, when comparing sales of similar merchandise, we made adjustments for differences in cost (*i.e.*, DIFMER), where those differences were attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Tariff Act and 19 CFR 351.411. We also made adjustments for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Tariff Act and 19 CFR 351.410. We made COS adjustments for imputed credit expenses. We also made an adjustment, where appropriate, for the CEP offset in accordance with section 773(a)(7)(B) of the Tariff Act. See "Level of Trade and CEP Offset" section below. Finally, we deducted home market packing costs and added U.S. packing costs in accordance with sections 773(a)(6)(A) and (B) of the Tariff Act.

Based upon our findings at verification, we also made a deduction from NV for the factoring charges incurred by CP Kelco on its home market accounts receivable in accordance with. See the "Facts Available" section, above. For those home market sales transactions examined at verification, we used the actual factoring charges incurred by CP Kelco to represent this expense. There was not enough information of the

record to calculate a transaction-specific adjustment for CP Kelco's other home market sales upon which CP Kelco incurred factoring charges (*i.e.*, the sales not examined at verification). Therefore, for the remaining home market sales upon which CP Kelco incurred factoring charges, we based the deduction upon the average ratio of factoring charges to the invoice value incurred by Kelco on the home market sales examined at verification. However, we only made this adjustment for those sales for which CP Kelco reported a factoring date (those sales which were factored).

G. Constructed Value (CV)

In accordance with section 773(a)(4) of the Tariff Act, we base NV on CV if we are unable to find a contemporaneous comparison market match of such or similar merchandise for the U.S. sale. Section 773(e) of the Tariff Act provides that CV shall be based on the sum of the cost of materials and fabrication employed in making the subject merchandise, selling, general, and administrative (SG&A) expenses, profit, and U.S. packing costs. We calculated the cost of materials and fabrication for CP Kelco based on the methodology described in the COP section of this notice. In accordance with section 773(e)(2)(A) of the Tariff Act, we based SG&A expenses and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. However, for these preliminary results, we did not base NV on CV in any instances.

Level of Trade and CEP Offset

In accordance with section 773(a)(1)(B) of the Tariff Act, to the extent practicable, we base NV on sales made in the comparison market at the same level of trade (LOT) as the export transaction. The NV LOT is based on the starting price of sales in the home market or, when NV is based on CV, on the LOT of the sales from which SG&A expenses and profit are derived. With respect to CEP transactions in the U.S. market, the CEP LOT is defined as the level of the constructed sale from the exporter to the importer. See section 773(a)(7)(A) of the Tariff Act.

To determine whether NV sales are at a different LOT than CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the customer. See 19 CFR 351.412(c)(2). If the comparison-market sales are at a

different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Tariff Act. For CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Tariff Act (the CEP offset provision). *See, e.g., Final Determination of Sales at Less Than Fair Value: Greenhouse Tomatoes From Canada*, 67 FR 8781 (February 26, 2002) and accompanying Issues and Decisions Memorandum at Comment 8; *see also Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products from Brazil; Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 17406, 17410 (April 6, 2005) (unchanged in final results of review, 70 FR 58683 (October 7, 2005)). 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 Tariff Act. *See Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314–1315 (Fed. Cir. 2001). We expect that if the claimed LOTs are the same, the functions and activities of the seller should be similar. Conversely, if a party claims that the LOTs are different for different groups of sales, the functions and activities of the seller should be dissimilar. *See Porcelain-on-Steel Cookware from Mexico: Final Results of Antidumping Duty Administrative Review*, 65 FR 30068 (May 10, 2000) and accompanying Issues and Decisions Memorandum at Comment 6.

CP Kelco reported that it had sold CMC to end-users and distributors in the home market and to end-users and distributors in the United States. For the home market, CP Kelco identified two channels of distribution in the home market and the U.S. market: end users (channel 1) and distributors (channel 2). *See* CP Kelco's November 21, 2006, sections B and C questionnaire response at page B–10. These channels of distribution correspond to CP Kelco's two end user and distributor customer categories reported in each market. In the home market, CP Kelco claimed two levels of trade, level 1 (end users) and level 4 (distributors), corresponding to its end user and distributor channels of distribution and customer categories. *See, e.g.,* CP Kelco's November 21, 2006, sections B and C questionnaire response

at page B–20. As described above, CP Kelco made both direct (EP) sales of subject merchandise to U.S. customers and sales of subject merchandise through its affiliate, CP Kelco U.S. (CEP sales). CP Kelco reported that its EP U.S. sales to both end users and distributors were made at the same level of trade as home market end-user sales, level of trade 1. *See id.* However, CP Kelco reported that its CEP sales were made at a separate level of trade, level of trade 2.

We obtained information from CP Kelco regarding the marketing stages involved in making its reported foreign market and U.S. sales. CP Kelco provided a table listing all selling activities performed, and comparing the levels of trade among each channel of distribution, customer categories and levels of trade for both markets. *See* CP Kelco's April 5, 2007, supplemental questionnaire at Exhibit A–27. We reviewed the intensity to which all selling functions were performed for each home market channel of distribution and customer category and between CP Kelco's EP and home market channels of distribution and customer categories. For certain activities, such as sales forecasting, advertizing, procurement/sourcing services, order input/processing, paying commissions, and providing warranty services, CP Kelco described the level of performance as identical across CP Kelco's home market end-user and distributor channels of distribution. *See id.* For several other functions, the level of performance was identical between the home market end-user sales and EP sales. These were strategic/economic planning, engineering services, distributor/dealer training, packing, inventory maintenance, and maintaining direct sales personnel. *See id.* For several other selling functions, the level of performance was identical between the home market distributor sales and EP sales. These were sales promotion, sales/marketing support, and providing guarantees. *See id.* Also, for the "provide freight and delivery" selling function CP Kelco reported that the level of performance was identical for home market end-user and distributor sales. For several other functions, CP Kelco reported only small differences between the home market end-user and distributor channels of distribution. These were personnel training/exchange, sales promotion, packing, sales/marketing support, and market research. *See id.* For certain other functions, CP Kelco reported that only small differences existed between the home market end-user channel of

distribution and U.S. EP sales. These were sales promotion, sales/marketing support and providing after sales service. *See id.* Finally, CP Kelco reported that only small differences existed between the home market distributor channel of distribution and U.S. EP sales for personnel training and exchange and market research. *See id.* While we find differences in the levels of intensity performed for some of these functions among the home market end-user and distributor channels of distribution and EP sales, such differences are minor and do not establish distinct, multiple levels of trade in Finland. Based on our analysis of all of CP Kelco's home market selling functions, we find all home market sales were made at the same LOT, and that U.S. EP sales were made at this same level of trade, the NV and EP LOT.

We then compared the NV LOT, based on the selling activities associated with the transactions between CP Kelco OY and its customers in the home market, to the CEP LOT, which is based on the selling activities associated with the transaction between CP Kelco OY and its affiliated importer, CP Kelco U.S. Our analysis indicates the selling functions performed for home market customers are either performed at a higher degree of intensity or are greater in number than the selling functions performed for CP Kelco U.S. For example, in comparing CP Kelco's selling activities, we find most of the reported selling functions performed in the home market are not a part of CEP transactions (*e.g.,* personnel training and exchange, engineering services, advertising, sales promotion, market research, technical assistance, providing rebates, providing cash discounts, paying commissions, providing warranty service, providing guarantees, providing after-sales services, and performing repacking). For those selling activities performed for both home market sales and CEP sales (*e.g.,* sales processing, strategic/economic planning, distributor/dealer training, procurement/sourcing services, inventory maintenance, order input/processing, maintaining direct sales personnel, sales/marketing support, and providing freight and delivery services), CP Kelco reported that it performed each activity at a higher level of intensity in the home market. We note that CEP sales from CP Kelco OY to CP Kelco U.S. generally occur at the beginning of the distribution chain, representing essentially a logistical transfer of inventory. In contrast, all sales in the home market occur closer to the end of the distribution chain and

involve smaller volumes and more customer interaction which, in turn, require the performance of more selling functions. Based on the foregoing, we conclude that the NV and EP LOT is at a more advanced stage than the CEP LOT.

Because we found the home market and U.S. CEP sales were made at different LOTs, we examined whether a LOT adjustment or a CEP offset may be appropriate in this review. As we found only one LOT in the home market, it was not possible to make a LOT adjustment to home market sales, because such an adjustment is dependent on our ability to identify a pattern of consistent price differences between the home market sales on which NV is based and home market sales at the LOT of the export transaction. See 19 CFR 351.412(d)(1)(ii). Furthermore, we have no other information that provides an appropriate basis for determining a LOT adjustment. Because the data available do not form an appropriate basis for making a LOT adjustment, and because the NV and EP LOT is at a more advanced stage of distribution than the CEP LOT, we have made a CEP offset to NV in accordance with section 773(a)(7)(B) of the Tariff Act.

Currency Conversions

CP Kelco reported certain U.S. sales prices and certain U.S. and HM expenses and adjustments in both U.S. dollars and euros. Therefore, we made euro-U.S. dollar currency conversions, where appropriate, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Board, in accordance with section 773A(a) of the Tariff Act.

Preliminary Results of Review

As a result of our review, we preliminarily find the following weighted-average dumping margin exists for the period December 27, 2004, through June 30, 2006:

Manufacturer / Exporter	Weighted Average Margin (percentage)
CP Kelco	5.70%

The Department will disclose calculations performed within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). An interested party may request a hearing within thirty days of publication. See 19 CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication, or the first business day thereafter, unless the

Department alters the date pursuant to 19 CFR 351.310(d).

Comments

Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than 35 days after the date of publication of this notice. Parties who submit arguments in these proceedings 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. Further, parties submitting written comments should provide the Department with an additional copy of the public version of any such comments on diskette. The Department will issue final results of this administrative review, including the results of our analysis of the issues in any such written comments or at a hearing, within 120 days of publication of these preliminary results.

Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Upon completion of this administrative review, pursuant to 19 CFR 351.212(b), the Department will calculate an assessment rate on all appropriate entries. CP Kelco has reported entered values for all of its sales of subject merchandise to the U.S. during the POR. Therefore, in accordance with 19 CFR 351.212(b)(1), we will calculate importer-specific duty assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the examined sales of that importer. These rates will be assessed uniformly on all entries the respective importers made during the POR if these preliminary results are adopted in the final results of review. Where the assessment rate is above *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by that importer. The Department will issue appropriate appraisement instructions directly to CBP within fifteen days of publication of the final results of review.

Cash Deposit Requirements

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of CMC from Finland entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this

administrative review, as provided by section 751(a)(1) of the Tariff Act:

- 1) The cash deposit rate for CP Kelco OY and Noviant OY will be the rate established in the final results of review;
- 2) if the exporter is not a firm covered in this review or the less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and
- 3) 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 the "all others" rate of 6.65 percent from the LTFV investigation. See *Notice of Antidumping Duty Orders: Purified Carboxymethylcellulose from Finland, Mexico, the Netherlands and Sweden*, 70 FR 39734 (July 11, 2005). These 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.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act.

Dated: July 27, 2007.

David M. Spooner,
Assistant Secretary for Import Administration.

[FR Doc. E7-15343 Filed 8-6-07; 8:45 am]
BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration
A-337-806

Notice of Preliminary Results of Antidumping Duty Administrative Review, Notice of Partial Rescission of Antidumping Duty Administrative Review, Notice of Intent to Revoke in Part: Certain Individually Quick Frozen Red Raspberries from Chile

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

SUMMARY: The Department of Commerce is conducting an administrative review