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HYPOTHETICAL CALCULATIONS UNDER THE UNITED STATES ANTIDUMPING DUTY LAW: FOREIGN MARKET VALUE, UNITED STATES PRICE, AND WEIGHTED-AVERAGE DUMPING MARGINS

Michael J. Coursey*
David L. Binder**

Dumping, in essence, is the sale of a foreign made good in the United States at prices lower than the price charged for the same or similar product in the country of manufacture (i.e., the home market), an export market other than the United States (i.e., a third country market), or the good's constructed value (i.e., its cost of production plus profit). Such low-priced sales in the United States are referred to in the United States antidumping (AD) law¹ as sales at "less than fair value" (LTFV).² Antidumping duties will be imposed as a remedy under the AD law only when the Department of Commerce (DOC or Commerce) has determined that there are LTFV sales, and the United States International Trade Commission has determined that such sales are causing or threatening a United States industry with material injury, or are materially retarding the establishment of a United States industry.³

The antidumping duty imposed to remedy dumping is generally equal to the amount of dumping calculated by Commerce. The amount of dumping is, in general, the amount by which a foreign-made good's United States sales price is less than the good's "foreign market value"

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1. Tariff Act of 1930, *amended by* 19 U.S.C. §§ 1673-1977(h) (1982). The DOC recently promulgated revised regulations under the antidumping law. Antidumping Duties, 54 Fed. Reg. 12,742 (1989) (to be codified at 19 C.F.R. pt. 353) (published Mar. 28, 1989).

2. 19 U.S.C. § 1677(b) (1982); 54 Fed. Reg. 12,773 (1989) (to be codified at 19 C.F.R. § 353.42).

3. 19 U.S.C. § 1673(2) (1982); 54 Fed. Reg. 12,773 (1989) (to be codified at 19 C.F.R. § 353.42). This presentation does not examine the concept of injury in antidumping investigations. For a succinct discussion of the injury concept, see Kassinger, *Antidumping Duty Investigations* 41-50, in *LAW & PRACTICE OF UNITED STATES REGULATION OF INTERNATIONAL TRADE* (C.R. Johnston, Jr., ed. 1987).

(FMV)⁴ (i.e., the good's home market or third country price, or its constructed value). The amount of dumping is generally referred to as the margin of dumping, or the "antidumping margin." Thus, the antidumping duty is equal to the AD margin calculated by Commerce.

The determination of whether a foreign manufacturer is selling its goods in the United States at less than fair value is a three-step process: (1) the calculation of the good's FMV; (2) the calculation of the price at which the good is sold in the United States, referred to as the United States Price;⁵ and (3) the calculation of the difference between these two amounts (i.e., the dumping margin).⁶

The purpose of this presentation is to demonstrate, in a simplified manner, how Commerce generally calculates AD margins. This presentation is based on the following facts:

—Widgets Oceana, Ltd. (WOL) is a hypothetical foreign company in the country of Oceana that is being investigated under the United States antidumping statute for the alleged sale of widgets in the United States at less than fair value.

—In its home market, WOL sells widgets directly to unrelated distributors. There are enough sales of WOL's widgets in the home market to allow prices of these home market sales to be used as the basis for determining FMV.⁷

—In the United States, WOL sells widgets on the West Coast directly to an unrelated distributor, Widgets America (WA).

—For United States East Coast sales, WOL ships widgets to a related distributor, Widgets Oceana United States (WOUS). WOUS imports WOL's widgets and sells these to unrelated East Coast distributors from its United States warehouse inventory.

—The period of investigation is normally a six-month period.⁸ In this instance, it is July 1, 1988 through December 31, 1988.

Commerce's hypothetical AD calculations are presented in three parts: (Part I) Calculation of Foreign Market Value (including a constructed value calculation); (Part II) Calculation of United States Price; and (Part III) Calculation of AD Margins.

4. 19 U.S.C. § 1677(b) (1982); 54 Fed. Reg. 12,786-88 (1989) (to be codified at 19 C.F.R. § 353.46-53).

5. 19 U.S.C. 1677a(a) (1982); 54 Fed. Reg. 12,785-86 (1989) (to be codified at 19 C.F.R. § 353.41).

6. 54 Fed. Reg. 12,785 (1989) (to be codified at 19 C.F.R. § 353.2(f)).

7. See 54 Fed. Reg. 12,786-87 (1989) (to be codified at 19 C.F.R. § 353.48) (noting the minimal amount of sales normally needed as a basis for determining FMV).

8. 54 Fed. Reg. 12,786-87 (1989) (to be codified at 19 C.F.R. § 353.42(6)).

I. CALCULATION OF FOREIGN MARKET VALUE

A. HOME MARKET SALES DURING PERIOD OF INVESTIGATION

In the home market, WOL sells widgets through various unrelated distributors. During the period of investigation, there were three home market sales. The principal elements of these sales are reported below.

SALE NO.	CUSTOMER NAME	DATE OF SALE	QUANTITY	TERMS OF SALE	GROSS PRICE PER UNIT
1	WIDGET DISTRIBUTORS, LTD.	8/3/88	10,000	DELIVERED CUSTOMER'S WAREHOUSE	OF* 7.70
2	ABC WIDGETS, LTD.	9/7/88	12,000	EX FACTORY	OF 8.57
3	XYZ WIDGETS, LTD.	11/21/88	7,000	EX FACTORY	OF 9.17

* OF = Oceana Francs = U.S. \$0.1818

B. EX FACTORY AND OTHER ADJUSTMENTS TO SALE NO. 1

In calculating the FMV, the gross per-unit prices of each home market sale must be adjusted to arrive at an "ex factory" price.⁹ Making ex factory adjustments to both home market and United States sales allows a comparison between the respective sales prices, as if the customers of both sales had (1) taken delivery at the factory gate and (2) paid cash for the goods at that time. The following exercise shows in detail the ex factory adjustments made for the first home market sale, Sale No. 1. The prices of the United States sales, examined in Part II, will also be adjusted to arrive at ex factory prices.

As will be discussed in Part II, United States sales prices are adjusted prior to being compared to FMV under two different methodologies: (1) whether the United States sale is a purchase price¹⁰ (PP) sale, or (2) whether the United States sale is an exporter's sales price¹¹

9. 54 Fed. Reg. 12,785-86 (1989) (to be codified at 19 C.F.R. § 353.41).

10. 19 U.S.C. § 1677a(b) (1982); 54 Fed. Reg. 12,785 (1989) (to be codified at 19 C.F.R. § 353.41(b)). An example of a purchase price is where the good is sold to an unrelated party in the United States prior to its importation into the United States.

11. 19 U.S.C. § 1677a(c) (1982); 54 Fed. Reg. 12,785 (1989) (to be codified at 19 C.F.R. § 353.41(c)). An example of an ESP sale is where the good is first sold to an unrelated party in the United States *after* importation. This typically occurs where the foreign manufacturer has established a subsidiary in the United States for distribution purposes.

(ESP) sale. Where, as in this presentation, there are both PP and ESP United States sales, two FMVs must be calculated—one for comparison with PP United States sales, and the other for comparison with ESP United States sales.

	<u>PP</u>	<u>ESP</u>
GROSS UNIT PRICE	<u>OF 7.70</u>	<u>OF 7.70</u>

LESS: Discounts and Rebates.

Where a seller grants discounts or rebates from a sales price, deductions for these amounts are made from the gross unit price to reflect a net price to the seller.

HM CASH DISCOUNTS	- OF .14	- OF .14
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(HM = home market)

LESS: Movement Expenses.

All freight, insurance, handling, and other costs are deducted to arrive at a price net of movement charges.

HM INLAND FREIGHT	- OF .55	- OF .55
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HM INLAND INSURANCE	<u>- OF .10</u>	<u>- OF .10</u>
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	<u>OF 6.91</u>	<u>OF 6.91</u>
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LESS: Packing.¹²

To ensure that the comparison between the prices of products sold in the home market and the United States are "apples to apples," the cost of packing for the product sold in the home market is deducted at this point. Later in the FMV adjustment process, this cost will be replaced with the cost of packing for the product sold in the United States to whose price the FMV will be compared.

HM PACKING	<u>- OF .12</u>	<u>- OF .12</u>
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	<u>OF 6.79</u>	<u>OF 6.79</u>
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12. 19 U.S.C. § 1677b(a)(1) (1982); 54 Fed. Reg. 12,788 (1989) (to be codified at 19 C.F.R. § 353.46(a)).

LESS: Circumstance of Sale Adjustments (COS)¹³—Stage I.

In order to account for the differential between United States and foreign market costs associated with the following COS factors, Commerce subtracts these factors from both the PP and ESP FMVs. For the PP FMV, each of these factors will be replaced (as demonstrated later in Part II of this presentation) with the equivalent factor from the United States PP sale to which the PP FMV will be compared. For the ESP FMVs no “addbacks” are made, because the corresponding cost factors in the United States ESP sale, to which the ESP FMV will be compared, are also deducted from the price of that ESP United States sale.

HM CREDIT	- OF .12	- OF .12
HM WARRANTY	- OF .02	- OF .02
HM ADVERTISING	- OF .01	- OF .01
	<u>OF 6.64</u>	<u>OF 6.64</u>

LESS: Indirect Selling Expenses¹⁴ (Home Market ESP Sales Only).

As demonstrated in Part II of this presentation, the gross price of United States ESP sales are lowered by the amount of indirect selling expenses incurred by the foreign exporter in connection with that sale in the United States. These indirect selling expenses are typically those costs that United States subsidiaries of foreign exporters incur in maintaining operations in the United States (such as sales offices and warehousing facilities) that cannot be linked directly to specific United States sales. Such expenses may also be incurred by the foreign exporter in the country of manufacture, for example, through the maintenance of a warehouse dedicated to merchandise destined for export to the United States.

The indirect selling expenses reduction of the price of a United States ESP sale makes an affirmative finding that that United States sale has been dumped more likely, because the reduction *lowers* the United States price. Nevertheless, the foreign exporter may deduct the indirect selling expenses incurred in its HM sales to offset the ESP FMV. This offset, however, can not be greater than the corresponding indirect selling expense offset for the relevant ESP United States sale.¹⁵ This amount is referred to as the ESP “cap.” This presentation as-

13. 19 U.S.C. § 1677b(a)(4)(B) (1982); 54 Fed. Reg. 12,788 (1989) (to be codified at 19 C.F.R. § 353.56(a)(1), (2)).

14. 54 Fed. Reg. 12,788 (1989) (to be codified at 19 C.F.R. § 353.56(b)(2)).

15. *Id.*

sumes that the home market's indirect selling expenses for the ESP United States sale are \$0.06 per unit, or OF .33, converted at the exchange rate in effect as of the date of the United States sale (OF 1 = \$.1818).¹⁶

	<u>PP</u>	<u>ESP</u>
INDIRECT SELLING EXPENSES	---	- OF .33
	<u>OF 6.64</u>	<u>OF 6.31</u>

PLUS (or minus): Difference in Merchandise Adjustment (Difmer).

The DOC attempts to compare goods sold in the United States with identical merchandise sold in the home market. Where identical products are not sold in the home market, the good sold in the United States is compared to the good with the most similar physical characteristics sold in the home market. Where these "similar" products are compared, a Difmer¹⁷ must be made to the home market sales price to account for the differences in the physical characteristics between the merchandise sold in the United States and the home market. Such differences may occur, for example, where the product sold in the home market conforms to the metric system while the product sold in the United States conforms to the inch system. These adjustments are based on the differences in costs of material, labor, and direct (i.e., variable) factory overhead. In this presentation, these costs are *greater* for the United States product; therefore, an addition is made to the FMV.

	<u>PP</u>	<u>ESP</u>
DIFMER	+ <u>OF .09</u>	+ <u>OF .09</u>
<u>FMV FOR SALE NO. 1</u> (Unadjusted for United States Circumstances of Sale)	<u>OF 6.73</u>	<u>OF 6.40</u>

C. THE WEIGHT-AVERAGING PROCESS¹⁸

Once the adjustments described above are completed for Sale No. 1, the same adjustments are performed for the other two home market sales, Sales Nos. 2 and 3. When all three sales are adjusted accord-

16. 54 Fed. Reg. 12,789 (1989) (to be codified at 19 C.F.R. § 353.60(a)).

17. 19 U.S.C. § 1677b(a)(4)(c) (1982); 54 Fed. Reg. 12,788-89 (1989) (to be codified at 19 C.F.R. § 353.57).

18. 19 U.S.C. § 1677(b) (1982); 54 Fed. Reg. 12,786-88 (1989) (to be codified at 19 C.F.R. § 353.46-53).

ingly, two weighted-average FMVs are developed, one for comparison to United States PP sales, and the other for comparison to United States ESP sales. This is a five-step process.

1. Total Sales Value

To determine a weighted-average FMV (unadjusted as yet for United States circumstances of sale) that ultimately will be compared to United States PP and ESP sales, the total amount received for all three of the home market sales being reviewed must first be determined.¹⁹

PP:

(10,000 sold in Sale No. 1 x OF 6.73 per unit) + (12,000 sold in Sale No. 2 x OF 8.10) + (7,000 sold in Sale No. 3 x OF 8.67 per unit) =
OF 225,190

ESP:

(10,000 x OF 6.40) + (12,000 x OF 7.71) + (7,000 x OF 8.25) =
OF 214,270

2. Unit Value

Next, this total amount is divided by the total number of units sold in all three sales to derive a per unit amount in Oceana francs.

PP:

Total units sold = 10,000 + 12,000 + 7,000 = 29,000
Unadjusted weighted-average = Total value ÷ total units =
OF 225,190 ÷ 29,000 = OF 7.77

ESP:

Total units sold = 29,000
Weighted-average = Total value ÷ total units =
OF 214,270 ÷ 29,000 = OF 7.39

3. Conversion to United States Dollar Amount

This weighted-average amount in Oceana francs is converted to United States dollars at the effective exchange rate between the two currencies on the date of the United States sale to which this FMV will be com-

19. The prices used for this calculation for Sales Nos. 2 and 3 are changed from the gross prices shown in the tabulation of sales on page 3 to simulate the statutory and regulatory adjustments and deductions similar to those made in sub-part B with respect to Sale No. 1.

pared.²⁰ This presentation assumes that although the single United States PP and ESP sales took place on different dates during the period of investigation, the exchange rate between the United States dollar and Oceana franc was the same (OF 1 = \$0.1818) on each of these dates.

PP:

OF 7.77 X \$0.1818 (Rate of exchange on United States sale date) =
\$1.41

ESP

OF 7.39 X \$0.1818 = \$1.34

4. *Circumstances of Sale Adjustments (COS)*²¹—*Stage II (United States PP sales only)*

Finally, the second stage of the COS process for purchase price sales is performed. For PP FMV, those corresponding cost factors from the United States PP sale to which the PP FMV will be compared are added to PP FMV. For ESP FMV, no corresponding United States COS factors are added; instead, the corresponding COS factors will be *deducted* from the United States ESP price in Part II of this presentation.

	<u>PP</u>	<u>ESP</u>
U.S. CREDIT	+ \$0.14	
U.S. WARRANTY EXPENSES	+ \$0.04	
U.S. ADVERTISING	+ \$0.03	
	<u>\$0.21</u>	
	<u>\$1.62</u>	<u>\$1.34</u>

5. *Addition of United States Packing Costs*

The packing costs of the product from the United States sale to which the FMV will be compared, are added at this point to ensure that the comparison will be "apples to apples."

	<u>PP</u>	<u>ESP</u>
U.S. PACKING	+ \$0.55	+ \$0.55
Weighted-Averaged FMV:	<u>\$2.17</u>	<u>\$1.89</u>

20. 54 Fed. Reg. 12,789 (1989) (to be codified at 19 C.F.R. § 353.60(a)).

21. See 54 Fed. Reg. 12,786-87 (1989) (to be codified at 19 C.F.R. § 353.42(6) (citing to COS provisions under the AD law).

D. SAMPLE CALCULATION OF A CONSTRUCTIVE VALUE²²

Where sales in the home market or third countries are insufficient²³ or are found to be below the cost of production,²⁴ Commerce calculates FMV based on the per unit constructed value (CV) of the good under investigation. The antidumping statute requires that in developing a product's CV, Commerce adds to the product's costs of manufacturing (COM) a minimum of 10% of COM to represent general sales and administrative (GS&A) costs, and 8% of COM plus GS&A costs to represent profit.²⁵ If the actual costs of these amounts are greater than 10% for GS&A or 8% for profit, the actual amounts are used. The typical steps followed by Commerce in developing a CV are shown below.

1. *Costs of Manufacturing*²⁶ (COM)

MATERIALS	+ OF 3.50	
LABOR	+ OF 1.50	
DIRECT FACTORY OVERHEAD	<u>+ OF 0.75</u>	
TOTAL COM:		<u>OF 5.75</u>

2. *General Sales and Administrative (GS&A) Expenses*

Actual costs are used here because these exceed the statutory minimum of 10% of the total COM.

* <u>General and Administrative</u> (e.g., salaries of nonsales personnel, rent, heat, and light).	+ OF 0.30
* <u>Direct Selling Expenses</u> (i.e., expenses that can be directly tied to the sale of a specific unit) (e.g., credit, warranty, and advertising expenses).	+ OF 0.15

22. 19 U.S.C. § 1677b(e) (1982); 54 Fed. Reg. 12,787 (1989) (to be codified at 19 C.F.R. § 353.50).

23. 54 Fed. Reg. 12,786 (1989) (to be codified at 19 C.F.R. § 353.48(a)).

24. 54 Fed. Reg. 12,787 (1989) (to be codified at 19 C.F.R. § 353.51(a)).

25. 19 U.S.C. § 1677b(e)(1)(B) (1982); 54 Fed. Reg. 12,787 (1989) (to be codified at 19 C.F.R. § 353.50(a)(2)).

26. 19 U.S.C. § 1677b(e)(1)(A) (1982); 54 Fed. Reg. 12,787 (1989) (to be codified at 19 C.F.R. § 353.50(a)(1)).

* <u>Indirect Selling Expenses</u> (i.e., expenses that cannot be directly tied to the sale of a specific unit, but that are proportionally allocated to all units sold during a certain period) (e.g., telephone, rapifax, stationery, postal charges, and salespersons salaries).	<u>+ OF 0.33</u>
TOTAL GS&A EXPENSES	OF 0.78
TOTAL COST WITHOUT PROFIT ADDED	OF 6.53

3. *Profit*²⁷

The statutory 8% is used because actual profit is only 2%, or OF 0.13.

The profit is determined based on a percentage of the total COM plus GS&A of OF 6.53.

+ OF 0.52

4. *Packing Cost for United States Market Sale*²⁸

+ OF 0.55

CV unadjusted for United States and home market circumstances of sale and (in ESP calculations) indirect selling expenses: OF 7.60

5. *Deduction of Home Market Circumstances of Sale Amounts*²⁹

Where CV is to be compared to a United States price calculated under either the PP or ESP methodology, certain COS factors—i.e., expenses that are unique to the particular market and directly related to a specific sale—are deducted at this point. Where United States price is based on the PP methodology, the COS from the relevant United States sale will be added to CV later in step 8 of this CV exercise. Where United States price is based on ESP methodology, no COS amounts from the United States sale will be added, because under the ESP methodology, COS factors are simply deducted from both FMV and United States price.

27. 19 U.S.C. § 1677b(e)(1)(B) (1982); 54 Fed. Reg. 12,787 (1989) (to be codified at 19 C.F.R. § 353.50(a)(2)).

28. 19 U.S.C. § 1677b(e)(1)(C) (1982); 54 Fed. Reg. 12,787 (1989) (to be codified at 19 C.F.R. § 353.50(a)(3)).

29. 19 U.S.C. § 1677b(e)(1)(B) (1982); 54 Fed. Reg. 12,787 (1989) (to be codified at 19 C.F.R. § 353.50(a)(2)).

LESS:

HM CREDIT	- OF 0.12
HM WARRANTY	- OF 0.02
HM ADVERT	- <u>OF 0.01</u>
TOTAL HM COS AMOUNT	- OF 0.15

CV SUBTOTAL: OF 7.45

6. Deduction of Home Market Indirect Selling Expenses³⁰

This step is only applicable to ESP comparisons. As explained earlier in this presentation, where United States price is calculated under the ESP methodology, an amount equal to the related United States importer's indirect selling expenses is deducted from United States price.³¹ A corresponding reduction of CV is allowed at this point, but only to the extent of the deduction for indirect selling expenses on the United States side. In this example, it is assumed that the indirect selling expenses incurred in the relevant United States ESP sale totaled \$.06, or OF .33 (converted at the exchange rate in effect as of the date of the United States sale). It is also assumed that home market indirect selling expenses are exactly OF .33; thus, that amount is deducted at this point. If home market indirect selling expenses were greater than OF .33, their deduction would be "capped" at OF .33.

LESS: HM INDSELEX	<u>OF 0.33</u>
ESP CV =	<u>OF 7.12</u>

7. Conversion to United States Dollar Amount

The per unit CV amount in Oceana francs at this point is converted to a United States dollar amount at the exchange rate in effect on the date of the United States sale to which it will be compared.³² For this example the exchange rate is OF 1 = \$.1818.

PP CV (unadjusted for United States COS) =	OF 7.45 x \$.1818 = <u>\$1.35</u>
ESP CV =	OF 7.12 x \$.1818 = <u>\$1.29</u>

30. 54 Fed. Reg. 12,787 (1989) (to be codified at 19 C.F.R. § 353.50(b)(2)).

31. See *supra* notes 14-16 and accompanying text (stating that the importer's indirect selling expenses are typically costs incurred by a foreign company in maintaining United States sales operations).

32. 54 Fed. Reg. 12,788 (1989) (to be codified at 19 C.F.R. § 353.56(b)(2)).

8. Addition of United States Circumstance of Sale Amounts

When the United States sale to which the CV will be compared is a PP sale, the COS amount for that United States PP sale is added to PP CV (unadjusted for United States COS). Where the United States sale to which the CV will be compared is an ESP sale, no COS amount is added to the CV from the United States sale because, as shown in Part II below, the COS amount for the United States sale is deducted from the United States sale price.

<u>PLUS:</u>	
U.S. CREDIT	+ \$0.14
U.S. WARRANTY	+ \$0.04
U.S. ADVERT	+ \$0.03
Total U.S. COS Amount:	+ \$0.21
<u>PP CV:</u>	<u>\$1.56</u>

II. CALCULATION OF UNITED STATES PRICE

United States price (USP) is calculated in two ways.³³ The first methodology—the PP methodology—is used for sales of imports made *prior* to importation directly from a foreign manufacturer or exporter (in this case, WOL) to an unrelated importer in the United States (in this case of United States Sale No. 1, WA, which, as stated in the introduction, is an unrelated United States distributor on the West Coast of the United States).³⁴

The second methodology for calculating United States price is the ESP methodology.³⁵ This methodology applies to sales that are made to the first unrelated United States purchaser *after* the date the product under investigation was imported into the United States. In an ESP sale, the foreign manufacturer or exporter will typically ship the good to its subsidiary or related selling agent in the United States where it is first warehoused and then sold to an unrelated United States customer. The ESP methodology focuses on the price charged in this second transaction which is a true arms-length transaction. In the following

33. See 19 U.S.C. § 1677a (1982); 54 Fed. Reg. 12,785 (1989) (to be codified at 19 C.F.R. § 353.41(e)(2)) (defining United States price as the PP or the ESP of the merchandise).

34. 19 U.S.C. § 1677a(b) (1982); 54 Fed. Reg. 12,785 (1989) (to be codified at 19 C.F.R. § 353.41(b)).

35. 19 U.S.C. § 1677a(c) (1982); 54 Fed. Reg. 12,785-86 (1989) (to be codified at 19 C.F.R. § 353.41(c)).

example, the ESP sale (United States Sale No. 2) is made from WOUS to Distribuall, an unrelated distributor on the East Coast of the United States.

UNITED STATES SALES DURING THE PERIOD OF INVESTIGATION

<u>SALE NO.</u>	<u>CUSTOMER NAME</u>	<u>DATE SALE</u>	<u>QUANTITY</u>	<u>TERMS OF SALE</u>	<u>PRICE PER UNIT</u>
1	WIDGETS AMERICA	11/22/88	9,773	CIF, DUTY PD. SAN FRANCISCO ³⁶	\$1.61
2	DISTRIBUALL	12/15/88	10,000	DELIVERED CUST. WAREHOUSE, NY, NY	\$1.75

A. UNITED STATES PRICE CALCULATION BASED ON PURCHASE PRICE METHODOLOGY

Sale No. 1 Unit Price: \$1.61

LESS: Discounts and Rebates.

Where a seller grants discounts or rebates from a sales price, deductions for these amounts are made at this point to reflect a net price to the seller.

DISCOUNTS - \$0.04

LESS: Movement Expenses.

All charges for freight, insurance, etc., are deducted to arrive at a price net of movement expenses.

OCEAN FREIGHT - \$0.09
 FOR. INLAND FREIGHT - \$0.05
 INSURANCE - \$0.01
 U.S. DUTY - \$0.06

USP (PP) \$1.36

Certain circumstance of sale expenses, such as United States credit, warranty, and advertising expenses are *not* deducted in the PP methodology. This is because these expenses have been deducted in Part I of this exercise from FMV and replaced with the corresponding United

36. This signifies that the sales price includes the costs of transporting and shipping the goods to San Francisco (CIF means Cost, Insurance, Freight) and all import duties. These costs, among others, will have to be deducted from the price to arrive at an ex factory price.

States costs for these items, allowing for an "apples to apples" comparison.³⁷ Note that this replacement of home market COS factors with the corresponding factors from the United States sale takes place only where the United States sale is a PP sale.

**B. UNITED STATES PRICE CALCULATION BASED ON EXPORTER
SALES PRICE METHODOLOGY**

Sale No. 2 Unit Price: \$1.75

LESS: Discounts and Rebates.

Where a seller grants discounts or rebates from sales prices, a deduction for these amounts is made to reflect the net price to the seller.

Discounts - \$0.04

LESS: Movement Expenses.³⁸

All charges for freight, insurance, etc., are deducted to arrive at a price net of movement expenses.

FOR. INLAND FREIGHT	- \$0.05
OCEAN FREIGHT	- \$0.09
U.S. INLAND FREIGHT	- \$0.02
U.S. DUTY	- \$0.06
INSURANCE	- \$0.01

Movement Expenses - \$0.23

LESS: Circumstance of Sale Expenses.³⁹

For an ESP calculation only, the following expenses, directly related to the United States sale, are deducted from the gross unit price:

U.S. CREDIT	- \$0.04
WARRANTY EXPENSES	- \$0.08
ADVERTISING	- \$0.03

COS - \$0.15

37. 19 U.S.C. § 1677b(e)(1)(A) (1982); 54 Fed. Reg. 12,787 (1989) (to be codified at 19 C.F.R. § 353.50(a)(1)).

38. 19 U.S.C. § 1677a(d)(2)(A) (1982); 54 Fed. Reg. 12,785 (1989) (to be codified at 19 C.F.R. § 353.41(d)(2)(i)).

39. 19 U.S.C. § 1677a(a)(2) (1982); 54 Fed. Reg. 12,785 (1989) (to be codified at 19 C.F.R. § 353.41(e)(2)).

Recall that the corresponding costs from the FMV ESP sales price were also deducted from the FMV ESP price in Part I of this presentation; the deduction of these costs from both prices involved in the comparison allows for an “apples to apples” comparison.

LESS: Indirect Selling Expenses.⁴⁰

This item is often referred to as the “ESP cap” because deduction from FMV for home market indirect selling expenses cannot exceed this amount. This amount is determined by adding all of the indirect selling expenses incurred for all United States sales during the period of investigation and dividing by the total number of units sold. An example of an indirect selling expense is the cost of maintaining a sales office and warehouse facility in the United States for the product under investigation.

<u>U.S. Indirect Selling Expenses</u>	<u>- \$0.06</u>
<u>USP (ESP)</u>	<u>\$1.27</u>

III. CALCULATION OF AD MARGINS⁴¹

The weighted-average PP and ESP FMVs calculated in Part I are compared in this section to the PP and ESP USPs calculated in Part II. The resulting differences, or “margins,” are then weighted-averaged by sales value to derive one estimated margin amount for all sales of the widgets in the United States during the period of investigation. Normally, there are many (sometimes hundred or thousands) United States sales made during a period of investigation. In this simplified example, there are only two United States sales during the period of investigation, one PP sale and one ESP sale. In any case, each USP is compared to the single weighted-average home market price for the type of comparison being made (PP or ESP).

40. 54 Fed. Reg. 12,786 (1989) (to be codified at 19 C.F.R. d 353.41(e)(iii)).

41. 19 U.S.C. § 1677(d)(1) (1982); 54 Fed. Reg. 12,773 (1989) (to be codified at 19 C.F.R. § 353.15(a)(3)(ii) (preliminary determination)). Under the AD law, the DOC is required to estimate dumping margins for companies during the investigation phase of the proceeding. The three-step procedure described in this section shows how the DOC makes these estimates.

A. CALCULATION OF A UNIT MARGIN FOR EACH
UNITED STATES SALE

The unit margin is, in essence, the amount by which United States price is less than FMV.

Purchase Price (U.S. Sale No. 1):		Exporter's Sales Price (U.S. Sale No. 2):	
WTED-AVG FMV	\$2.17	WTED-AVG FMV	\$1.89
LESS:		LESS:	
USP	- \$1.36	USP	- \$1.27
UNIT MARGIN	\$0.81	UNIT MARGIN	\$0.62

B. CALCULATION OF POTENTIALLY UNCOLLECTIBLE DUMPING
DUTIES (PUDD)

The PUDD is the amount of dumping duties that would have been collected from the United States sales under investigation had an antidumping duty order been in effect. The calculation of the PUDD is, in effect, a two step process. First, a PUDD is determined for each United States sale by multiplying the per unit dollar margin for that sale by the total number of items sold. Second, the PUDD for each of the United States sales are added to arrive at a total PUDD.

* United States Sale No. 1 PUDD: Unit margin x number of units sold.

$$\$0.81 \times 9773 = \$7,916.13$$

* United States Sale No. 2 PUDD:

$$\$0.62 \times 10,000 = \$6,200.00$$

* Total PUDD:

$$\$7,916.13 + \$6,200.00 = \$14,116.13$$

C. CALCULATION OF THE WEIGHTED-AVERAGE AD MARGIN

Weighted-average margin: Total PUDD ÷ Total Value of United States sales.

$$\$14,116.13 \div (\$13,291.28 + \$12,700.00) =$$

$$\$14,116.13 \div \$25,991.28 = \underline{54.31\%}$$

This margin—54.31%—indicates that WOL has been selling widgets in the United States, on a weighted-average basis, at 54.31% below “fair value.” Assuming the International Trade Commission would find in this hypothetical situation that WOL’s LTFV sales in the

United States are causing or threatening material injury to WOL's United States competitors, or are materially retarding the establishment of a competing industry in the United States, Commerce would order the United States Customs Service to collect, on a deposit basis, an antidumping duty from the relevant United States importer on each new entry of WOL's widgets to the United States. This duty typically would be equal to 54.31 % of the value of the widgets as stated in each shipment's invoice. The imposition of this duty would, thus, theoretically raise the widgets' price to the nondumped "fair value."