

Commerce generally examines the following criteria in like product determination: general physical characteristics; the expectations of the ultimate purchasers; the channels of trade in which the product is sold; the manner in which the product is sold and displayed; and the ultimate use of the merchandise. No single factor is determinative and other relevant factors may be examined.¹⁸ Where there are no sales of identical merchandise in the home market to compare to U.S. sales, U.S. sales are compared to the next most similar foreign like product on the basis of characteristics listed in the anti-dumping questionnaire and reporting instructions. As discussed below, adjustments may be made to the normal value to compensate for the physical differences between the merchandise being compared.

While the ITC and Commerce commonly employ the same like product determination, the ITC is not bound by Commerce's determination. The ITC may define the domestic like product more broadly than the class or kind of imported merchandise defined by Commerce, or the ITC may find two or more domestic like products corresponding to the class or kind of imported merchandise. In defining the domestic like product for purposes of injury, the ITC typically considers the following factors: (1) physical appearance; (2) end users; (3) customer perceptions; (4) common manufacturing facilities; (5) production processes and employees; (6) channels of trade; (7) interchangeability of the product; and (8) where appropriate, price. No single factor is determinative and other relevant factors must be examined.¹⁹

5 Determination of Dumping

Commerce determines dumping margins by comparing the price at which the subject goods are sold in the United States ("export price") with the "normal value" of the goods. "Normal value" is defined as the price, at a time reasonably corresponding to the time of sale used to determine export price or constructed export price, "at which the foreign product is first sold to an unrelated purchaser for consumption in the exporting country, in the usual commercial quantities, in the ordinary course of trade and, to the extent practicable, at the same level of trade as the export price or constructed export price."

In identifying the date of sale of the subject merchandise or the foreign like product, Commerce will normally use the date of invoice, as recorded in the exporter's or producer's records. However, a different date may be used if Commerce is satisfied that it better reflects the date on which the material terms of the contract, including price and quantity, are fixed. Determining the exact date of sale may have a significant impact on currency conversions and price comparisons, particularly in highly inflationary or price-volatile markets.

18 19 U.S.C. § 1677 (10).

19 19 U.S.C. § 1677 (4) (A).