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January 14, 2013

**MEMORANDUM TO:** Paul Piquado  
Assistant Secretary  
for Import Administration

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

**SUBJECT:** Decision Memorandum for Preliminary Results of Antidumping  
Duty Administrative Review: Stainless Steel Bar from Brazil

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## **SUMMARY**

The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on stainless steel bar (SSB) from Brazil. The review covers one producer/exporter of the subject merchandise, Villares Metals S.A. (Villares). The period of review (POR) is February 1, 2011, through January 31, 2012. We preliminarily find that sales of the subject merchandise have not been made at prices below normal value.

## **BACKGROUND**

Pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b), the Carpenter Technology Corporation, Crucible Industries LLC and Valbruna Slater Stainless, Inc. (collectively, the petitioners) requested an administrative review of the antidumping duty order on SSB from Brazil with respect to Villares on February 29, 2012. On March 30, 2012, in accordance with 19 CFR 351.221(c)(1)(i), we published a notice of initiation of administrative review of the antidumping duty order on SSB from Brazil.<sup>1</sup>

The Department extended the original deadline for these preliminary results until January 14, 2013.<sup>2</sup> As explained in the memorandum from the Assistant Secretary for Import

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<sup>1</sup>See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, and Deferral of Administrative Review*, 77 FR 19179 (March 30, 2012).

<sup>2</sup>See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through Susan Kuhbach, Office Director, Antidumping and Countervailing Duty Operations 1, entitled, "Stainless Steel Bar from Brazil: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated September 26, 2012.



Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 29 through October 30, 2012.<sup>3</sup> Thus, all deadlines in this segment of the proceeding have been extended by two days. The revised deadline for the preliminary results of this review is now January 16, 2013. We are conducting the administrative review of the order in accordance with section 751(a) of the Act.

## **SCOPE OF THE ORDER**

The merchandise subject to the order is SSB. The term SSB with respect to the order means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons or other convex polygons. SSB includes cold-finished SSBs that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process. Except as specified above, the term does not include stainless steel semi-finished products, cut-length flat-rolled products (*i.e.*, cut-length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.*, cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections. The SSB subject to the order is currently classifiable under subheadings 7222.10.00, 7222.11.00, 7222.19.00, 7222.20.00, 7222.30.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.<sup>4</sup>

## **DISCUSSION OF THE METHODOLOGY**

### Fair Value Comparisons

Pursuant to section 773(a)(1)(B)(ii) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether Villares' sales of SSB from Brazil were made in the United States at less than normal value, we compared the constructed export price (CEP) to the normal value as described in the "Constructed Export Price" and "Normal Value" sections of this memorandum. In these preliminary results, the Department applied the average-to-average comparison methodology adopted in the *Final Modification for Reviews*.<sup>5</sup> Specifically, the Department compared monthly,

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<sup>3</sup> See Memorandum to the record from Paul Piquado, Assistant Secretary for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During Hurricane Sandy," dated October 31, 2012.

<sup>4</sup> The HTSUS numbers provided in the scope have changed since the publication of the order. See *Antidumping Duty Orders: Stainless Steel Bar from Brazil, India and Japan*, 60 FR 9661 (February 21, 1995).

<sup>5</sup> See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification*, 77 FR 8101 (February 14, 2012) (*Final Modification for Reviews*).

weighted-average CEPs with monthly, weighted-average normal values, and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

When making this comparison in accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the “Scope of the Order” section of this notice, above, that were in the ordinary course of trade for purposes of determining an appropriate product comparison to the U.S. sale. If contemporaneous sales of identical home market merchandise, as described below, were reported, then we made comparisons to the monthly weighted-average home market prices that were based on all such sales. If there were no contemporaneous sales of identical merchandise, then we identified sales of the most similar merchandise that were contemporaneous with the U.S. sales in accordance with 19 CFR 351.414(e).

### Product Comparisons

In accordance with section 771(16) of the Act, we compared products produced by Villares and sold in the U.S. and home markets on the basis of the comparison product which was either identical or most similar in terms of the physical characteristics to the product sold in the United States. In the order of importance, these physical characteristics are general type of finish, grade, remelting process, finishing operation, shape, and size.

### Date of Sale

Section 351.401(i) of the Department’s regulations states that, normally, the Department will use the date of invoice, as recorded in the producer’s or exporter’s records kept in the ordinary course of business, as the date of sale. The regulation provides further that the Department may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established.

For all U.S. sales, Villares initially reported the date of commercial invoice as the date of sale because that is when the material terms of the sale are purportedly first known, and that is when the sale is recorded in Villares’ books and records.<sup>6</sup> Nevertheless, Villares explained that title to the merchandise does not pass, and the actual quantity sold is not known, until the merchandise is released to the unaffiliated U.S. customer from an unaffiliated, third-party warehouse in the United States.<sup>7</sup> Villares provided a sample purchase order agreement for U.S. sales covered by this review, which supports Villares’ statement that quantity is subject to change and is not finalized until the date of release from warehouse.<sup>8</sup> Given this explanation, the Department requested that Villares report all of its U.S. sales of subject merchandise released from the unaffiliated warehouse during the POR, as well as the corresponding warehouse release date as the date of sale. In response to this request, Villares timely submitted a second sales database,

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<sup>6</sup> See Villares’ section C questionnaire response, dated June 11, 2012, at 14-15. See also “Stainless Steel Bar from Brazil: Verification Report for Villares Metals S.A.’s Sales,” dated December 3, 2012, for further explanation.

<sup>7</sup> See Villares’ supplemental questionnaire response, dated July 27, 2012, at 29-31.

<sup>8</sup> *Id.* at exhibit 54.

the warehouse release database.<sup>9</sup> Subsequent revisions to Villares' reported U.S. sales data were made to both the commercial invoice database and the warehouse release database, as appropriate. Villares submitted a total of five versions of its commercial invoice database, and four versions of its warehouse release database to the Department.

During the sales verification, we reviewed Villares' reported U.S. sales from both databases.<sup>10</sup> Based on record evidence, and consistent with our practice in other administrative reviews with similar fact patterns, we have determined that the material term of sale, quantity, is established on the date of release from warehouse.<sup>11</sup> Therefore, we have used warehouse release date as reported by Villares as the date of sale for all U.S. sales. We used Villares' warehouse release database, filed on November 5, 2012, for our preliminary margin calculation. See Preliminary Analysis Memorandum<sup>12</sup> for further details.

With respect to its home-market sales, Villares reported invoice date as the date of sale because that is the date of sale recorded in its normal books and records, and it is the date on which the price and quantity are fixed.<sup>13</sup> This is consistent with our regulatory presumption for invoice date as the date of sale.<sup>14</sup> Thus, because the evidence does not demonstrate that the material terms of sale were established on another date, and consistent with previous reviews,<sup>15</sup> we have used invoice date as the date of sale in the home market.

### Constructed Export Price

In accordance with section 772(b) of the Act, we used CEP for Villares because the subject merchandise was sold after importation in the United States by Villares. We calculated CEP based on the delivered price to the unaffiliated purchaser in, or for exportation to, the United States. We made deductions for any movement expenses in accordance with section 772(c)(2)(A) of the Act. In accordance with section 772(d)(1) of the Act, we calculated the CEP

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<sup>9</sup> *Id.* at 27.

<sup>10</sup> See Memorandum to the file from Sandra Dreisonstok, International Trade Compliance Analyst, entitled, "Stainless Steel Bar from Brazil: Verification Report for Villares Metals S.A.'s Sales," dated December 3, 2012.

<sup>11</sup> See *1-Hydroxyethylidene-1, 1-Diphosphonic Acid from India: Notice of Final Determination of Sales at Less Than Fair Value*, 74 FR 10543 (March 11, 2009); *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Preliminary Results of the First Administrative Review, Preliminary Rescission, in Part, and Extension of Time Limits for the Final Results*, 76 FR 62765 (October 11, 2011).

<sup>12</sup> See Memorandum to the file from Sandra Dreisonstok, International Trade Compliance Analyst, entitled, "Administrative Review of the Antidumping Duty Order on Stainless Steel Bar from Brazil: Preliminary Analysis Memorandum for Villares Metals S.A.: 2011-2012," dated concurrently with this memorandum ("Preliminary Analysis Memorandum").

<sup>13</sup> See Villares' section B questionnaire response, dated June 11, 2012, at 17.

<sup>14</sup> See 19 CFR 351.401(i).

<sup>15</sup> See, e.g., *Stainless Steel Bar From Brazil: Final Results of Antidumping Duty Administrative Review*, 76 FR 1599 (January 11, 2011).

by deducting selling expenses associated with economic activities occurring in the United States. Finally, we made an adjustment for profit allocated to these expenses in accordance with section 772(d)(3) of the Act.

### Normal Value

#### *A. Home Market Viability as Comparison Market*

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating normal value (*i.e.*, the aggregate volume of home market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), we compared the volume of Villares' home market sales of the foreign like product to the volume of its U.S. sales of subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Based on this comparison, we determined that Villares had a viable home market during the POR.

#### *B. Level of Trade*

The normal value level of trade is that of the starting price sales in the home market. For CEP, the level of trade is that of the constructed sale from Villares after importation. To determine whether home market sales are at a different level of trade than U.S. sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer.

In the home market, Villares reported two channels of distribution: direct mill-order sales to distributors and large end-users, and sales to end-users from inventory maintained in Villares' distribution centers located at the company's headquarters and in Joinville, Brazil. Within these two channels of distribution, Villares reported a single level of trade.<sup>16</sup> After analyzing the data on the record with respect to the selling functions performed for each customer type, we find that Villares made all home market sales at a single marketing stage (*i.e.*, one level of trade) in the home market. In the U.S. market, Villares had only CEP sales through an unaffiliated warehouse and, thus, a single level of trade.

We found that there were no significant differences between the selling activities associated with the CEP level of trade and those associated with the home market level of trade and, therefore, we did not make a level of trade adjustment. Also, because we determined that the home market level of trade was not at a more advanced stage of distribution than the CEP, we did not make a CEP offset adjustment to normal value, in accordance with section 773(a)(7)(B) of the Act and 19 CFR 351.412(f).

#### *C. Cost of Production*

The Department disregarded sales below the cost of production (COP) in the last completed review in which we examined Villares. *See Stainless Steel Bar From Brazil: Final Results of Antidumping Duty Administrative Review*, 76 FR 1599 (January 11, 2011). Thus, in accordance with section 773(b)(2)(A)(ii) of the Act, there are reasonable grounds to believe or suspect that Villares made sales of the subject merchandise in its comparison market at prices below the COP

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<sup>16</sup> See Villares section A questionnaire response dated May 31, 2012, and supplemental questionnaire response dated July 27, 2012.

in the current review period. Pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by Villares. We examined the cost data for Villares and determined that our quarterly cost methodology is not warranted and, therefore, we have applied our standard methodology of using annual costs based on the reported data, adjusted as described below.

### 1. Calculation of Cost of Production

We calculated the COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for general and administrative and financial expenses, in accordance with section 773(b)(3) of the Act. We relied on the COP data submitted by Villares in its questionnaire responses for the COP calculation.

### 2. Test of Comparison Market Sales Prices

As required under section 773(b)(2) of the Act, we compared the weighted average of the COP for the POR to the per-unit price of the comparison market sales of the foreign like product to determine whether these sales had been 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, direct and indirect selling expenses, and packing expenses.

### 3. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of sales of a given product were at prices less than the COP, we disregarded no below-cost sales of that product because we determined that the below-cost sales were not made in substantial quantities. Where 20 percent or more of a respondent's home market sales of a given model were at prices less than the COP, we disregarded the below-cost sales because (1) they were made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act and (2) based on our comparison of prices to the weighted average of the COPs, they were at prices which would not permit the recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act.

Our cost test for Villares indicated that for home market sales of certain products, more than 20 percent were sold at prices below the COP within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time. Thus, in accordance with section 773(b)(1) of the Act, we excluded these below-cost sales from our analysis and used the remaining above-cost sales to determine NV.

#### *D. Calculation of Normal Value Based on Comparison Market Prices*

We based normal value on Villares' home-market sales to unaffiliated purchasers. Pursuant to section 773(a)(6)(B)(ii) of the Act, we deducted inland freight expenses Villares incurred on its home market sales. We made adjustments for differences in domestic and export packing expenses in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act. *See* Preliminary Analysis Memorandum for further details.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A of the Act and 19 CFR 351.415, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. The exchange rates are available on the Import Administration website at <http://ia.ita.doc.gov/exchange/index.html>.

Recommendation

We recommend applying the above methodology for these preliminary results.

  
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Agree

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Disagree

  
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Paul Piquado  
Assistant Secretary  
for Import Administration

14 JANUARY 2013  
(Date)