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International Trade Administration
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March 18, 2014

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh *(mm)*
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

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, 2012, through January 31, 2013. 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), Carpenter Technology Corporation, Crucible Industries LLC and Valbruna Slater Stainless, Inc. (collectively, the petitioners) and Villares filed requests for an administrative review of the antidumping duty order on SSB from Brazil with respect to Villares on February 28, 2013. On March 29, 2013, 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.¹

The Department extended the original deadline for these preliminary results until February 28, 2014.² As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the

¹See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 78 FR 19197 (March 29, 2013).

²See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through Susan Kuhbach, Office Director, Antidumping and Countervailing Duty Operations I, entitled, "Stainless Steel Bar from Brazil: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review; 2012-2013," dated September 10, 2013.



closure of the Federal Government from October 1 through October 16, 2013.³ The revised deadline for these preliminary results of this review is now March 17, 2014. Due to the closure of the Federal Government in Washington, DC on March 17, 2014, the Department reached this determination on the next business day (*i.e.*, March 18, 2014).⁴

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.⁵

DISCUSSION OF THE METHODOLOGY

Comparisons to Normal Value

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.

³ See Memorandum to the record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, regarding "Deadlines Affected by the Shutdown of the Federal Government," dated October 18, 2013.

⁴ See *Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

⁵ The HTSUS numbers provided in the scope 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).

A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average CEPs or export prices (EPs) (the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of CEPs for comparable merchandise that differs significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported customer codes. Regions are defined using the reported zip codes and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region and time period, that the Department uses in making comparisons between CEP and NV.

In the first stage of the differential pricing analysis used here, the "Cohen's *d* test" is applied. The Cohen's *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen's *d* coefficient is calculated when the test and comparison groups of data each has at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen's *d* coefficient is used to evaluate the extent to which the net prices to a particular purchaser, region or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen's *d* test: small, medium or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant, and passed the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test account for 66 percent or more of the value of total sales, then the identified pattern of CEPs that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method.

If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen's *d* test as an alternative to the average-to-average method, and application of the average-to-average method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the average-to-average method.

If both tests in the first stage (*i.e.*, the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of CEPs that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether using only the average-to-average method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two calculations is meaningful, this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if 1) there is a 25 percent relative change in the weighted-average dumping margin between the average-to-average method and the appropriate alternative method where both rates are above the *de minimis* threshold, or 2) the resulting weighted-average dumping margin moves across the *de minimis* threshold. Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.

B. Results of the Differential Pricing Analysis

Based on the results of the differential pricing analysis, the Department finds that only 19.47 percent of the value of Villares' U.S. sales pass the Cohen's *d* test; thus the results of the Cohen's *d* test do not support consideration of an alternative to the average-to-average method. Accordingly, for these preliminary results, the Department applied the standard, average-to-average comparison method.

C. Sales Outside the Ordinary Course of Trade

On June 21, 2013, the petitioners commented that an examination of Villares' home-market sales to a particular customer shows that these sales were non-commercial and unrepresentative. Therefore, all sales to this customer should be excluded from the Department's dumping analysis with regard to Villares. Specifically, the petitioners argued that these sales did not meet the requirements set forth in section 773(a)(1)(B)(i) of the Act.

On July 18, 2013, the Department issued a supplemental questionnaire to Villares addressing the petitioners' concerns. On August 22, 2013, Villares responded to the Department's supplemental questionnaire and provided supporting sales and payment documentation for its

home-market sales. Based on our review of the responses, we preliminarily determine that the record evidence does not support a finding that certain home-market sales made by Villares during the POR are outside normal commercial considerations. Therefore, for these preliminary results, we have not excluded any of Villares' home-market sales from our dumping analysis.

D. Costs of Production for Certain Control Numbers

On June 21, 2013, the petitioners also commented that certain reported costs were "engineered" for this administrative review. The petitioners allege that Villares' reported costs do not reflect expected patterns of cost differences for the merchandise under consideration. For example, the petitioners allege that smaller-sized products should be more expensive to produce than larger sizes, and hexes or other shapes should be more expensive to produce than round products. On February 20, 2014, the Department issued a supplemental questionnaire to Villares addressing the petitioners' concerns. On March 5, 2014, Villares responded to the Department's supplemental questionnaire and provided supporting documentation for its reported costs.

Section 773e(1)(A) of the Act stipulates that costs shall be calculated based on the normal books and records of the company if those records reasonably reflect the costs associated with the production and sale of the merchandise under consideration and are otherwise in accordance with the respective country's generally accepted accounting principles. Villares established through its responses that it used its normal books and records to report its costs, and there is no record evidence to substantiate the petitioners' claim that the costs reported were engineered for this administrative review.⁶ Furthermore, Villares demonstrated that the costs reported are reasonable for the merchandise under consideration.⁷ Therefore, for these preliminary results the Department relied on Villares' reported costs for its dumping analysis.

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.

⁶ See Villares' section D questionnaire response dated June 14, 2013, and supplemental questionnaire responses dated September 24, 2013 and March 5, 2014.

⁷ See Villares supplemental questionnaire response dated March 5, 2014.

Based on record evidence,⁸ and consistent with the previous administrative review,⁹ we determine that the material term of sale, quantity, is established on the date of release from the unaffiliated, third-party warehouse for U.S. sales. Therefore, we used warehouse release date as reported by Villares as the date of sale for all U.S. sales. We used Villares' sales database, filed on September 25, 2013, for our preliminary margin calculation. *See* Preliminary Analysis Memorandum¹⁰ 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.¹¹ This is consistent with our regulatory presumption for invoice date as the date of sale.¹² Thus, because the evidence does not demonstrate that the material terms of sale were established on another date, and consistent with previous reviews,¹³ we 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 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

⁸ *See* Villares' section A questionnaire response dated May 8, 2013 at 23-32, section C questionnaire response dated June 7, 2013 at 15, and supplemental questionnaire response dated August 22, 2013 at 15-17 and 29-32.

⁹ *See* January 14, 2013 memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, entitled "Decision memorandum for Preliminary Results of Antidumping Duty Administrative Review: Stainless Steel Bar from Brazil" (2011-2012 Preliminary Decision Memorandum), as unchanged for the final results of review.

¹⁰ *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.; 2012-2013," dated concurrently with this memorandum (Preliminary Analysis Memorandum).

¹¹ *See* Villares' section B questionnaire response dated June 7, 2013 at 17.

¹² *See* 19 CFR 351.401(i).

¹³ *See, e.g., Stainless Steel Bar From Brazil: Final Results of Antidumping Duty Administrative Review*, 76 FR 1599 (January 11, 2011) and 2011-2012 Preliminary Decision Memorandum, as unchanged for the final results of review.

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.¹⁴ After analyzing the data on the record with respect to the selling functions performed for each customer type, we find that Villares made sales at two distinct marketing stages (*i.e.*, two levels 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.¹⁵ The merchandise is stored in the third-party warehouse and the unaffiliated customer withdraws the merchandise as needed. After withdrawal, the warehouse notifies Villares that a sale was made.

We found that there were significant differences between the selling activities associated with the CEP level of trade and those associated with the home market levels of trade. Specifically, Villares provides inventory maintenance, general promotion and marketing, and technical support, among other services, in the home market, but it does not provide these services in the U.S. market.¹⁶ However, because Villares did not make any home-market sales of subject or non-subject merchandise during the POR at a level of trade similar to the CEP level of trade, pursuant to section 773(a)(1)(B)(i) of the Act, we could not make a level of trade adjustment. Further, because we determined that the home market levels of trade were at a more advanced stage of distribution than the CEP, we made 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.¹⁷ 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 in the current review period.

¹⁴ See Villares' section A questionnaire response dated May 8, 2013 at 14-32, and August 22, 2013 supplemental questionnaire response at 6-9 and exhibit 5.

¹⁵ *Id.*

¹⁶ See Villares' supplemental questionnaire response dated August 22, 2013 at exhibit 5.

¹⁷ See *Stainless Steel Bar From Brazil: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 22227 (April 15, 2013).

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 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

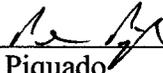
We made currency conversions into U.S. dollars in accordance with section 773A of the Act and 19 CFR 351.415, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. The exchange rates are available on the Enforcement and Compliance website at <http://enforcement.trade.gov/exchange/index.html>.

Recommendation

We recommend applying the above methodology for these preliminary results.

✓
Agree

Disagree


Paul Piquado
Assistant Secretary
for Enforcement and Compliance

18 MARCH 2014
(Date)