



A-533-810
Administrative Review
POR 02/01/14-01/31/15
Public Document
Office I: Team

March 4, 2016

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Antidumping and Countervailing Duty Operations

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

SUBJECT: Decision Memorandum for the Preliminary Results of
Antidumping Duty Administrative Review: Stainless Steel Bar
from India: 2014-2015

I. SUMMARY

The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty (AD) order on stainless steel bar (SSB or subject merchandise) from India.¹ The review covers two producers and exporters of the subject merchandise: Ambica Steels Limited (Ambica) and Bhansali Bright Bars Pvt. Ltd (Bhansali).² The period of review (POR) is February 1, 2014, through January 31, 2015. We preliminarily determine that neither Bhansali nor Ambica made sales of subject merchandise at prices below normal value (NV) during the POR.

II. BACKGROUND

Pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act),³ and 19 CFR 351.213(b), North American Stainless and Valbruna Slater Stainless, Inc. (collectively, the petitioners), domestic producers of SSB, timely requested a review of subject merchandise sales

¹ See *Notice of Antidumping Duty Orders: Stainless Steel Bar from Brazil, India, and Japan*, 60 FR 9661 (February 21, 1995).

² Bhansali stated that Bhansali Bright Bars Private Limited and Bhansali Bright Bars Pvt. Ltd refers to the same legal entity. See Letter from Bhansali, "Clarification regarding name of the Company," (April 20, 2015).

³ On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (TPEA), which made numerous amendments to the AD and countervailing duty (CVD) law. The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment of the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the International Trade Commission (ITC). See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015) (Applicability Notice).



made by Ambica and Bhansali.⁴ Also on February 27, 2015, Bhansali timely requested a review of itself.⁵ On April 3, 2015, the Department initiated this administrative review.⁶ On May 6, 2015, we released CBP data for comment by interested parties.⁷ We received no comments from interested parties.

On July 7, 2015, Bhansali submitted a letter withdrawing its request for an administrative review of itself.⁸ The Department responded to Bhansali's request, stating that although its withdrawal was timely submitted, Bhansali remained a mandatory respondent because the petitioners also requested an administrative review of Bhansali.⁹

On April 29, 2015, the Department sent initial questionnaires to Ambica and Bhansali.¹⁰ The respondents submitted timely initial responses to section A (*i.e.*, the section related to general information) of the questionnaire¹¹ and sections B, C, and D (*i.e.*, the sections covering comparison market sales, U.S. sales, and cost of production/constructed value, respectively) of the questionnaire.¹² The petitioners submitted comments on the questionnaire response submitted by Bhansali.¹³ The Department issued supplemental questionnaires¹⁴ to both respondents and received timely responses to them.¹⁵

⁴ See Letter to the Department from the petitioners, "Stainless Steel Bar from India: Petitioners' Request for 2014/2015 Administrative Review," (February 27, 2015).

⁵ See Letter to the Department from Bhansali, "Stainless Steel Bars from India: Request for Administrative Review in the Antidumping Administrative Review for the period 1st Feb-14 to 31st Jan 15," (February 27, 2015).

⁶ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 80 FR 18202 (April 3, 2015) (*Initiation Notice*).

⁷ See Memorandum to the File, "Antidumping Duty Administrative Review: Stainless Steel Bar from India: Release of Customs and Border Protection (CBP)," (May 6, 2015).

⁸ See Letter from Bhansali, "Certain Stainless Steel Bar products from India: Withdrawal of Request for Anti-dumping Duty Administrative Review of Bhansali Bright Bars Private Limited," (June 29, 2015).

⁹ See Letter from the Department to Bhansali, "Stainless Steel Bar from India: Request to rescind the administrative review for Bhansali," (July 7, 2015).

¹⁰ See Letters from the Department to Ambica and Bhansali, "Initial Questionnaire," (April 29, 2015) (initial questionnaire).

¹¹ See Letter from Ambica, "Certain Stainless Steel Bar products from India: Ambica Steels Limited Response to Section A Questionnaire Response," (June 9, 2015) (AQR-A); see Letter from Bhansali, "Bhansali Bright bars Private limited "Bhansali" Response to Section A of Antidumping Duty Questionnaire," (June 10, 2015) (BQR-A).

¹² See Letter from Ambica, "Certain Stainless Steel Bar products from India: Ambica Steels Limited Response to Section B & C of Antidumping Questionnaire Response," (June 26, 2015) (AQR B-C); see Letter from Ambica, "Certain Stainless Bar products from India: Ambica Steels Limited Response to Section D of Antidumping Duty Questionnaire," (July 4, 2015) (AQR-D); see Letter from Bhansali, "Certain Stainless Steel bar products from India: Bhansali Bright bars Private Limited Response to Section B, C, & D of Antidumping Duty Questionnaire," (June 26, 2015)(BQR B-D).

¹³ See Letter from the petitioners, "Administrative Review of Stainless Steel Bar – Petitioners Comments on Bhansali Bright Bars' Section A Questionnaire Response," (July 6, 2015)(Comments on BQR Section A), and see the Petitioners, "Administrative Review of Stainless Steel Bar – Petitioners Comments on Bhansali's Section B, C, and D Responses," (July 15, 2015)(Comments on BQR Section B-D).

¹⁴ See Letter from the Department, "Antidumping Duty Administrative Review Stainless Steel Bar from India: First Sections A-D Supplemental Questionnaire," (December 24, 2015)(BSQ1), and see Letter from the Department, "Antidumping Duty Administrative Review of Antidumping Duty Administrative Review Stainless Steel Bar from India: First Sections A-D Supplemental Questionnaire," (January 22, 2016)(ASQ1).

¹⁵ See Letter from Bhansali, "Certain Stainless Steel Bar products from India: Bhansali Bright Bars Private Limited 1st Supplemental Response to Section A, B,C, & D of Antidumping Duty Questionnaire," (January 25, 2016)(BSQR) and see Letter from Ambica, "Certain Stainless Steel Bar products from India: Ambica Steels

We have relied on Bhansali's per-unit cost of production data contained in exhibit D-17, part 2 of Bhansali's BSQR, because it provides complete cost data and the computer cost data set that should reflect these data is incomplete. Following the preliminary results, we intend request that Bhansali submit a corrected cost data set. We also intend to request additional information regarding certain loans provided to Bhansali from affiliated persons and entities. *See* Bhansali's Preliminary Calculation Memorandum for additional information.

The Department fully extended the deadline for the preliminary results of the administrative review to February 29, 2016.¹⁶ On January 27, 2016, Department exercised its discretion to toll all administrative deadlines due to a closure of the Federal Government. The revised deadline for the preliminary results of this review is March 4, 2016.¹⁷ On February 26, 2016, the petitioner submitted pre-preliminary comments regarding Bhansali.¹⁸ We are examining these comments and we will request additional information from Bhansali, as appropriate, after these preliminary results of review.

III. SCOPE OF ORDER

The merchandise subject to the order is stainless steel bar. Stainless steel bar 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. Stainless steel bar includes cold-finished stainless steel bars 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-to-length flat-rolled products (i.e., cut-to-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.

Imports of these products are currently classifiable under subheadings 7222.10.00, 7222.11.00, 7222.19.00, 7222.20.00, 7222.30.00 of the Harmonized Tariff Schedule (HTS). Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

Limited Response to 1st Supplemental A-D Antidumping Duty Questionnaire," February 16, 2015)(ASQR).

¹⁶ *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Stainless Steel Bar from India: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review," (October 9, 2015). *See also* Memorandum to the File, "Stainless Steel Bar from India: Preliminary Results Deadline Clarification," February 24, 2016.

¹⁷ *See* Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement & Compliance, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas," (January 27, 2016).

¹⁸ *See* Letter from the petitioner, "Stainless Steel Bar from India – Petitioners' Pre-Preliminary Comments Concerning Bhansali Bright Bars Pvt. Ltd.," (February 26, 2016) (petitioner pre-prelim comments).

IV DISCUSSION OF THE METHODOLOGY

Comparisons to Normal Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), in order to determine whether Ambica's or Bhansali's sales of the subject merchandise from India to the United States were made at less than normal value, the Department compared the export price to the normal value as described in the "Export Price" and "Normal Value" sections of this memorandum.

A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates weighted-average dumping margins by comparing weighted-average normal values to weighted-average export prices (or constructed export prices) (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, the Department examines whether to compare weighted-average normal values with the export prices (or constructed export prices) of individual sales (*i.e.*, the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in less-than-fair-value investigations.¹⁹

In recent investigations, the Department applied a "differential pricing" analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.²⁰ The Department finds that the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating a respondent's weighted-average dumping margin.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of export prices (or constructed export prices) for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchaser, region and time period to determine whether a pattern of prices that differ

¹⁹ See *Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012) and the accompanying Issues and Decision Memorandum at comment 1; see also *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (Ct. Int'l Trade 2014).

²⁰ See, e.g., *Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair*, 78 FR 33351 (June 4, 2013); see also *Steel Concrete Reinforcing Bar From Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); see also *Welded Line Pipe From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

significantly exists. 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 analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported customer codes provided by the respondents. Regions are defined using the reported destination code (*i.e.*, zip code) 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 period of review based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region and time period, that the Department uses in making comparisons between export price (or constructed export price) and normal value for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* coefficient is a generally recognized statistical measure of the extent of the difference between the mean (*i.e.*, weighted-average price) of a test group and the mean (*i.e.*, weighted-average price) of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region or time period each have 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 prices to the particular purchaser, region or time period differ significantly from the 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 (0.2, 0.5 and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are found to pass 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 prices 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 prices that differ significantly such that an alternative comparison method should

be considered, then in the second stage of the differential pricing analysis, the Department examines 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 comparison 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, then this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative comparison 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 margins 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 margins between the average-to-average method and the appropriate alternative method move 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

Ambica

For Ambica, based on the results of the differential pricing analysis, the Department preliminarily finds that 38.13 percent of the value of U.S. sales pass the Cohen's *d* test,²¹ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test. Thus, for these preliminary results, the Department is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Ambica.

Bhansali

For Bhansali, based on the results of the differential pricing analysis, the Department preliminarily finds that 42.52 percent of the value of U.S. sales pass the Cohen's *d* test,²² and confirms the existence of a pattern of prices that differ significantly among purchasers, regions,

²¹ See Memorandum to the File, "Antidumping Duty Administrative Review of Stainless Steel Bar from India: Preliminary Results Calculations for Ambica Steels Limited," (March 4, 2016) (Ambica's Preliminary Calculation Memorandum) at 2.

²² See Memorandum to the File, "Antidumping Duty Administrative Review of Stainless Steel Bar from India: Preliminary Results Calculations for Bhansali," (March 4, 2016) (Bhansali's Preliminary Calculation Memorandum) at 2.

or time periods. Further, the Department preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test. Thus, for these preliminary results, the Department is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Bhansali.

V. DATE OF SALE

The Department normally 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, but may use a date other than the invoice date if the Department is satisfied that a different date better reflects the date on which the material terms of sale are established.²³

Ambica

For its home-market sales, Ambica reported the shipment invoice as the date of sale, because Ambica issues the invoice at the time of shipment.²⁴ For its U.S. sales, Ambica reported the date of shipment, documented by a commercial invoice, from India to the unaffiliated U.S. customer as the date of sale.²⁵ Ambica explained that the price and quantity for sales are subject to change until invoicing and shipment of the merchandise, which occur on the same date.²⁶ We are relying on the sale dates reported by Ambica for both the comparison and U.S. market sales.

Bhansali

With respect to its home-market sales, Bhansali reported excise invoice date as the date of sale, explaining that on the excise invoice date, the sale is recorded in Bhansali's financial accounts. Thus, the excise invoice finalizes the quantity and value of the sale.²⁷ Thus, we have used Bhansali's reported excise invoice date as the date of sale in the home market.

For all U.S. sales, Bhansali reported the commercial invoice date as the date of sale; the commercial invoice is issued on the date that goods are moved from the plant to the port for shipment and it represents the sale as finalized.²⁸ Bhansali reported that the commercial invoice, rather than the preceding sales order, establishes the material terms of sale because prices can and do change after the sales order and up until the date of the commercial invoice. Bhansali provided sample documents for U.S. sales covered by this review to support its claim that

²³ See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090-1092 (CIT 2001) ("As elaborated by Department practice, a date other than invoice date 'better reflects' the date when 'material terms of sale' are established if the party shows that the 'material terms of sale' undergo no meaningful change (and are not subject to meaningful change) between the proposed date and the invoice date.").

²⁴ See AQR – A at 2-3, 25-31; AQR B-D at B20, B25-B26.

²⁵ *Id.*, at C17-C18.

²⁶ *Id.*

²⁷ See Bhansali's AQR at A-19-20.

²⁸ See *Id.*

commercial invoice date establishes the essential terms of sale.²⁹ Therefore, for this administrative review, and consistent with the presumption established in the Department's regulation,³⁰ we have preliminarily used Bhansali's reported commercial invoice date as the date of sale for all U.S. sales.

VI. PRODUCT COMPARISONS

In accordance with section 771(16) of the Act, we considered all products, as described in the "Scope of the Order" section above, produced and sold by the respondents in the home market during the POR, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. For both Ambica and Bhansali, we compared U.S. sales to sales made in the home market, where appropriate. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade.

In making product comparisons, we matched foreign like products based on the physical characteristics in the following order of importance: (1) general type of finish; (2) grade; (3) remelting; (4) type of final finishing operation; (5) shape; and (6) size, consistent with the original investigation.³¹

VII. EXPORT PRICE

Section 772(a) of the 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 subsection (c)" of section 772 of the Act. Ambica and Bhansali reported that the subject merchandise was sold prior to importation by the exporter or producer outside the United States to the first unaffiliated purchaser in the United States. Therefore, we based the U.S. price on EP, as defined in section 772(a) of the Act.

Ambica

We based Ambica's EP sales on a packed price to the first unaffiliated purchaser in the United States. We made adjustments for billing adjustments, credit expenses, and certain direct selling expenses (unloading and loading expense, letters of credit discount charges, and bank charges), as appropriate. We also made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act, which included, where appropriate, foreign inland freight, marine insurance, foreign brokerage and handling, demurrage, U.S. customs duty, U.S. brokerage and handling, international freight, and U.S. inland freight.³²

²⁹ See Bhansali's AQR at A-22 and Exhibit A16.

³⁰ See 19 CFR 351.401(i).

³¹ See *Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Stainless Steel Bar From India*, 59 FR 39733, 39735 (August 4, 1994) (unchanged in the final results).

³² See Ambica's Preliminary Calculation Memorandum.

Bhansali

We based Bhansali's EP sales on the packed, delivered prices to unaffiliated purchasers in the United States. Where appropriate, we made deductions for movement expenses, including home market freight expenses, home market brokerage and handling expenses, international freight expenses, marine insurance expenses, and U.S. brokerage and handling expenses, in accordance with section 772(c)(2)(A) of the Act.³³

VIII. NORMAL VALUE

A. Comparison Market Viability

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 is equal to or greater than five percent of the aggregate volume of U.S. sales), we normally compare 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 sections 773(a)(1)(A) and (B) of the Act. If we determine that no viable home market exists, we may, if appropriate, use a respondent's sales of the foreign like product to a third country market as the basis for comparison market sales, in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404.

We preliminarily determine that, for both Ambica and Bhansali, the volume of home market sales of the foreign like product was greater than five percent of the aggregate volume of U.S. sales of subject merchandise. Therefore, we have used home market sales as the basis for NV for Ambica and Bhansali, in accordance with section 773(a)(1)(B) of the Act.

B. Affiliated Party Transactions and Arm's-Length Test

The Department may calculate NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the exporter or producer, *i.e.*, sales were made at arm's-length prices.³⁴ The Department excludes from our margin analysis home market sales to affiliated customers that are not made at arm's-length prices because the Department considers them to be outside the ordinary course of trade. Consistent with 19 CFR 351.403(c) and (d) and our practice, "the Department may calculate normal value based on sales to affiliates if satisfied that the transactions were made at arm's length."³⁵

Ambica reported sales to unaffiliated customers only.

³³ See Bhansali's Preliminary Calculation Memorandum.

³⁴ See 19 CFR 351.403(c).

³⁵ See *China Steel Corp. v. United States*, 264 F. Supp. 2d 1339, 1365 (CIT 2003), *aff'd*, 306 F. Supp. 2d 1291 (CIT 2004) (citing *Light-Walled Rectangular Pipe and Tube from Mexico: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 55352, 55355 (September 7, 2011)).

During the POR, Bhansali reported sales of the foreign like product to affiliated and unaffiliated customers in the comparison market, as defined in section 771(33) of the Act.³⁶ To test whether the sales to affiliates were made at arm's-length prices, on a model-specific basis, we compared the starting prices of sales to affiliated customers net of all movement charges, direct selling expenses, and packing, with the starting prices of sales to unaffiliated customers on the same basis. In accordance with the Department's current practice, if the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise identical or most similar to that sold to the affiliated party, we considered the sales to be at arm's length and included such sales in the calculation of NV.³⁷ Conversely, where sales to the affiliated party did not pass the arm's-length test, all sales to that affiliated party were excluded from the NV calculation.³⁸

C. Level of Trade (LOT)

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (LOT) as the U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).³⁹ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.⁴⁰ In order to determine whether the comparison market sales are at different stages in the marketing process than the U.S. sales, we examine the distribution system in each market (*i.e.*, the chain of distribution), including selling functions and class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices),⁴¹ we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.⁴²

When the Department is unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it possible, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.*, no LOT

³⁶ See AQR-A at 3, 11-13; and see BQR-A at A-12.

³⁷ See, generally, *id.*; see also *Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*; 2011-2012, 78 FR 78336 (December 26, 2013) and accompanying Decision Memorandum at 10.

³⁸ See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69194 (November 15, 2002).

³⁹ See 19 CFR 351.412(c)(2).

⁴⁰ *Id.*; see also *Certain Orange Juice From Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Antidumping Duty Order in Part*, 75 FR 50999 (August 18, 2010), and accompanying Issues and Decision Memorandum at Comment 7 ("*Orange Juice from Brazil*").

⁴¹ Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling, general and administrative expenses, and profit for CV, where possible. See 19 CFR 351.412(c)(1).

⁴² See *Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

adjustment is possible), the Department will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.⁴³

In this administrative review, we obtained information from Ambica and Bhansali regarding the marketing stages involved in making their reported home market and U.S. sales, including a description of the selling activities performed by each respondent for each channel of distribution.⁴⁴ Neither respondent requested a level of trade adjustment. Our LOT findings are summarized below.

Ambica

In the home market, Ambica reported five channels of distribution to three customer types (traders, end-users, and consignment agents).⁴⁵ Within these channels of distribution (i.e., direct sales to traders and end-users, sales through a godown (warehouse) to traders and end-users, and sales through a consignment agent),⁴⁶ Ambica reported generally similar levels of intensity for each channel of distribution in the home market with minor variations.⁴⁷ We have reviewed Ambica's reported levels of activity associated with these differences and we preliminarily determine that they do not constitute a difference in level of trade because these differences are not significant. Therefore, because we do not find significant differences in the selling functions associated with Ambica's reported home market channels of distribution, we preliminarily find that Ambica's home market sales are made at a single level of trade.

In the U.S. market, Ambica reported only one channel of distribution for all U.S. sales and one customer type.⁴⁸ We find that Ambica provided the same or similar level of customer support services in the home market and in the U.S. market (where it made sales only at EP), and that the minor differences that do exist do not establish a distinct and separate level of trade.⁴⁹ We have reviewed Ambica's reported levels of activity associated with these differences and we preliminarily determine that they do not constitute a difference in level of trade because these differences are limited in scope and intensity. Ambica's remaining selling functions performed in both the home market and the U.S. market are broadly similar and all selling functions are executed by Ambica. Therefore, we preliminarily determine that sales to the U.S. and in the home markets during the POR were made at the same level of trade and, as a result, no level of trade adjustment is warranted.

Bhansali

In the home market, Bhansali reported sales through five channels of distribution to three customer types (sales to affiliated and unaffiliated traders, sales to affiliated and unaffiliated end-users, and sales through affiliated and unaffiliated traders to affiliated and unaffiliated traders and

⁴³ See, e.g., *Orange Juice from Brazil*, at Comment 7.

⁴⁴ See AQR-A at 17-33 and Exhibit A-5, A-6, and A-7; see also BQR-A at A-13-14 and Exhibit A-13.

⁴⁵ See AQR-A at 17-33 and Exhibit A-5, A-6, and A-7.

⁴⁶ *Id.*

⁴⁷ See AQR-A Exhibit A-5.

⁴⁸ *Id.* at 27.

⁴⁹ See AQR Exhibit A-5.

end users).⁵⁰ Bhansali reported generally similar levels of intensity for each selling function in the home market with minor variations in advertising and sales promotion.⁵¹ We have analyzed these differences and preliminarily determine that the differences are not significant. Therefore, because we do not find significant differences in the selling functions associated with Bhansali's reported home market channels of distribution, we preliminarily find that Bhansali's home market sales are made at a single level of trade.

Bhansali reported only one channel of distribution for all U.S. sales and one customer type (*i.e.*, traders).⁵² Accordingly, we preliminarily determine that there is one level of trade for Bhansali's U.S. sales.

We compared the selling functions performed by Bhansali in the home market and U.S. market. Bhansali reported broadly similar levels of intensity for each selling function in the home market and in the U.S. market, with exceptions for the provision of freight and delivery.⁵³ We have reviewed Bhansali's reported levels of activity associated with these differences and we preliminarily determine that they do not constitute a difference in level of trade because these differences are limited in scope and intensity. Bhansali's remaining selling functions performed in both the home market and the U.S. market are broadly similar and all selling functions are executed by Bhansali. Therefore, we preliminarily determine that sales to the U.S. and the home markets during the POR were made at the same level of trade and, as a result, no level of trade adjustment is warranted.⁵⁴

D. Cost of Production Analysis

In the two previously completed segments of this proceeding, the Department disregarded certain home-market sales made by Ambica and Bhansali at prices below the cost of production (COP). Thus, in accordance with section 773(b)(2)(A)(ii) of the Act, there are reasonable grounds to believe or suspect that Ambica and/or Bhansali made sales of the foreign like product in the home market at prices below COP in the current review period. On April 29, 2015, we therefore requested that both Ambica and Bhansali provide cost information in response to section D of the Department's antidumping duty questionnaire.

1. Calculation of Cost of Production (COP)

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the costs of materials and fabrication for the foreign like product, plus amounts for general and administrative (G&A) expenses and interest expenses.⁵⁵

We relied on the COP data submitted by Ambica and Bhansali, except as follows:

Test of Comparison Market Sales Prices" section , below, for treatment of home market selling expenses.

⁵⁰ See AQR at A-13 and Exhibit A-13.

⁵¹ See BQR Exhibit A-13.

⁵² See BSQR1 at Appendix SA2.

⁵³ See BQR Exhibit A-13.

⁵⁴ See "Test of Comparison Market Sales Prices" section , below, for treatment of home market selling expenses.

⁵⁵ *Id.*

Ambica

During the POR, Ambica purchased some inputs and obtained some loans from its affiliates.⁵⁶ We analyzed Ambica's affiliated transactions in accordance with section 773(f)(2) of the Act, and adjusted Ambica's cost of manufacturing and financial expenses to reflect the higher of market or transfer price.⁵⁷

Bhansali

During the POR, Bhansali purchased some inputs and obtained some loans from its affiliates.⁵⁸ Because Bhansali did not provide information regarding certain loans from affiliates, we are unable, for these preliminary results, to analyze the transactions in accordance with section 773(f)(2) of the Act. We intend to request additional information about these loans, and analyze these loans, following the preliminary results.

2. Test of Comparison Market Sales Prices

On a product-specific basis, pursuant to section 773(a)(1)(B)(i) of the Act, we compared the adjusted weighted-average COP to the home market sales prices of the foreign like product, in order to determine whether the sales prices were below the COP. For purposes of this comparison, we used COP exclusive of selling and packing expenses. The prices (inclusive of billing adjustments, where appropriate) were exclusive of any applicable movement charges, direct and indirect selling expenses, and packing expenses.

3. Results of the COP Test

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 Act, whether: 1) within an extended period of time, such sales were made in substantial quantities; and 2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. In accordance with sections 773(b)(2)(B) and (C) of the Act, where less than 20 percent of the respondent's comparison market sales of a given product are at prices less than the COP, we do not disregard any below-cost sales of that product because we determine that in such instances the below-cost sales were not made within an extended period of time and in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we disregard the below-cost sales when: 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 COPs for the POI, they were at prices that 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.

⁵⁶ See AQR-A at 34 and Exhibits D-2(b) and D-2(c), ASQR1 at 4-6, 15-25.

⁵⁷ See Ambica's Preliminary Calculation Memorandum.

⁵⁸ See AQR at 9.

For both Ambica and Bhansali, we found that, for certain products, more than 20 percent of the respondents' home market sales during the POR were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. We, therefore, excluded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.⁵⁹

E. Calculation of NV Based on Comparison Market Prices

For those comparison products for which there were appropriate sales at prices above the COP for Ambica and Bhansali, we based NV on comparison market prices. We calculated NV based on packed prices to customers in India.

When comparing U.S. sales with home market sales of similar merchandise, we also made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise.⁶⁰

Ambica

The Department calculated NV based on delivered or ex-works prices to unaffiliated customers. We made deductions, where appropriate, from the starting price for billing adjustments in accordance with 19 CFR 351.401(c). We also made deductions from the starting price for movement expenses, including inland freight, inland insurance, and warehousing, under section 773(a)(6)(B)(ii) of the Act. We made adjustments for differences in packing, in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act, and in circumstances of sale (imputed credit expenses), in accordance with section 773(a)(6)(c)(iii) of the Act and 19 CFR 351.410.

Bhansali

We calculated NV based on packed, ex-factory or delivered prices to affiliated and unaffiliated customers in the home market. We adjusted the starting price for billing adjustments, interest revenue, foreign inland freight, warehousing, and inland insurance, pursuant to section 773(a)(6)(B)(ii) of the Act. We made adjustments for differences in packing, in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act. When applicable, we also made adjustments, in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred on comparison market or U.S. sales where commissions were granted on sales in one market but not in the other. If commissions were granted in the comparison market but not in the U.S. market, we made an upward adjustment to NV following the same methodology.

⁵⁹ See Ambica's Preliminary Calculation Memorandum, and see Bhansali's Preliminary Calculation Memorandum.

⁶⁰ See 19 CFR 351.411(b).

XI. 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.

X. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

✓
Agree

Disagree

Paul Piquado
Paul Piquado
Assistant Secretary
for Enforcement and Compliance

4 MARCH 2016
(Date)