



A-469-805  
AR: 3/1/12-2/28/13  
Public Document  
AD/CVD I: SD

April 17, 2014

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

FROM: James Maeder   
Director, Office II  
Antidumping and Countervailing Duty Operations

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

---

## SUMMARY

The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on stainless steel bar (SSB) from Spain. The review covers one producer/exporter of the subject merchandise, Gerdau Aceros Especiales Europa, S.L. (Gerdau). The period of review (POR) is March 1, 2012, through February 28, 2013. We preliminarily find that sales of the subject merchandise have not been made at prices below normal value (NV).

## BACKGROUND

Pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b), Gerdau filed a request for an administrative review of the antidumping duty order on SSB from Spain with respect to Gerdau on March 29, 2013. On May 1, 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 Spain.<sup>1</sup>

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 closure of the Federal Government from October 1 through October 16, 2013.<sup>2</sup> On November

---

<sup>1</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 78 FR 25418 (May 1, 2013). The company name appeared incorrectly in the notice as “Gerdau Aceros Especiales Europa, S.L.” The correct spelling is identified above.

<sup>2</sup> 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.



13, 2013, the Department extended the tolled deadline for these preliminary results until April 17, 2014.<sup>3</sup>

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>

## **SUCCESSOR-IN-INTEREST**

In determining whether one company is the successor to another for purposes of the antidumping law, the Department examines several factors including, but not limited to, changes in: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base.<sup>5</sup> Although no single or combination of these factors will necessarily provide a dispositive indication of successorship, generally the Department will consider one company to be a successor to another company if its resulting operation is not materially dissimilar to that of its predecessor.<sup>6</sup> Thus, if the totality of circumstances demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business

---

<sup>3</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through Thomas Gilgunn, Office Director, Office I, Antidumping and Countervailing Duty Operations, entitled, "Stainless Steel Bar from Spain: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review; 2012-2013," dated November 13, 2013.

<sup>4</sup> The HTSUS numbers provided in the scope changed since the publication of the order. See *Amended Final Determination and Antidumping Duty Order: Stainless Steel Bar From Spain*, 60 FR 11656 (March 2, 1995).

<sup>5</sup> See, e.g., *Diamond Sawblades and Parts Thereof From the People's Republic of China: Preliminary Results of Antidumping Duty Changed Circumstances Review*, 78 FR 36744 (June 19, 2013), as unchanged for the final results.

<sup>6</sup> See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Certain Orange Juice from Brazil*, 71 FR 2183 (January 13, 2006).

entity as the prior company, the Department will assign the new company the cash-deposit rate of its predecessor.<sup>7</sup>

Gerdau reported in its AQR<sup>8</sup> response that it is “a Spanish corporation, previously known as Sidenor Industrial S.L.” and that it completed its acquisition of Sidenor in 2006.<sup>9</sup> Gerdau explained that it produces engineering, tool, and stainless steel products, including rolled and cold-finished bars that are subject to the antidumping duty order, and that subject merchandise is manufactured in its plant in Basauri, Spain.<sup>10</sup> Gerdau provided its steel catalog, company overview and history, and management report, all of which show the name “Sidenor” or “Gerdau Sidenor” throughout. It also provided Gerdau’s 2010-2011 consolidated financial statements demonstrating ownership of Sidenor.<sup>11</sup> Further, it provided a copy of its business license from the mercantile registry indicating that the name “Sidenor Industrial S.L.” was legally changed to “Gerdau Aceros Especiales S.L.” on June 18, 2012.<sup>12</sup>

In our August 27, 2013 supplemental questionnaire we asked additional questions regarding Gerdau’s claimed successorship, and Gerdau responded accordingly on September 17, 2013. In its SQR1<sup>13</sup> response Gerdau confirmed that Gerdau and Sidenor were not separate entities during the POR. Subsequently, on July 29, 2013, Carpenter Technology Corporation, Crucible Industries LLC, Electralloy Corporation, North American Stainless Universal Stainless & Alloy Products, Inc. and Valbruna Slater Stainless, Inc. (collectively, the petitioners) filed a letter regarding the successorship. The petitioners stated that based on record evidence the Department should determine that Gerdau is the successor-in-interest to Sidenor and, therefore, should initiate a cost investigation because some of Sidenor’s home-market sales were found to be below the cost of production in the most recently completed administrative review of Sidenor.<sup>14</sup>

Gerdau’s description of its production and sales processes, its company overview and history, and its management profile all suggest that Gerdau’s management and production facilities were not materially dissimilar to Sidenor’s.<sup>15</sup> Thus, based on our review of the record evidence and comments received we preliminarily find that Gerdau is the successor-in-interest to Sidenor.

## **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 Gerdau’s sales of SSB from Spain were made in the United States at less than NV, we

---

<sup>7</sup> See, e.g., *Fresh and Chilled Atlantic Salmon From Norway: Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 64 FR 9979 (March 1, 1999).

<sup>8</sup> See section A questionnaire (AQR) response, dated June 18, 2013, at 5.

<sup>9</sup> *Id.*, at 347, 348, and 511.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*, at 316 and 341.

<sup>12</sup> *Id.*, at 524-525.

<sup>13</sup> See sections A-C first supplemental questionnaire (SQR1) response, dated September 17, 2013, at 8.

<sup>14</sup> See *Stainless Steel Bar from Spain: Final Results of Antidumping Duty Administrative Review*, 72 FR 42395 (August 2, 2007).

<sup>15</sup> See AQR response.

compared the export price (EP) to the NV 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 dumping margins by comparing weighted-average NVs to weighted-average EPs or constructed export prices (CEP) (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 EPs 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 EP 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 EPs 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 EPs 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 0.00 percent of the value of Gerdau's 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. Bona Fides Analysis

On June 11, 2013, October 22, 2013, and January 7, 2014, the petitioners argued that Gerdau's U.S. sales were not representative of the company's normal business practices and, thus, are not *bona fide*. Specifically, the petitioners contended that the timing of the sales, alleged inconsistencies in dates and sales terms appearing in Gerdau's sales documentation, invoices to the U.S. customer recorded in foreign currency, the use of a European index to determine alloy

surcharges, and certain language appearing in e-mail communication with the U.S. customer suggest Gerdau's sales were not typical commercial transactions.

On August 27, 2013, December 3, 2013, and March 19, 2014, the Department issued supplemental questionnaires requesting additional information with respect to Gerdau's U.S. sales. On September 17, 2013, December 10, 2013, and March 26, 2014, Gerdau responded to the Department's supplemental questionnaires and provided the requested supporting documentation.

In accordance with *TTPC*,<sup>16</sup> the Department considers the following when determining if a sale is *bona fide*: 1) timing of the sale, 2) price and quantity, 3) expenses arising from the transaction, 4) whether the goods were resold at a profit, and 5) whether the transaction was made at arm's length. Thus, the Department considers a number of factors in its *bona fide* analysis, "all of which may speak to the commercial realities surrounding an alleged sale of subject merchandise."<sup>17</sup> Although some *bona fide* issues may share commonalities across various Department cases, the Department examines the *bona fide* nature of a sale on a case-by-case basis, and the analysis may vary with the facts surrounding each sale.<sup>18</sup> In *TTPC*, the United States Court of International Trade (the Court) affirmed the Department's practice of considering, as relevant, "any factor which indicates that the sale under consideration is not likely to be typical of those which the producer will make in the future,"<sup>19</sup> and found "the weight given to each factor investigated will depend on the circumstances surrounding the sale."<sup>20</sup> The Court stated that the Department's practice makes clear the Department is highly likely to examine objective, verifiable factors to ensure a sale is not being made to circumvent an antidumping duty order.<sup>21</sup>

Our analysis of Gerdau's responses indicates that its U.S. sales entered during the POR, and that the price and quantity were consistent with Gerdau's home-market sales of the foreign like product.<sup>22</sup> Gerdau asserts that the alleged inconsistencies in the dates shown on the reported sales documentation are the result of the reprinting of documents in the company's SAP system. Gerdau provided copies of the original sales documents (*i.e.*, order acknowledgement and invoice) that it sent to the U.S. customer which show the dates of order acknowledgement, shipping, and invoice that are consistent with the description of its sales process.<sup>23</sup> Gerdau also

---

<sup>16</sup> See *Tianjin Tiangcheng Pharmaceutical Co., Ltd. v. United States*, 366 F. Supp. 2d at 1246, 1250 (CIT 2005) (*TTPC*).

<sup>17</sup> See *Hebei New Donghua Amino Acid Co., Ltd. v. United States*, 374 F. Supp. 2d 1333, 1342 (CIT 2005) (*New Donghua*), citing *Fresh Garlic from the People's Republic of China: Final Results of Antidumping Administrative Review and Rescission of New Shipper Review*, 67 FR 11283 (March 13, 2002).

<sup>18</sup> See *New Donghua*, 374 F. Supp. 2d at 1340 n. 5, citing *TTPC* at 1260 (quoting *Certain Preserved Mushrooms From the People's Republic of China: Final Results and Partial Rescission of the New Shipper Review and Final Results and Partial Rescission of the Third Antidumping Duty Administrative Review*, 68 FR 41304 (July 11, 2003), and accompanying Issues and Decision Memorandum at Comment 2).

<sup>19</sup> See *TTPC*, 366 F. Supp. 2d at 1250.

<sup>20</sup> *Id.*, at 1263.

<sup>21</sup> See *New Donghua*, 374 F. Supp. 2d at 1339.

<sup>22</sup> See data reported on September 17, 2013, December 10, 2013, and February 19, 2014, and SQR1 response at exhibit 2.

<sup>23</sup> See SQR1 response at exhibit 1 and sections A-C second supplemental questionnaire (SQR2) response, dated December 10, 2013, at 1-4 and exhibit 1.

provided e-mail correspondence with its U.S. customer indicating that the customer agreed to pay in Euros per metric ton with alloy surcharges based on the European index, “Aceros Inoxidables Olarra.”<sup>24</sup> Gerdau provided supporting documentation for all of its reported expenses and data indicating that these sales were sold at a profit.<sup>25</sup> Lastly, the record does not suggest that Gerdau has any affiliation to its U.S. customer and, thus, there is no basis to determine that these sales were not sold at arm’s length.<sup>26</sup> Based on the criteria set forth in *TTPC* and our analysis of the responses received from Gerdau, we preliminarily determine that the record does not support a finding that Gerdau’s U.S. sales made during the POR are non-*bona fide*. This analysis and determination is consistent with previous determinations made by the Department.<sup>27</sup> However, we intend to ask additional questions regarding the nature of the U.S. customer’s business and any subsequent U.S. sales of subject merchandise in order to make a final determination on the *bona fide* nature of Gerdau’s EP sales.

#### D. Post-Sale Adjustment for International Freight

Gerdau reported that it made its U.S. sales on a delivered “FOB Spanish seaport” (free on board) basis. However, information on the record indicates that these U.S. sales were made on a delivered (“Chicago Rail Ramp”) basis, and that Gerdau paid the relevant international freight charges.<sup>28</sup> Subsequent to the POR, Gerdau issued a post-sale invoice (“debit note”) to the customer for the freight charges incurred.<sup>29</sup>

According to Gerdau, the post-sale adjustment derived from the mistaken delivery of merchandise *via* delivered sales terms rather than FOB.<sup>30</sup> The amount of the post-sale invoice is consistent with the amount Gerdau paid the shipping company for the freight charges incurred and Gerdau documented that it received payment from the U.S. customer for the incurred freight expenses after the sale.<sup>31</sup> Finally, the freight invoice issued to the U.S. customer can be linked to the original freight invoice Gerdau was issued by the shipping company by shipping invoice number.<sup>32</sup>

Pursuant to 19 CFR 351.401(c), when calculating EP, the Department will use a price that is net of any price adjustment that is reasonably attributable to the subject merchandise. The regulations further define price adjustments as any change in the price charged for subject

---

<sup>24</sup> See SQR1 at 3-4 and exhibit 3.

<sup>25</sup> See data reported on September 17, 2013, December 10, 2013, and February 19, 2014.

<sup>26</sup> See AQR response and SQR1 response at exhibits 2-3.

<sup>27</sup> See, e.g., *Chlorinated Isocyanurates From Spain: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 72633 (December 3, 2013), and Issues and Decision Memorandum at Comment 1; see also, e.g., *Pure Magnesium from the People’s Republic of China: Preliminary Results of 2011-2012 Antidumping Duty Administrative Review*, 78 FR 34646 (June 10, 2013), as unchanged for the final results, and memorandum to Melissa Skinner from Brendan Quinn entitled, “2011-2012 Antidumping Duty Administrative Review of Pure Magnesium from the People’s Republic of China: Preliminary *Bona Fides* Sales Analysis Memo,” dated June 3, 2013.

<sup>28</sup> See sections B-C questionnaire (BCQR) responses dated June 27, 2013, at 60, 69, and exhibit 16.

<sup>29</sup> See SQR1 response at exhibit 2.

<sup>30</sup> See BCQR response at 69.

<sup>31</sup> *Id.*, and SQR 1 response at exhibit 2.

<sup>32</sup> *Id.*

merchandise such as post-sale price adjustments that are reflected in the purchaser's net outlay.<sup>33</sup> Based on record evidence, we preliminarily determine that these expenses are attributable to Gerdau's U.S. sales. Also, in *Stainless Steel Sheet from Mexico*,<sup>34</sup> we allowed post-sale billing adjustments because the adjustments were made to correct invoicing errors and because the record evidence did not indicate that the respondent, Mexinox, was attempting to manipulate the margin with its adjustments. Further, in *Stainless Steel Sheet from Mexico*, Mexinox demonstrated that its reported post-sale adjustments were in accordance with the agreed upon terms made with its customer prior to the sale. Thus, consistent with the regulations and our determination in *Stainless Steel Sheet from Mexico*, we included the reported freight revenue in our preliminary margin calculations for Gerdau.

### Product Comparisons

In accordance with section 771(16) of the Act, we compared products produced by Gerdau and sold in the United States 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

19 CFR 351.401(i) 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. Based on record evidence<sup>35</sup> we determine that the material terms of sale are established on the date of invoice for U.S. sales. Therefore, we used invoice date as reported by Gerdau as the date of sale for all U.S. sales. We used Gerdau's sales database, filed on September 17, 2013, for our preliminary margin calculation. See Preliminary Analysis Memorandum<sup>36</sup> for further details.

With respect to its home-market sales, Gerdau also reported invoice date as the date of sale because that is the date on which the material terms are fixed.<sup>37</sup> This is consistent with our regulatory presumption for invoice date as the date of sale.<sup>38</sup> Thus, because the evidence does not demonstrate that price and quantity were established on another date, we used invoice date as the date of sale in the home market.

---

<sup>33</sup> See 19 CFR 351.102(b).

<sup>34</sup> See *Stainless Steel Sheet and Strip in Coils from Mexico; Final Results of Antidumping Duty Administrative Review*, 69 FR 6259 (February 10, 2004) (*Stainless Steel Sheet from Mexico*) and accompanying Issues and Decision Memorandum at Comment 1.

<sup>35</sup> See BCQR response at 58, and SQR1 response at 27.

<sup>36</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 Spain: Preliminary Analysis Memorandum for Gerdau Aceros Especiales Europa, S.L.; 2012-2013," dated concurrently with this memorandum (Preliminary Analysis Memorandum).

<sup>37</sup> See AQR response at 19-20 and BCQR response at 19.

<sup>38</sup> See 19 CFR 351.401(i).

## Export Price

In accordance with section 772(a) of the Act, we used EP for Gerdau because the subject merchandise was sold to the unaffiliated U.S. customer. 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).” We calculated EP 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 EP by deducting selling expenses associated with economic activities occurring in the United States.

## 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 NV (*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 Gerdau’s 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.<sup>39</sup> Based on this comparison, we determined that Gerdau had a viable home market during the POR because Gerdau’s aggregate volume of home market sales of the foreign like product was greater than five percent of the aggregate volume of U.S. sales of the merchandise under consideration.

### *B. Level of Trade*

In accordance with section 773(a)(1)(B)(i) of the Act and the Statement of Administrative Action accompanying the Uruguay Round Agreements Act,<sup>40</sup> to the extent practicable, the Department determines NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP. Pursuant to 19 CFR 351.412(c)(1), in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either home market or third-country prices), we consider the starting prices before any adjustments. For EP, the LOT is that of the export sale. To determine whether home market sales are at a different LOT 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.<sup>41</sup> If the comparison market sales are at a different LOT and the difference affects price comparability, as described in 19 CFR 351.412(d) and as manifested in a pattern of consistent price differences between the sales on which NV is based and the comparison market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act.

---

<sup>39</sup> See AQR response at exhibit 1.

<sup>40</sup> See H.R. Doc. No. 316, 103d Cong., 2d Sess. 829-831 (1994).

<sup>41</sup> See 19 CFR 351.412(c)(2).

In the home market, Gerdau reported one channel of distribution: direct sales to distributors and forgers.<sup>42</sup> After analyzing the data on the record, we find that Gerdau made sales at one marketing stage (*i.e.*, one LOT) in the home market. In the U.S. market, Gerdau had only EP sales to a trading company and, thus, a single LOT.<sup>43</sup> We did not find that there were significant differences between the selling activities associated with the EP LOT and those associated with the home market LOT and, thus, in accordance with 19 CFR 351.412, we have not made an LOT adjustment.

### *C. Cost of Production*

The Department preliminarily determines that Gerdau is the successor-in-interest to Sidenor,<sup>44</sup> a previously reviewed company with sales below cost.<sup>45</sup> We requested that Gerdau respond to section D of our questionnaire because the facts on the record substantiated Gerdau's claimed successorship.<sup>46</sup> Pursuant to section 773(b)(1) of the Act, we initiated a cost of production (COP) investigation of sales by Gerdau. We examined the cost data for Gerdau 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 (G&A) and financial expenses, in accordance with section 773(b)(3) of the Act. We relied on the COP data submitted by Gerdau in its questionnaire responses, with minor adjustments to G&A and financial expenses, for the COP calculation.<sup>47</sup>

#### 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

---

<sup>42</sup> See AQR response at 16-17 and exhibit 7.

<sup>43</sup> *Id.*

<sup>44</sup> See "Successor-In-Interest" section above.

<sup>45</sup> See *Stainless Steel Bar from Spain: Final Results of Antidumping Duty Administrative Review*, 72 FR 42395 (August 2, 2007).

<sup>46</sup> *Id.*

<sup>47</sup> See memorandum to Neal Halper, Director, Office of Accounting, from Heidi Schriefer, Senior Accountant, entitled, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results – Gerdau Aceros Especiales Europa, S.L.," dated April 17, 2014.

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.

Because we are applying our standard annual-average cost test in these preliminary results, we also applied our standard cost-recovery test with no adjustments. Our cost test for Gerdau 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 NV on Gerdau's home-market sales to unaffiliated purchasers. Pursuant to section 773(a)(6)(B)(ii) of the Act, we deducted inland freight expenses Gerdau 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.htm>.

Recommendation

We recommend applying the above methodology for these preliminary results.

✓  
Agree

\_\_\_\_\_  
Disagree

  
Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

17 APRIL 2014  
(Date)