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Administrative Review
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December 5, 2016

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

RE: Decision Memorandum for the Preliminary Results of
Antidumping Duty Administrative Review: Steel Concrete
Reinforcing Bar from Mexico; 2014-2015

SUMMARY

In response to requests from interested parties, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on steel concrete reinforcing bar (rebar) from Mexico for the period of review (POR) of April 24, 2014, through October 31, 2015. The Department preliminarily determines that Deacero S.A.P.I de C.V. (Deacero) made sales of subject merchandise at less than normal value (NV) during the POR and Grupo Simec did not make sales of subject merchandise below NV.

We intend to issue the final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act). Once we issue the final results, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of subject merchandise during the POR.

BACKGROUND

On November 6, 2014, the Department published in the *Federal Register* the *AD Order*¹ on rebar from Mexico. On November 3, 2015, the Department published a notice of opportunity to

¹ See *Steel Concrete Reinforcing Bar from Mexico: Antidumping Duty Order*, 79 FR 65925 (November 6, 2014) (*AD Order*).



request an administrative review of the antidumping duty order on rebar from Mexico.² Pursuant to section 751(a)(1)(B) and (2) of the Act and 19 CFR 351.213(b), and in response to the Department's notice of opportunity to request an administrative review, Deacero and Grupo Simec requested an administrative review of the antidumping duty (AD) order on rebar from Mexico on November 30, 2015 and November 16, 2015, respectively. Accordingly, on January 7, 2016, the Department published in the *Federal Register* the *Initiation Notice*.³ The Department initiated this administrative review on Deacero and Grupo Simec.

In response to the Department's initial questionnaire issued on January 27, 2016, Deacero submitted its section A response on February 22, 2016.⁴ Deacero submitted its questionnaire response sections B and C of the Department's initial questionnaire on March 18, 2016, and section D on March 21, 2016.⁵ The Department issued supplemental questionnaires to Deacero between June 8, 2016, and November 21, 2016, to which Deacero responded between June 29, 2016, and November 30, 2016.⁶

In response to the Department's initial questionnaire issued on January 27, 2016, Grupo Simec submitted its section A response on February 22, 2016.⁷ Grupo Simec submitted its questionnaire response to sections B through D of the Department's initial questionnaire on March 21, 2016.⁸ The Department issued supplemental questionnaires to Grupo Simec between June 1, 2016, and November 9, 2016, to which Grupo Simec responded between June 20, 2016, and November 22, 2016.⁹

Extension of Preliminary Results

As explained in a memorandum placed on the record of this review, the Department tolled its deadlines by four business days due to the closure of the Federal Government in January, 2016.¹⁰

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 80 FR 67706 (November 3, 2015).

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 736 (January 7, 2016).

⁴ See Deacero's Initial Questionnaire Response (IQR) section A (Deacero's AQR), dated February 22, 2016.

⁵ See Deacero's IQR at sections B and C (Deacero's BQR, CQR), dated March 18, 2016, and section D dated March 21, 2016.

⁶ See Deacero's First Supplemental Questionnaire Response (Deacero's 1SQR) for Sections A through C, dated June 29, 2016; Second Supplemental Questionnaire Response (Deacero's 2SQR) for sections A and C, dated September 22, 2016; Third Supplemental Questionnaire Response (Deacero's 3SQR), dated October 5, 2016; Fourth Supplemental Questionnaire Response (Deacero's 4SQR), dated October 25, 2016; and Fifth Supplemental Questionnaire Response (Deacero's 5SQR), dated November 30, 2016. On November 28, 2016, we granted Deacero an extension to submit a response to certain Section D questions on December 6, 2016. As a result, information provided in the December 6, 2016, response will not be considered in these preliminary results because of time constraints.

⁷ See Grupo Simec's IQR section A, dated February 22, 2016 (Simec's AQR).

⁸ See Grupo Simec's IQR section B through D, (Simec's BQR, CQR, and DQR), dated March 21, 2016.

⁹ See Grupo Simec's first supplemental questionnaire response (1SQR) dated June 20, 2016; second supplemental questionnaire response (2SQR), dated September 7, 2016; third supplemental questionnaire response (3SQR), dated September 20, 2016; fourth supplemental questionnaire (4ASQR), dated November 7, 2016 and response to addendum (4BSQR), dated November 14, 2016; and fifth supplemental questionnaire response (5SQR), dated November 22, 2016.

¹⁰ See Department Memorandum from Ronald Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, regarding "Tolling of Administrative Deadlines as a Result of the Government Closure during

On July 14, 2016, the Department issued a memorandum extending the time period for issuing the preliminary results of the instant administrative review from August 5, 2016 to December 5, 2016.¹¹

SCOPE OF THE ORDER

The merchandise subject to this order is steel concrete reinforcing bar imported in either straight length or coil form (rebar) regardless of metallurgy, length, diameter, or grade. The subject merchandise is classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) primarily under item numbers 7213.10.0000, 7214.20.0000, and 7228.30.8010.

The subject merchandise may also enter under other HTSUS numbers including 7215.90.1000, 7215.90.5000, 7221.00.0015, 7221.00.0030, 7221.00.0045, 7222.11.0001, 7222.11.0057, 7222.11.0059, 7222.30.0001, 7227.20.0080, 7227.90.6085, 7228.20.1000, and 7228.60.6000. Specifically excluded are plain rounds (*i.e.*, non-deformed or smooth rebar). Also excluded from the scope is deformed steel wire meeting ASTM A1064/A1064M with no bar markings (*e.g.*, mill mark, size or grade) and without being subject to an elongation test. HTSUS numbers are provided for convenience and customs purposes; however, the written description of the scope remains dispositive.

AFFILIATION AND COLLAPSING

The Department has long recognized that it is appropriate to treat certain groups of companies as a single entity and to determine a single weighted-average margin for that entity to determine margins accurately and to prevent manipulation that would undermine the effectiveness of the antidumping law.¹² Therefore, we preliminarily determine that the following companies are affiliated based on common ownership and control by a parent company through wholly-owning the affiliated companies, and overlapping officers, directors, and managers, pursuant to section 771(33)(B),(F) and (G) of the Act: Grupo Simec S.A.B. de C.V., Orge S.A. de C.V., Compania Siderurgica del Pacifico S.A. de C.V., Grupo Chant S.A.P.I. de C.V., RRLC S.A.P.I. de C.V., Siderurgica del Occidente y Pacifico S.A. de C.V., Simec International 6 S.A. de C.V., Simec International 7 S.A. de C.V., and Simec International 9 S.A. de C.V.¹³

In addition, based on the evidence provided in Grupo Simec's questionnaire responses and 19 CFR 351.401(f), we also preliminarily determine that these nine companies should be collapsed and treated as a single entity in this administrative review, *i.e.*, Grupo Simec.¹⁴ This finding is based on the determination that those producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities, and that the level of common ownership, management overlap, and

Snowstorm Jonas," dated January 27, 2016.

¹¹ See Memorandum, titled "Steel Concrete Reinforcing Bar from Mexico: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated July 14, 2016.

¹² See, *e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From Brazil*, 69 FR 76910 (December 23, 2004) and accompanying Issues and Decision Memorandum at Comment 5.

¹³ See Grupo Simec Affiliation and Collapsing Memorandum concurrently dated with this memorandum.

¹⁴ See Grupo Simec's AQR at Exhibits A-2a through A-2c and 5SQR at Exhibits S5-7 and S5-8.

interparty transactions between the companies presents a significant potential for manipulation of price or production of subject merchandise, pursuant to 19 CFR 351.401(f)(2). *See* Grupo Simec Affiliation and Collapsing Memorandum for further details.

DISCUSSION OF METHODOLOGY

Petitioners alleged that Deacero and Grupo Simec's U.S. sales are not typical of their normal business practices and argued that the Department should conduct an analysis to determine whether the respondents' sales are *bona fide*.¹⁵ In their comments, Petitioners argue that respondents' U.S. sales may not be *bona fide* due to the fact that their respective volume of sales during the POR are lower than their sales volumes during the period of the underlying investigation.¹⁶ While the Department has in past administrative reviews performed *bona fide* sales analyses, it has generally done so when interested parties had provided compelling evidence that such an analysis is necessary.¹⁷ Because we find no compelling evidence on the record of this administrative review to conduct the *bona fides* analysis, we preliminarily determine not to conduct a *bona fides* analysis in this review.

Date of Sale

As stated at 19 CFR 351.401(i), in identifying the date of sale of the merchandise under consideration or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business. Additionally, under that regulation, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.¹⁸ In addition, the Department's long-standing practice is to rely on shipment date where it precedes invoice date as the date of sale.¹⁹

¹⁵ *See* Petitioners' "Steel Concrete Reinforcing Bar from Mexico: Comments on Grupo Simec's Supplemental Questionnaire Responses to Sections A, B, and C," dated July 11, 2016 (Petitioners' Comments on Grupo Simec) at 7 – 10 and Petitioners' letter titled, "Steel Concrete Reinforcing Bar from Mexico: Comments on Deacero's Supplemental Questionnaire Responses to sections A, B, and C," dated July 20, 2016 (Petitioners' Comments on Deacero) at 2 - 8.

¹⁶ *See* Petitioner's "Steel Concrete Reinforcing Bar from Mexico: Comments on Grupo Simec's Supplemental Questionnaire Responses to Sections A, B, and C," dated July 11, 2016 (Petitioners' Comments on Grupo Simec) at 7 – 10; *see also* Petitioners letter titled, "Steel Concrete Reinforcing Bar from Mexico: Comments on Deacero's Supplemental Questionnaire Responses to sections A, B, and C," dated July 20, 2016 (Petitioners' Comments on Deacero) on Deacero at 2 – 8.

¹⁷ *See, e.g., Polyethylene Retail Carrier Bags from Malaysia: Final Results of Antidumping Duty Administrative Review; 2014–2015*, 81 FR 75378 (October 31, 2016) (*Bags from Malaysia*).

¹⁸ *See* 19 CFR 351.401(i); *see also Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090-1092 (CIT 2001) (*Allied Tube & Conduit Corp.*) ("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.").

¹⁹ *See, e.g., Seamless Refined Copper Pipe and Tube from Mexico: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 33482 (June 12, 2015) ("*Copper Pipe and Tube From Mexico*"), and accompanying Issues and Decision Memorandum at Comment 1; *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10.

For its home market sales, Deacero reported the date of sale as the invoice date or the shipment date, whichever is earlier.²⁰ In the home market, the invoice is issued on the date merchandise is shipped from the plant or warehouse. For U.S. channel 1 and 2 sales (shipped direct from Mexico), Deacero USA issues the invoice to the customer on the date the merchandise crosses the border.²¹ Accordingly, in these preliminary results, we have used the invoice date as the date of sale for Deacero's home market and U.S. market sales during the POR because sales are confirmed and finalized with the issuance of the invoice. For Deacero's home market sales where the invoice is issued after the shipment date but where the record shows no change in the terms of sale between the shipment and invoice date, the shipment date constitutes the earlier of the shipment and invoice date and is thus, in line with Department practice, is the appropriate date to select.²² Grupo Simec reported the date of invoice as the date of sale.²³

Thus, in these preliminary results we have used the dates of sale reported by the respondents in our margin calculations because we found, based on record evidence, that the material terms of the sale did not change after the reported dates.

Comparisons to Normal Value

Pursuant to section 773(a)(1)(B) of the Act and 19 CFR 351.414(c)(1) and (d), we compared constructed exported price (CEP) to NV, as described in the "Constructed Export Price," and "Normal Value" sections of this decision memorandum, to determine whether sales of subject merchandise to the United States were made at less than NV.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondents that are covered by the description contained in the "Scope of the Order" section above and were sold in the home market during the POR, to be foreign like product for purposes of determining appropriate product on which to base NVs for comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product on the basis of the hierarchy of reported physical characteristics: (1) type of steel, (2) minimum specified yield strength, (3) size designation, and (4) form.

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)

²⁰ See Deacero's AQR at A-26.

²¹ *Id.*

²² *Id.*

²³ See Grupo Simec's BQR at B-17 and CQR at C-15.

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.²⁴

In antidumping investigations, the Department applies 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.²⁵ The Department finds that the differential pricing analysis used in those investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. The Department continues 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 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 for this review and this methodology are based on the reported consolidated customer codes for Deacero and Grupo Simec.²⁶ Regions are defined using the reported destination codes (*i.e.*, 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 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* test is a generally recognized statistical measure of the extent of the difference

²⁴ 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 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).

²⁵ 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); *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); or *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

²⁶ See Deacero's CQR at C-12. See also Grupo Simec's 1SQR at 3 and Exhibit B-14.

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 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 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 (*i.e.*, 0.8) 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 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 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 passes the Cohen's *d* test accounts 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 A-to-T method to all sales as an alternative to the A-to-A 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 A-to-T method to those sales identified as passing the Cohen's *d* test as an alternative to the A-to-A method, and application of the A-to-A 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 A-to-A 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, we examine whether using only the A-to-A 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 A-to-A method only. If the difference between the two calculations is meaningful, then this demonstrates that the A-to-A 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 A-to-A 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 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.

Results of the Differential Pricing Analysis

For Deacero, based on the results of the differential pricing analysis, the Department preliminarily finds that 81.27 percent of Deacero's U.S. sales passed the Cohen's *d* test,²⁷ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions or time periods. Further, the Department preliminarily determines that the average-to-average method cannot account for such differences because there is a 25 percent relative change between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, the results of the Cohen's *d* and ratio tests support consideration of an alternative to the average-to-average method. Accordingly, the Department preliminarily determines to apply the average-to-transaction method for all U.S. sales to calculate the weighted-average dumping margin for Deacero.

For Grupo Simec, based on the results of the differential pricing analysis, the Department preliminarily finds that zero percent of the value of U.S. sales pass the Cohen's *d* test,²⁸ and does not confirm the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Thus, the results of the Cohen's *d* and ratio tests do not support consideration of an alternative to the average-to-average method. Accordingly, the Department preliminarily determines to apply the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Grupo Simec.

Constructed Export Price

Section 772(b) of the Act defines CEP as "the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation . . . by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter." In accordance with section 772(b) of the Act, we used the CEP methodology for Deacero and Grupo Simec because the subject merchandise was sold in the United States by U.S. sellers affiliated with the producers.²⁹ We calculated CEP based on the delivered price to unaffiliated purchasers in the United States. We made adjustments, where appropriate, from the starting price for billing adjustments, early payments, other discounts, rebates, and miscellaneous revenue. We also made deductions for any movement expenses (*e.g.*, foreign inland freight, port charges, export processing fees, testing expenses (courier fees to deliver test samples), U.S. brokerage and handling, international freight, marine insurance, U.S. inland freight, and U.S. duty), in accordance with section 772(c)(2)(A) of the Act. In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we further adjusted the CEP by deducting selling expenses associated with economic activities occurring in the United States, which includes direct and indirect selling expenses. For Deacero, we allowed a CEP offset adjustment. Finally, we made an adjustment for profit allocated to these expenses in accordance with section 772(d)(3) of the Act.³⁰

²⁷ See Deacero Preliminary Results Sales and Cost Analysis Memorandum for further details.

²⁸ See Grupo Simec Preliminary Results Sales and Cost Analysis Memorandum for further details.

²⁹ See Grupo Simec's CQR at C-12 and Deacero's CQR at C-12.

³⁰ See Deacero Preliminary Results Sales and Cost Analysis Memorandum; *see also* Grupo Simec Preliminary Results Sales and Cost Analysis Memorandum.

Normal Value

A. Home Market Viability

In accordance with section 773(a)(1)(C) of the Act, to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared Deacero and Grupo Simec's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise. Pursuant to section 773(a)(1)(B) of the Act and 19 CFR 351.404(b), because both Deacero and Grupo Simec's aggregate volume of home market sales of the foreign like product was greater than five percent of their aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable.³¹ Moreover, there is no evidence on the record supporting a particular market situation in the exporting companies' country that would not permit a proper comparison of home market and U.S. prices.

B. Level of Trade

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 export price (EP) or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).³² Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.³³ In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the chain of distribution), including selling functions, class of customer (*i.e.*, customer category), and the level of selling expenses for each type of sale.

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 CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and CEP profit under section 772(d) of the Act.³⁴

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. sales 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 practicable, 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

³¹ See Deacero's IQRA at A-2 and Exhibit A-1; see also Grupo Simec's AQR at A-2 and Exhibit A-1.

³² See 19 CFR 351.412(c)(2).

³³ See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732 (November 19, 1997) (*Plate from South Africa*).

³⁴ See *Micron Technology Inc. v. United States*, 243 F.3d 1301, 1314-1315 (Fed. Cir. 2001).

adjustment was practicable), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.³⁵

In this administrative review, we obtained information from the respondents, Deacero and Grupo Simec, regarding the marketing stages involved in making the reported home market and U.S. market sales, including a description of the selling activities performed by each respondent for each channel of distribution.³⁶ Grupo Simec did not claim a LOT or CEP adjustment. After examining the record evidence, we find that Grupo Simec's home market and U.S. market constitutes the same, single LOT.³⁷ Grupo Simec reported no differences in the selling activities and functions between Grupo Simec's different channels of sales in the home market or in the U.S. market.³⁸ We, therefore, made no LOT adjustment or CEP offset for Grupo Simec because we preliminarily find that there was only one home market LOT and one U.S. LOT, and both levels are identical.

Deacero reported no differences in the selling activities and functions between its different channels of sales in the home market.³⁹ Deacero claimed that its sales in the home market are made at a more advanced LOT than the LOT of sales in the United States. Deacero did not claim a LOT adjustment, but requested a CEP offset.⁴⁰ Based on information on the record, we granted a CEP offset adjustment for Deacero.⁴¹

C. Sales to Affiliated Customers

We excluded comparison market sales to affiliated customers that are not made at arm's-length prices from our margin analysis because we considered them to be outside the ordinary course of trade.⁴² Consistent with 19 CFR 351.403(c) 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."⁴³ To test if sales to affiliates were made at arm's-length prices, we compare, on a model-specific basis, the starting prices of sales to affiliated and unaffiliated customers, net of all direct selling expenses, billing adjustments, discounts, rebates, movement charges, and packing (arm's-length test). Where prices to the affiliated party are, on average, within a range of 98-to-102 percent of the price of identical or comparable merchandise to the unaffiliated parties, we determine that the sales made to the affiliated party are at arm's length.⁴⁴

We preliminarily find that certain of the sales Deacero and Grupo Simec made to their affiliated customers during the POR passed the arm's-length test. Accordingly, we included these certain

³⁵ See *Plate from South Africa*, 62 FR at 61732-33.

³⁶ See Grupo Simec's BQR at B-26 and CQR at C-24. See also Deacero's IQRA at A-16 through A-20, and Exhibit A-8.

³⁷ See Grupo Simec's AQR at A-18 through A-22 and Exhibits A-3a through A-3f.

³⁸ *Id.*

³⁹ See Deacero's IQRB at B-33.

⁴⁰ See Deacero's IQRC at C-23.

⁴¹ See Part 1-F of Deacero's Margin Program.

⁴² See 19 CFR 351.403(c).

⁴³ See *China Steel Corp. v. United States*, 264 F. Supp. 2d 1339, 1367 (CIT 2003).

⁴⁴ See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69194 (November 15, 2002).

sales from our preliminary margin analysis and did not have to request downstream sales by the companies' affiliates.

D. Cost of Production Analysis

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (TPEA), Public Law No. 114-27, which made numerous amendments to United States antidumping and countervailing law, including amendments to section 773(b)(2)(A) of the Act.⁴⁵ 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 to the Act, except for amendments to section 771(7) of the act, which relate to determinations of material injury by the International Trade Commission.⁴⁶ Section 773(b)(2)(A)(ii) of the Act controls all determinations in which the complete initial questionnaire has not been issued as of August 6, 2015. It requires the Department to request CV and cost of production (COP) information from respondent companies in all antidumping proceedings.⁴⁷ Because these amendments apply to this review, the Department requested this information from Deacero and Grupo Simec.

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated weighted-average COP based on the sum of the cost of materials and fabrication for the foreign like product, plus an amount for general and administrative expenses and interest expenses.⁴⁸ We relied on the COP data submitted by Deacero and Grupo Simec. We examined the cost data and determined that our quarterly cost methodology is not warranted in this review. Therefore, we have applied our standard methodology of using annual costs based on the reported data of Deacero and Grupo Simec.⁴⁹

2. Test of Home Market Prices

As required under 773(b)(2) of the Act, we compared the weighted average of the COP for the POR to the per-unit price of the home 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 home market prices for the below cost test by subtracting from the gross unit price all applicable movement charges, direct and indirect selling expenses, and packing expenses, where appropriate.⁵⁰

⁴⁵ See Trade Preferences Extension Act of 2015, Pub. L. 114-27, 129 Stat. 362 (2015) (TPEA).

⁴⁶ 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*).

⁴⁷ *Id.*, at 46794-95.

⁴⁸ See "Test of Comparison Market Sales Prices" section below for treatment of comparison market selling expenses.

⁴⁹ See Deacero Preliminary Results Sales and Cost Analysis Memorandum; *see also* Grupo Simec Preliminary Results Sales and Cost Analysis Memorandum.

⁵⁰ See Deacero Preliminary Results Sales and Cost Analysis Memorandum; *see also* Grupo Simec Preliminary Results Sales and Cost Analysis Memorandum.

3. Results of 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)(1)(A) and (b)(2)(C)(i) of the Act, where less than 20 percent of respondent's comparison market sales of a given product are at prices less than the COP, we did not disregard any below-cost sales of that product because we determine that in such instances the below-cost sales were not made in "substantial quantities" within an extended period of time. Where 20 percent or more of a respondent's comparison market sales of a given product are at prices below the COP, we disregard the below-cost sales when: 1) they are made within an extended period of time in substantial quantities, in accordance with sections 773(b)(2)(B) and (C)(i) of the Act, and 2) they are at prices which would not permit the recovery of all costs within a reasonable period of time based on our comparison of prices to the weighted-average COPs for the POR, in accordance with sections 773(b)(1)(B) and (b)(2)(D) of the Act.

For Deacero, we relied on Deacero's submitted COP database, except we made an adjustment for scrap to the per-unit total cost of manufacturing (TCOM) for each control number (CONNUM).⁵¹ For Grupo Simec, we relied on Grupo Simec's submitted COP data except, we preliminarily applied the reported general and administrative (G&A) and financial expense rates to the per-unit TCOM for each CONNUM, thereby ensuring that the per-unit total cost of production for each CONNUM includes the appropriate amount for the G&A and financial expenses.⁵²

Our cost tests indicate that Deacero had certain home market sales that were sold at prices below the COP within an extended period of time in substantial quantities and were at prices which would not permit the recovery of all costs within a reasonable period of time.⁵³ Thus, in accordance with section 773(b)(1) of the Act, we disregarded certain below-cost sales and used the remaining above-cost sales to determine NV. With regard to Grupo Simec, our cost tests indicate that home markets sales were not sold at prices below the COP; therefore, we did not disregard any home market sales to determine NV.⁵⁴

E. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV for Deacero and Grupo Simec based on the reported packed, ex-factory, or delivered prices to comparison market customers. We made deductions from the starting price, where appropriate, for billing adjustments and inland freight, pursuant to 19 CFR 351.401(c) and section 773(a)(6)(B)(ii) of the Act.⁵⁵

⁵¹ See Deacero Preliminary Results Sales and Cost Analysis Memorandum.

⁵² See Grupo Simec Preliminary Results Sales and Cost Analysis Memorandum.

⁵³ See Deacero Preliminary Results Sales and Cost Analysis Memorandum.

⁵⁴ See Grupo Simec Preliminary Results Sales and Cost Analysis Memorandum.

⁵⁵ See Deacero Preliminary Results Sales and Cost Analysis Memorandum; *see also* Grupo Simec Preliminary

Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(b), we made, where appropriate, circumstance-of-sale adjustments (*i.e.*, credit and commissions). We added U.S. packing costs and deducted comparison market packing costs, in accordance with sections 773(a)(6)(A) and (B)(i) of the Act.

When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in 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.⁵⁶ For detailed information on the calculation of NV, *see* the Deacero and Grupo Simec Preliminary Sales and Cost Analysis Memoranda.

F. Currency Conversion

For purposes of these preliminary results, we made currency conversions in accordance with section 773A(a) of the Act, based on the official exchange rates published by the Federal Reserve Bank.⁵⁷

RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

Agree

Disagree

12/5/2016

X 

Signed by: PAUL PIQUADO
Paul Piquado
Assistant Secretary
for Enforcement and Compliance

Results Sales and Cost Analysis Memorandum.

⁵⁶ See 19 CFR 351.411(b).

⁵⁷ The exchange rates are available on the Enforcement and Compliance website at <http://enforcement.trade.gov/exchange/index.html>.