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Administrative Review
POR: 10/1/2017-9/30/2018
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December 9, 2019

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results of
Antidumping Duty Administrative Review: Carbon and Certain
Alloy Steel Wire Rod from Mexico; 2017-2018

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on carbon and certain alloy steel wire rod (wire rod) from Mexico. This review covers the following producers/exporters of the subject merchandise: Deacero S.A.P.I. de C.V. (Deacero), Ternium Mexico S.A. de C.V. (Ternium), ArcelorMittal Las Truchas, S.A. de C.V. (AMLT) and its successor-in-interest ArcelorMittal Mexico, S.A. de C.V. (AMM),¹ Grupo Villacero S.A. de C.V. (Grupo Villacero), and Talleres y Aceros S.A. de C.V. (Talleres y Aceros). The period of review (POR) is October 1, 2017 through September 30, 2018. We preliminarily determine that, during the POR, Deacero made sales of subject merchandise at less than normal value (NV).

¹ See *Final Results of Changed Circumstances Review: Antidumping Duty Order on Carbon and Certain Alloy Steel Wire Rod from Mexico*, 82 FR 53456 (November 16, 2017), in which Commerce determined that AMM is the successor-in-interest to AMLT.



II. BACKGROUND

On October 29, 2002, Commerce published in the *Federal Register* the AD order on wire rod from Mexico.² On October 1, 2018, we published in the *Federal Register* a notice of opportunity to request an administrative review of the *Order*.³ On October 31, 2018, Nucor Corporation (Nucor)⁴ requested an administrative review of Deacero, Ternium, AMLT/AMM, Grupo Villacero, and Talleres y Aceros.⁵ On October 31, 2018, Commerce received a timely request from Deacero to conduct an administrative review of the sales of Deacero.⁶ On December 11, 2018, based on Nucor's and Deacero's timely requests, we initiated an administrative review of the *Order*.⁷

On December 20, 2018, we released the Customs and Border Protection (CBP) data to interested parties for comment.⁸ On January 10, 2019, Deacero withdrew its request for an administrative review.⁹ On January 11, 2019, and February 7, 2019, Deacero filed comments in which it claimed that it made no reviewable entries of subject merchandise during the period of review (POR).¹⁰ On February 7, 2019, Nucor filed comments on whether Deacero had reviewable entries of subject merchandise.¹¹ On March 19, 2019, Commerce performed a second query of CBP's entry database and obtained information from CBP's Automated Commercial Environment (ACE) system.¹² On April 1, 2019, we issued a memorandum where we concluded that Deacero had reviewable Type 03 entries during the POR.¹³ Based on the results of the CBP query indicating that Deacero was the only firm for which a review was requested that made entries of subject merchandise during the POR, we determined to select Deacero as the sole mandatory respondent.¹⁴

² See *Notice of Antidumping Duty Orders: Carbon and Certain Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine*, 67 FR 65945 (October 29, 2002) (*Order*).

³ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 83 FR 49358 (October 1, 2018).

⁴ Nucor Corporation is a domestic producer of wire rod and is a domestic interested party in this review.

⁵ See Nucor's Letters, "Carbon and Certain Alloy Steel Wire Rod from Mexico: Request for Administrative Review," dated October 31, 2018; and "Carbon and Certain Alloy Steel Wire Rod from Mexico: Clarification of Administrative Review," dated November 26, 2018.

⁶ See Deacero's Letter, "Carbon and Certain Alloy Steel Wire Rod from Mexico - Request for Administrative Review," dated October 31, 2018.

⁷ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 63615 (December 11, 2018) (*Initiation Notice*).

⁸ See Memorandum, "Release of U.S. Customs and Border Protection Data," dated December 20, 2018.

⁹ See Deacero's Letter, "Withdrawal of Request for an Administrative Review," dated January 10, 2019.

¹⁰ See Deacero's Letters, "Carbon and Certain Alloy Steel Wire Rod from Mexico – Certification of No Entries Subject to Review," dated January 11, 2019; and "Carbon and Certain Alloy Steel Wire Rod from Mexico – Comments on CBP Data," dated February 7, 2019.

¹¹ See Nucor's Letter, "Carbon and Certain Alloy Steel Wire Rod from Mexico: Comments on CBP Data," dated February 8, 2019.

¹² See Memorandum, "Information on Entries from Deacero S.A.P.I. de C.V. (Deacero) during 10/1/2017 - 9/30/2018," dated April 1, 2019 (Second CBP Query Memorandum) at Attachment I, which contains the results of this query, and at Attachment II, which contains information obtained from CBP's ACE system.

¹³ See Memorandum, "Entry Information for Shipments of Carbon and Certain Alloy Steel Wire Rod by Deacero S.A.P.I. de C.V. (Deacero)," dated April 1, 2019 (Deacero Entry Memorandum).

¹⁴ See Deacero Entry Memorandum at 2; see also Second CBP Query Memorandum at Attachment I.

We issued the initial questionnaire to Deacero on April 1, 2019.¹⁵ On May 6, 2019, we received a Section A questionnaire response from Deacero.¹⁶ On May 24, 2019, we received Deacero's responses to Sections B, C and E of the initial questionnaire.¹⁷ On May 28, 2019, Deacero submitted a response to Section D of the initial questionnaire.¹⁸ On August 21, 2019, Commerce issued a Section A supplemental questionnaire to Deacero, to which Deacero responded on September 6, 2019.¹⁹ On September 6, 2019, Commerce issued a Sections D-E supplemental questionnaire, to which Deacero responded on September 25, 2019.²⁰ We issued a Sections B, C, and E supplemental questionnaire to Deacero on September 10, 2019, to which the company responded on September 30, 2019.²¹

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 28, 2019.²² On July 26, 2019, we extended the deadline for the preliminary results of this review by 120 days, resulting in a deadline of December 10, 2019.²³

We are conducting this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

III. SCOPE OF THE ORDER

The merchandise subject to the *Order* is certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, 5.00 mm or more, but less than 19.00 mm, in solid cross-sectional diameter.

Specifically excluded are steel products possessing the above-noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (HTSUS) definitions for (a) stainless steel; (b) tool steel; (c) high nickel steel; (d) ball bearing steel; and (e) concrete reinforcing bars

¹⁵ See Commerce's Letter, "Issuance of Initial Questionnaire," dated April 1, 2019 (Deacero Initial QNR).

¹⁶ See Deacero's Letter, "Carbon and Certain Alloy Steel Wire Rod from Mexico – Section A Questionnaire Response dated May 6, 2019 (Deacero Section A QR).

¹⁷ See Deacero's Letter, "Carbon and Certain Alloy Steel Wire Rod from Mexico – Sections B, C and E Questionnaire Response," dated May 24, 2019 (Sections B, C, and E IQR). On June 18, 2019, Deacero refiled the final business proprietary and public versions of the Sections B, C, and E IQR to correct a compilation error wherein a portion of the public version of the response was inadvertently included in the final business proprietary version of the response. See Deacero's Letter, "Carbon and Certain Alloy Steel Wire Rod from Mexico – Sections B, C and E Questionnaire Response," dated June 18, 2019.

¹⁸ See Deacero's Letter, "Carbon and Certain Alloy Steel Wire Rod from Mexico – Section D Questionnaire Response," dated May 28, 2019 (Section D IQR).

¹⁹ See Deacero's Letter, "Carbon and Certain Alloy Steel Wire Rod from Mexico – Supplemental Section A Questionnaire Response," dated September 6, 2019 (Deacero Section A SQR).

²⁰ See Deacero's Letter, "Carbon and Certain Alloy Steel Wire Rod from Mexico – Supplemental Sections D and E Questionnaire Response," dated September 25, 2019 (Deacero Sections D and E SQR).

²¹ See Deacero's Letter, "Carbon and Certain Alloy Steel Wire Rod from Mexico – Supplemental Sections B and C Questionnaire Response," dated September 30, 2019 (Deacero Sections B and C SQR).

²² See Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding affected by the partial federal government closure have been extended by 40 days.

²³ See Memorandum, "Carbon and Certain Alloy Steel Wire Rod from Mexico: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated July 26, 2019.

and rods. Also excluded are (f) free machining steel products (*i.e.*, products that contain by weight one or more of the following elements: 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorus, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium).

Also excluded from the scope are 1080 grade tire cord quality wire rod and 1080 grade tire bead quality wire rod. This grade 1080 tire cord quality rod is defined as: (i) grade 1080 tire cord quality wire rod measuring 5.0 mm or more but not more than 6.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no non-deformable inclusions greater than 20 microns and no deformable inclusions greater than 35 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04-114; (v) having a surface quality with no surface defects of a length greater than 0.15 mm; (vi) capable of being drawn to a diameter of 0.30 mm or less with 3 or fewer breaks per ton, and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.006 percent or less of nitrogen, and (5) not more than 0.15 percent, in the aggregate, of copper, nickel and chromium.

This grade 1080 tire bead quality rod is defined as: (i) grade 1080 tire bead quality wire rod measuring 5.5 mm or more but not more than 7.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no non-deformable inclusions greater than 20 microns and no deformable inclusions greater than 35 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04-114; (v) having a surface quality with no surface defects of a length greater than 0.2 mm; (vi) capable of being drawn to a diameter of 0.78 mm or larger with 0.5 or fewer breaks per ton; and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of soluble aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.008 percent or less of nitrogen, and (5) either not more than 0.15 percent, in the aggregate, of copper, nickel and chromium (if chromium is not specified), or not more than 0.10 percent in the aggregate of copper and nickel and a chromium content of 0.24 to 0.30 percent (if chromium is specified).

For purposes of the grade 1080 tire cord quality wire rod and the grade 1080 tire bead quality wire rod, an inclusion will be considered to be deformable if its ratio of length (measured along the axis - that is, the direction of rolling - of the rod) over thickness (measured on the same inclusion in a direction perpendicular to the axis of the rod) is equal to or greater than three. The size of an inclusion for purposes of the 20 microns and 35 microns limitations is the measurement of the largest dimension observed on a longitudinal section measured in a direction perpendicular to the axis of the rod. This measurement methodology applies only to inclusions on certain grade 1080 tire cord quality wire rod and certain grade 1080 tire bead quality wire rod that are entered, or withdrawn from warehouse, for consumption on or after July 24, 2003. The designation of the products as "tire cord quality" or "tire bead quality" indicates the acceptability of the product for use in the production of tire cord, tire bead, or wire for use in other rubber reinforcement applications such as hose wire. These quality designations are presumed to indicate that these products are being used in tire cord, tire bead, and other rubber reinforcement applications, and such merchandise intended for the tire cord, tire bead, or other rubber reinforcement applications is not included in the scope. However, should the petitioners or other

interested parties provide a reasonable basis to believe or suspect that there exists a pattern of importation of such products for other than those applications, end-use certification for the importation of such products may be required. Under such circumstances, only the importers of record would normally be required to certify the end use of the imported merchandise.

All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

The products subject to the order are currently classifiable under subheadings 7213.91.3000, 7213.91.3010, 7213.91.3011, 7213.91.3015, 7213.91.3020, 7213.91.3090, 7213.91.3091, 7213.91.3092, 7213.91.3093, 7213.91.4500, 7213.91.4510, 7213.91.4590, 7213.91.6000, 7213.91.6010, 7213.91.6090, 7213.99.0030, 7213.99.0031, 7213.99.0038, 7213.99.0090, 7227.20.0000, 7227.20.0010, 7227.20.0020, 7227.20.0030, 7227.20.0080, 7227.20.0090, 7227.20.0095, 7227.90.6010, 7227.90.6020, 7227.90.6050, 7227.90.6051, 7227.90.6053, 7227.90.6058, 7227.90.6059, 7227.90.6080, and 7227.90.6085 of the HTSUS.

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

On October 1, 2012, Commerce determined that wire rod with an actual diameter of 4.75 mm to 5.00 mm (hereinafter referred to as narrow gauge wire rod) produced in Mexico and exported to the United States by Deacero was circumventing the *Order*.²⁴ Specifically, Commerce determined that Deacero's shipments to the United States of narrow gauge wire rod constitute merchandise altered in form or appearance in such minor respects that it should be included within the scope of the *Order*.²⁵ Commerce's affirmative finding in the *Final Circumvention Determination* applied solely to Deacero. The U.S. Court of Appeals for the Federal Circuit (Federal Circuit) upheld Commerce's finding in the *Final Circumvention Determination* that wire rod with an actual diameter of 4.75 mm to 5.00 mm produced in Mexico and exported to the United States by Deacero was circumventing the *Order*.²⁶ As a result, we have treated Deacero's sales of narrow gauge wire rod to the United States as subject merchandise.

On March 13, 2019, Commerce determined that, effective February 7, 2018, wire rod with an actual diameter less than 4.75 mm produced in Mexico and exported to the United States by Deacero was circumventing the *Order*.²⁷ Specifically, Commerce determined that Deacero's shipments to the United States of such wire rod constitute merchandise altered in form or appearance in such minor respects that it should be included within the scope of the *Order*.²⁸ Commerce's affirmative finding in the *Final Circumvention Determination II* applied solely to Deacero. Because the effective date of this determination was during the POR, for purposes of this review, we treated Deacero's entries of less-than-4.75 mm wire rod as subject to the *Order* if

²⁴ See *Carbon and Certain Alloy Steel Wire Rod from Mexico: Affirmative Final Determination of Circumvention of the Antidumping Order*, 77 FR 59892 (October 1, 2012) (*Final Circumvention Determination*) and accompanying Issues and Decision Memorandum.

²⁵ *Id.*, 77 FR at 59893.

²⁶ See *Deacero S.A. de C.V. v. United States*, 817 F.3d 1332, 1339 (Fed. Cir. 2016) (*Deacero*).

²⁷ See *Carbon and Certain Alloy Steel Wire Rod from Mexico: Final Affirmative Determination of Circumvention of the Antidumping Duty Order*, 84 FR 9089 (March 13, 2019) (*Final Circumvention Determination II*) and accompanying Issues and Decision Memorandum.

²⁸ *Id.*, 84 FR at 9090.

the entries were made on or after February 7, 2018.

IV. NON-SELECTED RATE

Commerce did not select the following companies for individual examination: AMLT/AMM, Grupo Villacero, Talleres y Aceros, and Ternium. The Act and Commerce's regulations do not address the establishment of a rate to be applied to respondents not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, when determining the rate for such respondents in an administrative review, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation. Section 735(c)(5)(A) of the Act instructs Commerce to use the weighted average of the individually calculated rates as the all-others rate, excluding rates which are zero, *de minimis*, or based entirely on facts available. Accordingly, Commerce's usual practice in administrative reviews for determining the rate for respondents not selected for individual examination has been to average the weighted-average dumping margins for the selected companies, excluding rates that are zero, *de minimis*, or based entirely on facts available.

In this review, we have preliminarily calculated a weighted-average dumping margin for Deacero, the sole mandatory respondent in this review, that is not zero, *de minimis*, or determined entirely on the basis of facts available. Therefore, for purposes of these preliminary results, we assigned to AMLT/AMM, Grupo Villacero, Talleres y Aceros, and Ternium the weighted-average dumping margin calculated for Deacero in these preliminary results.

V. DISCUSSION OF THE METHODOLOGY

A. Comparisons to Normal Value

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

1. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average export prices (EPs) (or CEPs) (*i.e.*, the average-to-average method) unless Commerce determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, Commerce examines whether to compare weighted-average NVs with the EPs (or CEPs) 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 Commerce's examination of this question in the context of administrative reviews, Commerce 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.²⁹

²⁹ See, e.g., *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty*

In numerous investigations, Commerce has 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.³⁰ Commerce finds that the differential pricing analysis used in certain investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and on Commerce’s additional experience with addressing the potential masking of dumping that can occur when Commerce 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 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 are based on the reported customer codes. Regions are defined using the reported destination code (*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 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 Commerce uses in making comparisons between EP (or CEPs) 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* 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

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 (CIT 2014), *aff’d* 862 F.3d 1322 (Federal Circuit 2017).

³⁰ *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); and *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

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 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, Commerce examines whether using only the average-to-average method can appropriately account for such differences. In considering this question, Commerce 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.

2. Results of Differential Pricing Analysis

For Deacero, based on the results of the differential pricing analysis, Commerce preliminarily finds that 47.64 percent of the value of U.S. sales pass the Cohen's *d* test³¹ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines that there is no meaningful difference

³¹ See Memorandum, "Preliminary Sales and Cost Calculation Memorandum for Deacero S.A.P.I. de C.V. and Deacero USA, Inc.," dated concurrently with this preliminary decision memorandum (Preliminary Calculation Memorandum).

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, Commerce is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Deacero.

B. Product Comparisons

In accordance with section 771(16) of the Act, all products covered by the description in the "Scope of the Order" section, above, and sold in Mexico during the POR are considered to be foreign like products for purposes of determining normal values for comparisons to U.S. sale prices. We relied on eight criteria to match U.S. sales of subject merchandise to comparison market sales of the foreign like product: (1) grade range, (2) carbon content range, (3) surface quality, (4) deoxidization, (5) maximum total residual content, (6) heat treatment, (7) diameter range, and (8) coating. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed above.

C. Date of Sale

Under 19 CFR 351.401(i), Commerce 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. The regulation provides further that Commerce may use a date other than the date of the invoice if it is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale. Commerce has a long-standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established.³²

Deacero reported either commercial invoice date or the shipment date, whichever is earlier, for date of sale, for both its home market and U.S. market sales.³³ We find that the material terms of sale did not change after the dates of sale reported in the company's respective databases. Accordingly, for Deacero, we relied on the company's reported dates, *i.e.*, the earlier of the shipment date or invoice date, as the sale date for both the U.S. and the home market.

³² See, e.g., *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; and *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002), and accompanying Issues and Decision Memorandum at Comment 2.

³³ See Deacero Sections B, C, and E IQR at B-26.

D. Constructed Export Price

According to section 772(a) of the Act, EP is 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 the 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 section 772(c) of the Act. Pursuant to section 772(b) of the Act, CEP is “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 or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under {sections 772(c) and (d) of the Act}.” As explained below, we based U.S. price on the CEP for Deacero.

Deacero reported four types of CEP sales during the POR: (1) Channel 1 sales, in which Deacero shipped wire rod directly to the unaffiliated U.S. customer which was invoiced by Deacero’s affiliated reseller, Deacero USA, Inc. (Deacero USA); (2) Channel 2 sales, in which Deacero sold and shipped wire rod to Deacero USA by truck, which Deacero USA maintained in inventory at distribution warehouses, and resold to unaffiliated U.S. customers; (3) Channel 3 sales, in which Deacero shipped subject merchandise directly to its affiliate Mid Continent Steel & Wire, Inc. (Mid Continent) (Mid Continent further processed the wire rod into bulk steel nails, which Mid Continent then sold to unaffiliated U.S. customers); and (4) Channel 4 sales, in which Deacero shipped wire rod indirectly to Mid Continent through Deacero USA³⁴ (Mid Continent further processed the wire rod into bulk steel nails, which Mid Continent then sold to unaffiliated U.S. customers).³⁵ All four channels involve U.S. sales through Deacero’s U.S. affiliated companies.³⁶ In accordance with section 772(b) of the Act, Commerce preliminarily determines that all of Deacero’s sales are CEP sales because Deacero only sold subject merchandise in the United States through its U.S. affiliates. We calculated CEP for those sales where a person in the United States, affiliated with the foreign exporter or acting for the account of the exporter, made the sale to the first unaffiliated purchaser in the United States of the subject merchandise. We based CEP on prices charged to the first unaffiliated customer in the United States and the applicable terms of sale.

In accordance with section 772(c)(2) of the Act, we made deductions where appropriate, for movement expenses including inland freight from plant or warehouse to port of exportation, warehousing expense incurred in the country of manufacture, international freight, marine insurance, U.S. and foreign brokerage and handling charges, and other transportation expenses.

For CEP, in accordance with section 772(d)(1) of the Act, we made adjustments where appropriate to the starting price for billing adjustments, early payment discounts, rebates, and other discounts. We deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including direct selling expenses (cost of credit). In addition, we deducted indirect selling expenses that related to economic activity in the United States. These expenses include inventory carrying costs incurred by affiliated U.S.

³⁴ See Deacero Section A IQR at A-19 and A-20.

³⁵ *Id.* at A-21.

³⁶ *Id.*

distributors. For Channel 3 and 4 sales, we also deducted further manufacturing expenses incurred in the United States by its affiliated company Mid Continent, in accordance with section 772(e) of the Act. We also deducted from CEP an amount for profit in accordance with sections 772(d)(3) and (f) of the Act.³⁷

E. Normal Value

1. 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's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise. Pursuant to section 773(a)(1)(B) of the Act and 19 CFR 351.404(b), we determined that Deacero's home market sales are a viable basis for calculating NV because Deacero's aggregate volume of home market sales of the foreign like product was greater than five percent of Deacero's aggregate volume of U.S. sales of the subject merchandise.³⁸ Moreover, there is no evidence on the record supporting a particular market situation in the country that would not permit a proper comparison of home market and U.S. prices.

2. Cost of Production (COP) Analysis

Section 773(b)(2)(A)(ii) of the Act requires Commerce to request cost information from respondent companies in all antidumping proceedings. Accordingly, we requested this information from Deacero.

a. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated a weighted-average COP, by model, based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses (G&A) and interest expenses. Based on the review of record evidence, we find that Deacero did not experience significant changes in the cost of manufacturing during the POR such that we might consider using shorter averaging periods.

³⁷ See Preliminary Calculation Memorandum.

³⁸ *Id.* at A-4.

In these preliminary results, we made the following adjustments to Deacero's submitted COP data:³⁹

Adjustment to Costs for Scrap Purchases

Deacero purchased scrap inputs from affiliated parties during the POR.⁴⁰ Therefore, we analyzed the affiliated scrap purchases under the transactions disregarded rule pursuant to section 773(f)(2) of the Act. According to section 773(f)(2) of the Act, Commerce may disregard transactions between affiliated persons if those transactions do not fairly reflect the value in the market under consideration (*i.e.*, if they are not made at arm's length). To determine whether to disregard transactions between affiliated persons, Commerce compares the average transfer price for an input paid to affiliated suppliers with the market price for that input from unaffiliated suppliers.⁴¹ Where the transfer price of an input is below its market price, it is Commerce's practice to adjust the respondent's reported costs to reflect the market price.⁴² Based on our analysis of the data, we found that the market price (*i.e.*, the unaffiliated purchase price) exceeded the reported scrap input transfer prices. Therefore, for purposes of these preliminary results, we adjusted Deacero's reported transfer prices for scrap to reflect the market price it paid for scrap.

Adjustments to Cost of Manufacturing (COM) and Total Cost of Manufacturing (TOTCOM)

Consistent with section 773(f)(1)(A) of the Act, Commerce's normal practice is to rely on the costs reflected in the cost system the respondent maintains in the ordinary course of business that, in turn, reconcile to the respondent's financial statements.⁴³ In this review, there are differences between the wire rod COM, as reported in Deacero's cost database, and the wire rod COM reflected in its costing system. These differences are largely due to differences in billet and wire rod yield losses. Therefore, for purposes of these preliminary results we increased Deacero's reported wire rod COM so that it matches the wire rod COM reflected in its costing system. Additionally, there are differences between the TOTCOM reported in Deacero's costing system and the TOTCOM reflected in its financial system. Therefore, we increased Deacero's reported TOTCOM, as reflected in its costing system, so that it reconciles with the TOTCOM reflected in its financial statement.

b. Test of Comparison Market Prices and COP

As required under section 773(b) of the Act, for Deacero, we compared the company-specific weighted-average COP to the company-specific comparison market sales prices of the foreign like product to determine whether these sales had been made at prices below the COP within an extended period of time (*i.e.*, normally a period of one year) in substantial quantities and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. On a CONNUM-specific basis, we compared Deacero's COP to the comparison market prices,

³⁹ See Preliminary Calculation Memorandum.

⁴⁰ See Section D IQR at 10 and Exhibit D-5.

⁴¹ See, *e.g.*, *Certain Steel Nails from Malaysia: Final Results of Antidumping Duty Administrative Review; 2016–2017*, 84 FR 9753 (March 18, 2019) and Issues and Decision Memorandum at 9.

⁴² *Id.*

⁴³ See, *e.g.*, *Carbon and Certain Alloy Steel Wire Rod from Mexico: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2016–2017*, 84 FR 31028 (June 28, 2019) and Issues and Decision Memorandum at 13-15.

less any applicable movement charges, discounts, rebates, and direct and indirect selling expenses.

c. Results of COP Test

Pursuant to sections 773(b)(1)(A) and (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 did not disregard 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 (b)(2)(C) of the Act, and (2) based on our comparison of prices to the weighted average of the COPs, they were at prices which would not permit the recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act.

Our cost test indicates that Deacero had certain comparison 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.⁴⁴ 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.

F. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, Commerce will calculate NV based on sales at the same level of trade (LOT) as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).⁴⁵ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.⁴⁶ 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 section 773(a)(1)(B)(i) of the Act and 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.⁴⁷ Where NV is based on constructed value (CV), we determine the NV LOT based on the LOT of the sales from which we derive selling, general, and administrative (SG&A) expenses, and profit for CV, where possible.⁴⁸

When we are unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, we may compare the U.S. sales to sales at a different LOT in

⁴⁴ See Preliminary Calculation Memorandum.

⁴⁵ See 19 CFR 351.412(c)(2).

⁴⁶ 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*).

⁴⁷ See *Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314-15 (Fed. Cir. 2001).

⁴⁸ See 19 CFR 351.412(c)(1).

the comparison market. In comparing EP or CEP sales with 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 adjustment was practicable), Commerce shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.⁴⁹

We obtained information from Deacero regarding the marketing stages involved in making the reported comparison market and U.S. sales, including a description of the selling activities performed by Deacero for each channel of distribution.

Deacero reported that it had two channels of sales in the home market during the POR. Deacero made direct shipments from the plant to the customer (channel 1 sales), and made shipments from a warehouse, distribution center, scrapyards and non-wire rod plant to the customer (channel 2 sales).⁵⁰ In both cases, the sale was either made directly by Deacero or indirectly through its affiliate, Aceros Nacionales, S.A. d C.V. (ANSA).⁵¹

As noted above, Deacero reported that it had four channels of distribution for U.S. sales in the U.S. market during the POR. Deacero shipped wire rod directly from Mexico by truck to the unaffiliated U.S. customer (channel 1 sales). These sales were invoiced by Deacero USA.⁵² Deacero also sold and shipped wire rod to Deacero USA by truck, which Deacero USA maintained in inventory at distribution warehouses, and resold to unaffiliated U.S. customers (channel 2 sales).⁵³ Deacero also shipped wire rod directly to its affiliate Mid Continent, which further processed the wire rod into bulk steel nails, which Mid Continent then sold to unaffiliated U.S. customers (channel 3 sales).⁵⁴ Deacero also shipped subject merchandise to Deacero USA's warehouse, and Deacero USA shipped the subject merchandise to Mid Continent (and invoiced Mid Continent) for Mid Continent's production and sale of bulk steel nails. The bulk steel nails were then sold to unaffiliated U.S. customers. Mid Continent invoiced the U.S. customer directly and shipped the nails by truck (channel 4 sales).⁵⁵

After analyzing the data on the record with respect to the selling functions performed for each customer type, we preliminarily find that Deacero made all home market sales at a single marketing stage (*i.e.*, one level of trade) in the home market. In the U.S. market, Deacero had only CEP sales through its affiliated resellers and, thus, we find there was a single level of trade for U.S. sales.

We find that there were significant differences between the selling activities associated with the CEP level of trade and those associated with the home market level of trade. For example, the CEP level of trade involved little or no sales forecasting, technical assistance, and after-sales service, whereas the home market level of trade involved these selling activities. Therefore, we

⁴⁹ See *Plate from South Africa*, 62 FR at 61732-33.

⁵⁰ See Deacero's Section A IQR at A-20.

⁵¹ *Id.*

⁵² See Deacero Section A IQR at A-24.

⁵³ *Id.* at A-19.

⁵⁴ *Id.* at A-20.

⁵⁵ *Id.* at A-20.

conclude that CEP sales constitute a different level of trade from the level of trade in the home market and that the home market level of trade is at a more advanced stage of distribution than the CEP level of trade.

We were unable to match CEP sales at the same LOT in the home market or to make a LOT adjustment because the differences in price between the CEP LOT and the home market LOT cannot be quantified due to the lack of an equivalent CEP LOT in the home market. Also, there are no other data on the record which would allow us to make a LOT adjustment. Because the data available do not provide an appropriate basis on which to determine a LOT adjustment and the home market LOT is at a more advanced stage of distribution than the CEP, we made a CEP offset to normal value, in accordance with section 773(a)(7)(B) of the Act and 19 CFR 351.412(f).⁵⁶

G. Sales to Affiliated Parties

Under section 771(33)(E) of the Act, if one party owns, directly or indirectly, five percent or more of another party, such parties are considered to be affiliated for purposes of the AD law. Furthermore, pursuant to 19 CFR 351.403, Commerce may require a respondent to report the downstream sales of its affiliated customer to the first unaffiliated customer if: (1) the respondent's sales to all affiliated customers account for five percent or more of the respondent's total sales of foreign-like product in the comparison market, and (2) those sales to the affiliated customer are determined to have not been made at arm's-length.

During the POR, Deacero sold the foreign like product directly to unaffiliated parties; in addition, it made sales to an affiliated company in Mexico, ANSA. In its questionnaire response, Deacero stated that since its sales to ANSA surpassed five percent of domestic market sales during the POR and the affiliate did not consume the foreign like product, it was reporting sales by the affiliated company to unaffiliated customers in Mexico.⁵⁷ For the preliminary results of review, we calculated NV based on sales to unaffiliated parties as well as downstream sales by ANSA.

H. Calculation of Normal Value Based on Comparison Market Prices

We based NV for Deacero on reported packed prices to unaffiliated customers in the home market.⁵⁸ We adjusted, where appropriate, the starting price for billing adjustments, early payment discount, rebates, and other expenses in accordance with 19 CFR 351.401(c). We made deductions, where appropriate, from the starting price for movement expenses, including inland freight, under section 773(a)(6)(B)(ii) of the Act. Pursuant to section 773(a)(6)(C) of the Act and 19 CFR 351.410, we made deductions for direct selling expenses, as appropriate. We also 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. In accordance with 19 CFR 351.410(e), we also made adjustments for indirect selling expenses incurred in the home market or the United States where commissions were granted on sales in either market, also known as the "commission

⁵⁶ See Preliminary Sales and Cost Calculation Memorandum at 3; *see also* 1-F of the CM Program.

⁵⁷ See Deacero's Section A IQR at A-3, A-4 and A-32.

⁵⁸ *Id.* at A-21 and Exhibit A-9.

offset.” Specifically, we limited the amount of the commission offset to the amount of either the indirect selling expenses incurred in the one market or the commissions allowed in the other market, whichever is less.⁵⁹

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.⁷⁸ For detailed information on the calculation of NV.

I. 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.

VI. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

Agree

Disagree

12/9/2019

X



Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

⁵⁹ See Preliminary Sales and Cost Calculation Memorandum for information on this adjustment and other information regarding our preliminary margin calculations.