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January 31, 2013

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Import Administration

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

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

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## SUMMARY

The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on stainless steel bar (SSB) from India. The period of review (POR) is February 1, 2011, through January 31, 2012. This review covers one exporter/producer of subject merchandise, Ambica Steels Limited (Ambica).

We have preliminarily found that Ambica's sales of the subject merchandise have not been made at prices below normal value during this POR. We are rescinding the review with respect to Mukand, Ltd., (Mukand).

## BACKGROUND

On February 21, 1995, the Department published the antidumping duty order on SSB from India. *See Antidumping Duty Orders: Stainless Steel Bar from Brazil, India and Japan*, 60 FR 9661 (February 21, 1995) (the *Order*).

On February 29, 2012, we received a request for administrative review of Ambica and Mukand from Carpenter Technology Corporation, Crucible Industries LLC and Valbruna Slater Stainless, Inc. (collectively, Petitioners).<sup>1</sup> On March 30, 2012, we initiated this administrative review.<sup>2</sup>

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<sup>1</sup> See Petitioners' February 29, 2012 request for review.

<sup>2</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, and Deferral of Administrative Review*, 77 FR 19179 (March 30, 2012) (*Initiation Notice*). The companies selected for review were listed as "Ambica Steels Limited Mukand Ltd." in the *Initiation Notice*. To avoid



On June 27, 2012, Petitioners timely withdrew their request for administrative review of Mukand,<sup>3</sup> and the Department notified the parties of its intent to rescind the administrative review for Mukand.<sup>4</sup>

On September 11, 2012, we extended the deadline for the preliminary results by 90 days to January 29, 2013.<sup>5</sup> As explained in the memorandum from the Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 29, through October 30, 2012. Thus, all deadlines in this segment of the proceeding have been extended by two days. The revised deadline for the preliminary results of this review is now January 31, 2013.<sup>6</sup>

On January 15, 2013, Petitioners submitted comments about Ambica's reported date of sale, possible affiliations, and total U.S. sales values.<sup>7</sup> Petitioners also alleged that Ambica has failed to cooperate fully in this proceeding.<sup>8</sup> These comments were submitted too close to the deadline for these Preliminary Results for the Department to consider at this time. However, we intend to follow up on Petitioners' comments by issuing a supplemental questionnaire to Ambica after we publish these Preliminary Results.

#### Partial Rescission

As noted above, Petitioners timely withdrew the only request for review of Mukand. Therefore, we are rescinding the administrative review of the Order with respect to Mukand in accordance with 19 CFR 351.213(d)(1).

#### **SCOPE OF THE ORDER**

The merchandise subject to the order is stainless steel bar. Stainless steel bar means articles of

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confusion, we published a correction notice indicating that the respondent companies were separate entities. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, and Deferral of Administrative Review*, 77 FR 21082 (April 9, 2012).

<sup>3</sup> See Petitioners' withdrawal of Mukand, "Stainless Steel Bar from India," dated July 27, 2012.

<sup>4</sup> See Memorandum to the File, "Stainless Steel Bar from India: Intent to rescind the administrative review for Mukand Ltd.," dated July 27, 2012.

<sup>5</sup> See Memorandum to Christian Marsh, "Stainless Steel Bar from India: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated September 11, 2012.

<sup>6</sup> See Memorandum to the Record from Paul Piquado, Assistant Secretary for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During Hurricane Sandy," dated October 31, 2012.

<sup>7</sup> See Petitioners' January 15, 2013 Comments Regarding Ambica's Supplemental Questionnaire Response.

<sup>8</sup> *Id.*

stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. Stainless steel bar includes cold-finished stainless steel bars that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut-to-length flat-rolled products (*i.e.*, cut-to-length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.*, cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes, and sections.

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

## **DISCUSSION OF THE METHODOLOGY**

### **Fair Value Comparisons**

Pursuant to section 773(a)(1)(B)(ii) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether Ambica's sales of subject merchandise from India were made in the United States at less than normal value, we compared the export price (EP) to the normal value as described in the "Export Price" and "Normal Value" sections of this notice. In these Preliminary Results, the Department applied the average-to-average comparison methodology adopted in the *Final Modification for Reviews*.<sup>9</sup> In particular, the Department compared monthly, weighted-average EPs with monthly, weighted-average normal values, and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

When making this comparison in accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the "Scope of the Order" section of this notice, above, that were in the ordinary course of trade for purposes of determining an appropriate product comparison to the U.S. sale. If contemporaneous sales of identical home-market merchandise, as described below, were reported, then we made comparisons to the monthly weighted-average home-market prices for all such sales. If there were no contemporaneous sales of identical merchandise, then we relied on sales of the most similar

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<sup>9</sup> See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification*, 77 FR 8101 (February 14, 2012) ("*Final Modification for Reviews*").

merchandise that were contemporaneous with the U.S. sales, in accordance with 19 CFR 351.414(e).

### Product Comparisons

In accordance with section 771(16) of the Act, we compared products produced by Ambica and sold in the U.S. and home markets on the basis of the comparison product which was either identical or most similar in terms of the physical characteristics to the product sold in the United States. In the order of importance, these physical characteristics are (1) general type of finish; (2) grade; (3) remelting; (4) type of final finishing operation; (5) shape; and (6) size, consistent with the original investigation.<sup>10</sup> Where there were no sales of identical merchandise in the comparison market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to the next most similar product on the basis of the characteristics listed above. Where there were no sales of identical or similar merchandise made in the ordinary course of trade in the comparison market, we compared U.S. sales to constructed value (CV).

### Date of Sale

Section 351.401(i) of the Department's regulations states that, normally, the Department will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The regulation provides further that the Department may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established.

For all U.S. sales, Ambica reported the commercial invoice date as the date of sale. Ambica claims that the commercial invoice, rather than the preceding sales order, establishes the material terms of sale as prices can and do change after the sales order and up until the date of the commercial invoice.<sup>11</sup> Ambica provided sample contracts for U.S. sales covered by this review to support its claim that commercial invoice date establishes the essential terms of sale.<sup>12</sup> Therefore, for this administrative review, and consistent with the presumption established in the Department's regulation, we have preliminarily used Ambica's reported commercial invoice date as the date of sale for all U.S. sales.

With respect to its home-market sales, Ambica reported excise invoice date as the date of sale, explaining that the excise invoice finalizes the quantity and value of the sale.<sup>13</sup> Thus, we have

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<sup>10</sup> See *Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Stainless Steel Bar From India*, 59 FR 39733, 39735 (August 4, 1994) (unchanged in the final results).

<sup>11</sup> See Ambica's November 21, 2012, supplemental questionnaire response (Nov21SQR) at 4 and exhibit S-3(a); see also Ambica's January 4, 2013, supplemental questionnaire response (Jan4SQR) at 8 and exhibit S2-5(a).

<sup>12</sup> See Jan4SQR at 8 and exhibit S2-5(a).

<sup>13</sup> See Nov21SQR at 5 and exhibit S-3(b); see, also, Jan4SQR at 8 and exhibit S2-5(b).

used Ambica's reported excise invoice date as the date of sale in the home market.

### Export Price

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

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

### Level of Trade

To the extent practicable, we determine normal value (NV) using home market sales made at the same level of trade as the U.S. sales.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for EP and comparison market sales (*i.e.*, NV based on either comparison market or third country prices), we consider the starting prices before any adjustments. If the home-market sales are at a different level of trade from that of a U.S. sale and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and home-market sales at the level of trade of the export transaction, we make a level-of-trade adjustment under section 773(a)(7)(A) of the Act. To determine whether home market sales are at a different level of trade than U.S. sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer.

### *Analysis of Home Market Sales Level of Trade*

In the home market, Ambica reported sales through five channels of distribution to three customer types (traders, end-users, and consignment agents).<sup>14</sup> Within these channels of distribution (*i.e.*, direct sales to traders and end-users, sales through a godown to traders and end-users, and sales through a consignment agent), Ambica reported a single level of trade.<sup>15</sup>

Ambica provided additional information on its reported home market selling functions on November 21, 2012.<sup>16</sup> Ambica reported generally similar levels of intensity for each selling

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<sup>14</sup> See Ambica's May 30, 2012 Section A Questionnaire Response at A-21-A-24 and Exhibit A-5.

<sup>15</sup> *Id.*

<sup>16</sup> See Nov21SQR at 15-16.

function in the home market.<sup>17</sup> Ambica reported differences between its channels of distribution for sales/marketing and commissions.

We have analyzed these differences and preliminarily determine that the differences are not significant. The sales/marketing services that Ambica reported are limited to customer visits by sales representatives and customer correspondence.<sup>18</sup> Ambica reported no warranty or technical service programs for its home market sales. The activity associated with commissions does not appear to extend beyond Ambica making payments to commissioned agents. Therefore, because we do not find significant differences in the selling functions associated with Ambica's reported five channels of distribution, we preliminarily find that Ambica's home market sales are made at a single level of trade.

#### *Analysis of U.S. Sales Level of Trade*

Ambica reported only one channel of distribution for all U.S. sales and one customer type (*i.e.*, traders).<sup>19</sup> Accordingly, we preliminarily determine that there is one level of trade for Ambica's U.S. market.

#### *Level of Trade Determination*

We compared the selling activities performed in the home market to those performed in the U.S. market and find few differences between them. These differences were limited to sales forecasting, strategic/economic planning, and inventory maintenance. We have reviewed Ambica's reported levels of activity associated with these differences and preliminarily determine that they do not constitute a difference in level of trade because these differences are limited in scope and intensity. Ambica's remaining selling functions performed in both the home market and U.S. market are broadly similar and all selling functions are executed by Ambica. Therefore, we preliminarily determine that sales to the U.S. and home markets during the POR were made at the same level of trade and, as a result, no level of trade adjustment is warranted.

#### Normal Value

##### *A. Home Market Viability as Comparison Market*

To determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), we compared the volume of Ambica's home market sales of the foreign like product to the volume of its U.S.

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<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 12.

<sup>19</sup> See Ambica's May 30, 2012, Section A Questionnaire Response at A-16 and Exhibit A-5.

sales of subject merchandise, in accordance with section 773(a)(1)(B) of the Act.<sup>20</sup> Based on this comparison, we determined that Ambica had a viable home market during the POR. Consequently, we based NV on home market sales to unaffiliated purchasers made in the usual quantities in the ordinary course of trade.

## B. *Cost of Production Analysis*

In accordance with section 773(b)(2)(A)(ii) of the Act, because we determined to disregard sales by Ambica that were below the cost of production (COP) in the most recently completed administrative review of SSB in which Ambica was a respondent,<sup>21</sup> we had reasonable grounds to believe or suspect that Ambica made sales of the subject merchandise in the comparison market at prices below the COP in the current review period. Pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by Ambica.

### 1. *Calculation of Cost of Production*

We calculated the COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for general and administrative and financial expenses, in accordance with section 773(b)(3) of the Act. Except as noted below, we relied on the COP data submitted by Ambica in its questionnaire response for the COP calculation.

During the POR, Ambica purchased some inputs and obtained some loans from its affiliates.<sup>22</sup> We analyzed Ambica's affiliated transactions in accordance with section 773(f)(2) of the Act, and adjusted Ambica's cost of manufacturing and financial expenses to reflect the higher of market or transfer price. See the memorandum from Sheikh M. Hannan to Neal M. Halper entitled "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results – Ambica Steels Limited," dated concurrently with this memorandum and herein incorporated by reference.

Based on our review of the record evidence, Ambica did not appear to experience significant changes in the cost of manufacturing during the POR. Therefore, we followed our normal methodology of calculating an annual weighted-average cost.

### 2. *Test of Comparison Market Sales Prices*

As required under section 773(b)(1)(A) and (B) of the Act, we compared the weighted average of the COP for the POR to the per-unit price of the comparison market sales of the foreign like product to determine whether these sales had been made at prices below the COP within an

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<sup>20</sup> See "Preliminary Results Calculation Memorandum for Ambica," dated concurrently with this notice and herein incorporated by reference.

<sup>21</sup> See *Stainless Steel Bar from India: Preliminary Results of Antidumping Duty Administrative Review*, 75 FR 12199, 12205 (March 15, 2010).

<sup>22</sup> See Ambica's May 30, 2012, Section A Questionnaire Response at A-12 and A-14.

extended period of time in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. We determined the net comparison market prices for the below-cost test by subtracting from the gross unit price any applicable movement charges, discounts, rebates, billing adjustments, direct and indirect selling expenses, and packing expenses.

Pursuant to section 773(b)(2)(C)(i) of the Act, we did not disregard below-cost sales that were not made in “substantial quantities,” *i.e.*, where less than 20 percent of sales of a given product were at prices less than the COP. We disregarded below-cost sales when they were made in substantial quantities, *i.e.*, where 20 percent or more of a respondent’s sales of a given product were at prices less than the COP and where “the weighted average per unit price of the sales . . . is less than the weighted average per unit cost of production for such sales.” *See* section 773(b)(2)(C)(ii) of the Act. Lastly, based on our comparison of prices to the weighted-average COPs for the POR, we considered whether the prices would permit the recovery of all costs within a reasonable period of time. *See* section 773(b)(2)(D) of the Act.

### *3. Results of the COP Test*

Our cost test for Ambica revealed that, for home market sales of certain models, more than 20 percent were sold at prices below the COP within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time. Thus, in accordance with section 773(b)(1) of the Act, we excluded these below-cost sales from our analysis and used the remaining above-cost sales to determine NV. *See* Preliminary Results Calculation Memorandum for Ambica.

For those U.S. sales of subject merchandise for which there were no home market sales in the ordinary course of trade, we compared EPs to CV in accordance with section 773(a)(4) of the Act. *See* “Calculation of Normal Value Based on Constructed Value” section, below.

### *C. Calculation of Normal Value Based on Comparison Market Prices*

We calculated NV based on packed, ex-factory or delivered prices to unaffiliated customers in the home market. We adjusted the starting price for billing adjustments, interest revenue, foreign inland freight, warehousing, and inland insurance, pursuant to section 773(a)(6)(B)(ii) of the Act. We made adjustments for differences in packing, in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act. We also made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act, as well as for differences in circumstances of sale (for imputed credit expenses and warranty expenses) in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. When applicable, we also made adjustments, in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred on comparison market or U.S. sales where commissions were granted on sales in one market but not in the other. Specifically, where commissions were granted in the U.S. market but not in the comparison market, we made a downward adjustment to NV for the lesser of (1) the amount of the commission paid in the U.S. market, or (2) the amount of indirect selling expenses incurred in the comparison market. If



commissions were granted in the comparison market but not in the U.S. market, we made an upward adjustment to NV following the same methodology. We did not make further adjustments to Ambica's home market data.

D. *Calculation of Normal Value Based on Constructed Value*

In accordance with section 773(e) of the Act, we calculated CV for Ambica based on the sum of its material and fabrication costs, selling, general and administrative (SG&A) expenses, profit, and U.S. packing costs. We calculated the COP component of CV as described in the "Cost of Production Analysis" section of this memorandum, above. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by Ambica in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the comparison market.

Currency Conversion


We made currency conversions into U.S. dollars in accordance with section 773A(a) 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.

Conclusion

We recommend applying the above methodology for these preliminary results.

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Agree

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Disagree

  
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Paul Piquado  
Assistant Secretary  
for Import Administration

24 JANUARY 2013  
(Date)