



A-533-810
Administrative Review
POR: 2/01/18-1/31/19
Public Document
E&C/OI: Team

February 26, 2020

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: Stainless Steel Bar
from India: 2018-2019

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on stainless steel bar (SS Bar) from India covering the period of review (POR) February 1, 2018 through January 1, 2019. We selected two companies for individual examination in this administrative review: Ambica Steels Ltd. (Ambica), and Venus Wire Industries Pvt. Ltd. and its affiliated companies including Hindustan Inox, Precision Metals and Sieves Manufacturers (India) Pvt. Ltd. (collectively, the Venus Group). We preliminarily determine that Venus Group made sales of the subject merchandise at prices below normal value (NV). We preliminarily determine that Ambica did not make sales of the subject merchandise at prices below NV. We are conducting this administrative review of the order in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213.

II. BACKGROUND

On February 21, 1995, we published in the *Federal Register* the AD order on SS Bar from India.¹ On February 28, 2019, the petitioners² requested an administrative review of Ambica, the

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

² Carpenter Technology Corporation, Crucible Industries LLC, Electralloy, a Division of G.O. Carlson, Inc., North American Stainless, Universal Stainless & Alloy Products, Inc., and Valbruna Slater Stainless, Inc. (collectively, the petitioners).

Venus Group, and Jindal Stainless Hisar Ltd. (JSHL).³ On February 28, 2019, the Venus Group requested an administrative review of itself.⁴

On May 2, 2019, Commerce initiated this administrative review.⁵ On May 15, 2019, we released entry data we obtained from U.S. Customs and Border Protection for comment by interested parties regarding our selection of respondents for this review.⁶ On May 23, 2019, the petitioners submitted comments.⁷

Because the review was requested for three companies, it was not necessary to limit the number of companies for individual examination. On July 10, 2019, Commerce issued the initial questionnaires to Ambica, Venus Group, and JSHL.⁸ On July 31, 2019, the petitioners withdrew their request for an administrative review of JSHL.⁹ Commerce notified JSHL that it intended to rescind the review, in part.¹⁰ Ambica and Venus Group submitted timely questionnaire responses.¹¹ Commerce issued supplemental questionnaires to Ambica¹² and Venus Group¹³ and received timely responses.¹⁴

On February 10, 2020, we received pre-preliminary comments from the petitioners concerning Ambica and the Venus Group, requesting that Commerce consider such comments for the

³ See Petitioners' Letter, "Stainless Steel Bar from India: Petitioners' Request for 2018/19 Administrative Review," dated February 28, 2019.

⁴ See Venus Group's Letter, "Stainless Steel Bar from India: Request for Administrative Review," dated February 28, 2019.

⁵ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 18777 (May 2, 2019).

⁶ See Memorandum, "Stainless Steel Bar from India U.S. Customs and Border Protection Data for Respondent Selection Purposes," dated May 15, 2019.

⁷ See Petitioners' Letter, "Stainless Steel Bar from India - Petitioners' Comments Regarding CBP Data," dated May 23, 2019.

⁸ See Commerce's Initial Questionnaires sent to Ambica, Venus Group, and JSHL, dated July 10, 2019.

⁹ See Petitioners' Letter, "Stainless Steel Bar from India: Withdrawal of Request for Administrative Review," dated July 31, 2019. On July 31, 2019, Venus Group withdrew its request for review of itself. See Venus Group's Letter, "Stainless Steel Bar from India: Withdrawal of Request for Administrative Review," dated July 31, 2019.

However, because the petitioners had also requested a review of Venus Group, and the petitioners' request for review was not withdrawn, the administrative review of Venus Group continues.

¹⁰ See Commerce's Letter to JSHL, dated August 1, 2019.

¹¹ See Questionnaire responses from Ambica, dated August 14, 2019 (Ambica AQR) and September 3, 2019 (Ambica BCQR); and from Venus Group, dated August 21, 2019 (Venus AQR), and September 3, 2019 (Venus CDQR).

¹² See Commerce's Letters to Ambica, dated October 28, 2019, December 18, 2019 (Ambica SQ2), and January 7, 2020.

¹³ See Commerce's Letters to Venus Group, dated November 26, 2019, and December 10, 2019.

¹⁴ See Venus Group's Letters, "Antidumping Duty Administrative Review of Stainless Steel Bar from India: Venus Group's Response to the Department's Supplemental Sections A-C Questionnaire," dated December 24, 2019 (Venus SQR1), and "Antidumping Duty Administrative Review of Stainless Steel Bar from India: Venus Group's Response to the Department's Supplemental Section D Questionnaire," dated January 10, 2020 (Venus SQRD1); Ambica's Letters, "Stainless Steel Bars from India - Section ABC supplemental Response for Antidumping Duty Admin Review of *Ambica Steels Limited*," dated November 20, 2019, and "Stainless Steel Bars from India - Supplemental Response for Antidumping Duty Admin Review of *Ambica Steels Limited*," dated December 26, 2019, and "Stainless Steel Bars from India - Section D Supplemental Response for Antidumping Duty Admin Review of *Ambica Steels Limited*," dated February 4, 2020 (Ambica SQR3).

preliminary results.¹⁵ Because these comments were filed three weeks prior to the issuance of the preliminary results, we have not considered them for these preliminary results. However, Commerce will continue to examine the data submitted by the Venus Group and Ambica and will consider the comments from the petitioners and, if necessary, issue a supplemental questionnaire to each mandatory respondent.

III. SCOPE OF THE ORDER

The merchandise subject to the order is SS Bar. SS Bar means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. SS Bar includes cold-finished SS 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 7222.11.00, 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.

IV. COST OF PRODUCTION ANALYSIS FOR THE VENUS GROUP

For the reasons discussed below, we find that the Venus Group's unaffiliated suppliers are the producers of certain SS Bar at issue. We further find that, as discussed below, because of the Venus Group's failure to cooperate to the best of its ability, we do not have information regarding the unaffiliated suppliers' cost of production (COP), which is necessary for conducting the sales-below-cost test. Therefore, the use of partial adverse facts available (AFA) is appropriate for these preliminary results with respect to the Venus Group.

Section 773 of the Act directs Commerce to calculate COP and constructed value (CV) on the basis of actual production costs.¹⁶ Additionally, section 771(28) of the Act states that "{f}or

¹⁵ See Petitioners' Letter, "Stainless Steel Bar from India – Petitioners' Pre-Preliminary Comments," dated February 10, 2020.

¹⁶ See section 773(b)(3)(A) of the Act (COP shall be an amount equal to the sum of "the cost of materials and of fabrication or other processing of any kind employed in producing the foreign like product"); section 773(e)(1) of the Act (CV shall be based on "the cost of materials and fabrication or other processing of any kind employed in producing the merchandise"); and section 773(f)(1) of the Act (in general "costs shall normally be calculated based

purposes of section 773, the term ‘exporter or producer’ includes both the exporter of the subject merchandise and the producer of the same subject merchandise to the extent necessary to accurately calculate the total amount incurred and realized for costs, expenses, and profits in connection with production and sale of that merchandise.” The SAA explains that “the purpose of section 771(28)...is to clarify that where different firms perform that production and selling function, Commerce may include the costs, expenses, and profits of each firm in calculating cost of production and constructed value.”¹⁷ The intent of this section is to ensure that Commerce has the authority to capture all cost situations where various companies are engaged in the production and sale of the merchandise under consideration. Accordingly, Commerce’s determination of who is the producer directly impacts the COP and CV computations. Commerce requested COP information from Venus Group in this proceeding.¹⁸

In prior segments of this proceeding, we adopted an approach from *Narrow Woven Ribbons Final* to determine that the Venus Group (which processed the merchandise before export to the United States) was not the producer of the subject merchandise, and, therefore, we sought cost data from the unaffiliated suppliers at issue.¹⁹ In *Narrow Woven Ribbons Final*, we examined the extent to which the ribbon obtained from the unaffiliated suppliers was further manufactured by the respondent. In doing so, we analyzed whether raw materials were added and whether processing was performed that changed the physical nature and characteristics of the product. We determined that “the record shows that the additional materials used in the further processing were minimal” and that “the further processing did not result in significant changes to the essential physical characteristics of the {narrow woven ribbons}.”²⁰ The second part of the analysis was informed by the fact that only six (out of 16) of Commerce’s physical characteristics for narrow woven ribbons changed as a result of the further processing performed by the respondent.²¹ However, Commerce also noted that the “determination is based on the totality of the record evidence and the facts specific to this case.”²² Commerce determined that the respondent (who processed the merchandise before export to the United States) was not the producer of the subject merchandise and, therefore, we sought cost data from the unaffiliated suppliers at issue.²³

on the records of the exporter or producer of the merchandise, if such records...reasonably reflect the costs associated with the production and sale of the merchandise.”).

¹⁷ See Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol. 1 (1994) (SAA) at 835.

¹⁸ See Venus SQR1 and Venus SQRD1.

¹⁹ See *Stainless Steel Bar from India: Final Results of Administrative Review of the Antidumping Duty Order; 2017-2018*, 84 FR 56179, (October 21, 2019) (*Final Results 2017-2018*), and accompanying Issues and Decision Memorandum (IDM); See *Stainless Steel Bar from India: Preliminary Results of Changed Circumstances Review and Intent to Reinstate Certain Companies in the Antidumping Duty Order*, 82 FR 48483, (October 18, 2017) (*CCR Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM), unchanged in *Stainless Steel Bar from India: Final Results of Changed Circumstances Review and Reinstatement of Certain Companies In the Antidumping Duty Order*, 83 FR 17529 (April 20, 2018) (*CCR Final Results*), and accompanying IDM; see also *Notice of Final Determination of Sales at Less Than Fair Value: Narrow Woven Ribbons with Woven Selvedge from Taiwan*, 75 FR 41804 (July 19, 2010) (*Narrow Woven Ribbons Final*), and accompanying IDM.

²⁰ See *Narrow Woven Ribbons Final* IDM at Comment 20.

²¹ *Id.*

²² *Id.*

²³ *Id.*

In this review, as in prior segments of this proceeding, in determining whether the suppliers or the Venus Group is the producer of the SS Bar in question, we look to the extent to which the SS Bar was further manufactured by the Venus Group. According to the Venus Group, it adds no additional materials to the SS Bar it purchased and processed.²⁴ Moreover, the further processing performed by the Venus Group (which consisted of heat treatment, straightening, peeling, polishing, cutting, and—in some cases, grinding) does not affect the top two most important physical characteristics as reported in our questionnaire (grade and melting) out of the eight characteristics, nor does it affect shape (the sixth characteristic).²⁵ The physical characteristics that may change, according to the Venus Group, as a result of further processing are of lesser importance than grade and melting (whether the product was cold-drawn, general type of finish, size, heat treatment, and surface treatment).²⁶ Because we find that the top two most important physical characteristics and shape do not change as a result of the further processing, the Venus Group's further processing functions do not significantly alter the physical characteristics of the finished product. Moreover, the facts of this case are similar to the changed circumstances review where we reinstated the Venus Group into the AD order and to the *Final Results 2017-2018* administrative review of this order.²⁷ Accordingly, consistent with *Narrow Woven Ribbons Final* and prior segments of this proceeding, in this case, we find that the Venus Group cannot be considered the producer of the subject merchandise shipped to the United States; rather, the producers are the manufacturers who supplied the Venus Group with the SS Bar and, therefore, we require the unaffiliated suppliers' COP of the SS Bar sold to the Venus Group. For the reasons discussed below, we do not have this data on the record.

V. APPLICATION OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES

For the reasons discussed below, we determine that the use of partial AFA is appropriate for these preliminary results with respect to the Venus Group.

Sections 776(a)(1) and (2) of the Act provide that Commerce shall, subject to section 782(d) of the Act, apply "facts otherwise available" if necessary information is not available on the record or if an interested party or any other person: (A) withholds information that has been requested by Commerce; (B) fails to provide such information in a timely manner or in the form or manner requested subject to sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified as provided for in section 782(i) of the Act.

Where Commerce determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that Commerce will so inform the party submitting the response and will, to the extent practicable, provide that party an opportunity to remedy or explain the deficiency. If the party fails to remedy or satisfactorily explain the deficiency within the

²⁴ See Venus SQRD1.

²⁵ *Id.* The shape physical characteristic is used to distinguish bars that are round, square, rectangular, pentagonal, hexagonal, *etc.* See Commerce's Questionnaire, dated July 10, 2019. What the Venus Group describes is really a straightening operation, which is part of the cold drawing process. Thus, we find that the shape of the bar is not actually affected by the processes that Venus Group performs.

²⁶ See Venus SQRD1.

²⁷ See *Final Results 2017-2018*; see also *CCR Preliminary Results*, unchanged in *CCR Final Results*.

applicable time limits, subject to section 782(e) of the Act, Commerce may disregard all or part of the original and subsequent responses, as appropriate.

Section 776(b) of the Act provides that Commerce may use an adverse inference in applying the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. In doing so, Commerce is not required to determine, or make any adjustments to, a weighted-average dumping margin based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information.²⁸ Further, section 776(b)(2) of the Act states that an adverse inference may include reliance on information derived from the petition, the final determination from the less than fair value investigation, a previous administrative review, or other information placed on the record.²⁹

Section 776(c) of the Act provides that, when Commerce relies on secondary information rather than on information obtained in the course of an investigation, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal.³⁰ Secondary information is defined as information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.³¹

Finally, under section 776(d) of the Act, Commerce may use any dumping margin from any segment of a proceeding under an AD order when applying an adverse inference, including the highest of such margins.³² When selecting an AFA margin, Commerce is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party.³³

A. Application of Partial AFA to the Venus Group

In response to Commerce’s section A questionnaire, the Venus Group identified itself as the producer of all of the subject merchandise shipped to the United States.³⁴ The Venus Group explained that during the POR, it purchased stainless steel wire rods (SSWR) in coil form and “hot-rolled stainless-steel bars” (hot-rolled bars) or “stainless steel rounds”³⁵ from unaffiliated suppliers during the POR; the Venus Group further processes these inputs into cold-finished SS Bar.³⁶

²⁸ See section 776(b)(1)(B) of the Act; and TPEA, section 502(1)(B).

²⁹ See also 19 CFR 351.308(c).

³⁰ See also 19 CFR 351.308(d).

³¹ See SAA at 870.

³² See sections 776(d)(1)-(2) of the Act.

³³ See section 776(d)(3) of the Act.

³⁴ See Venus AQR.

³⁵ The Venus Group, in its responses, uses the terms “stainless steel rounds,” or “hot-rolled rounds,” interchangeably, to describe this input.

³⁶ See Venus AQR.

For purposes of these preliminary results, we find that the *CCR Preliminary Results* and the *CCR Final Results*,³⁷ constitute prior notice to the Venus Group that it has an obligation to submit the COP data from its unaffiliated suppliers. The Venus Group acknowledges this fact in its response to our section A questionnaire, “{t}he issue of who constitutes the ‘producer’ of subject merchandise sold by the Venus Group was raised in the recently concluded change circumstances review of Stainless Steel Bar from India. In that review, {Commerce} concluded that the Venus Group was not the ‘producer’ of the merchandise under consideration in part because {Commerce} determined that the input product it purchased from its unaffiliated suppliers – stainless steel rounds – was itself merchandise under consideration. Venus Group {challenged} that conclusion that Venus was not the producer of subject merchandise in an appeal before the U.S. Court of International Trade. In the 2017-18 administrative review, {Commerce} has also preliminarily taken the same position, *i.e.*, that Venus is not the producer of stainless steel bar produced from stainless steel rounds; the final results of that review have not yet been issued.”³⁸

Further, in its section D supplemental questionnaire response, the Venus Group alleges that it made multiple preemptive attempts to induce its unaffiliated Indian suppliers to provide their COP information.³⁹ The Venus Group provided on the record various emails and letters it sent to its unaffiliated Indian suppliers requesting the suppliers’ COP data.⁴⁰ It also provided response emails from its unaffiliated suppliers indicating that they were not able to comply with the Venus Group’s request to provide the COP information for the input they sold to the Venus Group.⁴¹ Therefore, the record indicates that the Venus Group understood prior to this administrative review that it had an obligation to obtain its unaffiliated suppliers’ COP information for the input in question for any subsequent administrative review. The Venus Group has not provided the requested COP information on the record of this administrative review.

Additionally, in our supplemental questionnaire to the Venus Group, we indicated that, in light of our final results in the 2017-2018 administrative review, we continue to find that hot-rolled bars or “stainless steel rounds,” are subject merchandise and we requested that the Venus Group treat “stainless steel rounds” as such for purposes of this administrative review.⁴² The Venus Group responded that it would follow Commerce’s request in this administrative review, and would also identify on the record all sales of SS Bar made from non-Indian purchases of stainless steel rounds or hot-rolled bar in its sales and cost databases.⁴³ As we indicate above, in our sections A and D supplemental questionnaire, we requested the Venus Group to provide its unaffiliated suppliers’ COP information.⁴⁴ Despite these requests, the Venus Group has not provided the requested COP information from its unaffiliated suppliers on the record of this administrative review.⁴⁵

³⁷ See *CCR Preliminary Results*, unchanged in *CCR Final Results*.

³⁸ See Venus AQR.

³⁹ *Id.* at Exhibit D-28.c

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² See SQ at 3.

⁴³ See Venus DQR2 at 11.

⁴⁴ *Id.*

⁴⁵ *Id.*

For purposes of conducting the sales-below-cost test, we require COP data for the production of the stainless steel rounds that the Venus Group purchases as inputs to its production of SS Bar. Without the unaffiliated suppliers' COP data, we do not have the appropriate cost data to calculate a dumping margin. For example, we cannot accurately determine which of the Venus Group's home market sales were made below the COP and were at prices that do not permit recovery of all costs within a reasonable period of time and, as a result, we do not have a basis for determining which home market sales are appropriate to use as normal value. Moreover, without the unaffiliated suppliers' costs, we cannot accurately calculate CV. Therefore, we preliminarily determine that, because the necessary unaffiliated suppliers' cost data are not on the record, and this prevents us from being able to calculate a dumping margin, the application of partial facts available is warranted in accordance with sections 776(a)(1) and (2)(A) and (C) of the Act. Therefore, we determine that selection from the facts otherwise available, in part, is necessary. In addition, pursuant to section 776(b) of the Act, we find that the Venus Group did not cooperate to the best of its ability in failing to provide the necessary COP data from its unaffiliated suppliers. Specifically, we find that the Venus Group did not act to the best of its ability in attempting to obtain its unaffiliated suppliers' cost data. Our findings are consistent with the decision of the Court of Appeals for the Federal Circuit in *Mueller*, which recognized that Commerce may use an adverse inference in selecting from the facts otherwise available in determining a respondent's dumping margin in order to induce cooperation by other interested parties whose information is needed to calculate that respondent's dumping margin, in situations where the respondent has a mechanism to induce the interested parties.⁴⁶ Thus, in this case, we determine that the Venus Group failed to put forth its maximum efforts to obtain and provide the necessary COP data from its unaffiliated suppliers despite being on notice that it was obligated to obtain this information and having the ability to do so. As such, an adverse inference is warranted in the application of facts available, in accordance with section 776(b)(1) of the Act.⁴⁷

As explained below, we are relying on partial AFA because we find that the Venus Group cooperated to the best of its ability in providing the remaining information on the record, and because such information is timely submitted, complete, and verifiable, and can be used without undue difficulties.

B. Selection of AFA Rate

Section 776(b) of the Act authorizes Commerce to use, as AFA, information derived from the petition, the final determination from the investigation, a previous administrative review, or any other information placed on the record.⁴⁸ In selecting a rate for AFA, Commerce has the discretion to apply any dumping margin from any segment of the proceeding.⁴⁹

⁴⁶ See *Mueller Commercial De Mexico, S. De R.L. De C.V. v. United States*, 753 F. 3d 1227, 1233 (Fed. Cir. 2014) (*Mueller*).

⁴⁷ For more discussion of Venus Group's unaffiliated suppliers' cost information, see Memorandum, "Administrative Review of the Antidumping Duty Order on Stainless Steel Bar from India: Preliminary Analysis Memorandum for the Venus Group," dated concurrently with this memorandum (Venus Group Preliminary Results Calculation Memorandum).

⁴⁸ See section 776(d)(1)-(2) of the Act.

⁴⁹ *Id.*

Venus Group

As we indicate above, the Venus Group purchased SSWR in coil form and hot-rolled stainless-steel bars (hot-rolled bars)⁵⁰ from unaffiliated suppliers during the POR. Because the SSWR input is not itself subject merchandise, we can rely on the acquisition cost for purposes of determining COP and calculating a margin. Thus, for the portion of the Venus Group's sales and cost databases that represents sales of subject merchandise produced using the SSWR input, we are able to calculate a margin for these U.S. sales.⁵¹ In the *Final Results 2017-2018*, we explained:

{R}ather than assigning the highest (non-aberrational) transaction-specific margin to these sales, we have calculated a 'surrogate' COP for these sales. We calculated this surrogate COP by examining the below-cost sales of SS bar produced using the SSWR input. For these sales, we identified the highest difference (as a percentage of acquisition cost) between the Venus Group's acquisition cost, plus Selling, General & Administrative (SG&A) costs, and the sales price. We then applied this percentage to the acquisition cost, plus SG&A, of the SSRs or hot rolled bar inputs. We conducted the sales-below-cost on the basis of this "surrogate" COP, and we applied the margin program to the appropriate U.S. sales. This approach is consistent with *Glycine from India and Pipes and Tubes from India*.⁵²

Consistent with our approach in the *Final Results 2017-2018*, as partial AFA, for these preliminary results, we have identified the highest difference (as a percentage of acquisition cost) between the Venus Group's acquisition cost plus SG&A costs, and the sales price. We applied this percentage to the acquisition cost plus SG&A, of the SSRs or hot rolled bar inputs. We conducted the sales-below-cost test on the basis of this "surrogate" COP, and we used the appropriate home market sales in the margin program.⁵³

Therefore, for these preliminary results, using partial AFA as described above, we have calculated a dumping margin for exports of subject merchandise produced and/or exported by the Venus Group of 11.88 percent.⁵⁴ Because we have identified the partial AFA using information obtained from the record of this review, in accordance with section 776(c)(2) of the Act, we are not required to corroborate the information on which we have relied.

⁵⁰ The Venus Group, in its responses, uses the terms "stainless steel rounds," (SSRs) or "hot-rolled rounds" to describe this input.

⁵¹ See Venus SQR3.

⁵² *Final Results 2017-2018* (citing *Glycine from India: Final Determination of Sales at Less Than Fair Value*, 84 FR 18487 (May 1, 2019), and accompanying IDM at Comment 1 (*Glycine from India*); and *Welded Carbon Steel Standard Pipes and Tubes from India: Preliminary Results of Antidumping Duty Administrative Review; 2017-2018*, 84 FR 33916 (July 16, 2019), and accompanying PDM (*Pipes and Tubes from India*)).

⁵³ See Venus Group Preliminary Results Calculation Memorandum.

⁵⁴ *Id.*

VI. AFFILIATION AND COLLAPSING

Section 771(33) of the Act, in pertinent parts, identifies persons that shall be considered “affiliated” or “affiliated persons,” as: (1) members of a family, including brothers and sisters (whether by whole or half-blood), spouses, ancestors, and lineal descendants, (2) any person directly or indirectly owning, controlling, or holding with power to vote, five percent or more of the outstanding voting stock or shares of any organization and such organization; (3) two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.⁵⁵ Section 771(33) of the Act further stipulates that “a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.” In determining whether control over another person exists within the meaning of section 771(33) of the Act, Commerce will not find that control exists unless the relationship has the potential to impact decisions concerning the production, pricing, or cost of the subject merchandise or foreign like product.⁵⁶

We next examine whether any of the affiliated companies should be considered a single entity for purposes of this review. Generally, Commerce will collapse affiliated producers and treat them as a single entity if they have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities, and Commerce concludes that there is a significant potential for the manipulation of price or production.⁵⁷ In identifying a significant potential for manipulation, Commerce may consider factors including the level of common ownership;⁵⁸ “{t}he extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm”;⁵⁹ and “{w}hether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers.”⁶⁰ Commerce considers these criteria in light of the totality of the circumstances; no one factor is dispositive in determining whether to collapse the producers.⁶¹

With regard to the Venus Group, in *CCR Preliminary Results*, Commerce determined, pursuant to section 771(33) of the Act, and 19 CFR 451.401(f)(1) and (2), that Venus Wire, Precision Metals, Sieves, and Hindustan Inox are a single entity.⁶² In the prior 2017-2018 administrative review of SS Bar from India, we continued to treat Venus Wire and its affiliates as a single entity.⁶³ Because the Venus Group has not reported any changes which would cause us to reevaluate our prior findings with respect to collapsing, we continue to treat Venus Wire,

⁵⁵ See sections 771(33)(A), (E)-(G) of the Act.

⁵⁶ See 19 CFR 351.102(b)(3).

⁵⁷ See 19 CFR 351.401(f)(1).

⁵⁸ See 19 CFR 351.401(f)(2)(i).

⁵⁹ See 19 CFR 351.401(f)(2)(ii).

⁶⁰ See 19 CFR 351.401(f)(2)(iii).

⁶¹ See *Koyo Seiko Co., Ltd. v. United States*, 516 F. Supp. 2d 1323, 1346 (CIT 2007), citing *Light Walled Rectangular Pipe and Tube from Turkey; Notice of Final Determination of Sales at Less Than Fair Value*, 69 FR 53675 (September 2, 2004), and accompanying IDM at Comment 10.

⁶² See *CCR Preliminary Results*, unchanged in *CCR Final Results*.

⁶³ See *Stainless Steel Bar from India: Final Results of Administrative Review of the Antidumping Duty Order; 2017-2018*, 84 FR 56179 (October 21, 2019), and accompanying IDM.

Precision Metals, Sieves, and Hindustan Inox as a single entity for purposes of this administrative review.

With regard to Ambica, the petitioners provided information which, in their view, demonstrates that Ambica is affiliated with Aamor Inox Ltd. (Aamor Inox) under section 771(33)(F) of the Act.⁶⁴ The petitioners argue that this affiliation warrants the collapsing of the two companies for purposes of calculating a dumping margin.⁶⁵ In light of the petitioners' contention, we collected additional information from Ambica regarding its relationship with Aamor Inox.⁶⁶ The information indicates that the two companies are affiliated through control by a family grouping, as provided in section 771(33)(F) of the Act. We also examined, pursuant to 19 CFR 351.401(f)(2), whether the business relationship between the two companies demonstrated an overlap of directors and managers or intertwined operations such that there is a significant potential for the manipulation of price or production. The record indicates that Ambica and Aamor Inox do not share directors or key management personnel and that there is a lack of intertwined operations. Based on information provided by Ambica regarding the complete lack of business interactions between the two companies during the POR, we find that there is not significant potential for the manipulation of price or production between Ambica and Aamor Inox. Therefore, for these preliminary results of review, we did not solicit a questionnaire response for Aamor Inox for the purpose of collapsing the two companies in order to calculate a dumping margin. We have calculated a dumping margin for Ambica based on Ambica's reported U.S. and home market sales.

VII. DISCUSSION OF THE METHODOLOGY

We are conducting this administrative review of the order in accordance with section 751(a) of the Act and 19 CFR 351.213.

(1) Comparisons to Normal Value

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

A. 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 EPs or CEPs (*i.e.*, the average-to-average (A-A) method) unless Commerce determines that another method is appropriate in a particular

⁶⁴See Petitioners' Letters, "Stainless Steel Bar from India - Petitioner's Deficiency Comments Concerning Ambica Steels' Supplemental Sections A-C Questionnaire Response," dated December 9, 2019; "Stainless Steel Bar from India - Affiliation of Ambica Steels," dated December 23, 2019; and "Stainless Steel Bar from India - Petitioner's Deficiency Comments Concerning Ambica Steels' Second Supplemental Sections A-C Questionnaire Response," dated January 8, 2020.

⁶⁵ *Id*

⁶⁶ See Ambica SQ2.

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 (A-T) 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.⁶⁷

In recent investigations and in recently completed administrative reviews of this order, Commerce applied a "differential pricing" analysis for determining whether application of the A-T method is appropriate in a particular situation, pursuant to section 777A(d)(1)(B) of the Act and 19 CFR 351.414(c)(1).⁶⁸ Commerce finds that the differential pricing analysis used in recent investigations and reviews 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 A-A method in calculating weighted-average dumping margins for respondents.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of EPs or CEPs 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 A-A 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 consolidated 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 CEP and NV for the individual dumping margins.

⁶⁷ 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 IDM at Comment 1; see also *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (CIT 2014).

⁶⁸ See, e.g., *Truck and Bus Tires from the People's Republic of China: Preliminary Affirmative Determinations of Sales at Less Than Fair Value and Critical Circumstances, and Postponement of Final Determination*, 81 FR 61186 (September 6, 2016), and accompanying PDM at 22, unchanged in *Truck and Bus Tires from the People's Republic of China: Final Affirmative Determinations of Sales at Less Than Fair Value and Critical Circumstances*, 82 FR 8599 (January 27, 2017); *Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative and New Shipper Reviews and Rescission of Administrative Review, in Part; 2014-2015*, 81 FR 12870 (March 11, 2016) (*2014-15 Prelim*); and PDM at 6, unchanged in *Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Final Results of Antidumping Duty Administrative Review and New Shipper Review; 2014-2015*, 81 FR 62712 (September 12, 2016) (*2014-15 Final*).

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* coefficient is a generally recognized statistical measure of the extent of the difference between the mean (*i.e.*, weighted-average price) of a test group and the mean (*i.e.*, weighted-average price) of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region or time period each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s *d* coefficient is used to evaluate the extent to which the prices to the particular purchaser, region, or time period differ significantly from the prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen’s *d* test: small, medium, or large (0.2, 0.5, and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are found to pass the Cohen’s *d* test, if the calculated Cohen’s *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

Next, the “ratio test” assesses the extent of the significant price differences for all sales as measured by the Cohen’s *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test 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-T method to all sales as an alternative to the A-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-T method to those sales identified as passing the Cohen’s *d* test as an alternative to the A-A method, and application of the A-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-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, Commerce examines whether using only the A-A 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 A-A method only. If the difference between the two calculations is meaningful, then this demonstrates that the A-A 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 A-A 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 A-A method and the appropriate alternative method move across the *de minimis* threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.

B. Results of the Differential Pricing Analysis

Venus Group

For the Venus Group, based on the results of the differential pricing analysis, Commerce preliminarily finds that 78.54 percent of the value of U.S. sales pass the Cohen's *d* test,⁶⁹ confirming the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines that there is a meaningful difference between the weighted-average dumping margin calculated using the A-A method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the A-T method to all U.S. sales which passed the Cohen's *d* test and the A-A method to those sales which did not pass the Cohen's *d* test. Thus, for these preliminary results, Commerce is applying the A-T method to all U.S. sales to calculate the weighted-average dumping margin for Venus Group.

Ambica

For Ambica, based on the results of the differential pricing analysis, Commerce preliminarily finds that 68.71 percent of the value of U.S. sales pass the Cohen's *d* test,⁷⁰ confirming 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 between the weighted-average dumping margin calculated using the A-A method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the A-T method to all U.S. sales which passed the Cohen's *d* test and the A-A method to those sales which did not pass the Cohen's *d* test. Thus, for these preliminary results, Commerce is applying the A-A method to all U.S. sales to calculate the weighted-average dumping margin for Ambica.

VIII. DATE OF SALE

Section 351.401(i) of Commerce's regulations states that, "{i}n identifying the date of sale of the subject merchandise 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." The regulation provides further that Commerce may use a date other than the date of invoice if Commerce is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.⁷¹ Commerce has a long-standing practice of

⁶⁹ See Venus Group Preliminary Results Calculation Memorandum.

⁷⁰ See Memorandum, "Antidumping Duty Administrative Review of Stainless Steel Bar from India: Preliminary Analysis Memorandum for Ambica Steels Limited," dated concurrently with this memorandum (Ambica Preliminary Results Calculation Memorandum).

⁷¹ See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)).

finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established.⁷²

Venus Group

For its comparison market and U.S. sales, the Venus Group reported that for both the home market and the U.S. market, quantity can change up until the time that it issues its tax and commercial invoice.⁷³ Therefore, consistent with our practice, we are relying on the invoice date for home market and U.S. market sales.

Ambica

For its home market sales, Ambica reported that quantity and value can change up to the issuance of the goods and services tax (GST) invoice.⁷⁴ For its home market sales, Ambica reported the date of this invoice as the date of sale, which is also the date of shipment.⁷⁵ For its U.S. sales, Ambica reported as the date of sale the date of the commercial invoice from India to the unaffiliated U.S. customer; this date is the same as the GST invoice date.⁷⁶ Therefore, consistent with our practice, we are relying on the date of invoice for both the home market and U.S. market sales.

IX. PRODUCT COMPARISONS

In accordance with section 771(16) of the Act, we considered all products meeting the physical description of merchandise covered by the “Scope of the Order” section above, produced and sold by the respondents in the comparison market during the POR, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales of subject merchandise. Specifically, we made comparisons to weighted-average comparison market prices, where applicable, that were based on all sales which passed the COP test of the identical product during the relevant or contemporary month.

X. EXPORT PRICE AND CONSTRUCTED EXPORT PRICE

Section 772(a) of the Act defines EP as “the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c)” of section 772 of the Act. 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 to an unaffiliated purchaser in the United States

⁷² 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 IDM at Comment 10; see also *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002), and accompanying IDM at Comment 2.

⁷³ See Venus AQR at A-26.

⁷⁴ See Ambica AQR at 3-4.

⁷⁵ See Ambica BCQR at B-20-21.

⁷⁶ See Ambica AQR at 4; see also Ambica BCQR at C-19-20.

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 subsections (c) and (d)” of section 772 of the Act. As explained below, we based the U.S. price on EP for the Venus Group and Ambica.

Venus Group

The Venus Group classified all of its sales of SS Bar to the United States in the POR as EP sales. We calculated EP based on the packed, delivered prices to unaffiliated purchasers in the United States. We adjusted these prices for early payment discounts, billing adjustments, movement expenses, including foreign inland freight, U.S. inland freight, U.S. warehousing expenses, international freight, marine insurance, foreign and U.S. brokerage and handling, and U.S. customs duties, in accordance with section 772(c)(2)(A) of the Act.

The Venus Group claimed an adjustment for duty drawback (DDB) based upon the Duty Drawback Scheme of the Government of India (GOI).⁷⁷ Commerce applies a two-pronged test to determine whether to grant a respondent a DDB adjustment pursuant to section 772(c)(1)(B) of the Act. Specifically, Commerce grants a DDB adjustment if it finds that: (1) import duties and rebates are directly linked to, and are dependent upon, one another; and (2) the company claiming the adjustment can demonstrate that there are sufficient imports of raw materials to account for the duty drawback received on exports on the manufactured product.⁷⁸

However, the information that the Venus Group provided was not sufficient to demonstrate that its import duties and corresponding rebates were linked to, and dependent upon, one another (*i.e.*, there was no license or government document linking the duties paid by the Venus Group and the rebates that relieve the Venus Group from the duties paid). The Venus Group also did not demonstrate that there were sufficient imports of the imported material to account for the amount of import duty refunded or exempted for the export of the manufactured product. Therefore, because the Venus Group did not provide sufficient evidence to pass Commerce’s two-pronged test, we have not increased U.S. price by the amount of drawback claimed by the Venus Group.

Ambica

Ambica classified all of its sales of SS Bar to the United States in the POR as EP sales. We calculated EP based on the packed, delivered prices to unaffiliated purchasers in the United States. We adjusted these prices for movement expenses, including foreign inland freight, international freight, marine insurance, foreign and U.S. brokerage and handling, U.S. inland freight, and U.S. customs duties, in accordance with section 772(c)(2)(A) of the Act.

⁷⁷ See Venus CDQR and Venus SQRD1.

⁷⁸ See *Steel Wire Rope from the Republic of Korea: Final Results of Antidumping Duty Administrative Review*, 61 FR 55965, 55968 (October 30, 1996).

XI. NORMAL VALUE

A. Comparison Market Viability

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

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

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

Commerce may calculate NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the exporter or producer, *i.e.*, sales were made at arm's-length prices.⁷⁹ Commerce excludes home market sales to affiliated customers that are not made at arm's-length prices from our margin analysis because Commerce considers them to be outside the ordinary course of trade. Consistent with 19 CFR 351.403(c) and (d) and our practice, "{Commerce} may calculate normal value based on sales to affiliates if satisfied that the transactions were made at arm's-length."⁸⁰

Venus Group

The Venus Group reported that sales of the foreign like product to all affiliated customers in the home market constituted more than five percent of total sales in the home market; therefore, it reported sales made by affiliated customers to unaffiliated customers in the home market.⁸¹ The Venus Group states that its unaffiliated customers have neither resold the product in the U.S market nor consumed it in the production of non-subject merchandise.⁸² The Venus Group reported that it purchased raw materials (stainless steel hot rolled wire rods and rounds) from unaffiliated suppliers located in India and abroad to produce the subject merchandise.⁸³ Therefore, we have not conducted the arm's-length test with respect to the Venus Group.

⁷⁹ See 19 CFR 351.403(c).

⁸⁰ See *China Steel Corp. v. United States*, 264 F. Supp. 2d 1339, 1365 (CIT 2003), *aff'd*, 306 F. Supp. 2d 1291 (CIT 2004) (citing *Light-Walled Rectangular Pipe and Tube from Mexico: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 55352, 55355 (September 7, 2011)).

⁸¹ See Venus BQR at 3-4.

⁸² *Id.*

⁸³ See Venus DSQR at 3.

Ambica

Ambica reported sales to unaffiliated customers only.

C. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, we will calculate NV based on sales of foreign like products at the same level of trade (LOT) as the EP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).⁸⁴ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.⁸⁵ To determine whether the comparison-market 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 (customer category), and the level of selling expenses for each type of sale. To determine whether home market sales are at a different LOT than U.S. sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. When we are unable to match U.S. sales to sales of the foreign like product in the comparison market at the same LOT, we may compare the U.S. sales to sales at a different LOT in the comparison market. When this occurs and the difference in LOT is demonstrated to affect price comparability based on a pattern of consistent price differences between sales at different LOTs in the market in which NV is determined, we make a LOT adjustment under section 773(a)(7)(A) of the Act.

Venus Group

During the POR, the Venus Group reported that it sold SS Bar through two channels of distribution.⁸⁶ Specifically, the Venus Group reported that in the home market it sold SS Bar to unaffiliated original equipment manufacturers (OEMs), and to affiliated or unaffiliated resellers.⁸⁷ We compared the selling activities between the channels of distribution, and we find that both channels of distributions constitute a single home market LOT. For example, in both channels of distributions, the Venus Group sales either did not involve at all or involved lower levels of sales forecasting, strategic/economic planning, personnel training/exchange, engineering services, advertising, sales promotion, distribution/dealer training, procurement/sourcing services, provision of rebates, warranty service, or guarantees, and performing repacking. Similarly, during the POR, the Venus Group reported that it sold SS Bar to OEMs, trading companies, service centers, and processors in the United States through one channel of distribution,⁸⁸ and thus, we find that it constitutes a single LOT for the reported EP sale. We preliminarily determine that the selling activities associated with the EP sales were the same as those associated with the comparison market sales. Specifically, in both channels of

⁸⁴ See 19 CFR 351.412(c)(2).

⁸⁵ *Id.*; see also *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).

⁸⁶ See Venus Group's AQR at Exhibit A-3 (Selling Functions Chart).

⁸⁷ *Id.*

⁸⁸ *Id.* at 32 and Exhibit A-3.

distribution, the Venus Group provided certain selling functions at similar levels of intensity.⁸⁹ As a result, we preliminarily determine that the LOT for the EP sale was the same as the LOT for the home market sales.⁹⁰ Therefore, for these preliminary results, we did not make a LOT adjustment pursuant to section 773(a)(7)(A) of the Act and 19 CFR 351.412(e), because both LOTs are identical (*i.e.*, one level of trade in the comparison and U.S markets).

Ambica

In the home market, Ambica reported two channels of distribution to two customer types: (1) direct from factory to end user, and (2) from factory to a trading company.⁹¹ Within these channels of distribution, Ambica reported the same selling activities and level of intensity.⁹² Therefore, we preliminarily determine that Ambica's home market sales are made at a single LOT. In the U.S. market, Ambica reported two channels of distribution to the same two customer types: (1) direct from factory to end user, and (2) from factory to a trading company.⁹³ Within these channels of distribution, Ambica reported the same selling activities and level of intensity.⁹⁴ Therefore, we preliminarily determine that Ambica's U.S. sales are also made at a single LOT.

We compared the selling activities between Ambica's U.S. sales and comparison market sales. In both markets, Ambica provides certain selling functions at similar levels of intensity. For example, in both channels Ambica's sales either did not involve at all, or involved lower levels of sales forecasting, strategic/economic planning, personnel training/exchange, engineering services, advertising, distributor/dealer training, procurement/sourcing services, direct sales personnel, market research, technical assistance, provision of rebates, cash discounts, commissions, or warranty service, repacking, and post-sale warehousing.⁹⁵ Similarly, both EP and comparison market sales were made directly from factory to either an end user or trading company.⁹⁶ As a result, we preliminarily determine that the LOT for EP sales was the same as the LOT for the home market sales. Therefore, for these preliminary results, we did not make a LOT adjustment pursuant to section 773(a)(7)(A) of the Act and 19 CFR 351.412(e), because both LOTs are identical (*i.e.*, one level of trade in the comparison and U.S markets).

D. Cost of Production Analysis

Section 773(b)(2)(A)(ii) of the Act requires Commerce to request cost information from respondent companies in all AD proceedings.⁹⁷ As such, Commerce requested cost information from the Venus Group and Ambica (for the subject merchandise produced using the SSWR input) and both companies submitted timely responses. We examined the companies' cost data

⁸⁹ *Id.*

⁹⁰ See Venus Group Preliminary Analysis Calculation Memorandum for further details.

⁹¹ See Ambica AQR at A-20 and Ambica BCQR at B-19-20.

⁹² See Ambica AQR at Exhibit A-5.

⁹³ See Ambica AQR at A-20 and Ambica BCQR at C-18-19.

⁹⁴ See Ambica AQR at Exhibit A-5.

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ See section 773(b)(2)(A)(ii) of the Act.

and determined that our quarterly cost methodology is not warranted and, therefore, we applied our standard methodology of using annual costs based on the reported data.

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. We relied on the COP data submitted by the Venus Group and Ambica in their questionnaire responses for the COP calculation, except as follows.

Ambica

During the POR, Ambica obtained some loans from affiliated parties.⁹⁸ We analyzed Ambica's affiliated transactions in accordance with section 773(f)(2) of the Act, and adjusted Ambica's financial expenses to reflect the higher of market or actual rate of interest.⁹⁹

2. Test of Comparison Market Sales Prices

As required under sections 773(b)(1) and (2) of the Act, we compared the weighted average of the COP for the POR to the per-unit price of the comparison market sales of the foreign like product to determine whether these sales had been made at prices below the COP within an extended period of time in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. We determined the net comparison market prices for the sales-below-cost test by subtracting from the gross unit price any applicable movement charges, discounts, billing adjustments, direct and indirect selling expenses, and packing expenses.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of sales of a given product were at prices less than the COP, we 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 (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.

For both the Venus Group and Ambica, our cost tests demonstrate that, for home market sales of certain products, more than 20 percent were sold at prices below the COP within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time. Thus, in accordance with section 773(b)(1) of the Act, we excluded

⁹⁸ See Ambica SQR3 at Revised Exhibit D-4.

⁹⁹ See Ambica Preliminary Results Calculation Memorandum.

these below-cost sales from our analysis and used the remaining above-cost sales to determine NV.

E. Calculation of Normal Value Based on Comparison Market Prices

For those comparison products for which there were sales at prices above the COP for the respondents, we based NV on home market prices. We calculated NV based on prices to unaffiliated customers in India. Where applicable, we calculated NV based on delivered or ex-works prices to unaffiliated customers. In addition, we made deductions, where appropriate, from the starting price for billing adjustments in accordance with 19 CFR 351.401(c), and adjusted the starting price for foreign inland freight, inland insurance, and warehousing pursuant to section 773(a)(6)(B)(ii) of the Act. We made adjustments for differences in packing, in accordance with section 773(a)(6)(A), and also made adjustments for differences in circumstances of sale (for imputed credit expenses, warranty expenses, and other selling expenses), in accordance with section 773(a)(6)(c)(iii) of the Act and 19 CFR 351.410.

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 products and the subject merchandise.¹⁰⁰

XII. VERIFICATION

As provided in section 782(i) of the Act, we intend to verify information relied upon in reaching the final results of review with respect to Ambica.

XIII. CURRENCY CONVERSION

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. These exchange rates are available on the Enforcement and Compliance's website at <http://enforcement.trade.gov/exchange/index.html>.

¹⁰⁰ See 19 CFR 351.411(b).

XIV. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

☒

Agree

☐

Disagree

2/26/2020

X 

Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance