



A-469-805

ARP: 3/1/2015-2/29/2016

Public Document

E&C/V: CMB

March 23, 2018

MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

FROM: James Maeder
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Certain Stainless Steel Bar from Spain: Issues and Decision
Memorandum for the Final Results of the Antidumping Duty
Administrative Review; 2016-2017

I. SUMMARY

The Department of Commerce (Commerce) analyzed the case and rebuttal briefs submitted by interested parties in the administrative review of the antidumping duty order on stainless steel bar (SSB) from Spain. As a result of this analysis, we have recalculated Sidenor Aceros Especiales, S.L.'s (Sidenor) weighted-average dumping margin. We recommend that you approve the positions described in the "Discussion of Comments" section of this memorandum.

II. LIST OF COMMENTS

Comment: The Date Fields of the Home Market and Margin Program

III. BACKGROUND

The review covers one producer/exporter of the subject merchandise, Sidenor. The period of review (POR) is March 1, 2016, through February 28, 2017. On December 4, 2017, Commerce published the *Preliminary Results* of the 2016-2017 administrative review of the antidumping duty order on certain SSB from Spain.¹ In those results, Commerce preliminarily determined

¹ See *Stainless Steel Bar from Spain: Preliminary Results of Antidumping Duty Administrative Review; 2016 –*



that Sidenor sold subject merchandise in the United States at prices below normal value during the POR.² On January 3, 2018, Sidenor and the petitioners³ timely submitted case briefs regarding Commerce's preliminary decision.⁴ On January 8, 2018, Sidenor timely submitted a rebuttal brief.⁵

III. SCOPE OF THE ORDER

The merchandise subject to the order is SSB. The term SSB with respect to the order means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons or other convex polygons. SSB includes cold-finished SSBs that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process. Except as specified above, the term does not include stainless steel semi-finished products, cut-length flat-rolled products (*i.e.*, cut-length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.*, cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections. The SSB subject to the order is currently classifiable under subheadings 7222.10.00, 7222.11.00, 7222.19.00, 7222.20.00, 7222.30.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.⁶

VI. DISCUSSION OF COMMENTS

Comment: The Date Fields in the Home Market and Margin Program

Sidenor's Comments:

- Commerce should input the begin and end dates in the home market program to correspond to the first and last day of the window period to properly capture all sales.
- Commerce improperly input the last day of the last month of U.S. sales in its margin program as January 1, 2017, when it is January 31, 2017.
- Commerce improperly input the begin date of the window period as February 28, 2017, when it is December 1, 2015.

2017, 82 FR 57208 (December 4, 2017) (*Preliminary Results*).

² *Id.* at 52708.

³ The petitioners in this case are 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).

⁴ See Sidenor's Case Brief, "Case Brief," dated January 3, 2018 (Sidenor Case Brief); Petitioners' Case Brief, "Petitioners' Case Brief," dated January 3, 2018 (Petitioners Case Brief).

⁵ See Sidenor's Rebuttal Brief, "Rebuttal Brief," dated January 8, 2018 (Sidenor Rebuttal Brief).

- Commerce should input the correct dates in the margin program corresponding to the last day of the last month of U.S. sales and the begin date of the window period to prevent home market and U.S. sales from being erroneously dropped and the unnecessary use of total constructed value.

The Petitioners' Comments:

- Commerce improperly input the first day of the first month of U.S. sales in the margin program as February 2, 2016, when it is February 1, 2016.
- Commerce improperly input the last day of the last month of U.S. sales in its margin program as January 1, 2017, when it is January 31, 2017.
- Commerce improperly input the begin date of the window period as February 28, 2017, when it is December 1, 2015.
- Commerce should input the correct dates in the margin program corresponding to the first day of the first month of U.S. sales, the last day of the last month of U.S. sales, and the begin date of the window period to prevent home market and U.S. sales from being erroneously dropped and the unnecessary use of total constructed value.

Sidenor's Rebuttal Comments:

- While the petitioners only identify the dates in the margin program to be changed for the final, failure to also correct the dates in the home market program would continue to lead to erroneous temporal matching of the U.S. and home market sales for purposes of calculating the margin.

Commerce's Position:

Commerce agrees with the petitioners and Sidenor that the dates in the margin program should be revised. Commerce also agrees with Sidenor that the dates in the home market program should be revised in addition to the dates in the margin program. Pursuant to 19 CFR 351.414(f), “{n}ormally, {Commerce} will select as the contemporaneous month [for comparison of normal value with export or constructed export price] the first of the following which applies,” listing, first, “{t}he month during which the particular U.S. sales under consideration were made”; then “if there are no sales of the foreign like product during {that} month, the most recent of the three months prior to the month of the U.S. sales in which there was a sale of the foreign like product,” and, finally, “the earlier of the two months following the month of the U.S. sale in which there was a sale of the foreign like product.” The period established by this regulation is often identified as the “90/60–day window period” because the regulation establishes the reporting period for foreign like product sales to include the months in which U.S. sales were made, as well as three months before and two months after the first and last of those months.⁷ However, this reporting can change if the basis of U.S. sales is defined by another methodology (*e.g.*, POR entries).⁸ Here, based on its U.S. sales and sales of the foreign like product, Sidenor reported

⁷ See 19 CFR 351.414(f); see also *Union Steel Mfg. Co., Ltd. v. United States*, 837 F. Supp. 2d 1307 (CIT 2012).

⁸ See, *e.g.*, *Certain Fresh Cut Flowers from Colombia: Final Results of Antidumping Duty Administrative Reviews*, 61 FR 42833, 42850 (August 19, 1996).

sales during the 90/60-day window period, and as such, the home market program should include those sales for purposes of calculating the margin.⁹

Commerce has also corrected its clerical errors regarding the first day of the first month of U.S. sales, February 1, 2016, the last day of the last month of U.S. sales in the margin program, January 31, 2017, and the begin date of the window period, December 1, 2015.¹⁰ Commerce agrees with Sidenor and the petitioners that without these corrections, home market and U.S. sales are erroneously excluded from the margin calculation which led to the unnecessary use of total constructed value.

VII. RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting the above positions. If these recommendations are accepted, we will publish the final results of this review and the final weighted-average dumping margins in the *Federal Register*.



Agree



Disagree

3/23/2018

X



Signed by: GARY TAVERMAN

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

⁹ See Letter to Commerce from Sidenor, "Supplemental Section B and C Questionnaire Response," dated August 31, 2017 at SBC-26 and SBC-27.

¹⁰ *Id.*