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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: Stainless Steel Bar from Brazil: Decision Memorandum for
Preliminary Results of Antidumping Duty Administrative Review;
2017-2018

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on stainless steel bar (SSB) from Brazil covering the period of review (POR) from February 1, 2017, through August 8, 2017. The review covers one producer/exporter of the subject merchandise, Villares Metals S.A. (Villares). We preliminarily find that Villares has sold subject merchandise at less than normal value (NV). Interested parties are invited to comment on these preliminary results.

II. BACKGROUND

On February 21, 1995, we published in the *Federal Register* an AD order on certain SSB from Brazil.¹ On February 1, 2018, we published in the *Federal Register* a notice of opportunity to request an administrative review of the order.² On April 16, 2018, based on a timely request for

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

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 83 FR 4639 (February 1, 2018). See also, *Stainless Steel Bar from Brazil; and Certain Carbon Alloy Steel Cut-to-length Plat from Brazil: Correction to the Opportunity To Request Administrative Review Notice*, 83 FR 8423 (February 27, 2018).

administrative review,³ Commerce published in the *Federal Register* a notice of initiation of this administrative review of the AD order on SSB from Brazil.⁴

On April 23, 2018, we issued the AD questionnaire to Villares. In June 2018, Villares submitted timely responses to sections A through D of Commerce's questionnaire.⁵ On July 23, 2018, we issued a supplemental questionnaire to Villares, and received its response on August 22, 2018.⁶ On July 3, 2018, the petitioners⁷ requested that Commerce conduct a full verification of Villares, but subsequently withdrew their request on October 2, 2018.⁸ On October 3, 2018, as a result of a five-year (sunset) review, Commerce revoked the AD order on imports of SSB from Brazil, effective August 9, 2017.⁹

III. PERIOD OF REVIEW

The POR covered by this review was initially February 1, 2017 through January 31, 2018. As a result of the determination by the International Trade Commission, that revocation of this AD order would not likely lead to continuation or recurrence of material injury to an industry in the United States, Commerce revoked the AD order on SSB from Brazil pursuant to section 751(d)(2) of the Tariff Act of 1930, as amended (the Act).¹⁰ According to section 751(d)(2) of the Act and 19 CFR 351.222(i)(2)(i), the effective date of revocation is August 9, 2017, which is the fifth anniversary of the effective date of publication in the *Federal Register* of the previous continuation of the order on SSB from Brazil.¹¹ Therefore, the POR for this review was revised to February 1, 2017, through August 8, 2017, to correspond with the effective date of revocation.

IV. 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

³ See the petitioner's Letter "Stainless Steel Bar from Brazil: Petitioners' Request for 2017/2018 Administrative Review," dated February 27, 2018.

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 16298 (April 16, 2018).

⁵ See Villares' June 6, 2018 Section A Questionnaire Response (Villares June 6, 2018 AQR); Villares' June 18, 2018 Section B Questionnaire Response (Villares June 18, 2018 BQR); Villares June 18, 2018, Section C Questionnaire Response (Villares June 18, 2018 CQR); Villares' June 18, 2018 Section D Questionnaire Response (Villares' June 18, 2018 DQR).

⁶ See Villares' August 21, 2018 Supplemental Questionnaire Response (Villares' August 21, 2018 SQR).

⁷ The petitioners include Carpenter Technology Corporation, Crucible Industries LLC, Electralloy, a Division of G.O. Carlson, Inc., North American Stainless, Outokumpu Stainless Bar, LLC, Universal Stainless & Alloy Products, Inc., and Valbruna Slater Stainless, Inc.

⁸ See the petitioners' Letter, "2017-2018 Administrative Review of Stainless Steel Bar from Brazil – Petitioners' Deficiency Comments on Villares Metals' Section A-D Questionnaire Responses," dated July 3, 2018. See also the petitioners' Letter, "2017-2018 Administrative Review of Stainless Steel Bar from Brazil – Petitioners' Withdrawal of Verification Request," dated October 2, 2018.

⁹ See *Stainless Steel Bar from Brazil, India, Japan, and Spain: Continuation of Antidumping Duty Order (India) and Revocation of Antidumping Duty Orders (Brazil, Japan, and Spain)*, 83 FR 49910 (October 3, 2018) (*Revocation Notice*).

¹⁰ *Id.*

¹¹ See *Stainless Steel Bar from Brazil, India, Japan, and Spain: Continuation of Antidumping Duty Orders*, 77 FR 47595 (August 9, 2012).

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.¹²

V. DISCUSSION OF THE METHODOLOGY

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.

(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 Villares' sales of the subject merchandise from Brazil to the United States were made at less than NV, Commerce compared the Export Price (EP) and Constructed Export Price (CEP) to the NV as described in the "Export Price," "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 the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, Commerce examines whether to compare weighted-average NVs with the EPs or CEPs of individual sales (*i.e.*, the average-to-transaction (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.¹³

¹² The HTSUS subheadings provided in the scope changed since the publication of the order. See *SSB Order*

¹³ 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 the accompanying Issues and Decision

In recent investigations, Commerce applied a “differential pricing” analysis for determining whether application of the A-T method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.¹⁴ Commerce finds that the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and on Commerce’s additional experience with addressing the potential masking of dumping that can occur when Commerce uses the A-A method in calculating a respondent’s weighted-average dumping margin.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of 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 code) 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 period of review 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.

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

Memorandum at comment 1; *see also Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286, 1293 (CIT 2014).

¹⁴ *See, e.g., Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); or *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are found to pass the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test account for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the 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

For Villares, based on the results of the differential pricing analysis, we preliminarily find that 90.40 percent of the value of U.S. sales pass the Cohen's *d* test.¹⁵ This confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, we preliminarily determine that the average-to-average method cannot account for such differences because the weighted-average dumping margin crosses the *de minimis* threshold when calculated using the average-to-average method and when calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, for these preliminary results, we are applying the average-to-transaction method to all U.S. sales to calculate the weighted-average dumping margin for Villares.

(2) Product Comparisons

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

(3) Date of Sale

Section 351.401(i) of Commerce’s regulations states that, normally, we 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 that we 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.

¹⁵ See Memorandum, “Administrative Review of the Antidumping Duty Order on Stainless Steel Bar from Brazil: Preliminary Analysis Memorandum for Villares Metals S.A.; 2017-2018,” dated concurrently with this memorandum (Preliminary Analysis Memorandum).

For all CEP sales, and consistent with previous administrative reviews,¹⁶ we determine that the material terms of sale are established on the date of the release of subject merchandise from the unaffiliated, third-party warehouse to the U.S. customer, *i.e.*, the date Villares issues its “nota fiscal.”¹⁷ Therefore, we used the “nota fiscal” date, as reported by Villares, as the date of sale for all CEP sales.

Regarding its EP sales, Villares reported invoice date as the date of sale because that is the date of sale recorded in its normal books and records, and it is the date on which the price and quantity are fixed.¹⁸ This is consistent with our regulatory presumption that invoice date is the date of sale.¹⁹ Thus, because the evidence does not demonstrate that the material terms of sale were established on another date, we used invoice date as the date of sale for all EP sales.

Regarding its home-market sales, Villares reported invoice date as the date of sale because that is the date of sale recorded in its normal books and records, and it is the date on which the price and quantity are fixed.²⁰ This is consistent with our regulatory presumption that the invoice date is the date of sale.²¹ Thus, because the evidence does not demonstrate that the material terms of

¹⁶ See *Stainless Steel Bar from Brazil: Preliminary Results of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 8839 (March 1, 2018) (*2016-2017 Prelim Results*), and accompanying Preliminary Decision Memorandum at 5-7 (unchanged in *Stainless Steel Bar from Brazil: Final Results of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 23633 (May 22, 2018) (*2016-2017 Final Results*)); see also *Stainless Steel Bar from Brazil: Preliminary Results of Antidumping Duty Administrative Review; 2015-2016*, 82 FR 12197 (March 1, 2017) (*2015-2016 Prelim Results*), and accompanying Preliminary Decision Memorandum at 6-7 (unchanged in *Stainless Steel Bar from Brazil: Final Results of Antidumping Duty Administrative Review; 2015-2016*, 82 FR 27691 (June 16, 2017) (*2015-2016 Final Results*)); see also *Stainless Steel Bar from Brazil: Preliminary Results of Antidumping Duty Administrative Review; 2014-2015*, 81 FR 12465 (March 9, 2016), and accompanying Preliminary Decision Memorandum at 5-6 (unchanged in *Stainless Steel Bar from Brazil: Final Results of Antidumping Duty Administrative Review; 2014-2015*, 81 FR 40670 (June 22, 2016)); *Stainless Steel Bar from Brazil: Preliminary Results of Antidumping Duty Administrative Review; 2013-2014*, 79 FR 75789 (December 19, 2014), and accompanying Preliminary Decision Memorandum at 5-6 (unchanged in *Stainless Steel Bar from Brazil: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 12805 (March 11, 2015)); *Stainless Steel Bar from Brazil: Preliminary Results of Antidumping Duty Administrative Review; 2012-2013*, 79 FR 15948 (March 24, 2014), and accompanying Preliminary Decision Memorandum at 5-6 (unchanged in *Stainless Steel Bar from Brazil: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 79 FR 47437 (August 13, 2014)); and *Stainless Steel Bar from Brazil: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 4383 (January 22, 2013), and accompanying Preliminary Decision Memorandum at 3-4 (unchanged in *Stainless Steel Bar from Brazil: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 22227 (April 15, 2013)).

¹⁷ Villares issues three different invoices for its CEP sales to which it refers as the “consignment invoice,” the “daughter invoice,” and the “nota fiscal.” The “consignment invoice” or “mother invoice” is issued when Villares ships the merchandise from its manufacturing plant in Brazil to the third-party warehouse in the United States. The “daughter invoice” is the sales invoice that Villares issues when it releases the merchandise from the third-party warehouse in the United States to the unaffiliated U.S. customer. The “nota fiscal” is the commercial invoice that Villares issues simultaneously or within a few days from the time of issuance of the “daughter invoice.” See Villares June 6, 2018 AQR at A-31 through A-34, and Exhibit A-8; Villares June 18, 2018 CQR at C-20 and C-21. See also Preliminary Analysis Memorandum.

¹⁸ See Villares June 6, 2018 AQR at A-21, A-33, and Exhibit A-10; Villares June 18, 2018 CQR at C-20 and C-21. See also Preliminary Analysis Memorandum.

¹⁹ See 19 CFR 351.401(i).

²⁰ See Villares June 6, 2018 AQR at A-31, A-32, A-35, A-36, and Exhibits A-12 and A-13; Villares June 18, 2018 BQR at B-22. See also Preliminary Analysis Memorandum.

²¹ See 19 CFR 351.401(i).

sale were established on another date, and consistent with previous administrative reviews,²² we used invoice date as the date of sale in the home market.

(4) Level of Trade/CEP Offset

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 or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).²³ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.²⁴ 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 EP sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer.

For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.²⁵ When we are unable to match U.S. sales to sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, we may compare the U.S. sales to sales at a different LOT in 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 an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.*, no LOT adjustment was practicable), then we grant a CEP offset as provided in section 773(a)(7)(B) of the Act.²⁶

In the home market, Villares reported two channels of distribution: direct mill-order sales to distributors and large end-users, and sales to small end-users from inventory through affiliated distribution centers.²⁷ After analyzing the information on the record with respect to the selling

²² See, *e.g.*, 2016-2017 Prelim Results and accompanying Preliminary Decision Memorandum at 5-7 (unchanged in 2016-2017 Final Results).

²³ See 19 CFR 351.412(c)(2).

²⁴ *Id.*; see also *Certain Orange Juice from Brazil: Preliminary Results of Antidumping Duty Administrative Review and notice of Intent Not to Revoke Antidumping Duty Order in Part*, 76 FR 19315 (April 7, 2011) (*OJ from Brazil Prelim*) (unchanged in *Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review, Determination Not To Revoke Antidumping Duty Order in part, and Final No Shipment Determination*, 76 FR 50176 (August 12, 2011) (*OJ from Brazil Final*)); 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) (*Plate from South Africa*).

²⁵ See *Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314-15 (Fed. Cir. 2001).

²⁶ See *OJ from Brazil Prelim*, 76 FR at 19318-19 (unchanged in *OJ from Brazil Final*); see also *Plate from South Africa*, 62 FR at 61732-33.

²⁷ See Villares June 6, 2018 AQR at A-17 through A-39 and Exhibit A-9.

functions performed for each channel, we found that Villares made sales at one distinct marketing stage (*i.e.*, one LOT) in the home market.²⁸

In the U.S. market, Villares had both CEP sales made to end-users through an unaffiliated warehouse in the United States, and mill-order direct EP sales made to end-users.²⁹ Villares reported that its CEP sales were made through one channel of distribution and, thus, we preliminarily find that it constitutes a single LOT.³⁰

We found that there were significant differences between the selling activities associated with the CEP LOT and those associated with the home market level of trade. Specifically, Villares provides general promotion and marketing, product defect claim-related services, technical support and after sales support in the home market, but it does not provide these services in the U.S. market.³¹ Further, for certain other selling functions, such as direct sale personnel, sales and marketing support, and order processing and invoicing, the level of intensity was lower for the CEP LOT compared to the home market LOT.³² Accordingly, the record indicates that Villares performed fewer selling activities for the CEP LOT and that the intensity levels of other selling activities were small in comparison to the intensity levels of activities performed for the home market LOT. However, because Villares did not make any home market sales of subject or non-subject merchandise during the POR at an LOT similar to the CEP LOT, pursuant to section 773(a)(1)(B)(i) of the Act, we could not make an LOT adjustment. Further, because we determined that the home market level of trade was at a more advanced stage of distribution than the CEP LOT, consistent with previous segments of this proceeding,³³ we made a CEP offset adjustment to NV, in accordance with section 773(a)(7)(B) of the Act and 19 CFR 351.412(f).

Villares reported that its EP sales were made through a single channel of distribution and, thus, we find that it constitutes a single LOT.³⁴ We compared the selling activities at the EP LOT with the selling activities at the home market LOT and found that these levels were substantially dissimilar. Villares' EP sales do not involve or involve lower levels of, *e.g.*, general promotion and marketing, direct sales personnel, sales/marketing support, product defect claim-related services, technical service support, and after-sale services, relative to sales at the home market LOT. Therefore, we preliminarily determine the home-market sales to be at a different LOT and at a more advanced stage of distribution than the EP LOT. Because there is only one LOT in the home market, we were unable to calculate an LOT adjustment based on Villares' home market sales of the foreign like product and we have no other information that provides an appropriate basis for determining an LOT adjustment.

²⁸ See Preliminary Analysis Memorandum.

²⁹ See Villares June 6, 2018 AQR at A-17 through A-39 and Exhibit A-9.

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ See *e.g.*, 2016-2017 Prelim Results and accompanying Preliminary Decision Memorandum at 7-9 (unchanged in 2016-2017 Final Results).

³⁴ See Villares June 6, 2018 AQR at A-17 through A-39 and Exhibit A-9.

(5) 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 the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c)” of section 772 of the Act.

We calculated EP for purposes of these preliminary results, in accordance with subsections 772(a) and (c) of the Act, where the subject merchandise was first sold in the country of manufacture (*i.e.*, Brazil) to an unaffiliated purchaser prior to importation and CEP was not otherwise warranted based on the facts of record. Therefore, with respect to Villares’ reported EP sales, we calculated EP based on the price to unaffiliated purchasers in the United States, taking into account the reported terms of delivery. We made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act, which included, where appropriate, foreign inland freight and foreign brokerage and handling charges.

Section 772(b) of the Act defines CEP as “the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by 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, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d)” of section 772 of the Act.

We calculated CEP for purposes of the preliminary results, in accordance with section 772(b) of the Act, where the subject merchandise was sold after importation in the United States. We calculated CEP based on the delivered price to the unaffiliated purchaser in the United States. We made deductions for any movement expenses, including foreign inland freight, foreign brokerage and handling, international freight, marine insurance, 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. In accordance with section 772(d)(1) of the Act, we calculated the CEP by deducting selling expenses associated with economic activities occurring in the United States. Finally, we made an adjustment for profit allocated to these expenses, in accordance with section 772(d)(3) of the Act.

(6) Normal Value

A. Home Market Viability and Comparison Market

To determine whether there was a sufficient volume of sales of SSB in Brazil 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 compared the respondent’s volume of home market sales of the foreign like product to their U.S. sales volume, in accordance with sections 773(a)(1)(B) and (C) of the Act. Because the volume of Villares’ home market sales of the foreign like product exceeded five percent of their aggregate U.S. sales volume of the subject merchandise, we preliminarily determine that Villares’ home market is viable for comparison purposes.

B. *Cost of Production*

Section 773(b)(2)(A)(ii) of the Act requires Commerce to request cost information from respondent companies in all antidumping proceedings.³⁵ Thus, we requested this information from Villares and it submitted timely responses.³⁶ We examined Villares' cost data 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 cost of production (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 Villares in its questionnaire responses for the COP calculation.

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 below cost test by subtracting from the gross unit price any applicable movement charges, 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 disregarded no 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.

Our cost test for Villares indicated 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 these below-cost sales from our analysis and used the remaining above-cost sales to determine NV.³⁷

³⁵ See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46794-95 (August 6, 2015).

³⁶ See Villares' June 18, 2018 DQR. See also Villares' August 21, 2018 SQR.

³⁷ See Preliminary Analysis Memorandum.

C. Calculation of Normal Value Based on Comparison Market Prices

For those comparison products for which there were sales at prices above the COP, we based NV on home market prices. We calculated NV based on prices to unaffiliated customers in Brazil. We adjusted the starting price, where appropriate, for movement expenses pursuant to section 773(a)(6)(B)(ii) of the Act. We made adjustments for differences in circumstances of sale (for imputed credit expenses and commissions) 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.³⁸

VI. CURRENCY CONVERSION

We made currency conversions into U.S. dollars in accordance with section 773A of the Act and 19 CFR 351.415, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. The exchange rates are available on the Enforcement and Compliance website at <http://enforcement.trade.gov/exchange/index.htm>.

VII. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

☒

☐

Agree

Disagree

10/25/2018

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

³⁸ See 19 CFR 351.411(b).