

### Duty Assessment

Upon publication of the final results of this review, the Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. For the period June 1, 2007 through May 31, 2008, we preliminarily determine the antidumping duty margin to be 40.26 percent for JFE, Nippon, and Kobe. If these preliminary results are adopted in our final results of this review, the Department will instruct CBP to assess antidumping duties on all appropriate entries. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after the date of publication of the final results of this review.

The Department clarified its "automatic assessment" regulation on May 6, 2003. See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*). This clarification applies to entries of subject merchandise during the POR produced by any company included in the final results of review for which the reviewed company did not know that the merchandise it sold to the intermediary (e.g., a reseller, trading company, or exporter) was destined for the United States. In such instances, the Department will instruct CBP to liquidate un-reviewed entries at the all-others rate if there is no rate for the intermediary involved in the transaction. See *Assessment Policy Notice* for a full discussion of this clarification.

### Cash Deposit Requirements

The following cash deposit rates will be effective with respect to all shipments of hot-rolled steel from Japan entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results, as provided for by section 751(a)(1) of the Act: (1) For JFE, Nippon, and Kobe, the cash deposit rate will be the rate established in the final results of this administrative review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will be the company-specific rate established for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered by this review, a prior review, or the LTFV investigation, the cash

deposit rate shall be the all-others rate established in the section 129 redetermination of the LTFV investigation, which is 22.92 percent. See *HR from Japan 129*. These deposit rates, when imposed, shall remain in effect until further notice.

### Public Comment

Pursuant to section 351.309 of the Department's regulations, interested parties may submit written comments in response to these preliminary results. Unless the deadline is extended by the Department, case briefs are to be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, are to be submitted no later than five days after the time limit for filing case briefs. Parties who submit arguments in this proceeding are requested to submit with the argument: (1) A statement of the issues, and (2) a brief summary of the argument. Case and rebuttal briefs must be served on interested parties in accordance with section 351.303(f) of the Department's regulations.

Also, pursuant to section 351.310(c) of the Department's regulations, within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Department specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs. Parties will be notified of the time and location.

The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief, no later than 120 days after publication of these preliminary results, unless extended. See section 351.213(h) of the Department's regulations.

### Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under section 351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These preliminary results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 2, 2009.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

A-351-825

#### Stainless Steel Bar From Brazil: Preliminary Results of Antidumping Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain stainless steel bar from Brazil. This review covers one producer/exporter of the subject merchandise, Villares Metals S.A. (VMSA). The period of review (POR) is February 1, 2007, through January 31, 2008.

The Department has preliminarily determined that VMSA made U.S. sales at prices less than normal value. If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Interested parties are invited to comment on these preliminary results of review. We intend to issue the final results of review no later than 120 days from the publication date of this notice.

**EFFECTIVE DATE:** March 9, 2009.

**FOR FURTHER INFORMATION CONTACT:** Catherine Cartos or Minoo Hatten, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482-5287 or (202) 482-1690, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On February 21, 1995, the Department published in the **Federal Register** an antidumping duty order on certain stainless steel bar from Brazil. See *Antidumping Duty Orders: Stainless Steel Bar from Brazil, India and Japan*, 60 FR 9661 (February 21, 1995). On February 4, 2008, the Department published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" of the order. See *Antidumping or Countervailing*

*Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 73 FR 6477 (February 4, 2008).

In accordance with 19 CFR 351.213(b)(2), on February 29, 2008, VMSA requested that the Department conduct an administrative review of its sales and entries of subject merchandise into the United States during the POR; the Department initiated a review on March 31, 2008. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews, Request for Revocation in Part, and Deferral of Administrative Review*, 73 FR 16837 (March 31, 2008). On October 27, 2008, we extended the time period for issuing the preliminary results of the review by 90 days until January 29, 2009. See *Stainless Steel Bar From Brazil: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 73 FR 63695 (October 27, 2008). On February 2, 2009, we extended the time period for issuing the preliminary results of the review by 30 additional days until February 28, 2009. See *Stainless Steel Bar From Brazil: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 74 FR 5817 (February 2, 2009).

The Department is conducting this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

#### Scope of the Order

The scope of the order covers stainless steel bar (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 7222.10.0005, 7222.10.0050, 7222.20.0005, 7222.20.0045, 7222.20.0075, and 7222.30.0000 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.

#### Verification

As provided in section 782(i) of the Act, we have verified sales information provided by VMSA using standard verification procedures, including on-site inspection of the manufacturer's facility, the examination of relevant sales and financial records, and the selection of original documentation containing relevant information. Our verification results are outlined in the public version of the verification report, dated January 29, 2009, which is on file in the Central Records Unit, room 1117 of the main Commerce building.

#### Fair-Value Comparison

To determine whether VMSA's sales of the subject merchandise from Brazil to the United States were at prices below normal value, we compared the export price (EP) or constructed export price (CEP) to the normal value as described in the "Export Price," "Constructed Export Price," and "Normal Value" sections of this notice. Therefore, pursuant to section 777A(d)(2) of the Act, we compared the EP or CEP of individual U.S. transactions to the monthly weighted-average normal value of the foreign like product where there were sales made in the ordinary course of trade as discussed in the "Cost-of-Production Analysis" section of this notice.

#### 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 VMSA in the comparison market during the POR to be foreign like product for the purposes of determining appropriate products to use in comparison to U.S. sales of subject merchandise. Specifically, in making our comparisons, we used the following methodology. If an identical comparison-market model was reported, 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. We calculated the weighted-average comparison-market prices on a level of trade-specific basis. If there were no contemporaneous sales of an identical model, we identified the most similar comparison-market model. To determine the most similar model, we matched the foreign like product based on the physical characteristics reported by the respondent in the following order of importance: general type of finish, grade, remelting process, type of final finishing operation, shape, size.

#### Export Price

The Department based the price of certain U.S. sales of subject merchandise by VMSA on EP as defined in section 772(a) of the Act because merchandise was sold before importation by the producer or exporter of the subject merchandise outside the United States to an unaffiliated purchaser in the United States. We calculated EP based on the packed F.O.B., C.I.F., or delivered price to unaffiliated purchasers in, or for exportation to, the United States. See section 772(c) of the Act. We made adjustments to price for billing adjustments and discounts, where applicable. We also made deductions for any movement expenses in accordance with section 772(c)(2)(A) of the Act.

#### Constructed Export Price

In addition to EP sales, the Department based the price of certain U.S. sales of subject merchandise by VMSA on CEP as defined in section 772(b) of the Act because the merchandise was sold, before importation, by a U.S.-based seller affiliated with the producer to unaffiliated purchasers in the United States. We calculated the CEP based on the packed F.O.B., C.I.F., or delivered price to unaffiliated purchasers in the United States. 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, which includes direct selling expenses. In accordance with section 772(d)(1) of the Act, we also deducted those indirect selling expenses associated with economic activities occurring in the United States and the profit allocated to expenses deducted under section 772(d)(1) in accordance with sections 772(d)(3) and 772(f) of the Act. In accordance with section 772(f) of the Act, we computed profit based on the total revenues realized on sales in both the U.S. and comparison markets, less

all expenses associated with those sales. We then allocated profit to expenses incurred with respect to U.S. economic activity based on the ratio of total U.S. expenses to total expenses for both the U.S. and comparison markets.

#### Duty Drawback

Section 772(c)(1)(B) of the Act provides that EP or CEP shall be increased by, among other things, “the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the subject merchandise to the United States.” The Department determines that an adjustment to U.S. price for claimed duty drawback is appropriate when a company can demonstrate that the “import duty and rebate are directly linked to, and dependent upon, one another” and “the company claiming the adjustment can show that there were sufficient imports of the imported raw materials to account for the drawback received on the exported product.” See *Rajinder Pipes, Ltd. v. United States*, 70 F. Supp. 2d 1350, 1358 (CIT 1999).

VMSA claimed an adjustment to the U.S. price for duty drawback but at verification it was not able to support its claim. See Preliminary Results Analysis Memorandum for Villares Metals S.A., dated March 2, 2009 (VMSA Preliminary Results Analysis Memorandum). The Department finds that VMSA has not provided substantial evidence on the record to establish the necessary link between the import duty and the claimed duty drawback. The Department also finds that VMSA has not demonstrated that there were sufficient imports of the imported raw materials to account for the drawback it received on the exported product. Therefore, because VMSA has not met the Department’s requirements, the Department has denied VMSA’s request for a duty-drawback adjustment to U.S. price for the preliminary results. See VMSA Preliminary Results Analysis Memorandum.

#### Normal Value

##### A. Home-Market Viability

In accordance with section 773(a)(1)(C) of the Act, in order to determine whether there was a sufficient volume of sales of SSB in the home market to serve as a viable basis for calculating the normal value, we compared the volume of the respondent’s home-market sales of the foreign like product to its volume of the U.S. sales of the subject merchandise. VMSA’s quantity of sales in the home

market was greater than five percent of its sales to the U.S. market. Based on this comparison of the aggregate quantities sold in Brazil and to the United States and absent any information that a particular market situation in the exporting country did not permit a proper comparison, we preliminarily determine that the quantity of the foreign like product sold by the respondent in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a)(1) of the Act. Thus, we determine that VMSA’s home market was viable during the POR. *Id.* Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based normal value for the respondent on the prices at which the foreign like product was first sold for consumption in the exporting country in the usual commercial quantities and in the ordinary course of trade and, to the extent practicable, at the same level of trade as the U.S. sales.

##### B. Cost-of-Production Analysis

On November 3, 2008, the petitioners<sup>1</sup> filed a timely below-cost allegation based on the revised home-market database VMSA submitted with its October 27, 2008, response to our supplemental questionnaire. The petitioners based their cost allegation on VMSA’s own cost information, *i.e.*, inventory value and packing cost, which we found to be a reasonable methodology. On December 2, 2008, we initiated a cost investigation because we had reasonable grounds to believe or suspect that VMSA’s sales of the foreign like product under consideration for the determination of normal value may have been made at prices below COP as provided by section 773(b)(2)(A)(ii) of the Act. Pursuant to section 773(b)(1) of the Act, we have conducted a COP investigation of VMSA’s sales in the home market.

In accordance with section 773(b)(3) of the Act, we calculated the COP based on the sum of the costs of materials and labor employed in producing the foreign like product, the selling, general, and administrative expenses, and all costs and expenses incidental to packing the merchandise. In our COP analysis, we used the home-market sales and COP information provided by VMSA in its questionnaire response.

After calculating the COP, in accordance with section 773(b)(1) of the

Act we tested whether home-market sales of the foreign like product were made at prices below the COP within an extended period of time in substantial quantities and whether such prices permitted the recovery of all costs within a reasonable period of time. See section 773(b)(2) of the Act. We compared model-specific COPs to the reported home-market prices less any applicable movement charges, discounts, and rebates.

Pursuant to section 773(b)(2)(C) of the Act, when less than 20 percent of VMSA’s sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because the below-cost sales were not made in substantial quantities within an extended period of time. When 20 percent or more of VMSA’s sales of a given product during the POR were at prices less than the COP, we disregarded the below-cost sales because they were made in substantial quantities within an extended period of time pursuant to sections 773(b)(2)(B) and (C) of the Act and because, based on comparisons of prices to weighted-average COPs for the POR, we determined that these sales were at prices which would not permit recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act.

##### C. Price-to-Price Comparisons

We based normal value for VMSA on home-market sales to unaffiliated purchasers. VMSA’s home-market prices were based on the packed, ex-factory, or delivered prices. When applicable, we made adjustments for differences in packing and for movement expenses in accordance with sections 773(a)(6)(A) and (B) of the Act. We also made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411 and for differences in circumstances of sale in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. For comparisons to EP sales, we made circumstance-of-sale adjustments by deducting home-market direct selling expenses from and adding U.S. direct selling expenses to normal value. We also made adjustments, if applicable, for home-market indirect selling expenses to offset U.S. commissions in EP calculations. For comparisons to CEP sales, we made circumstance-of-sale adjustments by deducting home-market direct selling expenses from normal value.

<sup>1</sup> The petitioners are Carpenter Technology Corporation, Valbruna Slater, Inc., Electralloy Corporation, a Division of G.O. Carlson, Inc., and Universal Stainless.

### Level of Trade

To the extent practicable, we determine normal value for sales at the same level of trade as EP or CEP sales. See section 773(a)(1)(B)(i) of the Act and 19 CFR 351.412. When there are no sales at the same level of trade, we compare EP and CEP sales to comparison-market sales at a different level of trade. The normal-value level of trade is that of the starting-price sales in the comparison market.

To determine whether home-market sales were at a different level of trade than VMSA's U.S. sales in this review, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. Based on our analysis, we have preliminarily determined that there is one level of trade in the United States and two levels of trade in the home market; we also find that the single U.S. level of trade is at the same level as one of the levels of trade in the home market and at a less advanced stage than the second home-market level of trade. Therefore, we have compared U.S. sales to home-market sales at the same level of trade and, where there was no home-market sale at the same level of trade, at a different level of trade.

Because there are two levels of trade in the home market, we were able to calculate a level-of-trade adjustment based on VMSA's home-market sales of the foreign like product. For a detailed description of our level-of-trade analysis for VMSA for these preliminary results, see VMSA Preliminary Results Analysis Memorandum.

### Currency Conversion

Pursuant to section 773(a) of the Act and 19 CFR 351.415, we converted amounts expressed in foreign currencies into U.S. dollar amounts based on the exchange rates in effect on the dates of the relevant U.S. sales, as certified by the Federal Reserve Bank.

### Preliminary Results of Review

As a result of our review, we preliminarily determine that the weighted-average dumping margin for Villares Metals S.A. is 4.97 percent for the period February 1, 2007, through January 31, 2008.

### Disclosure and Public Comment

We will disclose the calculations used in our analysis to parties in this review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of the publication of this notice in the **Federal Register**. See 19 CFR

351.310. If a hearing is requested, the Department will notify interested parties of the hearing schedule.

Interested parties are invited to comment on the preliminary results of this review. The Department will consider case briefs filed by interested parties within 30 days after the date of publication of this notice in the **Federal Register**. See 19 CFR 351.309(c). Interested parties may file rebuttal briefs, limited to issues raised in the case briefs. See 19 CFR 351.309(d). The Department will consider rebuttal briefs filed not later than five days after the time limit for filing case briefs. Parties who submit arguments are requested to submit with each argument a statement of the issue, a brief summary of the argument, and a table of authorities cited. Further, we request that parties submitting written comments provide the Department with a diskette containing an electronic copy of the public version of such comments.

We intend to issue the final results of this administrative review, including the results of our analysis of issues raised in the written comments, within 120 days of publication of these preliminary results in the **Federal Register**.

### Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated importer/customer-specific assessment rates for these preliminary results of review. We divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for each reported importer or customer. We will instruct CBP to assess the importer/customer-specific rate uniformly, as appropriate, on all entries of subject merchandise made by the relevant importer or customer during the POR. See 19 CFR 351.212(b). The Department intends to issue instructions to CBP 15 days after the publication of the final results of review.

The Department clarified its "automatic assessment" regulation on May 6, 2003. See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment of Antidumping Duties*). This clarification will apply to entries of subject merchandise during the POR produced by VMSA for which VMSA did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries of VMSA-produced merchandise at the all-others rate if

there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see *Assessment of Antidumping Duties*.

### Cash-Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of SSB from Brazil entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: (1) the cash-deposit rate for VMSA will be the rate established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation but the manufacturer is, the cash-deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) if neither the exporter nor the manufacturer has its own rate, the cash-deposit rate will be the all-others rate for this proceeding, 19.43 percent. These deposit requirements, when imposed, shall remain in effect until further notice.

### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

These preliminary results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 2, 2009.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Import Administration.*

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