

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. *Submissions via Express/Package Delivery Services:* Foreign-Trade Zones Board, U.S. Department of Commerce, Franklin Court Building-Suite 4100W, 1099 14th Street, NW., Washington, DC 20005; or,

2. *Submissions via the U.S. Postal Service:* Foreign-Trade Zones Board, U.S. Department of Commerce, FCB-Suite 4100W, 1401 Constitution Avenue, NW., Washington, DC 20230.

The closing period for their receipt is January 7, 2005. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to January 24, 2005).

A copy of the application and accompanying exhibits will be available during this time for public inspection at address Number 1 listed above, and at the U.S. Department of Commerce Export Assistance Center, 555 North Pleasantburg Drive, Building 1, Suite 109, Greenville, SC 29607.

Dated: October 29, 2004.

Dennis Puccinelli,

Executive Secretary.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-351-832]

Notice of Preliminary Results of Antidumping Duty Administrative Review: Carbon and Certain Alloy Steel Wire Rod From Brazil

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 carbon and certain alloy steel wire rod (steel wire rod) from Brazil. We preliminarily determine that sales of subject merchandise by Companhia Siderúrgica Belgo Mineira, Belgo Mineira Participação Indústria e Comércio S.A. and BMP Siderúrgica S.A. (collectively, Belgo), have been made below normal value (NV). If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on appropriate entries based on

the difference between the export price (EP) and the NV.

Interested parties are invited to comment on these preliminary results. We will issue the final results no later than 120 days from the publication of this notice.

EFFECTIVE DATE: November 8, 2004.

FOR FURTHER INFORMATION CONTACT:

Jesse Cortes or Constance Handley, at (202) 482-3986 or (202) 482-0631, respectively, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On October 29, 2002, the Department published an antidumping duty order on steel wire rod from Brazil. *See Notice of Antidumping Duty Orders: Carbon and Certain Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine*, 67 FR 65945 (October 29, 2002).

On October 1, 2003, the Department issued a notice of opportunity to request the first administrative review of this order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 68 FR 56618 (October 1, 2003). On October 31, 2003, in accordance with 19 CFR 351.213(b), Belgo requested an administrative review and a deferral of initiation for one year. The petitioners¹ submitted an opposition to Belgo's deferral request on November 14, 2003. On November 18, 2003, the Department denied Belgo's deferral request and published the notice of initiation of this antidumping duty administrative review, covering the period April 15, 2002, through September 30, 2003 (the POR). *See, respectively, Memorandum to Gary Taverman from Constance Handley*, "Request for Deferral of Initiation: First Antidumping Duty Administrative Review of Carbon and Certain Alloy Steel Wire Rod From Brazil," dated November 18, 2003, which is on file in the Central Records Unit (CRU) in Room B-099 of the main Commerce building; and, *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 68 FR 66799 (November 28, 2003).

On December 9, 2003, the Department issued its antidumping questionnaire to Belgo, specifying that the responses to

Section A and Sections B-E would be due on December 30, 2003, and January 15, 2004, respectively.² Belgo requested, and the Department granted, various extensions of time to respond to the different sections of the questionnaire. We received timely responses, as extended, to Sections A-D of the initial antidumping questionnaire and associated supplemental questionnaires. Additionally, Belgo requested, and the Department denied, an exemption from reporting certain home market sales and costs of production. In the investigation, we initiated a COP inquiry; however, Belgo withdrew from the proceeding before the final determination. For that reason, the Department used adverse facts available (AFA) in calculating the margin for Belgo. Consequently, we find that there are reasonable grounds to believe or suspect that Belgo made sales below cost in this review.

In its January 13, 2004, Section A questionnaire response, Belgo indicated that it and a certain U.S. entity may be related under the Department's affiliation rules. Following the submission of comments by parties, and based on an initial review of the U.S. sales record submitted by Belgo, the Department determined that Belgo and the U.S. entity were affiliated within the meaning of section 771(33)(F) of the Tariff Act of 1930, as amended effective January 1, 1995 (the Act) by the Uruguay Round Agreements Act, and requested that Belgo submit data regarding the affiliated U.S. entity's downstream sales to the first unaffiliated U.S. customer. *See Memorandum to Susan Kuhbach from Constance Handley*, "Antidumping Duty Review of Carbon and Certain Alloy Steel Wire Rod from Brazil: Affiliation," dated July 13, 2004, which is on file in the CRU. On July 26, 2004, Belgo requested an exemption from reporting the affiliated U.S. entity's downstream sales and related further-processing costs pursuant to the "special rule" for value added under section 772(e) of the Act and 19 CFR 351.402(c). On July 30, 2004, the petitioners submitted an opposition to the special rule request. Following

² Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under review that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in non-market economy cases). Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production (COP) of the foreign like product and the constructed value of the merchandise under review. Section E requests information on further manufacturing.

¹ The petitioners in this investigation are Co-Steel Raritan, Inc., GS Industries, Inc., Keystone Consolidated Industries, Inc., and North Star Steel Texas, Inc.

further comment from the parties, the Department rejected Belgo's special rule request and requested Belgo's U.S. affiliate to respond to Section E. *See Memorandum to Susan Kuhbach from Jesse Cortes, "Antidumping Duty Review of Carbon and Certain Alloy Steel Wire Rod from Brazil: Special Rule to Exempt Reporting of Sales of Further Manufactured Products,"* dated September 9, 2004, which is on file in the CRU. On September 20, 2004, Belgo's U.S. affiliate requested an extension of time to respond to the Section E questionnaire through October 8, 2004, which the Department granted on September 21, 2004. However, on October 8, 2004, Belgo's U.S. affiliate informed the Department that it was declining to provide the requested response.

Use of Facts Available

Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties. Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information requested by the Department, (B) fails to provide such information by the deadline, or in the form or manner requested, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination. In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with the request for information. *See, e.g., Certain Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty Administrative Review*, 62 FR 53808, 53819–20 (October 16, 1997); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Sweden*, 67 FR 47522, 47523 (July 19, 2002).

As noted above, Belgo's U.S. affiliate has refused to provide a response to the Department's Section E questionnaire.

Belgo was notified by the Department in all of our correspondence, concerning the due dates for submitting data, that failure to submit the requested information by the date specified may result in use of the facts available, as required by section 776(c) of the Act and section 351.308 of the Department's regulations. *See* letters from the Department to Belgo and Belgo's U.S. affiliate dated September 10 and September 21, 2004, which are on file in the CRU. Consequently, pursuant to section 776(b) of the Act, for those sales made by Belgo to its U.S. affiliate, we are applying an AFA rate equal to the highest non-aberrational margin calculated for these preliminary results on Belgo's sales to unaffiliated U.S. customers. *See, e.g., Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from Italy*, 64 FR 30750 (June 8, 1999). *See, also, Memorandum from Constance Handley to the File, "Analysis Memorandum for Companhia Siderúrgica Belgo Mineira, Belgo Mineira Participação Indústria e Comércio S.A. and BMP Siderúrgica S.A.,"* dated November 1, 2004, which is on file in the CRU.

We are also using AFA for certain sales in the home market made pursuant to consignment arrangements which had not been reported in the database. *See Memorandum to Susan Kuhbach from Carol Henninger, "Verification of the Sales Response of Companhia Siderúrgica Belgo Mineira, Belgo Mineira Participação Indústria e Comércio S.A. and BMP Siderúrgica S.A. in the Antidumping Duty Review of Carbon and Certain Alloy Steel Wire Rod from Brazil,"* dated October 1, 2004 (*Sales Verification Report*), at 14, which is on file in the CRU. Additionally, we are using AFA for the cost of coke, a major input supplied to Belgo by an affiliated supplier in Spain; at verification, company officials could not support the Spanish affiliate's COP of coke during the POR. *See Memorandum to Neal Harper from J. Laurens van Houten, "Cost of Production and Constructed Value Verification: Antidumping Duty Review of Carbon and Certain Alloy Steel Wire Rod from Brazil,"* dated November 1, 2004 (*Cost Verification Report*), which is on file in the CRU. Because the COP reported by the Spanish affiliate is higher than either the market or transfer price reported by Belgo, and higher than any market-economy prices the Department has found,³ we have determined that,

although the cost is unverified, it is appropriate for use as AFA.

Since we are using as AFA in this review calculated margins and cost information submitted by the respondent, no corroboration is necessary.

Scope Issues

On March 29, 2004, Belgo requested a scope inquiry with regard to the exclusion of grade 1080 tire cord quality wire rod and tire bead quality wire rod (1080 TCBQWR). We have preliminarily found that 1080 TCBQWR with inclusions greater than 20 microns in any direction, entered, or withdrawn from warehouse, for consumption prior to July 24, 2003, is included in the scope of the order. *See Memorandum to Jeffrey May from Jesse Cortes, "Carbon and Certain Alloy Steel Wire Rod from Brazil: Preliminary Scope Ruling on Grade 1080 Tire Cord Quality Wire Rod and Tire Bead Quality Wire Rod,"* dated October 27, 2004 (*Preliminary Scope Ruling*), which is on file in the CRU.

Scope of the Antidumping Duty Order

Effective July 24, 2003, in accordance with the Department's *Notice of Final Result of Changed Circumstances Review of the Antidumping Duty and Countervailing Duty Orders, and Intent to Revoke Orders in Part*, 68 FR 64079 (November 12, 2003), the scope of this order was amended. *See, also, Preliminary Scope Ruling.* Therefore, for purposes of this review, there were separate scopes in effect. These scopes are set forth below. Belgo had no entries of subject merchandise after the effective date of the scope revision.

Scope of Order from October 29, 2002, Through July 23, 2003

The merchandise subject to this order is certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, 5.00 mm or more, but less than 19.00 mm, in solid cross-sectional diameter.

Specifically excluded are steel products possessing the above-noted physical characteristics and meeting the *Harmonized Tariff Schedule of the United States* (HTSUS) definitions for (a) stainless steel; (b) tool steel; (c) high nickel steel; (d) ball bearing steel; and (e) concrete reinforcing bars and rods. Also excluded are (f) free machining steel products (*i.e.*, products that contain by weight one or more of the following elements: 0.03 percent or

³ *See Memorandum to Neal Harper from Laurens van Houten, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary*

Results—Companhia Siderurgica Belgo-Mineira, Belgo-Mineira Participacao, Industria E Comercio S.A. and BMP Siderurgica S.A.," dated November 1, 2004 (*Cost Calculation Memo*), which is on file in the CRU.

more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorus, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium).

Also excluded from the scope are 1080 grade tire cord quality wire rod and 1080 grade tire bead quality wire rod. This grade 1080 tire cord quality rod is defined as: (i) Grade 1080 tire cord quality wire rod measuring 5.0 mm or more but not more than 6.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no inclusions greater than 20 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04-114; (v) having a surface quality with no surface defects of a length greater than 0.15 mm; (vi) capable of being drawn to a diameter of 0.30 mm or less with 3 or fewer breaks per ton, and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.006 percent or less of nitrogen, and (5) not more than 0.15 percent, in the aggregate, of copper, nickel and chromium.

This grade 1080 tire bead quality rod is defined as: (i) Grade 1080 tire bead quality wire rod measuring 5.5 mm or more but not more than 7.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no inclusions greater than 20 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04-114; (v) having a surface quality with no surface defects of a length greater than 0.2 mm; (vi) capable of being drawn to a diameter of 0.78 mm or larger with 0.5 or fewer breaks per ton; and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of soluble aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.008 percent or less of nitrogen, and (5) either not more than 0.15 percent, in the aggregate, of copper, nickel and chromium (if chromium is not specified), or not more than 0.10 percent in the aggregate of copper and nickel and a chromium content of 0.24 to 0.30 percent (if chromium is specified).

The designation of the products as "tire cord quality" or "tire bead quality" indicates the acceptability of the product for use in the production of tire

cord, tire bead, or wire for use in other rubber reinforcement applications such as hose wire. These quality designations are presumed to indicate that these products are being used in tire cord, tire bead, and other rubber reinforcement applications, and such merchandise intended for the tire cord, tire bead, or other rubber reinforcement applications is not included in the scope. However, should petitioners or other interested parties provide a reasonable basis to believe or suspect that there exists a pattern of importation of such products for other than those applications, end-use certification for the importation of such products may be required. Under such circumstances, only the importers of record would normally be required to certify the end use of the imported merchandise.

All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

The products under review are currently classifiable under subheadings 7213.91.3010, 7213.91.3090, 7213.91.4510, 7213.91.4590, 7213.91.6010, 7213.91.6090, 7213.99.0031, 7213.99.0038, 7213.99.0090, 7227.20.0010, 7227.20.0020, 7227.20.0090, 7227.20.0095, 7227.90.6051, 7227.90.6053, 7227.90.6058, and 7227.90.6059 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Scope of Order From July 24, 2003, Through the POR

The merchandise subject to this order is certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, 5.00 mm or more, but less than 19.00 mm, in solid cross-sectional diameter.

Specifically excluded are steel products possessing the above-noted physical characteristics and meeting the HTSUS definitions for (a) stainless steel; (b) tool steel; (c) high nickel steel; (d) ball bearing steel; and (e) concrete reinforcing bars and rods. Also excluded are (f) free machining steel products (*i.e.*, products that contain by weight one or more of the following elements: 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorus, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium).

Also excluded from the scope are 1080 grade tire cord quality wire rod and 1080 grade tire bead quality wire rod. This grade 1080 tire cord quality

rod is defined as: (i) Grade 1080 tire cord quality wire rod measuring 5.0 mm or more but not more than 6.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no non-deformable inclusions greater than 20 microns and no deformable inclusions greater than 35 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04-114; (v) having a surface quality with no surface defects of a length greater than 0.15 mm; (vi) capable of being drawn to a diameter of 0.30 mm or less with 3 or fewer breaks per ton, and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.006 percent or less of nitrogen, and (5) not more than 0.15 percent, in the aggregate, of copper, nickel and chromium.

This grade 1080 tire bead quality rod is defined as: (i) Grade 1080 tire bead quality wire rod measuring 5.5 mm or more but not more than 7.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no non-deformable inclusions greater than 20 microns and no deformable inclusions greater than 35 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04-114; (v) having a surface quality with no surface defects of a length greater than 0.2 mm; (vi) capable of being drawn to a diameter of 0.78 mm or larger with 0.5 or fewer breaks per ton; and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of soluble aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.008 percent or less of nitrogen, and (5) either not more than 0.15 percent, in the aggregate, of copper, nickel and chromium (if chromium is not specified), or not more than 0.10 percent in the aggregate of copper and nickel and a chromium content of 0.24 to 0.30 percent (if chromium is specified).

For purposes of the grade 1080 tire cord quality wire rod and the grade 1080 tire bead quality wire rod, an inclusion will be considered to be deformable if its ratio of length (measured along the axis—that is, the direction of rolling—of the rod) over thickness (measured on the same inclusion in a direction perpendicular

to the axis of the rod) is equal to or greater than three. The size of an inclusion for purposes of the 20 microns and 35 microns limitations is the measurement of the largest dimension observed on a longitudinal section measured in a direction perpendicular to the axis of the rod. This measurement methodology applies only to inclusions on certain grade 1080 tire cord quality wire rod and certain grade 1080 tire bead quality wire rod that are entered, or withdrawn from warehouse, for consumption on or after July 24, 2003.

The designation of the products as "tire cord quality" or "tire bead quality" indicates the acceptability of the product for use in the production of tire cord, tire bead, or wire for use in other rubber reinforcement applications such as hose wire. These quality designations are presumed to indicate that these products are being used in tire cord, tire bead, and other rubber reinforcement applications, and such merchandise intended for the tire cord, tire bead, or other rubber reinforcement applications is not included in the scope. However, should petitioners or other interested parties provide a reasonable basis to believe or suspect that there exists a pattern of importation of such products for other than those applications, end-use certification for the importation of such products may be required. Under such circumstances, only the importers of record would normally be required to certify the end use of the imported merchandise.

All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

The products under review are currently classifiable under subheadings 7213.91.3010, 7213.91.3090, 7213.91.4510, 7213.91.4590, 7213.91.6010, 7213.91.6090, 7213.99.0031, 7213.99.0038, 7213.99.0090, 7227.20.0010, 7227.20.0020, 7227.20.0090, 7227.20.0095, 7227.90.6051, 7227.90.6053, 7227.90.6058, and 7227.90.6059 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.⁴

Verification

As provided in section 782(i) of the Act, in August and September 2004, we verified information provided by Belgo using standard verification procedures,

including on-site inspection of the manufacturer's facilities, examination of relevant sales, cost and financial records, and selection of original documentation containing relevant information. The Department reported its findings from the sales and cost verification on October 1 and November 1, 2004. See *Sales Verification Report* and *Cost Verification Report*, which are on file in the CRU.

Fair Value Comparisons

To determine whether sales of steel wire rod from Brazil were made in the United States at less than fair value, we compared EP to NV, as described in the "Export Price" and "Normal Value" sections of this notice. Pursuant to section 777A(d)(2) of the Act, we compared the EPs of individual U.S. transactions to the weighted-average NV 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 below.

Product Comparisons

In accordance with section 771(16) of the Act, all products produced by the respondent covered by the description in the "Scope of Order" section, above, and sold in Brazil during the POR, are considered to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. In accordance with section 773(a)(1)(C)(ii) of the Act, in order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the respondent's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise. For further details, see the "Normal Value" section, below.

We compared U.S. sales to sales made in the home market within the contemporaneous window period, which extends from three months prior to the POR until two months after the POR. In making the product comparisons, consistent with our preliminary determination in the original investigation, we have relied on eight criteria to match U.S. sales of subject merchandise to comparison-market sales of the foreign like product: grade, carbon content, surface quality, deoxidization, residual content, heat treatment, diameter, and coating. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 18165 (April 15, 2002). These characteristics have been

weighted by the Department where appropriate.

Export Price

During the POR, Belgo made U.S. sales on an EP basis only.⁵ Section 772(a) of the Act defines EP as the price at which the subject merchandise is first sold before the date of importation by the producer or exporter 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 772(c) of the Act.

We made deductions to the starting price (gross unit price), where appropriate, for movement expenses and rebates to customers, and added duty drawback in accordance with section 772(c)(2)(A) of the Act. Movement expenses included inland freight, warehousing expenses, brokerage and handling fees, international freight, marine insurance, U.S. port expenses, extra discharge expenses, U.S. customs duty, sample fees, demurrage expenses, detention expenses, dead freight expenses, dispatch expenses and bunker surcharges.

Normal Value

A. Home Market Viability

Section 773(a)(1) of the Act directs that NV be based on the price at which the foreign like product is sold in the home market, provided that the merchandise is sold in sufficient quantities (or value, if quantity is inappropriate) and that there is no particular market situation that prevents a proper comparison with the EP. The statute contemplates that quantities (or value) will normally be considered insufficient if they are less than five percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States.

We found that Belgo had a viable home market for steel wire rod. As such, Belgo submitted home market sales data for purposes of the calculation of NV. In deriving NV, we made adjustments as detailed in the "Calculation of Normal Value Based on Home Market Prices" section below.

B. Arm's-Length Test

Belgo reported sales of the foreign like product to affiliated customers. To test whether these sales to affiliated customers were made at arm's length, where possible, we compared the prices of sales to affiliated and unaffiliated customers, net of all movement charges,

⁵ Belgo reported sales to a U.S. affiliate, but we did not calculate margins for those sales.

⁴ Effective January 1, 2004, CBP reclassified certain HTSUS numbers related to the subject merchandise. See http://hotdocs.usitc.gov/tariff_chapters_current/toc.html.

direct selling expenses, and packing. To test whether the sales to affiliates were made at arm's-length prices, we compared the unit prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, and packing expenses. Where the price to that affiliated party was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise sold to the unaffiliated parties at the same level of trade, we determined that the sales made to the affiliated party were at arm's length. *See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Business*, 67 FR 69186 (November 15, 2002). As explained in the "Level of Trade" section of this notice, we were not able to run the arm's-length test because Belgo's sales to its affiliated customers were found to be at a different level of trade than its sales to its unaffiliated customers.

C. Cost of Production Analysis

Because we used AFA in calculating Belgo's margin in the investigation, and a COP inquiry had been initiated, we had reasonable grounds to believe or suspect that home market sales of the foreign like product by Belgo were made at prices below the COP during the POR. Therefore, pursuant to section 773(b)(2)(A)(ii) of the Act, we initiated a COP investigation of sales made by Belgo.

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated the weighted-average COP, by model, based on the sum of materials, fabrication, and general and administrative (G&A) expenses. We relied on Belgo's submitted COP, except for the following adjustments:

- (a) For the raw material coke, we used the COP of Belgo's Spanish affiliate and,
- (b) We revised Belgo's G&A and financial expenses ratios. *See Cost Calculation Memo*.

2. Test of Comparison Market Sales Prices

We compared the weighted-average COPs for Belgo to its home market sales prices of the foreign like product, as required under section 773(b) of the Act, to determine whether these sales had been made at prices below the COP within an extended period of time (*i.e.*, a period of one year) in substantial quantities and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time.

On a model-specific basis, we compared the COP to the home market

prices, less any applicable movement charges, discounts, rebates, and direct and indirect selling expenses.

3. Results of the COP Test

We disregard below-cost sales where (1) 20 percent or more of a respondent's sales of a given product during the POR were made at prices below the COP and thus 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 comparisons of price to weighted-average COPs for the POR, we determined that the below-cost sales of the product were at prices which would not permit recovery of all costs within a reasonable time period, in accordance with section 773(b)(2)(D) of the Act. We found that Belgo made sales below cost and we disregarded such sales where appropriate.

D. Calculation of Normal Value Based on Home Market Prices

We determined NV for Belgo as follows. We made adjustments for any differences in packing and deducted home market movement expenses pursuant to sections 773(a)(6)(A) and 773(a)(6)(B)(ii) of the Act. We also deducted taxes imposed directly on home market sales pursuant to section 773(a)(6)(B)(iii) of the Act.

In addition, we made adjustments for differences in circumstances of sale (COS) pursuant to section 773(a)(6)(C)(iii) of the Act. Specifically, we deducted direct selling expenses incurred for home market sales (credit expenses net of interest revenue) and added U.S. direct selling expenses (credit expenses). For matches of similar merchandise, we made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act.

Because Belgo paid commissions on its EP sales, in calculating NV, we deducted the lesser of either (1) the weighted-average amount of commission paid on a U.S. sale for a particular product, or (2) the weighted-average amount of indirect selling expenses paid on the home market sales for a particular product. *See* 19 CFR 351.410(e).

E. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales 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). *See* 19 CFR 351.412(c)(2). Substantial differences in

selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *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). In order to determine whether the comparison 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"),⁶ including selling functions,⁷ class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices), we consider the starting prices before any adjustments. *See Micron Technology, Inc. v. United States, et al.*, 243 F. 3d 1301, 1314–1315 (Fed. Cir. 2001) (affirming this methodology).

When the Department is unable to match U.S. sales to sales of the foreign like product in the comparison market at the same LOT as the EP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP sales at a different LOT in the comparison market, where available data show that the difference in LOT affects price comparability, we make an LOT adjustment under section 773(a)(7)(A) of the Act.

Belgo reported all of its sales were to end users in both the home market and in the United States. Belgo reported a single channel of distribution in the United States.

In Brazil, Belgo reported three channels of distribution, direct sales to unaffiliated customers, sales through warehouses to unaffiliated customers and direct sales to affiliated customers. Belgo claims that its home market sales to affiliates are made at a different LOT than its home market sales to unaffiliated customers.

⁶ The marketing process in the United States and comparison markets begins with the producer and extends to the sale to the final user or customer. The chain of distribution between the two may have many or few links, and the respondents' sales occur somewhere along this chain. In performing this evaluation, we considered the narrative responses of each respondent to properly determine where in the chain of distribution the sale appears to occur.

⁷ Selling functions associated with a particular chain of distribution help us to evaluate the LOTs in a particular market. For purposes of these preliminary results, we have organized the common selling functions into four major categories: sales process and marketing support, freight and delivery, inventory and warehousing, and quality assurance/warranty services. Other selling functions unique to specific companies were considered, as appropriate.

We examined the information reported by the respondent regarding its marketing process for making the reported home market and U.S. sales, including the type and level of selling activities performed and customer categories. Specifically, we considered the extent to which sales process, freight services, warehouse/inventory maintenance, and warranty services varied with respect to the different customer categories (*i.e.*, distributors and end users) within each market and across the markets.

Based on our analyses, we found two LOTs in the home market, because Belgo performed all selling activities to a lesser degree for its sales to its affiliates in the home market than for U.S. sales to unaffiliated purchasers. We found a single LOT in the United States, which was comparable to the LOT of Belgo's sales to its unaffiliated customers in the home market. We note that, with no sales to unaffiliated parties at the same LOT, it was impossible for any of Belgo's home market sales to affiliates to pass the arm's-length test. Therefore, all comparisons to home market sales were made at the same LOT and no adjustment was necessary.

Currency Conversion

The Department's preferred source for daily exchange rates is the Federal Reserve Bank. However, the Federal Reserve Bank does not track or publish exchange rates for the Brazilian Real. Therefore, we made currency conversions based on the daily exchange rates from Factiva, a Dow Jones & Reuters Retrieval Service.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following weighted-average margin exists for the period April 15, 2002, through September 30, 2003:

Exporter/manufacture	Weighted-average margin percentage
Companhia Siderúrgica Belgo Mineira, Belgo Mineira Participação Industria e Comercio S.A. and BMP Sideúrgica S.A.	98.69%

Disclosure

The Department will disclose calculations performed in accordance with 19 CFR 351.224(b).

Public Comment

Interested parties are invited to comment on the preliminary results. Interested parties may submit case briefs

within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication of this notice. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of the preliminary results.

In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, oral presentations will be limited to issues raised in the briefs. *See* 19 CFR 351.310(c). If a request for a hearing is made, we will tentatively hold the hearing two days after the deadline for submission of rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled date.

Assessment Rates

Pursuant to 19 CFR 351.212(b), the Department calculates an assessment rate for each importer or customer of the subject merchandise. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of the final results of this review. Upon issuance of the final results of this administrative review, if any importer-or customer-specific assessment rates calculated in the final results are above *de minimis* (*i.e.*, at or above 0.5 percent), the Department will instruct CBP to assess antidumping duties on appropriate entries by applying the assessment rate to the entered quantity of the merchandise. For assessment purposes, we calculated importer-or customer-specific assessment rates for the subject merchandise by aggregating the dumping duties due for all U.S. sales to each importer or customer and dividing the amount by the total entered quantity of the sales to that importer or customer.

Cash Deposit Requirements

The following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of steel wire rod from Brazil entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate established in the final results of this administrative review (except no cash deposit will be required if its weighted-average margin is *de minimis*, *i.e.*, less than 0.5 percent); (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less-than-fair-value investigation, the cash deposit rate will continue to be the rate published in the final determination if the manufacturer or exporter received an individual rate; (3) if the exporter is not a firm covered in this review or the original 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; and (4) if neither the exporter nor the manufacturer is a firm covered in this review or the original investigation, the cash deposit rate will be 74.45 percent, the "all others" rate established in the *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792 (August 30, 2002).

Notification to Importers

This notice 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 entities 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.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: November 1, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

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