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International Trade Administration
Washington, D.C. 20230

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Administrative Review
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April 28, 2023

MEMORANDUM TO: Lisa W. Wang
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Common Alloy Aluminum Sheet from Spain; 2020-2022

I. SUMMARY

The U.S. Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on common alloy aluminum sheet (aluminum sheet) from Spain for the period of review (POR) October 15, 2020, through March 31, 2022. The review covers one producer/exporter of the subject merchandise, Baux.[1] We preliminarily determine that Baux made sales of subject merchandise at prices below normal value (NV) during the POR.

II. BACKGROUND

On April 27, 2021, Commerce published in the *Federal Register* the AD order on common alloy aluminum sheet from Spain.[2] On April 1, 2022, Commerce published a notice of opportunity to request an administrative review of the *Order* for the POR.[3] Pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b)(1), Commerce received timely

[1] Commerce previously determined that Baux is a collapsed entity consisting of the following two producers/exporters of subject merchandise: Compania Valenciana de Aluminio Baux, S.L.U. (Aluminio Baux) and Bancolor Baux S.L.U. (Bancolor). *See Common Alloy Aluminum Sheet from Spain: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 85 FR 65367 (October 15, 2020), and accompanying Preliminary Decision Memorandum, unchanged in *Common Alloy Aluminum Sheet from Spain: Final Affirmative Determination of Sales at Less Than Fair Value*, 86 FR 13298 (March 8, 2021) and accompanying Issues and Decision Memorandum (IDM). Because there is no information on the record of this administrative review that would lead us to revisit this determination, we are continuing to treat these companies as a single entity for purposes of this administrative review.
[2] *See Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, India, Indonesia, Italy, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan and the Republic of Turkey: Antidumping Duty Orders*, 86 FR 22139 (April 27, 2021) (*Order*).
[3] *See Antidumping or Countervailing Duty Order, Finding or Suspended Investigation; Opportunity to Request Administrative Review and Join Annual Inquiry Service List*, 87 FR 19075 (April 1, 2022).

requests to conduct an administrative review of the *Order* from the petitioners[4] and Baux.[5] On June 9, 2022, Commerce initiated this administrative review covering Baux.[6] On June 9, 2022, we released U.S. Customs and Border Protection (CBP) data to all interested parties under an administrative protective order and requested comments regarding the data and respondent selection.[7]

On June 17, 2022, we issued the AD questionnaire to Baux,[8] and thereafter we issued several supplemental questionnaires. Between July 29, 2022, and April 12, 2023, Baux submitted timely responses to Commerce's initial and supplemental questionnaires.[9] The petitioners also timely requested that Commerce conduct verification of the factual information submitted in this administrative review.[10] Both the petitioners and Baux filed comments related to the treatment of Baux's reported data, which we have considered for these preliminary results.[11]

On December 5, 2022, pursuant to section 751(a)(3)(A) of the Act, Commerce extended the time limit for completing the preliminary results of this review. The current deadline is April 28, 2023.[12]

III. SCOPE OF THE *ORDER*

The products covered by this *Order* are common alloy aluminum sheet, which is a flat-rolled aluminum product having a thickness of 6.3 mm or less, but greater than 0.2 mm, in coils or cut-to-length, regardless of width. Common alloy sheet within the scope of this *Order* includes both

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[4] The petitioners are the Aluminum Association Common Alloy Aluminum Sheet Trade Enforcement Working Group and its Individual Members, Aleris Rolled Products, Inc., Arconic, Inc., Constellium Rolled Products Ravenswood, LLC, JW Aluminum Company, Novelis Corporation, and Texarkana Aluminum, Inc. *See* Petitioners' Letter, "Domestic Industry's Request for First Administrative Review of the Antidumping Duty Order," dated May 2, 2022; *see also* Petitioners' Letter, "Petitioners' Partial Withdrawal of Request for Initiation of First Administrative Review," dated May 18, 2022.
[5] *See* Baux's Letter, "Request for Administrative Review for the Period October 15, 2020 - March 31, 2022," dated April 29, 2022.
[6] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 87 FR 35165 (June 9, 2022).
[7] *See* Memorandum, "Release of U.S. Customs and Border Protection Data Query," dated June 9, 2022.
[8] *See* Commerce's Letter, "Initial AD Questionnaire," dated June 17, 2022 (Initial Questionnaire).
[9] *See* Baux's Letters, "Section A Response of Jupiter Aluminum Corporation," dated July 29, 2022; "Section A Response," dated July 29, 2022 (Baux July 29, 2022 AQR); "Compañia Valenciana de Aluminio Baux S.L.U. Section B Questionnaire Response," dated August 22, 2022 (Baux August 22, 2022 BQR); "Compañia Valenciana de Aluminio Baux S.L.U. Section C Questionnaire Response," dated August 22, 2022 (Baux August 22, 2022 CQR); "Compañia Valenciana de Aluminio Baux S.L.U. Section D Questionnaire Response," dated August 23, 2022; "Supplemental Section A Response of Jupiter Aluminum Corporation," dated December 22, 2022; " Baux Supplemental Section A Response," dated January 17, 2023 (Baux January 17, 2023 SQR); "Supplemental Section D Response," dated February 24, 2023; " Baux Supplemental Section B-C Response," dated March 10, 2023; " Baux Second Supplemental Section D Response," dated March 24, 2023; " Baux Supplemental Section A-C Questionnaire Response Part I – Section B, Questions 8 & 9," dated March 30, 2023; " Baux Supplemental Section A-C Questionnaire Response Part II – Questions 1-7 & 10-15," dated April 7, 2023 (Baux April 7, 2023 SQR); and "," dated April 12, 2023 (Baux April 12, 2023 SQR).
[10] *See* Petitioners' Letter, "Petitioners' Request for Verification," dated September 12, 2022.
[11] *See* Petitioners' Letter, "Petitioners' Pre-Preliminary Comments," dated April 14, 2023; and Baux's Letter, "Pre-Preliminary Comments," dated March 27, 2023.
[12] *See* Memorandum, "Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review, 2020-2022," dated December 5, 2022.

not clad aluminum sheet, as well as multi-alloy, clad aluminum sheet. With respect to not clad aluminum sheet, common alloy sheet is manufactured from a 1XXX-, 3XXX-, or 5XXX-series alloy as designated by the Aluminum Association. With respect to multi-alloy, clad aluminum sheet, common alloy sheet is produced from a 3XXX-series core, to which cladding layers are applied to either one or both sides of the core. The use of a proprietary alloy or non-proprietary alloy that is not specifically registered by the Aluminum Association as a discrete 1XXX-, 3XXX-, or 5XXX-series alloy, but that otherwise has a chemistry that is consistent with these designations, does not remove an otherwise in-scope product from the scope.

Common alloy sheet may be made to ASTM specification B209-14 but can also be made to other specifications. Regardless of specification, however, all common alloy sheet meeting the scope description is included in the scope. Subject merchandise includes common alloy sheet that has been further processed in a third country, including but not limited to annealing, tempering, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the *Order* if performed in the country of manufacture of the common alloy sheet.

Excluded from the scope of the *Order* is aluminum can stock, which is suitable for use in the manufacture of aluminum beverage cans, lids of such cans, or tabs used to open such cans. Aluminum can stock is produced to gauges that range from 0.200 mm to 0.292 mm, and has an H-19, H-41, H-48, H-39, or H-391 temper. In addition, aluminum can stock has a lubricant applied to the flat surfaces of the can stock to facilitate its movement through machines used in the manufacture of beverage cans. Aluminum can stock is properly classified under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7606.12.3045 and 7606.12.3055.

Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set for the above.

Common alloy sheet is currently classifiable under HTSUS subheadings 7606.11.3060, 7606.11.6000, 7606.12.3096, 7606.12.6000, 7606.91.3095, 7606.91.6095, 7606.92.3035, and 7606.92.6095. Further, merchandise that falls within the scope of the *Order* may also be entered into the United States under HTSUS subheadings 7606.11.3030, 7606.12.3015, 7606.12.3025, 7606.12.3035, 7606.12.3091, 7606.91.3055, 7606.91.6055, 7606.92.3025, 7606.92.6055, 7607.11.9090. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this *Order* is dispositive.

IV. DISCUSSION OF THE METHODOLOGY

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

A. 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 Baux's sales of aluminum sheet to the United States were made at less than NV, Commerce compared the export price (EP) to NV, as described in the "Export Price" and "Normal Value" sections of this memorandum.

1. 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 EP or constructed export price (CEPs) (the average-to-average method) unless Commerce determines that another method is appropriate in a particular situation. In less-than-fair-value (LTFV) investigations, Commerce examines whether to compare weighted-average NVs with the EPs (or CEPs) of individual sales (*i.e.*, the average-to-transaction 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 LTFV investigations.[13]

In numerous investigations and administrative reviews, Commerce has applied a "differential pricing" analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation consistent with 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.[14] Commerce finds that the differential pricing analysis is instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. Commerce will continue to evaluate its approach in this area based on comments received in this review and the application of the differential pricing analysis on a case-by-case basis, and on Commerce's additional experience with addressing the potential masking of dumping that can occur when Commerce uses the average-to-average 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 purchasers, regions, and time periods 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 average-to-average 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 POR based upon the reported date of sale.

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[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 accompanying IDM at Comment 1; *see also Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (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); *see also 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); and *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

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 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 average-to-transaction method to all sales as an alternative to the average-to-average 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 average-to-transaction method to those sales identified as passing the Cohen's *d* test as an alternative to the average-to-average method, and application of the average-to-average 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 average-to-average 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 average-to-average 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 average-to-average method only. If the difference between the two calculations is meaningful, then this demonstrates that the average-to-average 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 average-to-average 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 average-to-average 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.

2. Results of the Differential Pricing Analysis

Based on the results of the differential pricing analysis, Commerce preliminarily finds that none of the value of Baux's U.S. sales pass the Cohen's *d* test,[15] and does not confirm the existence of a pattern of prices that differ significantly among purchasers, regions, and time periods. Thus, the results of the Cohen's *d* test do not support consideration of an alternative to the average-to-average method. Accordingly, Commerce preliminarily determines to apply the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Baux.

B. Product Comparisons

For purposes of determining an appropriate product comparison to U.S. sales, in accordance with section 771(16)(A) of the Act, we considered all products sold in the home market as described in the "Scope of the *Order*" section, above, that were sold in the ordinary course of trade. In making the product comparisons, we matched foreign like products to the products sold in the United States based on their physical characteristics. In order of importance, these physical characteristics are: (1) alloy, (2) clad *versus* non-clad, (3) casting method, (4) non-mechanical surface treatment, (5) coil, (6) nominal width, (7) gauge (nominal thickness), (8) mechanical surface finish, and (9) temper.

Pursuant to 19 CFR 351.414(f), we compared U.S. sales of aluminum sheet to home market sales of aluminum sheet within the same quarter. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales in the same quarter, according to section 771(16)(B) of the Act, we compared U.S. sales of aluminum sheet to sales of the most similar foreign like product made in the ordinary course of trade within the same quarter. In making our comparisons, we computed monthly average NVs.

C. Date Of Sale

Section 351.401(i) of Commerce's regulations states that, "{i}n identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business." The regulation provides further that Commerce may use a date other than the date of invoice if Commerce is satisfied that a different date better reflects the date on which the exporter or

[15] *See* Memorandum, "Preliminary Results Analysis Memorandum for Compania Valenciana de Aluminio Baux, S.L.U./Bancolor Baux, S.L.U.," dated concurrently with this memorandum (Preliminary Analysis Memorandum).

producer establishes the material terms of sale.[16] Commerce has a long-standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established.[17]

For both its home market and U.S. sales, Baux reported the invoice date as its date of sale.[18] Baux stated that it selected the invoice date as the date of sale because that is the point in the sales process at which the material terms of sale are no longer subject to change.[19] Further, there were no instances where shipment date predated the invoice date.[20] Accordingly, we used the invoice date as the date of sale in both the home and U.S. markets for these preliminary results.

D. Export Price

Section 772(a) of the Act defines EP as "the price at which 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 section 772(c) of the Act. Section 772(b) of the Act defines CEP as "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, as adjusted under subsections (c) and (d)."

In accordance with section 772(a) of the Act, we classified all of Baux's sales to U.S. customers as EP sales because the first U.S. sale of subject merchandise to an unaffiliated party was made before the date of importation and CEP methodology was not otherwise warranted based on the facts of the record.

We calculated EP based on packed prices to unaffiliated purchasers in the United States. We made adjustments, where appropriate, from the starting price for billing adjustments, in accordance with 19 CFR 351.401(c). We also made deductions from the starting price, where appropriate, for movement expenses, *i.e.*, foreign inland freight and foreign brokerage and handling expenses, in accordance with section 772(c)(2)(A) of the Act. Where applicable, we reduced movement expenses by the amount of certain revenues, capped by the amount of the associated expenses incurred on the subject merchandise, in accordance with our practice.[21]

[16] *See* 19 CFR 351.401(i); *see also Allied Tube & Conduit Corp.* v. *United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)).
[17] *See*, *e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (December 23, 2004), and accompanying IDM at Comment 10; *see also Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002), and accompanying IDM at Comment 2.
[18] *See* Baux August 22, 2022 BQR at 23-24; *see also* Baux August 22, 2022 CQR at 21-22.
[19] *Id*.
[20] *Id*.
[21] *See* Preliminary Analysis Memorandum.

E. Normal Value

1. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market 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), Commerce normally compares the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with sections 773(a)(1)(A) and (B) of the Act. If Commerce determines that no viable home market exists, Commerce may, if appropriate, use a respondent's sales of the foreign like product to a third country market as the basis for comparison market sales in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404.

In this review, Commerce preliminarily determines that the aggregate volume of home market sales of the foreign like product for Baux was greater than five percent of the aggregate volume of its U.S. sales of the subject merchandise.[22] Therefore, we used home market sales as the basis for NV for Baux, in accordance with section 773(a)(1)(B) of the Act.

2. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, Commerce will calculate NV based on sales at the same level of trade (LOT) as the U.S. sales. 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] In order to determine whether the comparison market sales are at different stages in the marketing process than the U.S. sales, we examine the distribution system in each market (*i.e.*, the chain of distribution), including selling functions and 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),[25] we consider the starting prices before any adjustments. 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.[26]

When Commerce is unable to compare the NV based on the prices of the foreign like product in the comparison market with EP or CEP at the same LOT, Commerce may compare the U.S. sale prices to sale prices at a different LOT in the comparison market. In comparing EP or CEP to

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[22] *See* Baux July 29, 2022 AQR at Exhibit A-1.
[23] *See* 19 CFR 351.412(c)(2).
[24] *Id.*; *see also Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not to Revoke Antidumping Duty Order in Part*, 75 FR 50999 (August 18, 2010) (*OJ from Brazil*), and accompanying IDM at Comment 7.
[25] Where NV is based on constructed value (CV), we determine the NV LOT based on the LOT of the sales from which we derive selling, general, and administrative expenses, and profit for CV, where possible. *See* 19 CFR 351.412(c)(1).
[26] *See Micron Tech., Inc. v. United States*, 243 F. 3d 1301, 1314-16 (Fed. Cir. 2001).

sales at a different LOT in the comparison market, where available data make it possible, 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 sale and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.*, no LOT adjustment is possible), Commerce will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.[27]

In this review, we obtained information from Baux regarding the marketing stages involved in making reported home market and U.S. sales, including a description of the selling activities performed for each channel of distribution.[28] Specifically, in our questionnaires to Baux, we requested that Baux "{p}rovide documentation demonstrating that you performed each of these activities," "{i}ndicate how often you performed each of the specific activities," and show how the expenses associated with "sales made at different claimed levels of trade impact price comparability."[29] Based on the questionnaire responses provided by Baux, our LOT findings are summarized below.

In the home market, Baux reported six channels of distribution, which it grouped into three claimed LOTs: (1) sales made directly from Baux to unaffiliated customers; (2) sales of aluminum sheet produced by Aluminio Baux by Bancolor to unaffiliated customers; and (3) warehouse sales made by Bancolor's Madrid Distribution Center.[30] Within these channels of distribution, Baux categorized its selling functions by intensity level and assigned numeric values for these levels. Baux ranked its selling functions by level of intensity on a scale of zero to ten.[31] These selling activities can be grouped into five selling function categories: (1) provision of sales support; (2) provision of training services; (3) provision of technical support; (4) provision of logistical services; and (5) performance of sales-related administrative activities.[32] Based on these categories, we find that Baux performed the same selling functions for its home market sales through all of its home market channels.[33] Further, because Baux failed to substantiate the intensity at which it performed these selling functions across these groupings, as discussed further below, we preliminarily find that Baux made all home market sales at the same LOT.

According to 19 CFR 351.412(c)(2), Commerce will determine that sales are made at different LOTs if they are made at different marketing stages (or their equivalent). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stage of marketing.[34] Commerce considers both quantitative and quantitative evidence in its LOT analysis,[35] including the following: (1) how expenses assigned to POR sales

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[27] *See OJ from Brazil* IDM at Comment 7.
[28] *See* Baux July 29, 2022 AQR at 17-25 and Exhibits A-4, A-5, and A-6; Baux January 17, 2023 SQR at 7-10 and Exhibits A-19 (Revised) and SA-3; and Baux April 7, 2023 SQR at 4-12.
[29] *See* Initial Questionnaire.
[30] *See* Baux August 22, 2022 BQR at B-32 and B-33.
[31] *See* Baux July 29, 2022 AQR at Exhibit A-19; and Baux January 17, 2023 SQR at Exhibit A-19 (Revised).
[32] *Id.*; *see also* Baux January 17, 2023 SQR at 7-10 and Exhibit SA-3; and Baux April 7, 2023 SQR at 4-12.
[33] *Id.*
[34] *See OJ from Brazil 2008-2009 Final Results* IDM at Comment 7.
[35] *See, e.g., Emulsion Styrene-Butadiene Rubber from Brazil: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 85 FR 38847 (June 29, 2020), and accompanying IDM at Comment 1.

made at different claimed LOT impact price comparability functions; (2) a demonstration of how indirect selling expenses vary by the different LOT claimed; and (3) an explanation of how the quantitative analysis provided by the respondent supports its claimed levels of intensity for the reported selling activities.[36]

Although Baux contends that it sells aluminum sheet at three distinct marketing stages in the home market, which it defined based on differences in selling activities, customers' perceptions, and pricing,[37] we preliminarily find that the record does not support this claim. Significantly, we are unable to corroborate the intensity at which Baux reported performing any of its selling functions due to the insufficiency of supporting/quantitative evidence on the record and an insufficient narrative response.

In particular, we requested that Baux list the specific activities performed for each selling activity category, and provide supporting documentation to substantiate that Baux performed each activity during the POR.[38] We also requested that Baux discuss how each reported activity is relevant to the LOT analysis.[39] In response, Baux submitted a chart listing its selling functions; Baux stated that the information in this chart "represents an estimate based on sales flows for individual channels," and "Baux intends to report a more precise breakdown of the selling expenses associated with each channel in its responses to the other sections of Commerce's questionnaire."[40] Because Baux failed to describe the specific activities it performed for each selling function or to provide supporting documentation that clearly substantiated its reported intensity levels, we again requested that Baux "provide documentation and explanation regarding how the documentation provided supports each of the intensity levels you reported for each selling function."[41] In response, Baux provided a revised exhibit which purported to include more detailed information related to its reported intensity levels, along with some supporting documentation.[42] However, Baux did not explain how the new documentation supported its reported data, nor did it provide documentation for all of the selling activities it reported. As a result, we requested for a third time that Baux provide this information.[43] Although Baux responded to our request, we preliminarily find that Baux's response does not support a determination that home market sales were made at different LOTs.

For instance, Baux provided minimal documentary evidence to support the intensities assigned to "Provision of Sales Support." In its narrative response, Baux reported several sales support activities for three entities (Aluminio Baux, Bancolor, and Bancolor's warehousing unit, "Madrid DC") during the POR, including performing sales forecasting, holding sales meetings, and providing customer sales support.[44] Baux also provided documentation of sales

[36] *See Corrosion-Resistant Steel Products from the Republic of Korea: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2017-2018*, 85 FR 15114 (March 17, 2020), and accompanying IDM at Comment 4.
[37] *See* Baux August 22, 2022 BQR at B-33.
[38] *See* Initial Questionnaire at A-7 to A-8.
[39] *Id*.
[40] *See* Baux July 29, 2022 AQR at A-16.
[41] *See* Commerce Letter, "Supplemental Section A Questionnaire," dated December 20, 2022 at 3.
[42] *See* Baux January 17, 2023 SQR at 7 and Exhibit A-19 (Revised).
[43] *See* Commerce Letter, "Supplemental Questionnaire" dated March 23, 2023 at 5-6.
[44] *See* Baux April 7, 2023 SQR at 6.

forecasting/planning with a customer which occurred outside the POR.[45] Further, although Baux claimed that, because Aluminio Baux sells aluminum sheet in larger volumes per order than does Bancolor, Aluminio Baux performs sales forecasting at a relatively lower level of intensity,[46] Baux provided no qualitative analysis to support this contention. Baux also provided no other documentation to support the intensity levels reported for the remaining customer support activities.

Regarding the "Provision of Training Services," Baux itself admits that the level of intensity and frequency of training activities between the various channels was comparable.[47] Further, while Baux claimed that training activities differed for the three entities based on the products each sold, Baux provided as evidence an email exchange with a Bancolor customer which occurred outside the POR; however, it is not clear how this documentation supports Baux's reported intensity level for the three entities during the POR.[48] Rather, Baux simply asserted that higher-intensity training services for Bancolor are warranted due to the high level of small customer support by Madrid DC, without providing documentation to support this assertion (or any other intensity levels reported for the other selling activities under this selling function).

Regarding the "Provision of Logistical Services," Baux similarly claimed large differences for the three entities during the POR, including more frequent inventory management discussions between Aluminio Baux and its customers; and greatly increased delivery arrangements and warehousing activities, as well as cutting and repacking services, at Bancolor and Madrid DC.[49] Baux provided only a single post-POR email exchange with an Aluminio Baux customer as evidence of this claim,[50] and it did not explain why certain of these activities were relevant, given that Bancolor's cutting costs and repacking are captured in Baux's reported home market direct selling expenses.

Regarding the "Provision of Sales-Related Administrative Activities," Baux based its claimed differences solely on the fact Bancolor and Madrid DC issued more invoices, and collected more payments, during the POR. However, Baux failed to show how this fact resulted in a corresponding increase in the intensity of the associated administrative activities.[51]

For the foregoing reasons, we preliminarily find that Baux has not satisfied its burden of proof that Baux's home market sales during the POR were made at different LOTs, and, thus, we preliminarily find that there is one LOT in the home market.

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[45] *See* Baux January 17, 2023 SQR at Exhibit SA-3.
[46] *Id.* at 6. In particular, Baux stated that Bancolor's smaller order volumes necessitate increased forecasting of customer needs to plan production and delivery requirements.
[47] *Id.*
[48] *Id.* at Exhibit SA-3.
[49] *See* Baux April 7, 2023 SQR at 7.
[50] *See* Baux January 17, 2023 SQR at Exhibit SA-3.
[51] Regarding the "Provision of Technical Support," Baux does not claim that its selling functions in this category differed by its home market selling channels. *See* Baux January 17, 2023 SQR at Exhibit A-19 (Revised).

With respect to the U.S. market, Baux made EP sales during the POR[52] through one channel.[53] Based on the above-referenced selling function categories, we preliminarily find that Baux performed selling functions, in the same manner, related to all of the five selling function categories for its U.S. sales.[54] Accordingly, we preliminarily find there is one LOT in the U.S. market.

Because we preliminarily find only one LOT in the home market, we preliminarily also find that an LOT adjustment is not possible for Baux, pursuant to section 773(a)(7)(A) of the Act.

3. Cost of Production Analysis

In accordance with section 773(b)(2)(A)(ii) of the Act, Commerce requested cost of production (COP) information from Baux. We examined Baux's cost data and determined that our quarterly cost methodology is warranted for the reasons noted below.

a. Cost Averaging Methodology

Commerce's normal practice is to calculate an annual weighted-average cost for the POR. However, we recognize that possible distortions may result if we use our normal annual-average cost method during a time of significant cost changes. In determining whether to deviate from our normal methodology of calculating an annual weighted-average cost, we evaluate the case-specific record evidence by examining two primary criteria: (1) the change in the cost of manufacturing (COM) recognized by the respondent during the POR must be deemed significant; and (2) the record evidence must indicate that sales during the shorter cost-averaging periods could be reasonably linked with the COP or CV during the same shorter cost-averaging periods.[55]

b. Significance of Cost Changes

In prior cases, we established 25 percent as the threshold (between the high- and low-quarter COM) during a period of 12 months, or 37.5 percent during a period of 18 months, for determining that the changes in COM are significant enough to warrant a departure from our standard annual-average cost approach.[56] In the instant case, record evidence shows that Baux experienced significant cost changes (*i.e.*, changes that exceed 37.5 percent) between the high and low quarterly COM during the POR.[57] This change in COM is attributable primarily to the price volatility for the primary inputs used in the production of aluminum sheet.

[52] *See* Baux August 22, 2022 CQR at C-18.
[53] *Id*. at C-20-C-21.
[54] *See* Baux July 29, 2022 AQR at Exhibit A-19; *see also* Baux January 17, 2023 SQR at Exhibit A-19 (Revised).
[55] *See Stainless Steel Sheet and Strip in Coils from Mexico: Final Results of Antidumping Duty Administrative Review*, 75 FR 6627 (February 10, 2010) (*SSSSC from Mexico*), and accompanying IDM at Comment 6; and *Stainless-Steel Plate in Coils from Belgium: Final Results of Antidumping Duty Administrative Review*, 73 FR 75398 (December 11, 2008) (*SSPC from Belgium*), and accompanying IDM at Comment 4.
[56] *See SSPC from Belgium* IDM at Comment 4.
[57] *See* Memorandum, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results – Compañia Valenciana de Aluminio Baux S.L.U.," dated concurrently with this memorandum (Preliminary Cost Memorandum) at Attachment 1.

c. Linkage between Sales and Cost Information

Consistent with past precedent, because we found the changes in costs to be significant, we evaluated whether there is evidence of a linkage between the cost changes and the sales prices during the POR.[58] Absent a surcharge or other pricing mechanism, Commerce may alternatively look for evidence of a pattern showing that changes in sales prices reasonably correlate to changes in unit costs.[59] To determine whether a reasonable correlation existed between the sales prices and underlying costs during the POR, we compared weighted-average quarterly prices to the corresponding quarterly COM for the control numbers with the highest volume of sales. Our comparison revealed that sales prices and costs for Baux showed reasonable correlation.[60]

After reviewing this information and determining that changes in sales prices correlate with changes in unit costs, we preliminarily find that there is linkage between Baux's changing sales prices and costs during the POR.[61] Thus, we preliminarily find that a shorter cost period approach, based on a quarterly-average COM, is appropriate for Baux because we found significant cost changes in COM as well as reasonable linkage between costs and sales prices.

d. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated the COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses and interest expenses. As explained above, we examined the cost data and preliminarily determined that our quarterly cost methodology is warranted.

We calculated Baux's quarterly-average COP based on the quarterly-average COM rather than the annual-average COM. We relied on the COP information provided by Baux in our calculations, except as noted below.

1. We replaced the transfer prices for inputs sold between the collapsed Baux companies with the producer's actual cost of the input;
2. Baux purchased a small fraction of the aluminum sheet ultimately resold in the domestic market from unaffiliated parties. Because Baux is not the producer of this sheet, we excluded the acquisition costs reported for the aluminum sheet purchased from unaffiliated parties from our calculation of control-number-specific costs; and
3. We revised Baux's financial expense ratio to exclude the foreign translation gains and losses reported as other comprehensive income on the consolidated financial statements (*i.e.*, the income and expense items that are not considered part of net income on the audited income statement).

[58] *See SSSSC from Mexico* IDM at Comment 6; and *SSPC from Belgium* IDM at Comment 4.
[59] *See SSPC from Belgium* IDM at Comment 4.
[60] *See* Preliminary Cost Memorandum at Attachment 1.
[61] *Id.*; *see also SSSSC from Mexico* IDM at Comment 6; and *SSPC from Belgium* IDM at Comment 4.

e. Test of Comparison Market Sales Prices

On a product-specific basis, pursuant to section 773(b) of the Act, we compared weighted-average quarterly COP to comparison market sales prices of the foreign like product to determine whether sales had been made at prices below the COP. In particular, in determining whether to disregard comparison market sales made at prices below the COP, we examined whether such sales were made within an extended period of time in substantial quantities and at prices which permitted the recovery of all costs within a reasonable period of time, in accordance with sections 773(b)(2)(B), (C), and (D) of the Act. For purposes of this comparison, we used COP exclusive of actual selling and packing expenses. The prices were net of any applicable billing adjustments, movement expenses, actual direct and indirect selling expenses, and packing expenses, where appropriate.

f. Results of the COP Test

In determining whether to disregard comparison market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether: (1) within an extended period of time, such sales were made in substantial quantities; and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. In accordance with sections 773(b)(2)(B) and (C) of the Act, where less than 20 percent of the respondent's comparison market sales of a given product are at prices less than the COP, we do not disregard any below-cost sales of that product because we determine that in such instances the below-cost sales were not made within an extended period of time and in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we disregard the below-cost sales when: (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 COPs for the POR, 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.

We found that, for certain products, more than 20 percent of Baux's comparison market sales were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. We, therefore, disregarded these sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

4. Calculation of NV Based on Comparison Market Prices

We calculated NV based on delivered prices to unaffiliated customers in the home market. We made adjustments, where appropriate, from the starting price for billing adjustments, early payment, and rebates, pursuant to 19 CFR 351.401(c). We also made deductions, where appropriate, from the starting price for certain movement expenses, *i.e.*, inland freight by truck and ship, warehousing, brokerage and handling expenses, marine insurance, and other freight expenses, pursuant to section 773(a)(6)(B)(ii) of the Act.

For comparisons to EP sales, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale. Specifically, we deducted direct selling expenses incurred for home market sales, *i.e.*, imputed credit expenses, and added U.S. direct selling expenses, *i.e.*, imputed credit expenses. We also made adjustments, in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred for sales in the home market where commissions were granted on U.S. sales, also known as the "commission offset." Specifically, we limited the amount of the commission offset to the amount of either the indirect selling expenses incurred in the home market or the commissions paid in the U.S. market, whichever is less.

Finally, we deducted home market packing costs and added U.S. packing costs, in accordance with sections 773(a)(6)(A) and (B) of the Act.

When comparing U.S. sales with home 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 of the foreign like product and that of the subject merchandise.[62]

V. CURRENCY CONVERSION

We made currency conversions into U.S. dollars in accordance with section 773A(a) 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 https://enforcement.trade.gov/exchange.

VI. RECOMMENDATION

Based on our analysis, we recommend adopting the above positions in these preliminary results. If this recommendation is accepted, we will publish the preliminary results of the review and the preliminary dumping margin in the *Federal Register*.

☒	☐
Agree	Disagree

X 

Signed by: LISA WANG

Lisa W. Wang
Assistant Secretary
for Enforcement and Compliance

[62] *See* 19 CFR 351.411(b).