

SICARTSA claims that sales at both LOTs in the home market are at a more advanced LOT than the LOT in the United States.

In determining whether home market sales are at a different LOT than U.S. EP sales, we examined the channels of distribution, customer categories, and selling functions reported in the home market and in the United States. On the basis of this analysis we preliminarily find that sales at both home market LOTs are more advanced than sales at the LOT in the U.S. market. Although there are two levels of trade in the home market, neither is equivalent to with the U.S. LOT. Therefore, we have no appropriate information on which to determine if there is a pattern of consistent price differences between the comparison sales on which NV is based and sales at the LOT of the export transactions. Accordingly, we will match U.S. sales to the LOT we find to be closest to the U.S. LOT (*i.e.*, home market LOT 1), where possible.

Currency Conversions

We made currency conversions into U.S. dollars in accordance with section 773A of the Act based on exchange rates in effect on the dates of the U.S. sales, as obtained from the Federal Reserve Bank (the Department's preferred source for exchange rates).

Verification

In accordance with section 782(i) of the Act, we intend to verify all information relied upon in making our final determination.

Final Critical Circumstances Determination

We will make a final determination concerning critical circumstances in this case when we make our final determination regarding sales at LTFV in this investigation.

Suspension of Liquidation

Because of our preliminary affirmative critical circumstances findings in this case, we are directing the Customs Service to suspend liquidation of any unliquidated entries of steel wire rod from Mexico entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days prior to the date on which this notice is published in the *Federal Register*. We are instructing the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated in the chart below for imports from Mexico. These instructions suspending liquidation will remain in effect until further notice.

The weighted-average dumping margins are provided below:

Manufacturer/exporter	Margin (percent)
SICARTSA	25.70
All Others	25.70

Disclosure

The Department will normally disclose calculations performed within five days of the date of publication of this notice to the parties of the proceeding in this investigation in accordance with 19 CFR 351.224(b).

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final antidumping determination is affirmative, the ITC will determine whether the imports covered by that determination are materially injuring, or threaten material injury to, the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

Public Comment

Case briefs for this investigation must be submitted no later than one week after the issuance of the verification reports. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on diskette.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made in an investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. In the event that the Department receives requests for hearings from parties to more than one steel wire rod case, the Department may schedule a single hearing to encompass all those cases.

Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: April 2, 2002

Faryar Shizad,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-841-805]

Carbon and Certain Alloy Steel Wire Rod from Moldova: Notice of Preliminary Determination of Sales at Less Than Fair Value

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

SUMMARY: We preliminarily determine that carbon and certain alloy steel wire rod (wire rod) from Moldova is being, or is likely to be, sold in the United States at less than fair value (LFTV), as provided in section 733 of the Tariff Act of 1930, as amended. The estimated margin is shown in the "Suspension of Liquidation" section of this notice.

DATES: April 10, 2002.

FOR FURTHER INFORMATION CONTACT:

Thomas Gilgunn or Scott Lindsay, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4236 or (202) 482-0780, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"). In addition, unless otherwise indicated, all citations to the Department of Commerce ("the Department") regulations are to the regulations at 19 CFR Part 351 (2001).

Period of Investigation

The period of investigation (POI) is January 1, 2001 through June 30, 2001.

Scope of Investigation

The merchandise covered by these investigations 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 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 investigation 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.

See "Carbon and Certain Alloy Steel Wire Rod: Requests for exclusion of various tire cord quality wire rod and tire bead quality wire rod products from the scope of antidumping duty (Brazil, Canada, Egypt, Germany, Indonesia, Mexico, Moldova, South Africa, Trinidad and Tobago, Ukraine, and

Venezuela) and countervailing duty (Brazil, Canada, Germany, Trinidad and Tobago, and Turkey) investigations."

Case History

On September 24, 2002, the Department initiated antidumping investigations of wire rod from Brazil, Canada, Egypt, Germany, Indonesia, Mexico, Moldova, South Africa, Trinidad and Tobago, Ukraine, and Venezuela. (*See Notice of Initiation of Antidumping Duty Investigations: Carbon and Certain Alloy Steel Wire Rod From Brazil, Canada, Egypt, Germany, Indonesia, Mexico, Moldova, South Africa, Trinidad and Tobago, Ukraine, and Venezuela*, 66 FR 50164 (October 2, 2001) ("Notice of Initiation")). The petitioners in this investigation are Co-Steel Raritan, Inc., GS Industries, Keystone Consolidated Industries, Inc., and North Star Steel Texas, Inc. ("petitioners"). Since the initiation of these investigations, the following events have occurred.

On October 9, 2001, petitioners requested that the scope of the investigation be amended to exclude high carbon, high tensile 1080 grade tire cord and tire bead quality wire rod actually used in the production of tire cord and bead, as defined by specific dimensional characteristics and specifications. On November 28, 2001, the five largest U.S. tire manufacturers and the industry trade association, the Rubber Manufacturers Association, submitted a letter to the Department in response to petitioners' October 9, 2001, submission regarding the exclusion of certain 1080 grade tire cord and tire bead wire rod used in the production of tire cord and bead. Additionally, the tire manufacturers requested clarification from the Department if 1090 grade is included in petitioners' October 9, 2001, scope exclusion request. The tire manufacturers requested an exclusion from the scope of this investigation for 1070 grade wire rod and related grades, citing a lack of domestic production capacity to meet the requirements of the tire industry. On November 28, 2001, petitioners further clarified and modified their October 9, 2001 amendment of the scope of the petition. Finally, on January 21, 2002, Tokusen U.S.A., Inc. submitted a request that grade 1070 tire cord wire rod, and tire cord wire rod more generally, be excluded from the scope of the antidumping duty and countervailing duty investigations. The Department's analysis of scope issues and exclusion requests is discussed in the *Scope Memo*.

On October 15, 2001, the United States International Trade Commission

(USITC) notified the Department of its affirmative preliminary injury determination on imports of subject merchandise from Brazil, Canada, Germany, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine. On October 29, 2001, the USITC published its preliminary determination stating that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of the subject merchandise from Brazil, Canada, Germany, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine. *See Carbon and Certain Alloy Steel Wire Rod From Brazil, Canada, Egypt, Germany, Indonesia, Mexico, Moldova, South Africa, Trinidad and Tobago, Turkey, Ukraine, and Venezuela*. 66 FR 54539 (October 29, 2001).

The Department issued a letter on October 16, 2001 to interested parties in all of the concurrent wire rod antidumping investigations, providing an opportunity to comment on the Department's proposed model match characteristics and hierarchy. Petitioners submitted comments on October 24, 2001. The Department also received comments on model matching from respondents Hysla S.A. de C.V. (Mexico), Ivaco, Inc., and Ispat Sidbec Inc. (Canada).

On January 17, 2002, petitioners requested that the Department extend the deadline for issuance of the preliminary determinations by 30 days. On January 28, 2002, the Department published in the **Federal Register** the notice postponing the preliminary determinations to March 13, 2002 (*see Notice of Postponement of Preliminary Antidumping Duty Determinations: Carbon and Certain Alloy Steel Wire Rod From Brazil, Canada, Germany, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine*, (67 FR 3877)). On March 4, 2002, petitioners submitted a letter to the Department requesting the Department to extend the deadline for issuance of the preliminary determinations by an additional 20 days. The Department published in the **Federal Register** the notice postponing the preliminary determinations an additional 20 days until April 2, 2002 (*see Notice of Postponement of Preliminary Antidumping Duty Determinations: Carbon and Certain Alloy Steel Wire Rod From Brazil, Canada, Germany, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine*, 67 FR 11674 (March 15, 2002)).

With respect to the investigation involving Moldova, the following events have occurred. On November 2, 2001, the Department issued a letter to the Embassy of Moldova in Washington,

D.C. (Moldovan Embassy), requesting quantity and value information for all Moldovan producers/exporters who manufactured or exported subject merchandise to the United States during the POI. The Department requested that the Moldovan Embassy forward this request to all Moldovan producers and exporters of wire rod that was sold to the United States during the period of investigation ("POI"). On November 27, 2001, the Moldovan Embassy submitted a letter confirming that the Government of the Republic of Moldova (GORM) had distributed the "questionnaire to all Moldovan companies who manufacture and export the wire rod to the United States" and asking for an extension of the deadline for a response to the questionnaire. On December 3, 2001, Department officials telephoned the Moldovan Embassy to ascertain how many Moldovan companies manufactured and exported wire rod to the United States during the POI and to inform the GORM that the Department could not grant any extension of the deadline for responses until the GORM notified the Department of names of the companies requesting extensions (*see Memorandum from the Team to the File regarding "Carbon and Certain Alloy Steel Wire Rod from Moldova," dated December 3, 2001 on file in the Central Records Unit, Room B099 of the Department of Commerce (CRU)*). The GORM has not identified any wire rod producers or exporters other than Moldova Steel Works (MSW).

On November 2, 2001, the Department issued an antidumping questionnaire to MSW, the only Moldovan producer/exporter named in the petition. On November 8, 2001, the Department issued minor revisions to the questionnaire. (*See "Memorandum to the File," from Scott Lindsay through Dana Mermelstein, dated November 8, 2001, on file in the CRU.*)

On November 28, 2001, the Department invited interested parties to comment on surrogate country selection and to provide publicly available information for valuing the factors of production. We received comments regarding surrogate country selection from MSW and the petitioners on December 4, 2001. Petitioners submitted surrogate value information on January 11, 2002 and March 19, 2002.

On November 30, 2001 and December 27, 2001, respectively, the Department received MSW's section A questionnaire response and sections C and D responses. The Department issued supplemental questionnaires on December 20, 2001, January 25, 2002, and February 7, 2002. MSW submitted supplemental questionnaire responses

on January 16, 2002, February 21, 2002, and March 4, 2002. As requested by MSW, the Department granted several extensions of deadlines for filing questionnaire responses. Petitioners submitted comments on MSW's questionnaire responses on December 10, 2001, January 23, 2002, March 4, 2002, and March 19, 2002.

On November 14, 2001, MSW submitted a request for, and information in support of, graduation to market economy status for Moldova, effective January 1, 2001. On November 30, 2001, MSW requested that the Department apply market-economy methodology in all antidumping proceedings initiated against Moldova on or after January 1, 2001. On December 6, 2001, petitioners submitted comments regarding the request for market economy graduation. On December 13, 2001, MSW submitted a letter from the GORM requesting that the Department revoke Moldova's non-market-economy (NME) status. On December 21, 2001, MSW submitted a letter reiterating its view that the Department should graduate Moldova to market economy status and issue a market-economy questionnaire. Although the Department did not issue a market-economy questionnaire to MSW, MSW filed its market economy questionnaire responses on December 28, 2001.

On December 21, 2001, the GORM clarified its request for revocation of NME status. On January 9, 2002, the GORM further clarified its request for revocation of NME status. These two letters were placed on the record by the Department on January 14, 2002. *See "Memorandum regarding Telephone Conversation with Victor Chirella from the Embassy of Moldova," dated January 14, 2002.* On January 15, 2002, Department officials met with representatives from the Moldovan Embassy to discuss the status of Moldova's market economy request (*see "Memorandum to the File regarding Ex-Parte Meeting: Antidumping Duty Investigation of Carbon and Certain Alloy Steel Wire Rod from Moldova," dated January 25, 2002*). On January 16, 2001, petitioners commented on the GORM's December 21, 2001, and January 15, 2002, letters. On January 29, 2002 and February 28, 2002, MSW commented on the GORM's letters and urged the Department to apply market economy methodology to MSW.

On February 5, 2002, Department officials met with an official of the GORM's WTO Division to discuss procedural questions regarding graduation from NME status (*see "Memorandum regarding Meeting with Official from the Republic of Moldova*

Ministry of Economy," dated February 6, 2002). On February 25, 2002, Department officials met with counsel to MSW to discuss MSW's request that the Department proceed with its NME revocation analysis as quickly as possible (see "Memorandum regarding Ex-Parte Meeting on the Antidumping Investigation of Carbon Steel Wire Rod from Moldova," dated February 27, 2002.)

Critical Circumstances

On December 5, 2001, petitioners alleged that there that there was a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of wire rod from Brazil, Germany, Mexico, Moldova, Turkey, and Ukraine. On December 21, 2001 the petitioners further alleged that there was a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of wire rod from Trinidad and Tobago. On February 4, 2002, the Department preliminarily determined that critical circumstances exist with respect to wire rod from Moldova. See *Memorandum to Faryar Shirzad Re: Antidumping Duty Investigation of Carbon and Certain Alloy Steel Wire Rod from Moldova - Preliminary Affirmative Determination of Critical Circumstances* (February 4, 2002); See also *Carbon and Alloy Wire Rod from Germany, Mexico, Moldova, Trinidad and Tobago, and Ukraine: Notice of Preliminary Determination of Critical Circumstances*, 67 FR 6224 (February 11, 2002).

Non-Market-Economy Country Status

The Department has treated Moldova as a non-market-economy (NME) country in all past antidumping investigations. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Steel Reinforcing Bars from Moldova*, 66 FR 33525 (June 22, 2001). This NME designation remains in effect until it is revoked by the Department (see section 771(18)(C) of the Act). As noted above, MSW has requested revocation of Moldova's NME status. The Department is currently analyzing this request. For the purposes of this preliminary determination, we have continued to treat Moldova as an NME country.

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs us to base the normal value ("NV") on the NME producer's factors of production, valued in a comparable market economy that is a significant producer of comparable merchandise. The sources of individual factor values are discussed under the "Normal Value" section, below.

Separate Rates

It is the Department's policy to assign all exporters of subject merchandise in an NME country a single rate, unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. The Department's separate rates test is not concerned, in general, with macroeconomic/border-type controls (e.g., export licenses, quotas, and minimum export prices), particularly if these controls are imposed to prevent dumping. Rather, the test focuses on controls over export-related investment, pricing, and output decision-making process at the individual firm level. See *Notice of Final Determination of Sales at Less than Fair Value: Certain Cut-to-Length Carbon Steel Plate from Ukraine*, 62 FR 61754, 61757 (November 19, 1997); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 61276, 61279 (November 17, 1997); and *Notice of Preliminary Determination of Sales at Less than Fair Value: Honey from the People's Republic of China*, 60 FR 14725, 14727 (March 20, 1995). To establish whether a firm is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*), and amplified in *Final Determination of Sales at Less-Than-Fair-Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585, 22587 (May 2, 1994) (*Silicon Carbide*). Under this test, the Department assigns separate rates in NME cases only if an exporter can affirmatively demonstrate the absence of both (1) *de jure* and (2) *de facto* governmental control over export activities. See *Silicon Carbide*, 59 FR at 22587, and *Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544 (May 8, 1995).

MSW has submitted separate rates information in its section A responses, and has requested a separate, company-specific rate. In the context of analyzing this request, the Department has asked MSW to clarify its relationship with the GORM and the "Transnistrian Moldovan Republic" (TMR). In response to the Department's requests for information and documentation addressing the relationship between MSW and the GORM, MSW provided copies of legislative enactments and

other supporting documentation discussing the relationship between MSW and the TMR. Further, MSW has stated that its business operations "are governed only by legislation in the TMR, not Moldova." The national authority or country recognized by the United States is the Republic of Moldova, not the TMR. Thus, it is not possible to conduct the type of separate rates analysis envisioned in the practice as set forth in *Sparklers* and amplified in *Silicon Carbide* because the facts here do not permit an evaluation of MSW in the context of the laws of Moldova. As such, and as discussed in more detail below, we are unable to analyze MSW's claim for a separate rate; accordingly, for purposes of this preliminary determination, we cannot grant MSW a separate rate.

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies.

During the course of this investigation, the Department has repeatedly asked MSW to provide copies of GORM legislation or regulations (e.g., business licenses, export laws, business laws, export control lists, price control lists, etc.) which relate to its export operations and which address the three criteria listed above. While MSW did provide, in its November 14, 2001, request for NME revocation, copies of the GORM's constitution, labor laws, and investment laws, these documents do not address the issue of export operations or decentralized control of companies. In its November 30, 2001, January 16, 2002, and March 4, 2002 questionnaire responses, MSW indicated that all of its business operations, including its export operations, are conducted in accordance with the relevant legislation of the TMR, which is neither the principle government authority with which our analysis must be concerned, nor a "country" recognized by the United States. Indeed, as a member of the World Trade Organization and the United Nations, GORM, and not the TMR, is recognized by these international bodies as the sovereign authority in Moldova. Specifically, in response to a request for legislative enactments or other measures by the GORM centralizing or decentralizing control of MSW's export activities, MSW stated "MSW's export activities

are governed only by legislation in [TMR], not Moldova" (MSW's March 4, 2002 supplemental response at 15).

In general, in applying the separate rates test to companies operating in NME countries, the Department's goal is to determine whether the company, on a de jure and de facto basis, operates outside of the control of the government of the country under investigation. In this investigation, that country is the Republic of Moldova, and its government is identified as the GORM. Therefore, the separate rates test requires us to examine whether MSW operates outside the control of the GORM. Because MSW has reported that its export activities are governed only by the legislation of the TMR, and has not provided any of the relevant legislation and other documentation as issued by the GORM, the facts on the record in this case do not permit the analysis required by our separate rates test.

Moldova-Wide Rate

For all NME cases, the Department has implemented a policy by which there is a rebuttable presumption that all exporters or producers comprise a single exporter under common government control, the "NME entity." The Department assigns a single NME rate to the NME entity, unless an exporter can demonstrate eligibility for a separate rate. Information on the record of this investigation indicates that MSW was the only Moldovan producer and exporter to sell the subject merchandise to the United States during the POI. Since the only Moldovan producer and exporter of the subject merchandise responded to the Department's questionnaire, and we have no reason to believe that there are other non-responding exporters/producers of the subject merchandise during the POI, we calculated a Moldova-wide rate based on the weighted-average margin determined for MSW. This Moldova-wide rate applies to all entries of subject merchandise.

Fair Value Comparisons

To determine whether sales of the subject merchandise by MSW for export to the United States were made at less than fair value, we compared EP to NV, as described below in the "Export Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs to the NVs.

On March 19, 2002, in a letter to the Department, petitioners requested that the Department apply total adverse facts available to determine the dumping

margin for MSW for the preliminary determination. In their letter, petitioners make the following allegations: 1) MSW's responses have been intentionally misleading in material respects; 2) MSW has refused to provide information concerning possible market economy inputs; and 3) MSW has refused to provide information concerning its parent company and other affiliates. Moreover, petitioners maintain that substantial record evidence demonstrates a pattern of uncooperative behavior warranting application of adverse facts available. The Department has examined MSW's submissions and data, and preliminarily finds that they are adequate for purposes of calculating a dumping margin.

In its responses, MSW has provided sufficient information upon which to base a preliminary analysis. While there appear to be some gaps in the record, such as incomplete information pertaining to affiliation, we do not find those gaps significant enough to render MSW's questionnaire responses unusable for our preliminary determination. Moreover, currently there is no indication on the record that MSW failed to cooperate to the best of its ability.

We disagree with petitioners concerning certain of their claims about MSW's refusal to provide the information as requested. For example, MSW did provide adequate information on its purchase of inputs from market economies to use in the preliminary determination. Although petitioners argue that it is insufficient because no translated invoices were provided to support the reported prices, we find that for the purposes of a preliminary determination, such invoices are not essential to our use of these reported prices. Before verification, the Department will seek clarification on certain issues, particularly on affiliation, and the Department will conduct a complete verification before reaching a final determination. However, for the purposes of this preliminary determination, we are relying on the information submitted by MSW to determine the export price and NV.

Export Price

For MSW, we used EP methodology for this preliminary determination in accordance with section 772(a) of the Act because the subject merchandise was sold directly to unaffiliated customers in the United States prior to importation, and constructed export price ("CEP") methodology was not otherwise appropriate. We calculated EP based on FOB prices. Where

appropriate, we made deductions from the starting price (gross unit price) for inland freight from the plant/warehouse to the port of export and domestic brokerage and handling. Because the domestic inland freight and brokerage were paid in a nonmarket economy currency, we based these charges on surrogate values from India. (See "Normal Value" section below for further discussion.)

We note that the petitioner has raised the issue of MSW's potential affiliation with its reported customers and has argued that MSW's sales should be treated as CEP sales. After an examination of the record and in accordance with Departmental practice, we have preliminarily treated MSW's sales as EP sales. However, we will continue to examine the nature of the relationship between MSW and its customers for the purposes of the final antidumping determination.

Date of Sale

Under our current practice, as codified in the Department's regulations at section 351.401(i), in identifying the date of sale of the subject merchandise, the Department will normally use the date of invoice, as recorded in the producer's records kept in the ordinary course of business. See *Certain Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Administrative Review*, 63 FR 55578, 55587 (October 16, 1998). However, in some instances, it may not be appropriate to rely on the date of invoice as the date of sale, because the evidence may indicate that the material terms of sale were established on some date other than invoice date. See *Antidumping Duties; Countervailing Duties: Preamble to the Department's Final Regulations* at 19 CFR Part 351, 62 FR 27296, 24349 (May 19, 1997). Thus, despite the general presumption that the invoice date constitutes the date of sale, the Department may determine that this is not an appropriate date of sale where the evidence of the respondent's selling practice points to a different date on which the material terms of sale were set.

MSW reported its U.S. sales based on the payment order date. The payment order date occurs before the date of the commercial invoice, and according to MSW is the proximate date on which all material terms of sale are set. In the investigation of concrete steel reinforcing bar from Moldova, the Department determined that the payment order serves the same function as a commercial sales invoice: it is used to notify the customer that payment is due; it is used to record monies due to

MSW; it serves as the basis for accounting for sales in MSW's records; and it is generally issued within a day of shipping the merchandise. *See Notice of Final Determination of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars from Moldova*, 66 FR 33525 (June 21, 2001) (Rebar from Moldova) and accompanying Decision Memorandum at Comment 6. Therefore, for purposes of the preliminary determination we are using payment order date as the date of sale.

Normal Value

1. Surrogate Country

Section 773(c)(4) of the Act requires the Department to value the NME producer's factors of production, to the extent possible, in one or more market economy countries that: (1) are at a level of economic development comparable to that of the NME, and (2) are significant producers of comparable merchandise. Regarding the first criterion, the Department has determined that Pakistan, India, Ghana, Bangladesh, and Nigeria are countries comparable to Moldova in terms of overall economic development (see memorandum from Jeff May, Director, Office of Policy, to Dana Mermelstein, Program Manager, AD/CVD Enforcement, Group III, Office 7 dated November 20, 2001 ("Surrogate Country Memorandum")).

MSW has claimed that Indonesia is the most appropriate surrogate. Petitioners have claimed that India is the most appropriate surrogate and submitted publicly-available data showing Indian values. We note that MSW has argued that: 1) India is not a significant producer of wire rod; and 2) Indonesia is at a level of economic development comparable to Moldova. However, Indonesia is not among the countries identified by the Department as comparable to Moldova, and MSW has not provided any information for the record to support its claim that we should depart from the countries identified in the *Surrogate Country Memorandum*. Petitioners have provided information for the record which indicates that there at least fourteen producers of wire rod in India. The record also shows that, as noted in the *Surrogate Country Memorandum*, India is economically comparable to Moldova. Moreover, there is sufficient publicly-available information on Indian values on the record of the instant case. Accordingly, we have calculated normal value using publicly available information from India to value MSW's factors of production, except as noted below.

In accordance with section 351.301(c)(3)(i) of the Department's regulations, for the final determination in an antidumping investigation, interested parties may submit publicly available information to value factors of production within 40 days after the date of publication of the preliminary determination.

2. Factors of Production

In accordance with section 773(c) of the Act, we calculated NV based on the factors of production reported by MSW using Indian values, except where noted below.

In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. For those values not contemporaneous with the POI, unless otherwise noted below, we adjusted for inflation using price indices published in the International Monetary Fund's *International Financial Statistics*. As appropriate, we adjusted input values to make them delivered prices. For factor values where we used Indian import statistics, we did not include data pertaining to imports from non-market economy countries. *See e.g., Notice of Final Results of the Antidumping Duty Administrative Review of Chrome-Plated Lug Nuts from the People's Republic of China*, 63 FR 53872 (October 7, 1998). We also did not include imports from Indonesia, Korea, and Thailand because these countries maintain non-specific export subsidies. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields From the People's Republic of China*, 67 FR 6482 (February 12, 2002). For a detailed analysis of surrogate values, see Memorandum regarding "Factors of Production Valuation for Preliminary Determination," dated April 2, 2002 (public version on file in the CRU).

Material Inputs: For those raw material inputs purchased from a market economy supplier and paid for in a convertible currency, we used the purchase price reported by MSW. For all other inputs that were not self-produced by MSW, we valued the material input by Harmonized Tariff Schedule ("HTS") number, using cumulative *Monthly Statistics of Foreign Trade of India* or from other Indian sources.

Packing Materials: For all inputs, we valued the material input by HTS number, using cumulative Indian imports from the *Monthly Statistics of Foreign Trade of India*.

By-Products: Consistent with the Department's practice, we have not granted an offset for any of MSW's

reported by-products since they either: 1) reentered the production process; or 2) were not sold during the POI. (*See Final Determination of Sales at Less Than Fair Value: Bulk Aspirin from the People's Republic of China*, 65 FR 33805 (May 25, 2000) and accompanying Decision Memorandum at Comment 13.)

Energy: For electricity, we used a value from the International Energy Agency Energy Prices and Taxes (First Quarter 2001). For natural gas, we used a value based on the value calculated in the "Factors of Production Valuation for the Preliminary Determination: Antidumping Investigation of Steel Reinforcing Bar from Moldova," dated January 16, 2001. (*See Notice of Preliminary Determination of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars from Moldova*, 66 FR 8338, (January 30, 2001); as affirmed by *Notice of Final Determination of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars from Moldova*, 66 FR 33525 (June 21, 2001) (Rebar from Moldova).) For industrial water, we used the surrogate value based on the value cited in "Factors of Production Valuation for the Preliminary Determination: Antidumping Investigation of Steel Wire Rope from the People's Republic of China," dated September 25, 2000. (*See Notice of Preliminary Determinations of Sales at Less Than Fair Value: Steel Wire Rope From India and the People's Republic of China; Notice of Preliminary Determination of Sales at Not Less Than Fair Value: Steel Wire Rope From Malaysia*, 65 FR 58736 (October 1, 2000); as affirmed by *Notice of Final Determinations of Sales at Less Than Fair Value: Steel Wire Rope From India and the People's Republic of China; Notice of Final Determination of Sales at Not Less Than Fair Value: Steel Wire Rope From Malaysia*, 66 FR 12759 (February 28, 2001).) For oxygen, nitrogen, and argon, we based the surrogate values on 1997 price information (adjusted for inflation) from Bhouka Gases Limited, an Indian manufacturer of industrial gases.

Direct, Indirect and Packing Labor: To value the labor input, we used Moldova's regression-based wage rate published by Import Administration on its website, <http://ia.ita.doc.gov/>. The source of the wage rate data on the Import Administration website is the 2000 Yearbook of Labour Statistics, published by the International Labour Office ("ILO") (Geneva: 2000), Chapter 5B: Wages in Manufacturing.

Factory Overhead, Selling General & Administrative ("SG&A"), Interest and Profit: To value depreciation, SG&A, interest, and profit, we used data from

the 2001 financial statements of TATA Iron and Steel Company Limited (TATA), an Indian steel company which produces the wire rod.

Inland Freight and domestic brokerage: For all instances in which respondent reported domestic inland freight (rail) and domestic brokerage, we used surrogate values based on the values cited in Rebar from Moldova.

Verification

As provided in section 782(i) of the Act, we will verify all information relied upon in making our final determination.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise from Moldova entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. In addition, based on our preliminary determination that critical circumstances exist with respect to imports of wire rod from Moldova (67 FR 6224), we are directing Customs to suspend liquidation of any unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days prior to the date on which this notice is published in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP as indicated in the chart below. The suspension of liquidation will remain in effect until further notice.

Exporter/manufacture	Weighted-average margin percentage
Moldova-wide rate	369.10

The Moldova-wide rate applies to all entries of the subject merchandise.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports materially injure, or threaten material injury to, a U.S. industry.

Public Comment

Unless otherwise informed by the Department, case briefs in six copies must be submitted to the Assistant Secretary for Import Administration no

later than 50 days after the date of publication of this notice, and rebuttal briefs no later than 55 days after the date of publication of this notice. We request that a list of authorities used and an executive summary of issues accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. 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. If a hearing is requested, the Department will notify parties of the date, time, and location of the hearing. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate 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 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. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination not later than 75 days after the date of this preliminary determination.

This determination is issued and published in accordance with sections 733(d) and 777(i)(1) of the Act.

Dated: April 2, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02-8707 Filed 4-9-02; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

Application for Duty-Free Entry of Scientific Instrument

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether an instrument of equivalent scientific value, for the purposes for which the instrument shown below is intended to be used, is being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S.

Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW., Washington, DC.

Docket Number: 02-008. **Applicant:** Department of Health and Human Services, Centers for Disease Control and Prevention, Infectious Disease Pathology Activity, 1600 Clifton Road, NE., Mailstop G-32, Atlanta, GA 30333. **Instrument:** Electron Microscope, Model Tecnai 12 TWIN. **Manufacturer:** FEI Company, The Netherlands. **Intended Use:** The instrument is intended to be used to study material of a biological nature in order to investigate pathogens, viruses, bacteria, fungi and parasites within a variety of specimens including human and animal tissue specimens, cellular extracts, tissue-culture cells, viral constructs, cell culture supernatant fluid preparations and other biological specimens. The objectives in the course of scientific investigations are to determine the cause of illness, achieve a diagnosis, and develop rapid diagnostic capacity and study the pathogens of the disease for the detection of specific bioterrorism microorganisms. Application accepted by Commissioner of Customs: March 13, 2002.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 02-8710 Filed 4-9-02; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

Emory University; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW, Washington, DC.

Docket Number: 01-026. **Applicant:** Emory University, Atlanta, GA 30322. **Instrument:** High Speed CCD Camera System Set, Model MiCAM 001. **Manufacturer:** SciMedia Ltd., Japan. **Intended Use:** See notice at 67 FR 8938, February 27, 2002.

Comments: None received. **Decision:** Approved. No instrument of equivalent scientific value to the foreign