

Chemical Corporation withdrew their request for an administrative review in the above-referenced case.

#### Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. Because Guangdong and Tianjin's withdrawal was submitted within the 90-day time limit, and no other party requested a review, we are rescinding the review. We will issue appropriate appraisal instructions directly to the U.S. Customs Service.

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305 or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This determination is issued in accordance with section 777(i)(1) of the Act and 19 CFR 351.213(d)(1) and (d)(4).

Dated: November 20, 2000.

**Louis Apple,**

*Acting Deputy Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-823-809, A-841-804]

#### Preliminary Determinations of Critical Circumstances: Steel Concrete Reinforcing Bars From Ukraine and Moldova

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

**EFFECTIVE DATE:** November 27, 2000.

**FOR FURTHER INFORMATION CONTACT:** Magd Zalok or Mark Manning at (202) 482-4162 and (202) 482-3936, respectively; AD/CVD Enforcement, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

#### Preliminary Determinations of Critical Circumstances

##### *The Applicable Statute and Regulations*

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR Part 351 (2000).

##### *Background*

On July 18, 2000, the Department of Commerce (the Department) initiated investigations to determine whether imports of steel concrete reinforcing bars (rebar) from Ukraine and Moldova, among others, are being, or are likely to be, sold in the United States at less-than-fair-value (LTFV) (65 FR 45754, July 25, 2000). On August 14, 2000, the International Trade Commission (ITC) determined that there is a reasonable indication of material injury to the domestic industry from imports of rebar from Ukraine and Moldova, among other countries. On August 22, 2000, the petitioner alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of rebar from the above-referenced two countries.<sup>1</sup>

In accordance with 19 CFR 351.206(c)(2)(i), because the petitioner submitted critical circumstances allegations more than 20 days before the scheduled date of the preliminary determinations, the Department must issue preliminary critical circumstances determinations not later than the date of the preliminary determinations. In a policy bulletin issued on October 8, 1998, the Department stated that it may issue preliminary critical circumstances determinations prior to the date of the preliminary determinations of dumping, assuming sufficient evidence of critical circumstances is available (*see Change in Policy Regarding Timing of Issuance of Critical Circumstances Determinations*, 63 FR 55364). In accordance with this policy, at this time we are issuing the preliminary critical circumstances decision in the investigations of imports of rebar from Ukraine and Moldova for the reasons discussed below and in the concurrent Memorandum from Holly Kuga to Troy H. Cribb: Antidumping Duty

<sup>1</sup> The petitioner also alleged that there is a reason to believe or suspect that critical circumstances exist with respect to imports of rebar from Belarus. However, we are not making a determination with respect to this country at this time.

Investigations of Steel Concrete Reinforcing Bar from Ukraine and Moldova—Preliminary Affirmative Determinations of Critical Circumstances (Critical Circumstances Preliminary Determinations Memorandum).

##### *Critical Circumstances*

Section 733(e)(1) of the Act provides that the Department will preliminarily determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period. Section 351.206(h)(1) of the Department's regulations provides that, in determining whether imports of the subject merchandise have been "massive," the Department normally will examine: (i) the volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, section 351.206(h)(2) of the Department's regulations provides that an increase in imports of 15 percent during the "relatively short period" of time may be considered "massive."

Section 351.206(i) of the Department's regulations defines "relatively short period" as normally being the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later. The regulations also provide, however, that if the Department finds that importers, exporters, or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, the Department may consider a period of not less than three months from that earlier time.

In determining whether the above criteria have been satisfied, we examined: (1) The evidence presented in the petition; (2) recent import statistics released by the Census Bureau after the initiation of the LTFV investigation; and (3) the ITC preliminary injury determination.

##### *History of Dumping and Importer Knowledge*

We are not aware of any existing antidumping order in any country on rebar from Ukraine and Moldova. For

this reason, we do not find a history of dumping from those countries pursuant to section 733(e)(1)(A)(i). However, the Department has looked to the second criterion for determining knowledge of dumping.

In determining whether there is a reasonable basis to believe or suspect that an importer knew or should have known that the exporter was selling rebar at LTFV, pursuant to section 733(e)(1)(A)(ii) of the Act, the Department's normal practice is to consider margins of 25 percent or more sufficient to impute knowledge of dumping. *See Preliminary Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China*, 62 FR 31972, 31978 (June 11, 1997). In these instant cases, given that we have not yet made a preliminary finding of dumping, the most reasonable source of information concerning knowledge of dumping is the petition itself. In the petitions, the petitioner calculated estimated dumping margins of 41.69 percent for Ukraine and 59.98 percent for Moldova. Since these estimated dumping margins exceed the 25 percent threshold, we have preliminarily imputed knowledge of dumping to importers, exporters, or producers of subject merchandise from Ukraine and Moldova. *See the Critical Circumstances Preliminary Determinations Memorandum.*

In determining whether there is a reasonable basis to believe or suspect that an importer knew or should have known that there was likely to be material injury by reason of dumped imports, under section 733(e)(1)(A)(ii) of the Act, the Department normally will look to the preliminary injury determination of the ITC. If the ITC finds a reasonable indication of present material injury to the relevant U.S. industry, the Department will determine that a reasonable basis exists to impute importer knowledge that there was likely to be material injury by reason of dumped imports. *See Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China*, 62 FR 61964 (November 20, 1997). In these instant cases, the ITC found that a reasonable indication of present material injury due to dumping exists for imports of rebar from Ukraine and Moldova. *See ITC's Preliminary Determinations*, August 14, 2000, Investigation Nos. 731-TA-872-883. Therefore, we preliminarily find that there is a reasonable basis to believe or suspect that importers knew or should have known that dumped imports of rebar from Ukraine and

Moldova were likely to cause material injury.

#### *Massive Imports*

In determining whether there are "massive imports" over a "relatively short period," pursuant to section 733(e)(1)(B) of the Act, the Department normally compares the import volume of the subject merchandise for three months immediately preceding the filing of the petition (*i.e.*, the base period), and three months following the filing of the petition (*i.e.*, the comparison period). However, as stated in section 351.206(i) of the Department's regulations, if the Secretary finds that importers, exporters, or producers had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, then the Secretary may consider a time period of not less than three months from that earlier time. Imports normally will be considered massive when imports during the comparison period have increased by 15 percent or more compared to imports during the base period.

In this case, the petitioner argues that importers, exporters, or producers of rebar from Ukraine and Moldova had reason to believe that an antidumping proceeding was likely before the filing of the petition. In determining whether imports from Ukraine and Moldova have been massive, the petitioner also alleges that rebar is a product for which demand is subject to seasonal shifts and that it is appropriate to use a seasonal methodology to examine whether an import surge occurred with respect to the above-referenced countries.

Based upon information contained in the petition, we found that press reports and published statements were sufficient to establish that, by December 1999, importers, exporters, and foreign producers knew or should have known that a proceeding was likely concerning rebar from Ukraine and Moldova. We disagree with the petitioner's analysis of massive imports based on seasonality because the evidence on the record does not substantiate that imports of rebar are subject to seasonal shifts. *See Critical Circumstances Preliminary Determinations Memorandum* for detailed discussion of this issue. Accordingly, we examined the increase in import volumes from May 1999 through December 1999 (the base period), as compared to the import volume during January 2000 through August 2000 (the comparison period), and found that imports of rebar from Ukraine and Moldova increased by 69.30 percent and 22.08 percent, respectively. *See the Critical*

Circumstances Preliminary Determinations Memorandum.

Therefore, pursuant to section 733(e) of the Act and section 351.206(h) of the Department's regulations, we preliminarily determine that there have been massive imports of rebar from Ukraine and Moldova over a relatively short time.

#### *Conclusion*

Given the above-referenced analysis, we preliminarily determine that there is a reasonable basis to believe or suspect that critical circumstances exist for imports of rebar from Ukraine and Moldova.

#### *Suspension of Liquidation*

In accordance with section 733(e)(2) of the Act, if the Department issues affirmative preliminary determinations of sales at LTFV in the investigations with respect to Ukraine and Moldova, the Department, at that time, will direct the U.S. Customs Service to suspend liquidation of all entries of rebar from Ukraine and Moldova that are entered, or withdrawn from warehouse, for consumption on or after 90 days prior to the date of publication in the **Federal Register** of our preliminary determinations of sales at LTFV. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated preliminary dumping margins reflected in the preliminary determinations of sales at LTFV published in the **Federal Register**. This suspension of liquidation will remain in effect until further notice.

#### *Final Critical Circumstances Determination*

We will make a final determination concerning critical circumstances for Ukraine and Moldova when we make our final determinations regarding sales at LTFV in those investigations, which will be 75 days (unless extended) after the preliminary LTFV determinations.

#### *ITC Notification*

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. This notice is issued and published pursuant to section 777(i) of the Act.

Dated: November 17, 2000.

**Troy H. Cribb,**

*Assistant Secretary for Import Administration.*

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