



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-791-823

Carbon and Alloy Steel Wire Rod from the Republic of South Africa: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, and Preliminary Determination of No Shipments

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) preliminarily determines that carbon and alloy steel wire rod (wire rod) from the Republic of South Africa (South Africa) is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is January 1, 2016, through December 31, 2016.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Moses Song or John McGowan, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5041 or (202) 482-3019, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). The Department published the notice of initiation of this

investigation on April 26, 2017.¹ On August 21, 2017, the Department postponed the preliminary determination of this investigation and the revised deadline is now October 24, 2017.² For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.³ A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The products covered by this investigation are wire rod from South Africa. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to the Department's regulations,⁴ the *Initiation Notice*

¹ *See Carbon and Alloy Steel Wire Rod from Belarus, Italy, the Republic of Korea, the Russian Federation, South Africa, Spain, the Republic of Turkey, Ukraine, United Arab Emirates, and United Kingdom: Initiation of Less-Than-Fair-Value Investigations*, 82 FR 19207 (April 26, 2017) (*Initiation Notice*).

² *See Carbon and Alloy Steel Wire Rod from Italy, the Republic of Korea, the Republic of South Africa, Spain, the Republic of Turkey, Ukraine and the United Kingdom: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 82 FR 39564 (August 21, 2017).

³ *See* Memorandum, "Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Carbon and Alloy Steel Wire Rod from the Republic of South Africa" dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁴ *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

set aside a period of time for parties to raise issues regarding product coverage (scope).⁵ Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.⁶ Since the issuance of the Preliminary Scope Decision Memorandum, certain parties submitted scope case briefs or scope rebuttal briefs.⁷ The Department will issue a final scope decision on the records of the wire rod investigations after considering those comments submitted in scope case and rebuttal briefs.

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. Based on the record evidence and the Department's practice, we preliminarily find that mandatory respondent ArcelorMittal South Africa Limited (AMSA), mandatory respondent Scaw South Africa (Pty) Ltd. (also known as Scaw Metals Group) (Scaw), and Consolidated Wire Industries (CWI) are affiliated and should be collapsed into one entity (*i.e.*, AMSA/Scaw/CWI).⁸ Further, a part of the entity, Scaw, failed to respond to the Department's antidumping duty questionnaire. Thus, the Department is relying on the facts otherwise available with adverse inference for the collapsed entity.⁹ For further information, *see* the Preliminary Decision Memorandum.

⁵ *See Initiation Notice*, 82 FR at 19207-08.

⁶ *See* Memorandum, "Carbon and Alloy Steel Wire Rod from Belarus, Italy, the Republic of Korea, the Russian Federation, South Africa, Spain, the Republic of Turkey, Ukraine, the United Arab Emirates, and the United Kingdom: Scope Comments Decision Memorandum for the Preliminary Determinations," dated August 7, 2017 (Preliminary Scope Decision Memorandum).

⁷ *See* Preliminary Decision Memorandum.

⁸ *Id.*

⁹ *See* section 776(a) and (b) of the Act.

Preliminary Determination of No Sales

On April 26, 2017, Davsteel Division of Cape Gate (Pty) Ltd. (Cape Gate), one of the three South African producers/exporters named in the petition,¹⁰ timely filed a statement reporting that it had “no exports, shipments, or sales” of subject merchandise to the United States during the POI.¹¹ Subsequently, we received information from U.S. Customs and Border Protection (CBP) confirming Cape Gate’s claim that it had no entries of subject merchandise during the POI.¹² Furthermore, there is no evidence on the record indicating that Cape Gate is affiliated with AMSA, Scaw or CWI. Based on the foregoing, the Department preliminarily determines that Cape Gate had no sales of subject merchandise during the POI, and, therefore, we preliminarily determine not to further examine Cape Gate as part of this investigation. As such, any entries of subject merchandise exported by Cape Gate will be subject to the All-Others Rate. For additional information regarding this determination, *see* the Preliminary Decision Memorandum.

Preliminary Affirmative Determination of Critical Circumstances

In accordance with section 733(e) of the Act and 19 CFR 351.206, the Department preliminarily finds that critical circumstances exist for the collapsed entity AMSA/Scaw/CWI and all other producers and exporters. For a description of the methodology and results of the Department’s critical circumstances analysis, *see* the Preliminary Decision Memorandum.

¹⁰ *See* the Petitions for the Imposition of Antidumping Duties on Imports of Carbon and Alloy Steel Wire Rod from Belarus, Italy, the Republic of Korea, the Russian Federation, the Republic of South Africa, Spain, Turkey, Ukraine, United Arab Emirates, and the United Kingdom; and Countervailing Duties on Imports from Turkey and Italy, dated March 28, 2017 (the Petition), Volume VI at 1, and Volume I at Exhibit I-7.

¹¹ *See* Letter from the Department to the respondent, regarding “Certain Carbon and Alloy Steel Wire Rod from the Republic of South Africa: No Shipment Certification,” dated April 26, 2017 (Cape Gate’s No-shipment Claim).

¹² *See* Memorandum to The File, entitled “No Shipment Inquiry Regarding Davsteel Division of Cape Gate (PTY) Ltd. And/or Cape Gate (Pty) Ltd. During the Period 01/01/2016 – 12/31/2016,” dated June 5, 2017 (CBP No-shipment Claim Confirmation Memorandum).

All-Others Rate

Pursuant to section 735(c)(5)(B) of the Act, if the estimated weighted-average dumping margins established for all exporters and producers individually examined are zero, *de minimis* or determined based entirely on facts otherwise available, the Department may use any reasonable method to establish the estimated weighted-average dumping margin for all-other producers or exporters. The Department has preliminarily determined the estimated weighted-average dumping margin for AMSA/Scaw/CWI, the collapsed entity, pursuant to section 776 of the Act. According to section 735(c)(5)(A), the Department typically averages the individually examined respondents' rates to calculate the all-others rate. Because the Department is preliminarily applying the AFA rate to the collapsed entity, however, the Department preliminarily determines to calculate the "all-others" rate as a simple average of the alleged dumping margin(s) from the petition, pursuant to section 735(c)(5)(B).¹³ The rates in the petition, as amended, were 128.66 percent and 142.26 percent, so the All-Others rate is 135.46 percent.¹⁴

Preliminary Determination

The Department preliminarily determines that the following estimated weighted-average dumping margins exist:

¹³ See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany*, 73 FR 21909, 21912 (April 23, 2008), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany*, 73 FR 38986, 38987 (July 8, 2008), and accompanying Issues and Decision Memorandum at Comment 2; see also *Notice of Final Determination of Sales at Less Than Fair Value: Raw Flexible Magnets from Taiwan*, 73 FR 39673, 39674 (July 10, 2008); *Steel Threaded Rod from Thailand: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances*, 78 FR 79670, 79671 (December 31, 2013), unchanged in *Steel Threaded Rod from Thailand: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances*, 79 FR 14476, 14477 (March 14, 2014).

¹⁴ See *Initiation Notice*, 82 FR at 19211; see also Preliminary Decision Memorandum.

Exporter/Producer	Estimated Weighted-Average Dumping Margin (percent)
ArcelorMittal South Africa Limited, Scaw South Africa (Pty) Ltd. (also known as Scaw Metals Group), and Consolidated Wire Industries	142.26
All-Others	135.46

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, the Department will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the later of (a) the date which is 90 days before the date on which the suspension of liquidation was first

ordered, or (b) the date on which notice of initiation of the investigation was published. The Department preliminarily finds that critical circumstances exist for imports of subject merchandise produced or exported by AMSA/Scaw/CWI and all other exporters/producers. In accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to unliquidated entries of shipments of subject merchandise from the producer or exporter identified in this paragraph that were entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Normally, the Department discloses to interested parties the calculations performed in connection with a preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of preliminary determination in the *Federal Register*, in accordance with 19 CFR 351.224(b). However, because the Department preliminarily applied AFA to the collapsed entity (*i.e.*, AMSA/Scaw/CWI in this investigation, in accordance with section 776 of the Act, and the applied AFA rate is based solely on the petition, there are no calculations to disclose.

Verification

Because the examined respondent (*i.e.*, the collapsed entity referenced above) in this investigation did not provide information requested by the Department, and the Department preliminarily determines it to have been uncooperative, we will not conduct verification.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 50 days after the date of publication of the

preliminary determination, unless the Secretary alters the time limit. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.¹⁵ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Final Determination

Section 735(a)(1) of the Act and 19 CFR 351.210(b)(1) provide that the Department will issue the final determination within 75 days after the date of its preliminary determination. Accordingly, the Department will make its final determination no later than 75 days after the signature date of this preliminary determination.

¹⁵ See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

International Trade Commission Notification

In accordance with section 733(f) of the Act, the Department will notify the International Trade Commission (ITC) of its preliminary determination. If the 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 the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

Dated: October 24, 2017

Appendix I

Scope of the Investigation

The products covered by this investigation are certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, less than 19.00 mm in actual 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; or (e) concrete reinforcing bars and rods. Also excluded are free cutting steel (also known as free machining steel) products (*i.e.*, products that contain by weight one or more of the following elements: 0.1 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 phosphorous, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium). 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 7213.91.3011, 7213.91.3015, 7213.91.3020, 7213.91.3093, 7213.91.4500, 7213.91.6000, 7213.99.0030, 7227.20.0030, 7227.20.0080, 7227.90.6010, 7227.90.6020, 7227.90.6030, and 7227.90.6035 of the HTSUS. Products entered under subheadings 7213.99.0090 and 7227.90.6090 of the HTSUS may also be included in this scope if they meet the physical description of subject merchandise above. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these proceedings is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

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 - III. Period of Investigation
 - IV. Scope Comments
 - V. Preliminary Determination of No Shipments
 - VI. Affiliation and Collapsing of Affiliates
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 - A. Application of Facts Available
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- [FR Doc. 2017-23649 Filed: 10/30/2017 8:45 am; Publication Date: 10/31/2017]