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DEPARTMENT OF COMMERCE

International Trade Administration

[A-823-816]

Carbon and Alloy Steel Wire Rod from Ukraine: Affirmative Final Determination of Sales at Less Than Fair Value

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

SUMMARY: The Department of Commerce (Department) determines that imports of carbon and alloy steel wire rod (wire rod) from Ukraine are being, or are likely to be, sold in the United States at less than fair value (LTFV). The final estimated weighted-average dumping margins of sales at LTFV are listed below in the section entitled “Final Determination.” The period of investigation is January 1, 2016, through December 31, 2016.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Julia Hancock or Courtney Canales, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1394, or (202) 482-4997, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 31, 2017, the Department published the *Preliminary Determination* in the *Federal Register*.<sup>1</sup> The petitioners in this investigation are Gerdau Ameristeel US Inc., Nucor Corporation, Keystone Consolidated Industries, Inc., and Charter Steel (collectively, the

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<sup>1</sup> See *Carbon and Alloy Steel Wire Rod from Ukraine: Preliminary Affirmative Determination of Sales at Less Than Fair Value*, 82 FR 50375 (October 31, 2017) (Preliminary Determination) and accompanying Preliminary Decision Memorandum.

petitioners). The mandatory respondents in this investigation are ArcelorMittal Steel Kryvyi Rih OJSC (AMKR) and Public Joint Stock Company (PJSC) Yenakiiieve Steel (Yenakiiieve).<sup>2</sup> In the *Preliminary Determination*, the Department determined that the application of facts available with an adverse inference (AFA) was warranted as a result of AMKR's and Yenakiiieve's failure to cooperate and provide complete, useable data in this investigation.

A summary of the events that occurred since the Department published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the accompanying Issues and Decision Memorandum.<sup>3</sup> The Issues and 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 <http://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 Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

### Scope of the Investigation

The products covered by this investigation are generally described as wire rod from Ukraine. For a complete description of the scope of the investigation, *see* Appendix I of this notice.

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<sup>2</sup> The Department preliminarily determined not to further examine Duferco S.A. (Duferco) as part of this investigation because the evidence does not show that Duferco made any sales of subject merchandise in the United States during the POI. For the final determination, we continue to find that Duferco had no sales of subject merchandise during the POI. As such, any entries of subject merchandise exported by Duferco will be subject to the All-Others Rate.

<sup>3</sup> *See* Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Carbon and Alloy Steel Wire Rod from Ukraine," dated concurrently with this determination and hereby adopted by this notice (Issues and Decision Memorandum).

## Scope Comments

During the course of this investigation, the Department received numerous scope comments from interested parties. Prior to the *Preliminary Determination*, the Department issued a Preliminary Scope Decision Memorandum to address these comments. As a result of these comments, the Department made no changes to the scope of this investigation as it appeared in the *Initiation Notice*.<sup>4</sup>

In November 2017, we received scope case and rebuttal briefs. On November 20, 2017, we issued the Final Scope Decision Memorandum in response to the comments received.<sup>5</sup> We did not change the scope of this investigation.

## Analysis of Comments Received

All issues raised in the case and rebuttal briefs that were submitted by interested parties in this investigation are addressed in the Issues and Decision Memorandum. A list of these issues is attached to this notice at Appendix II.

## Verification

Because the mandatory respondents in this investigation did not provide the information requested, the Department did not conduct verification.

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<sup>4</sup> For discussion of these comments, 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” (Preliminary Scope Decision Memorandum), dated August 7, 2017; see also *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*).

<sup>5</sup> For discussion of these comments, 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: Final Scope Memorandum” (Final Scope Decision Memorandum), dated November 20, 2017.

## Changes Since the Preliminary Determination and Use of Adverse Facts Available

The Department has made no changes to the *Preliminary Determination*. As explained in the *Preliminary Determination*, we found that the application of facts available with an adverse inference with respect to both mandatory respondents in this investigation, AMKR and Yenakiieve, was warranted, in accordance with sections 776(a)(1), 776(a)(2), and 776(b) of the Act.<sup>6</sup>

## All-Others Rate

As discussed in the *Preliminary Determination*, the Department based the selection of the all-others rate on the simple average of the six dumping margins calculated for subject merchandise from Ukraine alleged in the petition,<sup>7</sup> in accordance with section 735(c)(5)(B) of the Act, and determined a rate of 34.98 percent. We made no changes to the all-others rate for this final determination.<sup>8</sup>

## Final Determination

The final estimated weighted-average dumping margins are as follows:

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<sup>6</sup> See *Preliminary Determination*, 82 FR at 50375; see also PDM at 7-24.

<sup>7</sup> See Letter to the Secretary of Commerce and the Secretary of the U.S. International Trade Commission, “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 – Petitions for the Imposition of Antidumping and Countervailing Duties,” dated March 28, 2017; see also *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; *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).

<sup>8</sup> See *Preliminary Determination*, 82 FR at 50375.

<b>Producer or Exporter</b>	<b>Weighted-Average Dumping Margins (percent)</b>
ArcelorMittal Steel Kryvyi Rih	44.03
Public Joint Stock Company Yenakieve Iron and Steel Works	44.03
All-Others	34.98

Disclosure

The estimated weighted-average dumping margin assigned to AMKR and Yenakieve in this investigation in the *Preliminary Determination* were based on adverse facts available and the Department described the method it used to determine the AFA rate in the *Preliminary Determination*. As we made no changes to this margin since the *Preliminary Determination*, no disclosure of calculations is necessary for this final determination.

Continuation of Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to suspend liquidation of all appropriate entries of wire rod from Ukraine, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after October 31, 2017, the date of publication of the *Preliminary Determination*.

Furthermore, the Department will instruct CBP to require a cash deposit for such entries of merchandise. Pursuant to section 735(c)(1)(B)(ii) of the Act, CBP shall require a cash deposit equal to the weighted-average amount by which normal value exceeds U.S. price, as follows: (1) for AMKR and Yenakieve, the cash deposit rates will be equal to the estimated weighted-average dumping margin which the Department determined in this final determination; (2) if the

exporter is not a firm identified in this investigation but the producer is, then the cash deposit rate will be equal to the estimated weighted-average dumping margin established for the producer of the subject merchandise; (3) the cash deposit rate for all other producers and exporters will be 34.98 percent, as discussed in the “All-Others Rate” section and as listed in the chart, above.

The instructions suspending liquidation will remain in effect until further notice.

#### U.S. International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the U.S. International Trade Commission (ITC) of our final determination. Because the final determination in this proceeding is affirmative, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation of wire rod from Ukraine no later than 45 days after this final determination, in accordance with section 735(b)(2) of the Act. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

#### Notification Regarding Administrative Protective Orders

This notice will serve as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or

destruction of APO materials or conversion to judicial protective order is hereby requested.  
Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination and notice are issued and published in accordance with sections 735(d) and 777(i) of the Act and 19 CFR 351.210(c).

Dated: January 8, 2018

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.

## 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 Issues and Decision Memorandum**

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Scope of the Investigation
- V. Determination of No Sales
- VI. Discussion of the Issues:
  - Comment 1: Application of Total AFA to AMKR
  - Comment 2: Application of Total AFA to Yenakiieve
- VII. Recommendation

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