



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: Affirmative Final Determination of Sales at Less Than Fair Value and Affirmative Finding of Critical Circumstances

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

SUMMARY: The Department of Commerce (Commerce) determines that imports of carbon and alloy steel wire rod (wire rod) from the Republic of South Africa (South Africa) 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 (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, AD/CVD Operations, 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

On October 31, 2017, Commerce published the *Preliminary Determination* in the *Federal Register*.¹ The petitioners in this investigation are Gerdau Ameristeel US Inc., Nucor Corporation, Keystone Consolidated Industries, Inc., and Charter Steel (collectively, the petitioners). The three mandatory respondents in this investigation are: (1) ArcelorMittal South Africa Limited (AMSA); (2) Scaw South Africa (Pty) Ltd. (also known as Scaw Metals Group) (Scaw); and (3) Davsteel Division of Cape Gate (Pty) Ltd. (Cape Gate). At the *Preliminary Determination*, Commerce determined that AMSA, Scaw, and Consolidated Wire Industries (CWI) are affiliated and constituted a single entity, *i.e.*, AMSA/Scaw/CWI. Furthermore, we preliminarily found that the application of facts available with an adverse inference (AFA) to the collapsed entity, due to Scaw's failure to participate in this investigation, was warranted. Commerce also preliminarily determined that critical circumstances existed for AMSA/Scaw/CWI and for all-other exporters/producers of wire rod. Concerning Cape Gate, Commerce preliminarily determined not to further examine Cape Gate as part of this investigation because Cape Gate timely certified that it did not make any sales of subject merchandise in the United States during the POI and there is no record evidence to the contrary.

¹ See *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*, 82 FR at 50383 (October 31, 2017) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

A summary of the events that occurred since Commerce 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.² 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 product covered by this investigation is wire rod from South Africa. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

During the course of this investigation, Commerce received numerous scope comments from interested parties. Prior to the *Preliminary Determination*, Commerce issued a Preliminary Scope Decision Memorandum to address these comments. As a result of these comments, Commerce made no changes to the scope of this investigation as it appeared in the *Initiation Notice*.³

² *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 the Republic of South Africa," dated concurrently with this determination and hereby adopted by this notice (Issues and Decision Memorandum or IDM).

³ 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 Determination" (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,*

In September 2017, we received scope case and rebuttal briefs. On November 20, 2017, we issued the Final Scope Decision Memorandum in response to these comments in which we did not change the scope of this investigation.⁴

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

As explained in the Issues and Decision Memorandum, Commerce did not conduct verification of AMSA/Scaw/CWI.

Changes Since the Preliminary Determination and Use of Adverse Facts Available

Commerce has made no changes to the *Preliminary Determination*. As stated in the *Preliminary Determination*, we found that the application of facts available with an adverse inference with respect to the collapsed entity, *i.e.*, AMSA/Scaw/CWI, in this investigation, was warranted, in accordance with sections 776(a)(1), 776(a)(2)(A)-(C), and 776(b) of the Act.⁵

Final Affirmative Determination of No Sales

As stated above in the “Background” section, at the *Preliminary Determination*, we found that Cape Gate had no sales of subject merchandise during the POI, and, therefore, we determined not to further examine Cape Gate as part of this investigation. Commerce received no comments regarding this issue after the *Preliminary Determination*. Thus, for this final

United Arab Emirates, and United Kingdom: Initiation of Less-Than-Fair-Value Investigations, 82 FR 19207 (April 20, 2017) (*Initiation Notice*).

⁴ 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.

⁵ See *Preliminary Determination*, 82 FR at 50383; see also PDM at 6-9.

determination, we continue to find that Cape Gate had no sales of subject merchandise during the POI. As such, any entries of subject merchandise exported by Cape Gate will be subject to the All-Others Rate.

Final Affirmative Determination of Critical Circumstances

In accordance with section 733(e)(1) of the Act and 19 CFR 351.206, we preliminarily found that critical circumstances exist with respect to AMSA/Scaw/CWI, and all other producers and exporters of wire rod from South Africa (All Others).⁶ Commerce received no comments regarding this issue after the *Preliminary Determination*. Thus, for this final determination, we continue to find that, in accordance with section 735(a)(3) of the Act and 19 CFR 351.206, critical circumstances exist for imports from all producers and exporters of wire rod from South Africa.

All-Others Rate

As discussed in the *Preliminary Determination*, Commerce based the selection of the all-others rate on the simple average of the two dumping margins calculated for subject merchandise from South Africa alleged in the petition,⁷ in accordance with section 735(c)(5)(B) of the Act, and determined a rate of 135.46 percent. No parties commented on this issue and we made no changes to the all-others rate for this final determination.⁸

Final Determination

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

⁶ See *Preliminary Determination*, 82 FR at 50383, 50384; see also PDM at 11-16.

⁷ See the Petitions for the Imposition of Antidumping Duties on 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, dated March 28, 2017 (the petition).

⁸ See *Preliminary Determination*, 82 FR at 50383, 50384-50385.

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

Disclosure

The estimated weighted-average dumping margin assigned to the collapsed entity (*i.e.*, AMSA/Scaw/CWI) in this investigation in the *Preliminary Determination* were based on adverse facts available and Commerce described the method it used to determine the adverse facts available 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, for this final determination, we will direct U. S. Customs and Border Protection (CBP) to suspend liquidation of all entries of wire rod from South Africa, as described in Appendix I to this notice, which were entered, or withdrawn from warehouse, for consumption on or after August 2, 2017 (90 days prior to the date of publication of the *Preliminary Determination*), because we continue to find that critical circumstances exist with regard to imports from all producers and exporters of wire rod from South Africa.

Furthermore, Commerce 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 AMSA/Scaw/CWI, the cash deposit rate will be equal to the estimated weighted-average dumping margin which Commerce 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 or exporters will be 135.46 percent, as discussed in the “All-Others Rate” section, 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 of sales at LTFV and final affirmative determination of critical circumstances for South Africa. 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 South Africa no later than 45 days after this final determination, in accordance with section 735(b)(2) of the Act. If the ITC determines that such injury does not exist, the proceeding will be terminated and all cash deposits posted will be refunded or cancelled. If the ITC determines that such injury exists, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, 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 serves as a reminder to parties subject to an administrative protective order (APO) 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 the 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

These determinations are issued and published in accordance with sections 735(d) and 777(i)(1) 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. Discussion of the Issues:
 - Comment 1: Affiliation and Collapsing of AMSA/Scaw/CWI
 - Comment 2: Application of Total AFA to AMSA/Scaw/CWI
 - Comment 3: Commerce's Statutory Obligations under 782(d) of the Act
 - Comment 4: Verification
 - Comment 5: Adjustment to AMSA's General and Administrative (G&A) Expense Ratio
 - Comment 6: Adjustment to AMSA's Warranty Expenses
 - Comment 7: Adjustment to AMSA's Direct Selling Expenses
 - Comment 8: Denial of AMSA's CEP Offset
- VI. Recommendation

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