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MEMORANDUM TO: 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

FROM: James P. Maeder
Senior Director
Performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Determination and
Affirmative Determination of Critical Circumstances in the Less
Than Fair Value Investigation of Carbon and Alloy Steel Wire
Rod from the Republic of South Africa

I. 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, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). As discussed further below, the Department preliminarily determines that ArcelorMittal South Africa Limited (AMSA), Scaw South Africa (Pty) Ltd. (also known as Scaw Metals Group) (Scaw), and Consolidated Wire Industries (CWI) constitute a single entity, *i.e.*, AMSA/Scaw/CWI. The Department also preliminarily determines that critical circumstances exist for AMSA/Scaw/CWI and for all-other exporters/producers of wire rod. The estimated weighted-average dumping margins are shown in the “Preliminary Determination” section of the accompanying *Federal Register* notice.

II. BACKGROUND

On March 28, 2017, the Department received an antidumping duty (AD) petition covering imports of wire rod from South Africa,¹ which were filed in proper form by Gerdau Ameristeel

¹ 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).

US Inc., Nucor Corporation, Keystone Consolidated Industries, Inc., and Charter Steel (collectively, the petitioners). The Department initiated this investigation on April 17, 2017.²

In the *Initiation Notice*, the Department notified the public that the Department intended to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of wire rod from various countries during the period of investigation (POI) under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation.³ Accordingly, on April 19, 2017, the Department released the CBP entry data to all interested parties under an administrative protective order, and requested comments regarding the data and respondent selection.⁴ On April 26, 2017, the Department received comments on the CBP data from the petitioners.⁵

On April 26, 2017, Davsteel Division of Cape Gate (Pty) Ltd. (Cape Gate), one of the companies named in the Petition, submitted a letter certifying it had no exports, shipments, or sales of subject merchandise to the United States at any time during the POI.⁶ On May 8, 2017, the Department issued its AD questionnaire (AD Questionnaire) to the three companies named in the Petition (*i.e.*, Cape Gate, Scaw and AMSA (collectively, the respondents)).⁷ On May 12, 2017, the U.S. International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of wire rod from South Africa.⁸

On May 19, 2017, the Department issued a letter providing the product characteristics (Product Characteristics Letter) in relation to the Department's May 8, 2017 AD Questionnaire.⁹ Regarding Scaw, on May 17, 2017, the Department issued a memorandum confirming Scaw's receipt of the Department's May 8, 2017 AD Questionnaire.¹⁰ Further, on May 25, 2017, the

² 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*).

³ See *Initiation Notice* at 19211-19212.

⁴ See Letter from the Department to All Interested Parties, dated April 19, 2017 (CBP Import Data).

⁵ See Letter from the petitioners to the Department, regarding "Carbon and Certain Alloy Steel Wire Rod from South Africa: Respondent Selection Comments," dated April 26, 2017.

⁶ 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).

⁷ See Letter from the Department to Cape Gate, dated May 8, 2017; see also Letter from the Department to AMSA, dated May 8, 2017; see also Letter from the Department to Scaw, dated May 8, 2017.

⁸ See *Certain Carbon and Alloy Steel Wire Rod from Belarus, Italy, Korea, Russia, South Africa, Spain, Turkey, Ukraine, United Arab Emirates, and the United Kingdom; Determinations*, 82 FR 22846 (May 18, 2017) (*ITC Preliminary Determination*); "International Trade Commission Preliminary Report Certain Carbon and Alloy Steel Wire Rod from Belarus, Italy, Korea, Russia, South Africa, Spain, Turkey, Ukraine, United Arab Emirates, and the United Kingdom," ITC Publication 4615, May 2016.

⁹ See Letter from the Department to Cape Gate, regarding "Product Characteristics for the Antidumping Duty Investigation of Carbon and Alloy Steel Wire Rod from the Republic of South Africa," dated May 19, 2017; see also Letter from the Department to AMSA, regarding "Product Characteristics for the Antidumping Duty Investigation of Carbon and Alloy Steel Wire Rod from the Republic of South Africa," dated May 19, 2017; see also Letter from the Department to Scaw, regarding "Product Characteristics for the Antidumping Duty Investigation of Carbon and Alloy Steel Wire Rod from the Republic of South Africa," dated May 19, 2017.

¹⁰ See Memorandum to the File, entitled "Antidumping Duty Investigation Concerning Carbon and Alloy Steel Wire Rod from the Republic of South Africa: Sections A to D of the Department of Commerce's Antidumping Duty

Department issued a memorandum confirming Scaw's receipt of the Department's May 19, 2017 Product Characteristics Letter.¹¹ However, Scaw failed to submit its response to section A of the Department's AD Questionnaire by the deadline, May 29, 2017, and did not request an extension of the deadline.¹² In addition, Scaw did not respond to sections B through D of the Department's May 8, 2017 AD Questionnaire.

Regarding Cape Gate, on May 30, 2017, the Department issued a no-shipment inquiry to CBP requesting that it confirm Cape Gate's April 26, 2017 No-shipment Claim.¹³ On June 5, 2017, CBP confirmed in a memorandum that Cape Gate had not shipped wire rod to the United States during the POI.¹⁴

Also in the *Initiation Notice*, the Department notified parties of an opportunity to comment on the appropriate physical characteristics of wire rod to be reported in response to the Department's AD Questionnaire.¹⁵ The Department received a number of timely filed scope comments on the record of this investigation, as well as on the records of the companion wire rod investigations involving Belarus, Italy, the Republic of Korea, the Russian Federation, Spain, the Republic of Turkey, Ukraine, United Arab Emirates, and the United Kingdom.¹⁶ On September 6, 2017, POSCO and British Steel submitted scope case briefs.¹⁷ On September 13, 2017, the petitioners submitted its scope rebuttal brief.¹⁸

On June 6, 2017, AMSA submitted a timely response to section A of the Department's AD

Questionnaire for Davsteel Division of Cape Gate (Pty) Ltd. and Scaw South Africa (Pty) Ltd.," dated May 17, 2017.

¹¹ See Memorandum to the File, entitled "Antidumping Duty Investigation Concerning Carbon and Alloy Steel Wire Rod from the Republic of South Africa: Product Characteristics Letter for Scaw South Africa (Pty) Ltd.," dated May 25, 2017.

¹² See Memorandum to the File, entitled "Antidumping Duty Investigation Concerning Carbon and Alloy Steel Wire Rod from the Republic of South Africa: Email Communication with Scaw South Africa (Pty) Ltd. Concerning the Department of Commerce's Antidumping Duty Questionnaire," dated June 6, 2017.

¹³ See Letter from the Department to CBP, dated May 30, 2017.

¹⁴ 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).

¹⁵ See *Initiation Notice* at 19208.

¹⁶ For further discussion of these comments, see Memorandum to James Maeder, Senior Director performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "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).

¹⁷ See Letter from POSCO to the Department, regarding "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: Scope Issues Case Brief," dated September 6, 2017. See also Letter from British Steel Limited (British Steel) to the Department, regarding "Carbon and Alloy Steel Wire Rod from Belarus, Italy, Russia, South Africa, South Korea, Spain, Turkey, Ukraine, the United Arab Emirates, and the United Kingdom: British Steel's Scope Case Brief," dated September 6, 2017.

¹⁸ See Letter from the petitioners to the Department, regarding "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 – Rebuttal Brief in Response to the Scope Case Briefs of British Steel and POSCO," dated September 13, 2017.

Questionnaire, *i.e.*, the section relating to general information,¹⁹ and on June 21, 2017, AMSA responded to section C of the Department's AD Questionnaire, *i.e.*, the section relating to U.S. sales.²⁰ On June 23, 2017, AMSA submitted timely responses to sections B and D of the Department's AD Questionnaire, *i.e.*, the sections relating to home market sales and the cost of production and constructed value, respectively.²¹

From June 2017 through October 2017, we issued supplemental questionnaire to AMSA and received responses to these supplemental questionnaires from July through October 2017.²²

In addition, on July 6, 2017, one of the petitioners (*i.e.*, Nucor) filed a timely allegation, pursuant to section 773(e)(1) of the Act and 19 CFR 351.206(c), alleging that critical circumstances exist with respect to imports of the merchandise under consideration.²³ On July 17, 2017, the

¹⁹ See Letter from AMSA to the Department, regarding "Carbon and Alloy Steel Wire Rod from the Republic of South Africa: Section A Questionnaire Response," dated June 6, 2017 (AQR).

²⁰ See Letter from AMSA to the Department, regarding "Carbon and Alloy Steel Wire rod from the Republic of South Africa: Section C Questionnaire Response," dated June 21, 2017 (CQR).

²¹ See Letter from AMSA to the Department, regarding "Carbon and Alloy Steel Wire Rod from the Republic of South Africa: Sections B and D Questionnaire Response," dated June 23, 2017 (BDQR).

²² See Letter from the Department to AMSA, regarding "Less-than-Fair-Value Investigation on Carbon and Alloy Steel Wire Rod from the Republic of South Africa: Supplemental Questionnaire for Section A," dated June 30, 2017 (First Sales Supplemental Questionnaire). See also Letter from AMSA to the Department, regarding "Carbon and Alloy Steel Wire Rod from the Republic of South Africa: Supplemental Section A Questionnaire Response," dated July 24, 2017 (First SQR). See also Letter from the Department to AMSA, regarding "Less-than-Fair-Value Investigation on Carbon and Alloy Steel Wire Rod from the Republic of South Africa: Second Supplemental Questionnaire," dated August 9, 2017 (Second Sales Supplemental Questionnaire). See also Letter from AMSA to the Department, regarding "Carbon and Alloy Steel Wire Rod from the Republic of South Africa: Second Supplemental Sections A, B, and C Questionnaire Response," dated August 16, 2017 (Second SQR). See also Letter from the Department to AMSA, regarding "Antidumping Duty Less Than Fair Value Investigation of Carbon and Alloys Steel Wire Rod from South Africa," dated August 3, 2017 (First Section D Supplemental Questionnaire). See also Letter from the Department to AMSA, regarding "Antidumping Duty Less Than Fair Value Investigation of Carbon and Alloys Steel Wire Rod from South Africa," dated August 8, 2017 (Second Section D Supplemental Questionnaire). See also Letter from AMSA to the Department, regarding "Carbon and Alloy Steel Wire Rod from the Republic of South Africa: Supplemental Section D Questionnaire Response," dated August 24, 2017, (First SDQR). See also Letter from AMSA to the Department, regarding "Carbon and Alloy Steel Wire Rod from the Republic of South Africa: Errata Letter Regarding Section D Supplemental Questionnaire Response," dated August 25, 2017, (Second SDQR). See also Letter from the Department to AMSA, regarding "Less-than-Fair-Value Investigation on Carbon and Steel Alloy Wire Rod from the Republic of South Africa: Third Sales Supplemental Questionnaire," dated August 16, 2017 (Third Sales Supplemental Questionnaire). See also Letter from AMSA to the Department, regarding "Carbon and Alloy Steel Wire Rod from the Republic of South Africa: Third Supplemental Sections A, B, and C Questionnaire Response," dated September 5, 2017 (Third SQR). See also Letter from the Department to AMSA, regarding "Less-than-Fair-Value Investigation on Carbon and alloy Steel Wire Rod from the Republic of South Africa," dated September 14, 2017 (Fourth Sales Supplemental Questionnaire). See also Letter from AMSA to the Department, regarding "Carbon and Alloy Steel Wire Rod from the Republic of South Africa: Fourth Supplemental Sections A, B, and C Questionnaire Response," dated September 19, 2017 (Fourth SQR). See also Letter from the Department to AMSA, regarding "Less-than-Fair-Value Investigation on Carbon and Alloy Steel Wire Rod from the Republic of South Africa: Fifth Sales Supplemental Questionnaire," dated September 27, 2017 (Fifth Sales Supplemental Questionnaire). See also Letter from AMSA to the Department, regarding "Carbon and Alloy Steel Wire Rod from the Republic of South Africa: Fifth Supplemental Sections A, B, and C Questionnaire Response," dated October 5, 2017 (Fifth SQR).

²³ See Letter from the petitioners to the Department, regarding "Carbon and Alloy Steel Wire Rod from Russia, South Africa, Spain, Turkey, and United Kingdom: Critical Circumstances Allegations," dated July 6, 2017 (Critical Circumstances Allegation).

Department requested shipment data from AMSA with respect to the critical circumstances allegation.²⁴ AMSA responded to the Department's request for shipment data from July 2017 through September 2017.²⁵

Further, on July 13, 2017, Nucor Corporation filed a major input allegation regarding AMSA.²⁶

On August 21, 2017, and pursuant to section 733(c)(1)(B) of the Act, and 19 CFR 351.205(f)(1), the Department published in the *Federal Register* a postponement of the preliminary determination until no later than October 24, 2017.²⁷

On September 8, 2017, AMSA requested that the Department postpone the final determination and that provisional measures be extended.²⁸

We are conducting this investigation in accordance with section 733(b) of the Act.

III. PERIOD OF INVESTIGATION

The POI is January 1, 2016, through December 31, 2016. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was March 2017.²⁹

IV. SCOPE COMMENTS

In accordance with the *Preamble* to the Department's regulations,³⁰ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage, *i.e.*, scope.³¹ Certain interested parties from the companion wire rod investigations commented on the scope of the wire rod investigations, as published in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see*

²⁴ See Letter from the Department to the Respondent, regarding "Less-than-Fair-Value Investigation on Carbon and Alloy Steel Wire Rod from the Republic of South Africa: Request for Monthly Quantity and Value Shipment Data," dated July 17, 2017.

²⁵ See Letter from the respondent to the Department, regarding "Carbon and Alloy Steel Wire Rod from the Republic of South Africa: Monthly Quantity and Value Shipment Data," dated July 26, 2017; *see also* Letter from the respondent to the Department, regarding "Carbon and Alloy Steel Wire Rod from the Republic of South Africa: Monthly Quantity and Value Shipment Data," dated August 15, 2017; *see also* Letter from the respondent to the Department, regarding "Carbon and Alloy Steel Wire Rod from the Republic of South Africa: Monthly Quantity and Value Shipment Data," dated September 15, 2017; *see also* Letter from the respondent to the Department, regarding "Carbon and Alloy Steel Wire Rod from the Republic of South Africa: Monthly Quantity and Value Shipment Data," dated October 16, 2017.

²⁶ See Letter from the petitioners to the Department, regarding "Carbon and Alloy Steel Wire Rod from South Africa: Nucor's Major Input Allegation Regarding AMSA," dated July 13, 2017.

²⁷ 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).

²⁸ See Letter from AMSA to the Department, regarding "Carbon and Alloy Steel Wire Rod from the Republic of South Africa: Request to Postpone Final Determination," dated September 8, 2017.

²⁹ See 19 CFR 351.204(b)(1).

³⁰ See *Antidumping Duties; Countervailing Duties; Final rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

³¹ See *Initiation Notice* at 19207-08.

the Preliminary Scope Decision Memorandum.³² We have evaluated the scope comments filed by the interested parties, and we are not preliminarily modifying the scope language as it appeared in the *Initiation Notice*.³³ In the Preliminary Scope Decision Memorandum, we set a separate briefing schedule on scope issues for interested parties, and since the issuance of the Preliminary Scope Decision Memorandum, certain parties submitted scope case briefs or scope rebuttal briefs.³⁴ We will issue a final scope decision on the records of the wire rod investigations after considering the comments submitted in the scope case and rebuttal briefs.

V. PRELIMINARY DETERMINATION OF NO SHIPMENTS

As noted above, the Department received a timely filed claim from Cape Gate, one of the three companies identified in the Petition concerning South Africa, that it had no exports, shipments, or sales of subject merchandise to the United States at any time during the POI.³⁵ We subsequently confirmed with CBP the claim made by Cape Gate that there were no entries of subject merchandise during the POI.³⁶ Furthermore, there is no evidence on the record indicating that Cape Gate is affiliated with AMSA or Scaw. Because the evidence on the record indicates that Cape Gate made no sales of subject merchandise in the United States during the POI, we preliminarily determine not to further examine Cape Gate as part of this investigation.

VI. AFFILIATION AND COLLAPSING OF AFFILIATES

As noted above, AMSA and Scaw have both been identified as producers of subject merchandise.³⁷ Additionally, AMSA has identified CWI as an affiliated home market customer.³⁸ Based on an analysis of AMSA's questionnaire responses, we preliminarily determine that evidence on the record of this investigation establishes that (1) AMSA and Scaw are affiliated, pursuant to section 771(33)(F) of the Act, (2) AMSA and CWI are affiliated, in accordance with section 771(33)(E) or (G) of the Act, and (3) Scaw and CWI are affiliated, in accordance with section 771(33)(G) of the Act.³⁹ We further determine that AMSA, Scaw, and CWI should be collapsed and treated as a single entity pursuant to the provisions of 19 CFR 351.401(f). This finding is based on the determination, pursuant to 19 CFR 351.401(f), that

³² For further 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," dated August 7, 2017 (Preliminary Scope Decision Memorandum).

³³ *Id.*

³⁴ *See* Letter from POSCO dated September 6, 2017, entitled "Scope Issues Case Brief," Letter from British Steel Limited dated September 6, 2017, entitled "British Steel's Scope Case Brief," and Letter from petitioners dated September 13, 2017, entitled "Rebuttal Brief in Response to the Scope Case Briefs of British Steel and POSCO."

³⁵ *See* Cape Gate's No-shipment Claim.

³⁶ *Id.* *See also* CBP No-shipment Claim Confirmation Memorandum.

³⁷ *See* the Petition, Volume VI at 1, and Volume I at Exhibit I-7. Scaw was identified in the Petition as a wire rod producer.

³⁸ *See* First SQR at 34 and 88.

³⁹ *See* Memorandum, "Less-Than-Fair-Value Investigation of Carbon and Alloy Steel Wire Rod from the Republic of South Africa: Affiliation and Collapsing Memorandum for ArcelorMittal South Africa Limited, Scaw South Africa (Pty) Ltd. and Consolidated Wire Industries," dated concurrently with this memorandum (AMSA/Scaw/CWI Affiliation and Collapsing Memorandum). We note that various other parties affiliated with AMSA are not being collapsed with AMSA/Scaw/CWI.

AMSA and Scaw each have production facilities for similar or identical products that would not require substantial retooling in order to restructure manufacturing priorities, and that there is significant potential for manipulation of price or production. Additionally, the Department has treated producers and non-producing entities, such as affiliated exporters, trading companies, invoicing companies, and input suppliers, as a single entity in prior cases where there is a significant potential for manipulation of price or production.⁴⁰ Here, because record evidence signals that there is a significant potential for manipulation of price and production, we determine that AMSA, Scaw, and CWI should be collapsed.⁴¹ For detailed collapsing analysis, see AMSA/Scaw/CWI Affiliation and Collapsing Memorandum.

VII. APPLICATION OF FACTS AVAILABLE AND USE OF ADVERSE INFERENCE

As stated above, we find that AMSA, Scaw, and CWI should be collapsed into one entity, *i.e.*, AMSA/Scaw/CWI. Additionally, a part of the entity, Scaw, was named in the Petition and received the Department's AD Questionnaire. Nonetheless, it did not respond to the Department's AD Questionnaire and as a result, it did not participate in this investigation. For the reasons stated below, we determine that the use of total facts otherwise available with an adverse inference is appropriate for the preliminary determination with respect to AMSA/Scaw/CWI.

A) Application of Facts Available

Sections 776(a)(1) and 776(a)(2)(A)-(D) of the Act provide that, if necessary information is not available on the record, or if an interested party: (1) withholds information requested by the Department; (2) fails to provide such information by the deadlines for submission of the information, or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act; (3) significantly impedes a proceeding; or (4) provides such information but the information cannot be verified as provided in section 782(i) of the Act, the Department shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. Section 782(c)(1) of the Act states that the Department shall consider the ability of an interested party to provide information upon a prompt notification by that party that it is unable to submit the information in the form and manner required, and that party also provides a full explanation for the difficulty and suggests an alternative form in which the party is able to provide the information. Section 782(e) of the Act states further that the Department shall not decline to consider submitted information if all of the following requirements are met: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the

⁴⁰ See, *e.g.*, *Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil*; Notice of Final Determination at Sales at Less Than Fair Value, 65 FR 5554 (February 4, 2000); *Certain Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty Administrative Review*, 63 FR 55578 (October 16, 1998) and accompanying Issues and Decision Memorandum at Comment 2; *Automotive Replacement Glass Windshields from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 69 FR 25545 (May 7, 2004); *Automotive Replacement Glass Windshields from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 69 FR 61790 (October 21, 2004); *Certain Preserved Mushrooms from the People's Republic of China: Final Results of Sixth Antidumping Duty New Shipper Review and Final Results and Partial Rescission of the Fourth Antidumping Duty Administrative Review*, 69 FR 54635 (September 9, 2004) and accompanying Issues and Decision Memorandum, at Comment 1. See also *Hontex Enterprises, Inc. v. United States*, 248 F. Supp. 2d 1323, 1343 (CIT 2003).

⁴¹ We refer to the single entity as AMSA/Scaw/CWI throughout the remainder of this document.

information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Scaw did not respond to our original questionnaire or otherwise participate in this investigation. As a result, we preliminarily find that the necessary information is not available on the record of this investigation, that Scaw withheld information the Department requested, that it failed to provide information by the specified deadlines, and that it significantly impeded the proceeding. Moreover, because Scaw failed to provide any information, section 782(e) of the Act is not applicable. As explained above, Scaw is being collapsed with AMSA and CWI, and, as a result, for purposes of this preliminary determination, dumping calculations will not be performed for the collapsed entity, AMSA/Scaw/CWI, due to the absence of record information (*e.g.*, sales and cost data for merchandise under investigation) requested from Scaw.⁴² Accordingly, pursuant to sections 776(a)(1) and 776(a)(2)(A), (B), and (C) of the Act, we are relying upon facts otherwise available to determine the AMSA/Scaw/CWI preliminary dumping margin.

B) *Use of Adverse Inference*

Section 776(b) of the Act provides that, if the Department finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information, the Department may use an inference adverse to the interests of that party in selecting the facts otherwise available.⁴³ In so doing, and under the TPEA,⁴⁴ the Department is not required to determine, or make any adjustments to, a weighted-average dumping margin based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information.⁴⁵ In addition, the Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA) explains that the Department may employ an adverse inference “to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”⁴⁶ Furthermore, affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.⁴⁷ It is the Department’s practice to consider, in employing adverse

⁴² See, *e.g.*, *Finished Carbon Steel Flanges from Italy: Final Determination of Sales at Less Than Fair Value* 82 FR 29481 (June 29, 2017) and accompanying Issues and Decision Memorandum at Comment 2.

⁴³ See 19 CFR 351.308(a); see also *Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023, 54025-26 (September 13, 2005); and *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794-96 (August 30, 2002).

⁴⁴ As noted above, on June 29, 2015, the President of the United States signed into law the TPEA, which made numerous amendments to the AD and CVD law, including amendments to sections 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act, as summarized below. See TPEA. The amendments to section 776 of the Act are applicable to all determinations made on or after August 6, 2015. See *Applicability Notice*, 80 FR at 46794-95. Therefore, the amendments apply to this investigation.

⁴⁵ See section 776(b)(1)(B) of the Act.

⁴⁶ See, SAA, H.R. Doc. 103-316, Vol. 1 (1994) at 870; *Certain Polyester Staple Fiber from Korea: Final Results of the 2005-2006 Antidumping Duty Administrative Review*, 72 FR 69663, 69664 (December 10, 2007).

⁴⁷ See, *e.g.*, *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003); *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985 (July 12, 2000); *Preamble*, 62 FR at 27340.

inferences, the extent to which a party may benefit from its own lack of cooperation.⁴⁸

We preliminarily find that AMSA/Scaw/CWI has not acted to the best of its ability to comply with the Department's request for information. Scaw failed to respond to the Department's AD Questionnaire. The failure of Scaw to participate in this investigation and respond to the Department's AD Questionnaire has precluded the Department from performing the necessary analysis to calculate a weighted-average dumping margin for AMSA/Scaw/CWI based on its own data. Accordingly, the Department concludes that AMSA/Scaw/CWI failed to cooperate to the best of its ability to comply with a request for information by the Department.

Based on the above, in accordance with section 776(b) of the Act and 19 CFR 351.308(a), the Department preliminarily determines to use an adverse inference when selecting from among the facts otherwise available.⁴⁹

C) *Selection and Corroboration of the AFA Rate*

Section 776(b) of the Act states that the Department, when employing an adverse inference, may rely upon information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record.⁵⁰ In selecting a rate based on adverse facts available (AFA), the Department selects a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.⁵¹ The Department's practice is to select, as an AFA rate, the higher of: (1) the highest dumping margin alleged in the petition, or (2) the highest calculated rate of any respondent in the investigation.⁵²

When using facts otherwise available, section 776(c) of the Act provides that, where the Department relies on secondary information (such as the petition) rather than information obtained in the course of an investigation, it must corroborate, to the extent practicable, information from independent sources that are reasonably at its disposal. Secondary information is defined as information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section

⁴⁸ See, e.g., *Steel Threaded Rod from Thailand: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances*, 78 FR 79670 (December 31, 2013), and accompanying Issues and Decision Memorandum at 4, 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 (March 14, 2014).

⁴⁹ See, e.g., *Non-Oriented Electrical Steel from Germany, Japan, and Sweden: Preliminary Determinations of Sales at Less Than Fair Value, and Preliminary Affirmative Determinations of Critical Circumstances, in Part*, 79 FR 29423 (May 22, 2014), and accompanying Preliminary Decision Memorandum at 7-11, unchanged in *Non-Oriented Electrical Steel from Germany, Japan, the People's Republic of China, and Sweden: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determinations of Critical Circumstances, in Part*, 79 FR 61609 (October 14, 2014); see also *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR at 42985, 42986 (July 12, 2000) (where the Department applied total AFA when the respondent failed to respond to the antidumping questionnaire).

⁵⁰ See also 19 CFR 351.308(c).

⁵¹ See SAA, at 870.

⁵² See *Welded Stainless Pressure Pipe from Thailand: Final Determination of Sales at Less Than Fair Value*, 79 FR 31093 (May 30, 2014) and accompanying Issues and Decision Memorandum at Comment 3.

751 of the Act concerning the subject merchandise.⁵³ The SAA clarifies that “corroborate” means that the Department will satisfy itself that the secondary information to be used has probative value.⁵⁴ To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used.⁵⁵ Further, under the TPEA, the Department is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party.⁵⁶ Finally, under the new section 776(d) of the Act, the Department may use any dumping margin from any segment of a proceeding under an antidumping order when applying an adverse inference, including the highest of such margins.⁵⁷

In this investigation, the highest dumping margin calculated for merchandise under consideration from South Africa in the petition is 142.26 percent and no dumping margin was calculated for an individually examined respondent.⁵⁸ Thus, consistent with our practice, we selected the highest dumping margin alleged in the Petition as the AFA rate applicable to AMSA/Scaw/CWI in this investigation.⁵⁹ Accordingly, because the AFA rate applied to AMSA/Scaw/CWI is derived from the Petition and, consequently, is based upon secondary information, the Department must corroborate the rate to the extent practicable.

In order to determine the probative value of the dumping margin alleged in the Petition for assigning an AFA rate, we examined the information on the record. When we compared the home market price quote obtained by the petitioners and AMSA’s reported gross unit prices in the home market, numerous home market sales observations in the home market database have gross unit prices higher than the home market price quote obtained by the petitioners and used for the calculation of the highest margin in the Petition.⁶⁰ In addition, when we compared the average unit value (AUV) calculated by the petitioners with AMSA’s reported gross unit prices in the U.S. market, there was a sale observation that has a gross unit price lower than the AUV calculated by the petitioners and used for the calculation of the highest margin in the Petition.⁶¹ As a

⁵³ See SAA, at 870.

⁵⁴ *Id.*; see also 19 CFR 351.308(d).

⁵⁵ See, e.g., *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).

⁵⁶ See sections 776(d)(3)(A) and (B) of the Act.

⁵⁷ See section 776(d)(1)-(2) of the Act; TPEA, section 502(3).

⁵⁸ See *Initiation Notice*, 82 FR 19207. See also AD Investigation Initiation Checklist: Carbon and Alloy Steel Wire Rod from the Republic of South Africa (April 17, 2017) (South Africa Initiation Checklist).

⁵⁹ See *Certain Polyethylene Terephthalate Resin from India: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 81 FR 13327 (March 14, 2016) and accompanying Issues and Decision Memorandum at Comment 14 (*PET Resin from India Final Determination*).

⁶⁰ See the Petition, Volume VI at Exhibit AD-ZA-4. See also the Fifth SQR at Exhibit SB4-1.

⁶¹ See Letter from the petitioners to the Department, regarding “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 – Petitioners’ Amendment to Volume VI Relating to South Africa

consequence, we find the pricing data used in the Petition for the calculation of the highest margin in the Petition to be corroborated by record evidence associated with reported sales.

In sum, the Department corroborated the AFA rate of 142.26 percent to the extent practicable within the meaning of section 776(c) of the Act, because the rate is relevant to the uncooperative respondents. As the 142.26 percent rate is both reliable and relevant, we determine that it has probative value, and thus, it has been corroborated to the extent practicable, pursuant to section 776(c) of the Act. Thus, we preliminarily assigned this AFA rate to the subject merchandise from AMSA/Scaw/CWI.

VIII. ALL-OTHERS RATE

Section 735(c)(5)(A) of the Act provides that the estimated “all-others” rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any rates that are zero, *de minimis*, or determined entirely under section 776 of the Act. 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 entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated weighted-average dumping margin for all other producers or exporters.

As we indicated above, AMSA and Scaw are mandatory respondents in this investigation, and their estimated dumping margin as a collapsed entity (*i.e.*, AMSA/Scaw/CWI) is determined entirely under section 776 of the Act. Pursuant to section 735(c)(5)(B) of the Act, the Department’s practice under these circumstances has been to assign, as the “all-others” rate, a simple average of the Petition rates.⁶² Consistent with its practice, the Department is using the simple average of the two dumping margins provided in the Petition (*i.e.*, 128.66 percent and 142.26 percent) as the “all-others” rate to entities not individually examined in this investigation.⁶³ This rate is 135.46 percent.

IX. CRITICAL CIRCUMSTANCES

On July 6, 2017, the petitioners filed an allegation that critical circumstances exist with respect to imports of subject merchandise, pursuant to section 733(e)(1) of the Act and 19 CFR 351.206(c)(1).⁶⁴ Pursuant to 19 CFR 351.206(c)(2), the petitioners requested that the

Antidumping Duties,” dated April 7, 2017 (Second South Africa AD Supplement) at Exhibit AD-ZA-SUPP2-5. See also Fourth SQR at Exhibit SC3-1.

⁶² 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.

⁶³ See *Certain Oil Country Tubular Goods from Thailand: Preliminary Determination of Sales at Less Than Fair Value, and Postponement of Final Determination*, 79 FR 10487 (February 25, 2014), and accompanying Preliminary Decision Memorandum, unchanged in *Certain Oil Country Tubular Goods from India, the Republic of Korea, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Antidumping Duty Orders; and Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam: Amended Final Determination of Sales at Less Than Fair Value*, 79 FR 53691 (September 10, 2014).

⁶⁴ See Critical Circumstances Allegations.

Department issue a preliminary affirmative determination of critical circumstances on an expedited basis.⁶⁵ In accordance with 19 CFR 351.206(c)(2)(i), when a critical circumstances allegation is submitted more than 20 days before the scheduled date of the preliminary determination, the Department must issue a preliminary finding of whether there is a reasonable basis to believe or suspect that critical circumstances exist no later than the date of the preliminary determination.

On July 17, 2017, the Department requested shipment data from AMSA concerning the critical circumstances allegation. AMSA responded to the Department's request for shipment data and provided monthly quantity and value shipment data from July 2017 through September 2017.⁶⁶

A) *Legal Framework*

Section 733(e)(1) of the Act provides that the Department, upon receipt of a timely allegation of critical circumstances, will determine whether critical circumstances exist in an LTFV investigation 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. Further, 19 CFR 351.206(h)(1) 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, 19 CFR 351.206(h)(2) provides that, "[i]n general, unless the imports during the 'relatively short period' have increased by at least 15 percent over the imports during an immediately preceding period of comparable duration, the Secretary will not consider the imports 'massive.'" The Department defines "relatively short period" generally as the period starting on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later.⁶⁷ This section of the regulations further provides that, if the Department "finds that importers, or exporters or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely," then the Department "may consider a period of not less than three months from that earlier time."⁶⁸

⁶⁵ *Id.* at 3.

⁶⁶ See Letter from the respondent to the Department, regarding "Carbon and Alloy Steel Wire Rod from the Republic of South Africa: Monthly Quantity and Value Shipment Data," dated July 26, 2017; see also Letter from the respondent to the Department, regarding "Carbon and Alloy Steel Wire Rod from the Republic of South Africa: Monthly Quantity and Value Shipment Data," dated August 15, 2017; see also Letter from the respondent to the Department, regarding "Carbon and Alloy Steel Wire Rod from the Republic of South Africa: Monthly Quantity and Value Shipment Data," dated September 15, 2017; see also Letter from the respondent to the Department, regarding "Carbon and Alloy Steel Wire Rod from the Republic of South Africa: Monthly Quantity and Value Shipment Data," dated October 16, 2017.

⁶⁷ See 19 CFR 351.206(i).

⁶⁸ *Id.*

B) *Critical Circumstances Allegation*

The petitioners allege that section 733(e)(1)(A) of the Act is met by virtue of the dumping margins alleged in the Petition, which could be as high as 142.26 percent. In its allegation, the petitioners contend that, because the Department has not yet made its preliminary determination in this investigation, the Department may rely on the margins alleged in the petition to decide whether importers knew, or should have known, that dumping was occurring.⁶⁹ The estimated dumping margin for wire rod from South Africa in the petition ranges from 128.66 to 142.26 percent.⁷⁰ Thus, the petitioners assert that certain dumping margins alleged in the Petition, which were up to 142.26 percent, exceed the 15 percent threshold used by the Department to impute knowledge of dumping in CEP transactions.⁷¹ Further, the petitioners also contend that, based on the preliminary determination of injury by the ITC, there is a reasonable basis to impute importers' knowledge that material injury is likely by reason of such imports.⁷² Therefore, the petitioners maintain that there is information on the record of this investigation to impute knowledge to importers that wire rod from South Africa was being sold in the United States at LTFV.⁷³

The petitioners argue that, regarding section 733(e)(1)(B), which examines whether there have been "massive imports of the subject merchandise over a relatively short period," the Department should use the minimum three-month base and comparison periods for shipment data, as provided under 19 CFR 351.206(i). This would result in a base period from January 2017 through March 2017 and a comparison period from April 2016 through June 2017. The petitioners allege that import statistics released by the Department's Steel Import Monitoring Group indicate shipments of merchandise under consideration during the comparison period increased significantly in terms of volume (431.96 percent) between the base period and the comparison period, and as a result, exceeded the threshold for "massive" imports of wire rod from South Africa, as provided under 19 FR 351.206(h) and (i).⁷⁴

C) *Analysis*

The Department's normal practice in determining whether critical circumstances exist pursuant to the statutory criteria under section 733(e) of the Act has been to examine evidence available to the Department, such as: (1) the evidence presented in the petitioner's critical circumstances allegation; (2) import statistics released by the ITC; and (3) shipment information submitted to the Department by the respondents selected for individual examination.

In determining whether a history of dumping and material injury exists, the Department generally considers current and previous AD orders on subject merchandise from the country in question in the United States and current orders in any other country on imports of subject

⁶⁹ See Critical Circumstances Allegations at 3-4.

⁷⁰ 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 19211 (April 26, 2017) (*Initiation Notice*).

⁷¹ See Critical Circumstances Allegations at 5-6.

⁷² See *ITC Preliminary Determination*.

⁷³ See Critical Circumstances Allegations at 7-8.

⁷⁴ *Id.* at 12-13.

merchandise. The petitioners identify no such proceeding with respect to wire rod from South Africa, nor are we aware of an AD order in any country on wire rod from South Africa. Thus, we preliminarily find that there is not a history of injurious dumping of wire rod from South Africa and the criterion is not met.

Because there is no prior history of injurious dumping, we next examine whether 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 LTFV, and whether there was likely to be material injury by reason of such sales. When evaluating whether such imputed knowledge exists, the Department normally considers margins of 25 percent or more for export price (EP) sales or 15 percent or more for constructed export price (CEP) sales sufficient to meet the quantitative threshold to impute knowledge of dumping. For purposes of this investigation, the Department preliminarily determines that the knowledge standard is met because AMSA/Scaw/CWI was uncooperative; we are assigning, as AFA, a rate of 142.26 percent, the highest margin which could be corroborated to the extent practicable to AMSA/Scaw/CWI, as noted above. Because the preliminary dumping margin exceeds the threshold sufficient to impute knowledge of dumping, this margin provides a sufficient basis for imputing knowledge of sales of subject merchandise at LTFV by AMSA/Scaw/CWI to the importers.

In determining whether an importer knew or should have known that there was likely to be material injury caused by reason of such imports, the Department normally will look to the preliminary injury determination of the ITC.⁷⁵ If the ITC finds a reasonable indication of material injury to the relevant U.S. industry, the Department will determine that a reasonable basis exists to impute importer knowledge that material injury is likely by reason of such imports. Here, the ITC found that there is a “reasonable indication” of material injury to the domestic industry by reason of the imported merchandise under consideration.⁷⁶ Therefore, the ITC’s preliminary injury determination in this investigation is sufficient to impute knowledge of possible injury, and, thus, both knowledge requirements of section 733(e)(1)(A)(ii) of the Act are satisfied.

Accordingly, because the statutory criteria of section 733(e)(1)(A) of the Act have been satisfied, we examined whether imports from AMSA/Scaw/CWI were massive over a relatively short period, pursuant to section 733(e)(1)(B) of the Act and 19 CFR 351.206(h). As noted above, we determined to apply total AFA with regard to AMSA/Scaw/CWI, as described under section 776(b) of the Act. Thus, for purposes of the massive imports analysis, because we lack the necessary reliable shipment data from the collapsed entity (*i.e.*, AMSA/Scaw/CWI) (*see* our analysis above, applying total AFA to AMSA/Scaw/CWI), we determine that, pursuant to section 776(b) of the Act, AMSA/Scaw/CWI shipped wire rod in “massive” quantities during the comparison period, thereby fulfilling the criteria under section 773(a)(3)(B) of the Act and 19

⁷⁵ See, e.g., *Carbon and Alloy Steel Wire Rod from Germany, Mexico, Moldova, Trinidad and Tobago, and Ukraine: Preliminary Determination of Critical Circumstances*, 67 FR 6224, 6225 (February 11, 2002), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod from Moldova*, 67 FR 55790; *Affirmative Preliminary Determination of Critical Circumstances: Magnesium Metal from the People’s Republic of China*, 70 FR 5606, 5607 (February 3, 2005), unchanged in *Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Magnesium Metal from the People’s Republic of China*, 70 FR 9037.

⁷⁶ See *ITC Preliminary Determination* at 22846.

CFR 351.206(i). Therefore, we preliminarily determine that critical circumstances exist with regard to AMSA/Scaw/CWI.

Consistent with prior determinations, we did not impute the adverse inferences of massive imports that we applied to the mandatory respondents to the non-individually examined companies receiving the all-others rate.⁷⁷ Rather, the Department examined data for total imports of the subject merchandise during the comparison period relative to a base period to determine whether or not imports were massive with respect to these companies. The Department typically determines whether or not to include the month in which a party had reason to believe that a proceeding was likely in the base or comparison period based on whether the event that gave rise to the belief (*i.e.*, the filing of the Petition) occurred in the first half of the month (included in the comparison period) or the second half of the month (included in the base period).⁷⁸ Moreover, it is the Department's practice to base its critical circumstances analysis on all available data, using base and comparison periods of no less than three months.⁷⁹ Therefore, we chose to compare the base period of November 2016 through March 2017 to the comparison period of April 2017 through August 2017 to determine whether or not imports of subject merchandise were massive. These base and comparison periods satisfy the regulatory provisions that the comparison period be at least three months long and that the base period have a comparable duration. We relied on U.S. import statistics, as reported by Global Trade Atlas,⁸⁰ to determine whether or not there were massive imports of subject merchandise in the comparison period.⁸¹ This comparison indicates that there was a 431.97 percent (*i.e.* more than 15 percent) increase in imports of subject merchandise during a "relatively short period" of time, in

⁷⁷ See, e.g., *Steel Threaded Rod from Thailand: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances*, 78 FR 79670 (December 31, 2013), and accompanying Preliminary Decision Memorandum (noting that, where mandatory respondents receive AFA, we do not impute "massive imports" to companies receiving the all-others rate), 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 (March 14, 2014); see also *Non-Oriented Electrical Steel from Germany, Japan, and Sweden: Preliminary Determinations of Sales at Less Than Fair Value, and Preliminary Affirmative Determinations of Critical Circumstances, in Part*, 79 FR 29423 (May 22, 2014), unchanged in *Non-Oriented Electrical Steel from Germany, Japan, and Sweden: Final Determinations of Sales at Less Than Fair Value, and Preliminary Affirmative Determinations of Critical Circumstances, in Part*, 79 FR 61609 (October 14, 2014).

⁷⁸ See, e.g., *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances*, 77 FR 31309, 31312.

⁷⁹ See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from India*, 69 FR 47111, 47118-47119 (August 4, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value and Negative Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from India*, 69 FR 76916 (December 23, 2004).

⁸⁰ The petitioners based their "surge" calculation on a mixture of ITC data and SIMA data. The Department conducted its own query of GTA data, using the same series of HTSUS subheadings appear in the scope of this proceeding, for the base and comparison periods and confirmed that, to the extent monthly data is available from all three sources, the GTA data, ITC data, and SIMA data are nearly identical.

⁸¹ See Memorandum, "Carbon and Alloy Steel Wire Rod from the Republic of South Africa: Calculation Memorandum for the Preliminary Critical Circumstances Determination in the Antidumping Duty Investigation," dated concurrently with this preliminary determination. Because we lack the necessary reliable shipment data from the collapsed entity (*i.e.*, AMSA/Scaw/CWI) to the United States during the base and comparison periods, the Department is not able to adjust the U.S. import statistics to exclude the data reflecting shipments made by the mandatory respondents. Therefore, we relied on the total quantity of U.S. imports to conduct the "massive imports" analysis for all other South Africa exporters and producers.

accordance with 19 CFR 351.206(h) and (i). Therefore, we preliminarily find there to be massive imports for all non-individually examined companies, pursuant to section 733(e)(1)(B) of the Act and 19 CFR 351.206(c)(2)(i). Accordingly, we preliminarily find that there were massive imports of merchandise from all other South African exporters and producers and, thus, that critical circumstances exist for all other South African exporters and producers.

We will make a final determination concerning critical circumstances when we issue our final determination of sales at LTFV for this investigation.

X. CONCLUSION

We recommend applying the above methodology for this preliminary determination.



Agree

Disagree

10/24/2017

X



Signed by: GARY TAVERMAN

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