

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our affirmative sales at less than fair value and negative critical circumstances preliminary determinations. If our final antidumping determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury, to the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

Public Comment

Case briefs for this investigation must be submitted no later than one week after the issuance of the verification report. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on diskette.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made in an investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. In the event that the Department receives requests for hearings from parties to more than one rebar case, the Department may schedule a single hearing to encompass all the cases. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

As noted above, the final determination will be issued 135 days

after the date of the publication of the preliminary determination.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: January 16, 2001.

Troy H. Cribb,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-841-804]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars From Moldova

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

EFFECTIVE DATE: January 30, 2001.

FOR FURTHER INFORMATION CONTACT: Nithya Nagarajan or Michele Mire at (202) 482-5253 or (202) 482-4711, respectively; AD/CVD Enforcement, Office 4, Group II, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

The Applicable Statute and Regulations

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

Preliminary Determination

We preliminarily determine that steel concrete reinforcing bars (rebar) from Moldova are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the Suspension of Liquidation section of this notice.

Case History

This investigation was initiated on July 18, 2000.¹ See *Initiation of*

¹ The petitioner in these investigations is the Rebar Trade Action Coalition (RTAC), and its individual members, AmeriSteel, Auburn Steel Co.,

Antidumping Duty Investigations: Steel Concrete Reinforcing Bars from Austria, Belarus, Indonesia, Japan, Latvia, Moldova, the People's Republic of China, Poland, the Republic of Korea, the Russian Federation, Ukraine, and Venezuela, 65 FR 45754 (July 25, 2000) (*Initiation Notice*). Since the initiation of this investigation, the following events have occurred.

On August 14, 2000, the United States International Trade Commission (the ITC) preliminarily determined that there is a reasonable indication a regional industry in the United States is materially injured or threatened with material injury by reason of imports from Belarus, China, Indonesia, Korea, Latvia, Moldova, Poland, and Ukraine of certain steel concrete reinforcing bars. See *Certain Steel Concrete Reinforcing Bars From Austria, Belarus, China, Indonesia, Japan, Korea, Latvia, Moldova, Poland, Russia, Ukraine, and Venezuela*, 65 FR 51329 (August 23, 2000). With respect to subject imports from Austria, Russia, and Venezuela, the ITC determined that imports from these countries during the period of investigation (POI) were negligible and, therefore, these investigations were terminated. The ITC also determined that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, by reason of subject imports from Japan. *Id.*

On August 18, 2000, we sent the antidumping questionnaire to the Embassy of the Republic of Moldova with a letter requesting that it forward the questionnaire to all exporters who had shipments of rebar to the United States during the POI.² We received responses from one company, Moldova Steel Works (MSW). We have reason to believe that MSW is the only exporter to the United States during the POI. We

Inc., Birmingham Steel Corp., Border Steel, Inc., Marion Steel Company, Riverview Steel, and Nucor Steel and CMC Steel Group. (Auburn Steel was not a petitioner in the Indonesia case).

² Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (This section is not applicable to respondents in non-market economy (NME) cases). Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production (COP) of the foreign like product and the constructed value (CV) of the merchandise under investigation. In NME cases, Section D requests information on factors of production. Section E requests information on further manufacturing.

issued several supplemental questionnaires to MSW, as appropriate.

On August 18, 2000, in the Department's original questionnaire, we requested MSW to provide copies of legislation and other documentation to substantiate its claim for a separate rate. On September 22, 2000, MSW responded to the Department's original Section A questionnaire and claimed that the company was located in the "Transdnistrian region of Moldova" (TMR).³ Accordingly, MSW stated that any discussion regarding separate rates or copies of documentation and legislation would concern only the relationship between "TMR" and MSW. Currently, the United States Government does not recognize the "TMR" as a separate political state. On October 3, 2000, the Department, issued a supplemental questionnaire, requesting that MSW provide complete answers to the separate rates section of the questionnaire as it relates to the Republic of Moldova. On October 20, 2000, MSW responded, claiming that it is not under the jurisdiction of the Republic of Moldova and would therefore only provide information as it related to "TMR." Finally, on October 31, 2000, the Department issued a second supplemental section A questionnaire, requesting MSW to provide copies of documentation and other supporting evidence for its claim for a separate rate, its claim for treating U.S. sales as export price (EP) transactions, and supporting discussions on several issues regarding affiliations with its customers. This second supplemental questionnaire was issued by the Department due to MSW's failure to respond to several questions in its October 20, 2000 response on these same issues. A response to the second supplemental questionnaire was filed on November 8, 2000.

During the course of this proceeding, MSW requested, and the Department granted, several extensions to enable MSW to respond to the Department's questions. The issues of primary importance in this investigation are separate rates, the proper universe of U.S. sales, and any potential affiliations with customers. These topics were addressed in the Department's original, first supplemental section A, and second supplemental section A

questionnaires. We note that at each stage of the process, MSW failed to provide the requested information even after receiving extensions from the Department. For example, with regard to translations and discussions of legislation issued by the Government of Moldova and "TMR," the Department made multiple requests for information. However, as evidenced by the submissions on the record, MSW repeatedly filed responses stating that it would provide the requested information at some undisclosed future date. Finally, after numerous requests, MSW filed translated copies of the requested legislation on November 22, 2000, nearly three months after these documents were initially requested in the Department's original questionnaire. Nonetheless, recognizing MSW's attempts to respond to the Department's information requests, and in light of its claimed unique difficulties, we believe that it is appropriate to use the information placed on the record for this preliminary determination, subject to verification.

In a letter filed on August 22, 2000, the petitioner alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of rebar from Moldova. On November 27, 2000, the Department preliminarily determined that there is a reasonable basis to believe or suspect that critical circumstances exist for imports of rebar from Moldova. *See Preliminary Determinations of Critical Circumstances: Steel Concrete Reinforcing Bars from Ukraine and Moldova*, 65 FR 70696 (November 27, 2000).

On October 13, 2000, in a cover letter accompanying its unsolicited market economy Section B and C response, MSW requested that the Department find the concrete reinforcing bar industry in Moldova to be a market-oriented industry (MOI), but failed to provide a market economy section A response. The petitioner submitted comments to the Department on October 18, 2000, objecting to the MOI claim made by the responding company on the grounds that neither the Republic of Moldova nor "TMR" can be described as operating under market principles. Subsequently, the Department issued a supplemental questionnaire to MSW on October 20, 2000, requesting any additional information relevant to the MOI request, including a request for a market economy section A response. On November 8, 2000, we received responses from MSW providing documentation which it claimed supported its MOI claim, but in essence merely referred the Department to

MSW's September 23, 2000, October 20, 2000, and November 8, 2000 responses to the non-market economy section A questionnaire.

On October 27, 2000, the Department issued its supplemental section C and D questionnaire, requesting MSW to provide information to substantiate its claims for date of sale, affiliation issues, and also to provide a complete list of all the factors of production which MSW had omitted in its original Section C and D responses filed on October 13, 2000. The response to this supplemental questionnaire was received on November 3, 2000.

On November 3, 2000, the petitioner alleged, in conjunction with MSW's MOI request, that MSW's sales were sold below the cost of production. Pending the Department's determination with respect to MSW's MOI request, the Department initiated a sales-below cost investigation on November 7, 2000, and issued a section D questionnaire to MSW. Responses to this questionnaire were submitted on December 6, 2000, after the Department granted MSW's request for an extension.

On November 9, 2000, the Department received a timely request for postponement of the preliminary determination from the petitioner in accordance with 19 CFR 351.205(e). The Department postponed the preliminary determination, pursuant to section 733(c)(1)(A) of the Act, until January 16, 2001. *See Notice of Postponement of Preliminary Antidumping Duty Determinations: Steel Concrete Reinforcing Bars from Belarus, Indonesia, Latvia, Moldova, the People's Republic of China, Poland, the Republic of Korea, and Ukraine*, 65 FR 69909 (November 21, 2000).

Period of Investigation

The POI is October 1, 1999, through March 31, 2000. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, June 2000).

Scope of Investigation

For purposes of these investigations, the product covered is all rebar sold in straight lengths, currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 7214.20.00 or any other tariff item number. Specifically excluded are plain rounds (*i.e.*, non-deformed or smooth bars) and rebar that has been further processed through bending or coating. HTSUS subheadings are provided for convenience and Customs purposes. The written description of the scope of this proceeding is dispositive.

³ Although Moldova became independent in 1991, the population east of the Dniester river has proclaimed a "Transdnistrian" republic, referred to in this case as "TMR." *See* CIA World Factbook, Moldova. The United States Government does not recognize "TMR" as a legitimate governmental body, *i.e.*, "country" within the meaning of section 773(c)(1)(A) of the Act. The United States only recognizes the Republic of Moldova as an independent political entity.

Critical Circumstances

On August 22, 2000, the petitioner alleged that critical circumstances exist with respect to imports of rebar from Moldova. On November 27, 2000, the Department preliminary determined that there is a reasonable basis to believe or suspect that critical circumstances exist for imports of rebar from Moldova. See *Preliminary Determinations of Critical Circumstances: Steel Concrete Reinforcing Bars From Ukraine and Moldova*, 65 FR 70696 (November 27, 2000) (*Critical Circumstances Notice*).

Non-Market Economy Status for Moldova

In accordance with section 771(18)(C) of the Act, any determination that a foreign country has at one time been considered a non-market economy (NME) shall remain in effect until revoked. This status covers the geographic area of the former Union of Soviet Socialist Republics (U.S.S.R.), each part of which retains the NME status of the former U.S.S.R. Therefore, Moldova will be treated as an NME unless and until its NME status is revoked by the Department. See *Preliminary Determinations of Sales at Less Than Fair Value: Uranium From Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Ukraine and Uzbekistan; and Preliminary Determinations of Sales at Not Less Than Fair Value: Uranium From Armenia, Azerbaijan, Belarus, Georgia, Moldova and Turkmenistan*, 57 FR 23380 (June 3, 1992).

The respondent in this investigation has not requested a revocation of Moldova's NME status. We have, therefore, preliminarily continued to treat Moldova as a NME country.

When the Department is investigating imports from a NME country, section 773(c)(1) of the Act directs us to base normal value (NV) on the NME producer's factors of production, valued in a comparable market economy that is a significant producer of comparable merchandise. The sources of individual factor prices are discussed under the Normal Value section below.

Market Oriented Industry

As indicated above, the single Moldovan producer, MSW, requested that the Department find the concrete reinforcing bar industry in Moldova to be a MOI. We note at the outset that MSW did not request MOI status until October 13, 2000, well after our NME questionnaires were issued, leaving the Department little time to conduct its analysis. Nevertheless, the Department issued a supplemental questionnaire regarding information relevant to the

MOI request on October 20, 2000. This supplemental questionnaire requested that MSW address the criteria for determining whether an MOI exists. Specifically, this questionnaire requested MSW to provide information regarding the level of governmental involvement in setting prices and production quantities, and the relationship between MSW and its owners; to describe the ownership structure of the rebar industry; and to demonstrate that market determined prices are paid for all significant inputs used in the production process.

Furthermore, the Department sought clarifying information with regard to MSW's responses to section B and C of the Department's market economy questionnaire (including discussions on the proper comparison market), and requested that MSW respond to a market economy section A questionnaire to address concerns regarding affiliation, ownership, and distribution systems. On November 8, 2000, MSW responded to the Department's questionnaire by providing generic statements and cross-references to prior submissions, which the Department had separately found to be deficient. Nevertheless, the Department undertook an examination of the information placed on the record.

The criteria for determining whether a MOI exists are: (1) Virtually no government involvement in setting prices or amounts to be produced; (2) the industry producing the merchandise under review should be characterized by private or collective ownership; and (3) market determined prices must be paid for all significant inputs, whether material or non-material, and for all but an insignificant portion of all inputs accounting for the total value of the merchandise. See *Chrome-Plated Lug Nuts from the People's Republic of China; Final Results of Administrative Review*, 61 FR 58514, 58516 (November 15, 1996) (*Lug Nuts*). In addition, in order to make an affirmative determination that an industry in a NME country is a MOI, the Department requires information on virtually the entire industry. See *Freshwater Crawfish Tailmeat from the People's Republic of China, Final Determination of Sales at Less than Fair Value*, 62 FR 41347, 41353 (August 1, 1997) (*Crawfish*). A MOI claim, and supporting evidence, must cover producers that collectively constitute the industry in question; otherwise, the MOI claim is dismissed. See *id.*

We preliminarily find in this investigation that the Moldovan rebar industry does not meet the Department's criteria for an affirmative MOI finding.

As noted above, MSW responded to the Department's supplemental MOI questionnaire by providing generic statements and cross-references to prior submissions, which the Department had separately found to be deficient. For example, MSW responded with the same unsupported assertion from its section A response that the "TMR" does not exercise control over its use and acquisition of capital. Therefore, applying the facts before us with respect to the first two criteria listed above, and based upon an examination of the information submitted on the record by MSW, we find that there is insufficient evidence to determine that: (1) There is virtually no government involvement in setting prices or amounts to be produced; and (2) the industry under review is characterized by private or collective ownership. With regard to the third factor, the record evidence demonstrates that market-determined prices are not paid for all significant inputs, whether material or non-material. In fact, Exhibit 3 of MSW's October 13, 2000 Section D response, and page 33 of MSW's November 3, 2000 supplemental response, demonstrate that only a few minor inputs were purchased from market economy suppliers and paid for in market economy currencies. Thus, the information on the record of this investigation does not support Moldova's claim that its rebar industry is a MOI. Therefore, we preliminarily determine that the Moldovan rebar industry does not meet the criteria for an affirmative MOI finding.

Separate Rates

It is the Department's policy to assign all exporters of subject merchandise in a NME country a single rate, unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. MSW has submitted separate rates information in its section A responses, and has requested a separate, company-specific rate. MSW has stated that it is partially owned by the "State Property Committee of TMR,"⁴ but claimed that this entity is neither associated with, nor endorsed by, the Government of the Republic of Moldova. Despite the Department's requests for documents discussing the relationship between

⁴ MSW made references in its responses to the "State Property Committee of TMR," the "State Committee on Property of TMR," and the "State Committee of Property of TMR." As these three names are almost identical, we believe that these names all refer to the same entity. For the purposes of this notice, we will use a single name, the "State Property Committee of TMR," in place of the three names that MSW used in its responses to refer to this entity.

MSW and the Republic of Moldova, MSW only provided copies of legislative enactments and other supporting documentation discussing the relationship between MSW and the "TMR," an entity not recognized by the United States as a "country" within the meaning of section 773(c)(1)(A) of the Act. See *Case History* section above for a full discussion. We note that, although the United States does not recognize "TMR" as a country, even if the Department were to entertain, *arguendo*, MSW's analysis of its relationship to "TMR" under section 773(c) of the Act, the information provided does not support MSW's claim. An examination of the submitted documents alleged to establish the independence of MSW from the "TMR" reveals that MSW has failed to provide sufficient documentation to support its claim for a separate rate. Consequently, as discussed in detail below, we preliminarily determine, based on the facts on the record, that MSW has failed to meet the separate rates test both in relation to the Government of Moldova, as well as the "TMR."

The Department's separate rates test is not concerned, in general, with macroeconomic/border-type controls (e.g., export licenses, quotas, and minimum export prices), particularly if these controls are imposed to prevent dumping. Rather, the test focuses on controls over export-related investment, pricing, and output decision-making process at the individual firm level. See *Notice of Final Determination of Sales at Less than Fair Value: Certain Cut-to-Length Carbon Steel Plate from Ukraine*, 62 FR 61754, 61757 (November 19, 1997); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 61276, 61279 (November 17, 1997); and *Notice of Preliminary Determination of Sales at Less than Fair Value: Honey from the People's Republic of China*, 60 FR 14725, 14728 (March 20, 1995).

To establish whether a firm is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in the *Final Determination of Sales at Less than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20585-87 (May 6, 1991), and amplified in *Final Determination of Sales at Less-than-Fair-Value: Silicon Carbide from the People's Republic of China*, 59 FR 22588 (May 2, 1994) (*Silicon Carbide*). Under this test, the Department assigns separate rates in NME cases only if an exporter can affirmatively demonstrate

the absence of both (1) *de jure* and (2) *de facto* governmental control over export activities. See *Silicon Carbide and Final Determination of Sales at Less than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22545 (May 8, 1995).

1. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies.

During the course of this investigation, MSW has failed to provide any legislation or other documentation issued by the Republic of Moldova regarding the absence of *de jure* control. For purposes of this investigation, we preliminarily determine that MSW has not provided sufficient documentary proof of the absence of *de jure* control by the Republic of Moldova. As a consequence, we find that MSW fails to overcome the presumption of *de jure* control.

Although the Republic of Moldova is the only country recognized by the United States for the purposes of this investigation, for the sake of argument we have addressed MSW's claims with respect to "TMR." Given the fact that MSW only provided documentation regarding its relationship with the "State Property Committee of TMR," the Department examined this information to determine the extent to which there is any governmental control, regional or otherwise, over the operations of MSW. MSW asserts in its questionnaire response that under its Charter, it operates as an independent economic unit with those rights accorded to a legal entity, including the ownership of property. MSW claims that it bears independent responsibility for its sales and that the "State Property Committee of TMR," does not control the company's export activities. MSW also claims that there are no licensing requirements, quotas, or any other restrictions or controls by the "TMR" on exports of subject merchandise to the United States or any other destination.

Despite having made such claims, and despite several requests by the Department, MSW failed to submit adequate translations and original language copies of the legislation of the "TMR." MSW provided the Department with a copy of its Charter, but since this document is neither a formal measure

by the Government of the Republic of Moldova nor "TMR," its provisions are not dispositive in the *de jure* analysis. Therefore, without any documentary proof of the absence of *de jure* control, we preliminarily determine that MSW has failed to overcome the presumption of *de jure* control.

2. Absence of De Facto Control

Having failed to overcome the presumption of *de jure* control, the Department need not address MSW's claim that it is not *de facto* controlled by either the Republic of Moldova or the "TMR." However, we note that the information supplied would also be insufficient to establish an absence of *de facto* control as discussed below.

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by or subject to the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.

In its responses, MSW failed to discuss the extent, if any, to which the Republic of Moldova exercised *de facto* control over its export functions. As such, the Department was prevented from conducting a thorough analysis of the four afore-mentioned factors regarding the absence of *de facto* control by the Government of Moldova. In view of MSW's failure to provide documentation regarding its relationship with the Government of the Republic of Moldova, MSW fails to overcome the presumption of *de facto* governmental control.

MSW did provide certain information in relation to the *de facto* control by the "TMR," which, as discussed above, we are addressing solely for the sake of argument. MSW reported that it has authority to negotiate and sign contracts without express "TMR" approval, and claimed that no organization outside MSW reviews or approves any aspect of MSW's export sales transactions. In addition, although MSW failed to discuss the Republic of Moldova's control over MSW's export functions, the submitted sales documentation showed no involvement by either the Government of Moldova or "TMR" in setting export prices.

In regards to management selection, MSW stated that the shareholders of MSW elect the Board of Directors which in turn elects the Governing Board (*i.e.*, the company management). The documentation on the record did not reference the Government of Moldova, but indicated that the "State Property Committee of TMR" is a shareholder that exercises veto power over several aspects of the operational control of MSW. This includes the power to veto any ventures, associations, and agreements entered into by MSW for export sales.

In regards to export revenue and profits, MSW reported that it has no internal restrictions on the use of its export revenue, but stated that by special decrees of the "TMR," it is required to sell a certain percentage of its export revenue.

In addition, MSW further claimed that the management of MSW is solely responsible for the disposition of the profits. However, MSW's Charter indicates that the "State Property Committee of TMR" influences the allocation of MSW's profit.

While the record evidence indicates that MSW sets its own export prices and has the authority to negotiate and sign contracts, it appears that, assuming the validity of the regional entity "TMR," MSW does not have autonomy from the "State Property Committee of TMR" in selecting its management, since the regional "State Property Committee of TMR" assists in appointing MSW's Directors, who in turn select the management. In addition, MSW does not have complete operational control over either the proceeds of its export sales or its profits.

Furthermore, other record evidence, including MSW's Charter, indicates that in general, MSW is under the jurisdiction of the "State Property Committee of TMR." In view of MSW's failure to provide documentation regarding its relationship with the Government of the Republic of Moldova, MSW fails to overcome the presumption of *de facto* governmental control. Moreover, even if "TMR" were a recognized government, MSW's numerous ties to the "State Property Committee of TMR" would justify a finding of *de facto* government control.

The failure to demonstrate either the absence of *de jure* or *de facto* control makes an exporter ineligible for a separate rate. In this case, we have preliminarily determined that MSW has failed to demonstrate the absence of both *de jure* and *de facto* control. Therefore, the Department preliminarily determines that MSW is not eligible to receive a separate rate.

The Moldova-Wide Rate

As in all NME cases, the Department implements a policy whereby there is a rebuttable presumption that all exporters or producers comprise a single exporter under common government control, the "NME entity." The Department assigns a single NME rate to the NME entity, unless an exporter can demonstrate eligibility for a separate rate. Information on the record of this investigation indicates that MSW was the only Moldovan producer and exporter to sell the subject merchandise to the United States during the POI. Since the only Moldovan producer and exporter of the subject merchandise responded to the Department's questionnaire, and we have no reason to believe that there are other non-responding exporters/producers of the subject merchandise during the POI, we calculated a Moldova-wide rate based on the weighted-average margin determined for MSW.

Fair Value Comparisons

To determine whether sales of rebar from Moldova were made in the United States at less than fair value, we compared export price (EP) to a normal value (NV) calculated using our NME methodology, as described below. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs.

Export Price

We used EP methodology in accordance with section 772(a) of the Act because the merchandise was sold, prior to importation, by MSW to an unaffiliated purchaser for exportation to the United States, and constructed export price (CEP) methodology was not otherwise warranted based on the facts on the record. At the time of sale, MSW knew that its reported sales of the subject merchandise were destined for the United States.

We calculated EP based on the freight-on-board (FOB) prices charged to the first unaffiliated customer for exportation to the United States. Where appropriate, we made deductions from the starting price (gross unit price) for inland freight from the factory to the port of export and domestic brokerage and handling expenses. Because inland freight and brokerage and handling services were provided by NME companies, we based freight and brokerage charges on surrogate freight and brokerage rates from India. See Normal Value section for further discussion.

Normal Value

A. Surrogate Country

Section 773(c)(4) of the Act requires the Department to value the NME producer's factors of production, to the extent possible, in one or more market economy countries that: (1) Are at a level of economic development comparable to that of the NME country; and (2) are significant producers of comparable merchandise. The Department initially determined that India, Pakistan, Indonesia, and Sri Lanka were the countries most comparable to Moldova in terms of overall economic development. See the memorandum regarding *Antidumping Duty Investigation of Steel Concrete Reinforcing Bars (Rebar) from Moldova: Nonmarket Economy Status and Surrogate Country Selection*, dated August 31, 2000.

Furthermore, the Department determined, based on information derived from publicly available sources, that India is a significant producer of products comparable to the subject merchandise. Therefore, we have relied, where possible, on information from India, and calculated NV by applying Indian values to virtually all of MSW's factors of production. Where no Indian values were available, we used information from Indonesia, the second-most complete source of information from among the potential surrogate countries. See *Surrogate Value Memorandum*, dated January 16, 2001.

B. Factors of Production

In accordance with section 773(c) of the Act, we calculated NV based on factors of production (*e.g.* steel scrap, ferroalloys, labor, energy, and packing materials) reported by MSW for the POI. To calculate NV, we multiplied the reported per-unit factor quantities by publicly available surrogate values from India, and where necessary, from Indonesia.

In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we include freight costs in input prices to make them delivered prices. Specifically, we added to the surrogate values of inputs a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the port of export to the factory. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp. v. United States*, 117 F. 3d 1401, 1408–11 (Fed. Cir. 1997). Where MSW did not report the distance between the material supplier and the factory, we used, as

facts available, the longest distance reported, *i.e.*, the distance between the port of export and the factory. For those values not contemporaneous with the POI, we adjusted the values to account for inflation using wholesale price indices published in the International Monetary Fund's International Financial Statistics.

We valued material inputs and packing materials (*i.e.*, metal scrap, ferromanganese, silicomanganese, ferrosilicon, lime, limestone, coke, aluminum powder, aluminum, electrodes, wire rod, paint, etc.) using values from the appropriate Harmonized Tariff Schedule (HTS) number, from imports statistics reported in the *Monthly Statistics on Foreign Trade for India* for the partial year 1998, or in the TradeStat Web data for the period October 1999 to March 2000. For a complete analysis of surrogate values, see *Surrogate Value Memorandum*.

We valued labor using the method described in 19 CFR 351.408(c)(3).

To value electricity, we used the 1997 electricity rates, as adjusted, for India reported in the publication *Energy Prices and Taxes*, fourth quarter 1999. We based the value of natural gas on the value calculated in the final determination of Polyvinyl Alcohol from the People's Republic of China. Finally we valued oxygen, nitrogen, and argon on the import statistics reported in the *Monthly Statistics of Foreign Trade for India* for the partial year 1998.

We based our calculation of factory overhead and selling, general and administrative (SG&A) expenses, and profit on the 1999–2000 financial statement of TATA Steel Company, an Indian producer of products comparable to the subject merchandise.

To value railway freight rates, we used a 1998 rate provided by the Indian Railway Conference Association. For truck transportation, we valued truck rates using information from a prior investigation, as adjusted for inflation. See *Surrogate Value Memorandum*.

For each of the material inputs, energy, and transportation surrogate values selected for use in the Department's calculation, we inflated the values using appropriate inflators when these values were not from a period concurrent with the POI. See *Surrogate Value Memorandum*.

Verification

In accordance with section 782(i) of the Act, we intend to verify all information relied upon in making our final determination.

Final Critical Circumstances Determination

We will make a final determination concerning critical circumstances for Moldova when we make our final determination regarding sales at LTFV in this investigation, which will be no later than 75 days after the date of publication of the preliminary LTFV determination.

Suspension of Liquidation

Because of our preliminary affirmative critical circumstances finding, we are directing the Customs Service to suspend liquidation of all entries of rebar from Moldova entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days prior to the date on which this notice is published in the **Federal Register**. See *Critical Circumstances Notice*, dated November 27, 2000. We are instructing the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated in the chart below. These instructions suspending liquidation will remain in effect until further notice.

The weighted-average dumping margins are provided below:

Manufacturer/exporter	Margin (percent)
Moldova-Wide Rate	277.62

The Moldova-wide rate applies to all entries of the subject merchandise from Moldova.

Disclosure

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties to the proceeding in this investigation in accordance with 19 CFR 351.224(b).

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our affirmative sales at LTFV and critical circumstances preliminary determinations. If our final antidumping determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury, to the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

Public Comment

Case briefs for this investigation must be submitted no later than seven days after the issuance of the verification report. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, it would be appreciated if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on diskette.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made in an investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. In the event that the Department receives requests for hearings from parties to more than one rebar case, the Department may schedule a single hearing to encompass all the cases. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

If this investigation proceeds normally, we will make our final determination no later than 75 days after the date of the preliminary determination.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: January 16, 2001.

Troy H. Cribb,

Assistant Secretary for Import Administration.

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