

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 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.

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

Dated: April 2, 2002.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-428-832]

#### Notice of Preliminary Determination of Sales at Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod from Germany

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

**DATES:** April 10, 2002.

**FOR FURTHER INFORMATION CONTACT:**

Mark Flessner, Steve Bezirgianian, or Robert James, at (202) 482-6312, (202) 482-1131, or (202) 482-0649, respectively; Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:**

#### The Applicable Statute

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, as amended (the Tariff Act), by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR Part 351 (2001).

#### Preliminary Determination

We preliminarily determine carbon and certain alloy steel wire rod from

Germany (wire rod) is being sold, 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. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

#### Case History

On September 24, 2001, the Department initiated antidumping investigations of wire rod from, *inter alia*, Germany. See *Notice of Initiation of Antidumping Duty Investigations: Carbon and Certain Alloy Steel Wire Rod from Brazil, Canada, Egypt, Germany, Indonesia, Mexico, Moldova, South Africa, Trinidad and Tobago, Ukraine, and Venezuela*, 66 FR 50164 (October 2, 2001) (*Initiation Notice*). Since the initiation of the investigation the following events have occurred:

In a letter dated October 9, 2001, petitioners (Co-Steel Raritan, Inc., GS Industries, Keystone Consolidated Industries, Inc., and North Star Steel Texas, Inc.) requested the scope of the investigation be amended to exclude high carbon, high tensile 1080 grade tire cord and tire bead quality wire rod actually used in the production of tire cord and tire bead, as defined by specific dimensional characteristics and specifications.

On October 15, 2001, the United States International Trade Commission (the Commission) notified the Department of its affirmative preliminary injury determination on imports of subject merchandise from Brazil, Canada, Germany, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine. See *Carbon and Certain Alloy Steel Wire Rod From Brazil, Canada, Egypt, Germany, Indonesia, Mexico, Moldova, South Africa, Trinidad and Tobago, Turkey, Ukraine, and Venezuela*, 66 FR 54539 (October 29, 2001).

The Department issued a letter on October 16, 2001 to interested parties in all of the concurrent wire rod investigations, providing an opportunity to comment on the Department's proposed model match characteristics and hierarchy. Petitioners submitted comments on October 24, 2001. The Department also received comments on model matching from respondents Hylsa, S.A. de C.V., of Mexico, and Ivaco, Inc. and Ispat Sidbec, Inc., both of Canada.

On November 28, 2001, five U.S. tire manufacturers and an industry trade association, the Rubber Manufacturers Association, submitted a letter to the Department in response to petitioners' October 9, 2001 submission regarding the exclusion of certain 1080 grade tire

cord wire rod and 1080 grade tire bead wire rod. Additionally, the tire manufacturers requested clarification from the Department if 1090 grade wire rod is included in petitioners' October 9, 2001 scope exclusion request. The tire manufacturers also requested an exclusion from the scope of this investigation for 1070 grade wire rod and related grades, citing a lack of domestic production capacity to meet the requirements of the tire industry. On November 28, 2001, petitioners further clarified and modified their October 9, 2001 submission on the scope of the investigations. Finally, on January 21, 2002, Tokusen U.S.A., Inc. submitted a request that 1070 grade tire cord wire rod, and tire cord wire rod generally, be excluded from the scope of the antidumping and countervailing duty investigations.

The petitioners filed a request with the Department on January 17, 2002 to extend the deadline for the issuance of the preliminary determination by 30 days. On January 28, 2002, the Department published in the **Federal Register** the notice postponing the preliminary determination to March 13, 2002 (see *Notice of Postponement of Preliminary Antidumping Duty Determinations: Carbon and Certain Alloy Steel Wire Rod From Brazil, Canada, Germany, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine*, 67 FR 3877). On March 4, 2002, petitioners submitted a letter to the Department requesting that the Department extend the deadline for issuance of the preliminary determinations by an additional 20 days. In response, the Department published in the **Federal Register** a notice postponing the preliminary determination an additional 20 days to April 2, 2002 (see *Notice of Postponement of Preliminary Antidumping Duty Determinations: Carbon and Certain Alloy Steel Wire Rod from Brazil, Canada, Germany, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine*, 67 FR 11674 (March 15, 2002)).

On December 6, 2001, the Department issued all sections of its antidumping duty questionnaire to Saarlstahl AG (Saarlstahl), the sole respondent in this investigation. On December 20, 2001, the Department received Saarlstahl's response to Section A of the questionnaire. On January 2, 2002, petitioners filed comments on Saarlstahl's Section A response. Saarlstahl filed its response to sections B, C, and D of the questionnaire on January 10, 2002. On February 1, 2002, Saarlstahl responded to the Department's supplemental Section A questionnaire.

Petitioners filed comments on Saarl's Sections B, C, and D response on February 5, 2002, and on the company's supplemental Section A response on February 14, 2002. On February 19, 2002, the Department issued a supplemental questionnaire for Saarl's Sections B and C responses and for Saarl's February 1, 2002 supplemental Section A response. On February 27, 2002, the Department issued a supplemental questionnaire for Saarl's Section D response. Saarl filed its Sections B and C supplemental response on March 15, 2002; its Section D supplemental response followed on March 25, 2002.

On December 5, 2001, petitioners alleged there was a reasonable basis to believe or suspect critical circumstances exist with respect to the antidumping investigations of steel wire rod from Brazil, Germany, Mexico, Moldova and Ukraine. Petitioners added Trinidad and Tobago to the allegation in a subsequent letter dated December 21, 2001. On February 4, 2002, the Department issued its preliminary affirmative determination of critical circumstances. For a complete discussion of these preliminary findings, see *Carbon and Alloy Steel Wire Rod From Germany, Mexico, Moldova, Trinidad and Tobago, and Ukraine: Notice of Preliminary Determination of Critical Circumstances*, 67 FR 6224 (February 11, 2002).

#### Period of Investigation

The period of investigation (POI) is July 1, 2000 through June 30, 2001. This period corresponds to the four most recent fiscal quarters prior to the filing of the petition (i.e., August 2001), and is in accordance with section 351.204(b)(1) of the Department's regulations.

#### Scope of the Investigation

The merchandise covered by these investigations is certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, 5.00 mm or more, but less than 19.00 mm, in solid cross-sectional diameter.

Specifically excluded are steel products possessing the above-noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (HTSUS) definitions for (a) stainless steel; (b) tool steel; (c) high nickel steel; (d) ball bearing steel; and (e) concrete reinforcing bars and rods. Also excluded are (f) free machining steel products (i.e., products that contain by weight one or more of the following elements: 0.03 percent or more of lead, 0.05 percent or more of

bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorus, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium).

Also excluded from the scope are 1080 grade tire cord quality wire rod and 1080 grade tire bead quality wire rod. This grade 1080 tire cord quality rod is defined as: (i) grade 1080 tire cord quality wire rod measuring 5.0 mm or more but not more than 6.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no inclusions greater than 20 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04-114; (v) having a surface quality with no surface defects of a length greater than 0.15 mm; (vi) capable of being drawn to a diameter of 0.30 mm or less with 3 or fewer breaks per ton, and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.006 percent or less of nitrogen, and (5) not more than 0.15 percent, in the aggregate, of copper, nickel and chromium.

This grade 1080 tire bead quality rod is defined as: (i) grade 1080 tire bead quality wire rod measuring 5.5 mm or more but not more than 7.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no inclusions greater than 20 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04-114; (v) having a surface quality with no surface defects of a length greater than 0.2 mm; (vi) capable of being drawn to a diameter of 0.78 mm or larger with 0.5 or fewer breaks per ton; and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of soluble aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.008 percent or less of nitrogen, and (5) either not more than 0.15 percent, in the aggregate, of copper, nickel and chromium (if chromium is not specified), or not more than 0.10 percent in the aggregate of copper and nickel and a chromium content of 0.24 to 0.30 percent (if chromium is specified).

The designation of the products as "tire cord quality" or "tire bead quality" indicates the acceptability of the product for use in the production of tire cord, tire bead, or wire for use in other

rubber reinforcement applications such as hose wire. These quality designations are presumed to indicate that these products are being used in tire cord, tire bead, and other rubber reinforcement applications, and such merchandise intended for the tire cord, tire bead, or other rubber reinforcement applications is not included in the scope. However, should petitioners or other interested parties provide a reasonable basis to believe or suspect that there exists a pattern of importation of such products for other than those applications, end-use certification for the importation of such products may be required. Under such circumstances, only the importers of record would normally be required to certify the end use of the imported merchandise.

All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

The products under investigation are currently classifiable under subheadings 7213.91.3010, 7213.91.3090, 7213.91.4510, 7213.91.4590, 7213.91.6010, 7213.91.6090, 7213.99.0031, 7213.99.0038, 7213.99.0090, 7227.20.0010, 7227.20.0020, 7227.20.0090, 7227.20.0095, 7227.90.6051, 7227.90.6053, 7227.90.6058, and 7227.90.6059 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

See the Department's scope memorandum, "Carbon and Certain Alloy Steel Wire Rod: Requests for exclusion of various tire cord quality wire rod and tire bead quality wire rod products from the scope of antidumping duty (Brazil, Canada, Egypt, Germany, Indonesia, Mexico, Moldova, South Africa, Trinidad and Tobago, Ukraine, and Venezuela) and countervailing duty (Brazil, Canada, Germany, Trinidad and Tobago, and Turkey) investigations," dated April 2, 2002.

#### Use of Facts Available

Section 776(a)(2) of the Tariff Act provides that if any interested party: (A) withholds information that has been requested by the Department; (B) fails to provide such information by the deadlines for submission of the information or in the form or manner requested; (C) significantly impedes an antidumping investigation; or (D) provides such information but the information cannot be verified, the Department shall, subject to section 782(d), use the facts otherwise available in making its determination.

Section 782(d) of the Tariff Act requires the Department to "promptly inform" a respondent of the nature of any deficiencies found in its response and to "provide that person with an opportunity to remedy or explain the deficiency in light of the time limits established for the completion of investigations ... ." To the extent the respondent fails to address the deficiencies, and subject to section 782(e), the Department may disregard all or part of the response. Section 782(e) provides the Department shall not decline to consider information deemed deficient under section 782(d) if: (1) the information is submitted by the deadline established for its submission; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated it acted to the best of its ability in providing the information and meeting the requirements established by the Department with respect to the information; and (5) the information can be used without undue difficulties.

Finally, section 776(b) of the Tariff Act provides that adverse inferences may be used in selecting the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with requests for information. *See also Statement of Administrative Action accompanying the URAA*, H.R. Rep. No. 103-316, vol. 1, at 870 (1994) (SAA).

Although Saarstahl responded to the Department's original and supplemental questionnaires, the company's initial responses were deficient in certain respects. Specifically, Saarstahl failed to provide requested sample sales documentation, or to provide worksheets and supporting documents indicating its derivation of various reported expenses. In addition, Saarstahl failed to provide information in the form requested pertaining to certain expenses incurred on both its home market and U.S. sales which is essential to our calculations. For example, Saarstahl has not provided movement expenses, packing expenses, and certain other expenses in the form or manner requested. Despite our request that Saarstahl report transaction-specific movement expenses, for example, Saarstahl reported many of its home market and U.S. movement expenses based upon "estimated freight expenses (Fracht-Rückstellung) calculated at the time of sale for each invoice." Saarstahl's January 22, 2002 Section B response at B-21. This involved inland plant-to-warehouse and

plant-to-customer freight, and warehousing expenses in the home market. For U.S. sales, the Fracht-Rückstellung included foreign inland freight, freight to the port, ocean freight, inland and marine insurance, U.S. customs duties and, where applicable, warehousing expenses. Saarstahl has yet to provide the requested actual expenses or supporting documentation (for example, tariff schedules or contracts demonstrating the freight rates in effect during the POI). Furthermore, Saarstahl has not explained fully its original allocations based upon the Fracht-Rückstellung, or provided the Department the means of establishing independently the validity of the underlying estimates. (For further details of these deficiencies, *see* the Preliminary Analysis Memorandum, dated April 2, 2002.)

Similarly, Saarstahl reported identical packing expenses, by mill, for both home market and U.S. sales, despite indications in its response that sales for export require greater packing materials (an intuitive outcome, given the need to protect carbon and alloy steel during trans-oceanic passage). Saarstahl also did not provide worksheets supporting the calculation of packing costs for two of the three mills producing subject wire rod products during the POI.

For the foregoing reasons, we have determined it is appropriate to use the facts otherwise available for the unsupported elements of Saarstahl's questionnaire response, in accordance with section 776(a)(2)(B) of the Tariff Act. We issued a further supplemental questionnaire to Saarstahl on April 2, 2002, aimed at completing the record with respect to these and other issues prior to our eventual verification of Saarstahl's responses. Consequently, we have used no adverse inference at this time for purposes of this preliminary determination.

As non-adverse facts available for U.S. sales, for the movement expenses at issue, we set these expenses to no less than the median value reported for each expense; similarly, for the home market we set the movement expenses to no greater than the median value reported for each expense. As to packing expenses, we set U.S. packing costs equal to the highest mill-specific packing cost reported in Saarstahl's Section C response, and set home market packing equal to the lowest mill-specific packing cost reported in the company's Section B response. For further details regarding our selection of non-adverse facts available, *see* the Preliminary Analysis Memorandum. We will analyze fully Saarstahl's expected response to our March 29 supplemental

questionnaire and, where appropriate, will review our resort to, and selection of, the facts otherwise available.

#### Fair Value Comparisons

To determine whether sales of wire rod from Germany to the United States were made at LTFV, we compared the export price (EP) or constructed export price (CEP) to the normal value, as described in the "Export Price and Constructed Export Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Tariff Act, we calculated weighted-average EPs or CEPs for comparison to normal value.

#### Transactions Investigated

As stated at 19 CFR 351.401(i), the Department normally will use the respondent's invoice date as the date of sale unless another date better reflects the date upon which the exporter or producer establishes the essential terms of sale. In the home market Saarstahl reported as date of sale the date of the invoice between its sales company in Germany, Vertriebsgesellschaft Saarstahl mbH (VGS) and affiliated and unaffiliated end-users. For all U.S. sales Saarstahl initially reported as the date of sale the date of the invoice issued by VGS; this included sales made through Saarstahl's wholly-owned U.S. affiliate, Saarsteel, Inc. Saarstahl designated these sales as "channel 2" sales. However, in its supplemental Section C response Saarstahl reclassified its U.S. channel 2 sales as CEP transactions, basing its date of sale for these transactions on the date of the invoice issued by Saarsteel, Inc. to its first unaffiliated customers in the United States. *See* Saarstahl's March 15, 2002 supplemental Sections B and C response at 53 and Appendix S-32.

We have examined whether invoice date, purchase order date, or some other date best represents the date on which the essential terms of sale are established for both home market and U.S. sales. Record evidence suggests the essential terms of sale (including product specifications, quantities and, most notably, prices) are subject to change up to the point of manufacturing to fill a given order. Further, Saarstahl claims the final price to the customer may change up to the point of invoicing. Therefore, for this preliminary determination we have used the invoice date as the date of sale because this date best represents the date upon which all essential terms of sale are established. For U.S. channel 1 sales, *i.e.*, those not involving Saarsteel, Inc., we used the date of the invoice between VGS and the unaffiliated U.S. customer; for channel

2 sales through Saarsteel, Inc., we used the date of the invoice between Saarsteel, Inc. and the first unaffiliated U.S. customer.

### Product Comparisons

In accordance with section 771(16) of the Tariff Act, all products produced by Saarstahl, covered by the description in the "Scope of the Investigation" section, above, and sold in Germany during the POI, are considered to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, the Department compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed in Appendix V of the Department's December 6, 2001 antidumping questionnaire. If there were no home market foreign like products sold in the ordinary course of trade to compare to U.S. sales, we used constructed value (CV).

### Export Price and Constructed Export Price

Saarstahl reported two channels of distribution in the United States, channel 1 sales negotiated between VGS in Germany and the first unaffiliated U.S. customer, and channel 2 sales, which involved its U.S. affiliate Saarsteel, Inc. Initially, Saarstahl claimed all sales through both channels as EP transactions. Subsequently, Saarstahl revisited its classification of channel 2 sales, reporting these as CEP transactions without further explanation. For purposes of this preliminary determination we have accepted Saarstahl's revised classification of its sales, and will treat Saarstahl's channel 1 sales as EP transactions, and its channel 2 sales as CEP transactions. We will examine the proper classification of Saarstahl's U.S. sales during our upcoming verification of the respondent's questionnaire response.

We calculated EP in accordance with section 772(a) of the Tariff Act. We based EP for Saarstahl on packed prices to unaffiliated purchasers in the United States. In accordance with section 772(c)(2), and where appropriate, we made deductions from the starting price for movement expenses, including foreign inland freight, foreign brokerage and handling, international freight, marine insurance, U.S. brokerage and handling, U.S. inland freight and insurance, U.S. customs duties, warehousing expenses and other U.S. movement expenses.

With respect to Saarstahl's U.S. channel 2 sales, we accepted Saarstahl's classification of these transactions as CEP sales because its U.S. affiliate Saarsteel, Inc. invoiced U.S. customers, received payment for subject merchandise, and performed other functions, including, for example, warehousing, and financing of accounts receivable for warehouse sales. Consistent with the ruling of the Court of Appeals for the Federal Circuit (Federal Circuit) in *AK Steel Corp. v. United States*, 226 F.3d 1361 (Fed. Cir. 2000), we preliminarily determine all Saarstahl's channel 2 sales (*i.e.*, those through Saarsteel, Inc.) are properly classified as CEP transactions.

We based CEP on packed prices to unaffiliated purchasers in the United States. Where appropriate, we made deductions from the starting price for reported foreign inland freight and insurance, foreign brokerage and handling, international freight, marine insurance, U.S. brokerage and handling, U.S. inland freight and insurance, U.S. customs duties, warehousing expenses and other U.S. movement expenses. In accordance with section 772(d)(1) of the Tariff Act, we deducted those selling expenses associated with economic activities in the United States, including direct selling expenses (imputed credit expenses), and indirect selling expenses. For CEP sales we also made an adjustment for profit in accordance with section 772(d)(3) of the Tariff Act.

### Normal Value

#### Selection of Comparison Market

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for normal value (NV) (*i.e.*, whether the aggregate quantity of the foreign like product is equal to or greater than five percent of the aggregate quantity of U.S. sales), we compared Saarstahl's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1) of the Tariff Act. Since Saarstahl's aggregate quantity of home market sales of the foreign like product was greater than five percent of its aggregate quantity of U.S. sales of the subject merchandise, we determined the home market was viable for Saarstahl. Therefore, we have based NV on home market sales in the usual quantities and in the ordinary course of trade.

### Affiliated Party Transactions and Arm's Length Test

Saarstahl reported sales to its affiliated customers, claiming these firms consumed the foreign like product

to produce merchandise not subject to this investigation. To test whether these sales were made at arm's length prices, the Department compared, on a model-specific basis, the prices of sales to affiliated customers with sales to unaffiliated customers, net of all movement expenses, discounts, direct selling expenses, billing adjustments, commissions, and packing. Where, for the tested models of the foreign like product, prices to the affiliated party were on average 99.5 percent or more of the price to unaffiliated parties, the Department determined that sales made to the affiliated party were at arm's length. See 19 CFR 351.403(c); *see also Antidumping Duties; Countervailing Duties: Final Rule*, 62 FR 27296, 27355 (May 19, 1997).

If these affiliated party sales satisfied the arm's length test, we used them in our analysis. Sales of the foreign like product to affiliated customers in the home market which were not made at arm's length prices were excluded from our analysis because we considered them to be outside the ordinary course of trade. See 19 CFR 351.102.

### Cost of Production Analysis

Based on our analysis of the cost allegations submitted by the petitioners in the original petition, in accordance with section 773(b)(2)(A)(i) of the Tariff Act, the Department found reasonable grounds to believe or suspect that German producers had made sales of wire rod in the home market at prices below the cost of producing the merchandise. As a result, the Department initiated an investigation to determine whether respondents made home market sales during the POI at prices below their cost of production (COP) within the meaning of section 773(b) of the Tariff Act. We conducted the COP analysis described below.

#### 1. Calculation of COP

In accordance with section 773(b)(3) of the Tariff Act, we calculated a weighted-average COP based on the sum of Saarstahl's cost of materials and fabrication for the foreign like product, plus amounts for home market selling, general, and administrative expenses (SG&A), including interest expenses, and packing costs. The Department relied upon the COP data submitted by Saarstahl on March 25, 2002, with two exceptions: First, we recalculated Saarstahl's SG&A ratio and, second, we adjusted Saarstahl's interest expense ratio, as the Department's policy is to allow short-term interest income up to, but not in excess of, the amount of financial expenses incurred. *See Notice of Final Determination of Sales at Less*

*Than Fair Value: Static Random Access Memory Semiconductors From Taiwan*, 63 FR 8909, 8933 (February 23, 1998) (Comment 28); *see also* the Office of Accounting's Preliminary Calculation Memorandum, dated April 2, 2002.

## 2. Test of Home Market Prices

We compared the weighted-average COP for Saarlstahl to home market sales of the foreign like product, as required under section 773(b) of the Tariff Act, in order to determine whether these sales had been made at prices below the COP. In determining whether to disregard home market sales made at prices below COP, we examined whether such sales were made (i) in substantial quantities within an extended period of time, and (ii) at prices which permitted the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(A) and (B) of the Tariff Act. On a product-specific basis, we compared COP to home market prices, less any applicable movement charges, billing adjustments, discounts and rebates.

## 3. Results of the Cost Test

Pursuant to section 773(b)(2)(C) of the Tariff Act, where less than twenty percent of Saarlstahl's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined the below-cost sales were not made in "substantial quantities." Where twenty percent or more of Saarlstahl's sales of a given product during the POI were at prices less than the COP, we determined such sales to have been made in substantial quantities within an extended period of time, in accordance with sections 773(b)(2)(C)(i) and 773(b)(2)(B) of the Tariff Act. In such cases, pursuant to section 773(b)(2)(D) of the Tariff Act, we also determined such sales were not made at prices which would permit the recovery of all costs within a reasonable period of time. Therefore, we disregarded the below-cost sales.

Our cost test for Saarlstahl revealed that more than twenty percent of the respondent's home market sales of certain products within an extended period of time were at prices below their respective COP, and such prices would not permit the recover of all costs within a reasonable period of time. Therefore, we disregarded the below-cost sales and used the remaining sales in our analysis, in accordance with section 773(b)(1) of the Tariff Act. *See* the Preliminary Analysis Memorandum.

## Constructed Value

In accordance with section 773(e)(1) of the Tariff Act, we calculated CV based upon the sum of the respondent's cost of materials, fabrication, SG&A, including interest expenses, and profit. In accordance with section 773(e)(2)(A) of the Tariff Act, we based SG&A and profit on the amounts incurred and realized by Saarlstahl in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country. For selling expenses, we used the weighted-average home market selling expenses from Saarlstahl's Section B sales listing. We relied upon the CV data the respondent supplied in its Section D supplemental questionnaire response, with the modifications noted above.

## Price-to-Price Comparisons

We based NV for Saarlstahl on prices of home market sales that passed the cost test. We made deductions, where appropriate, for rebates. We added any interest revenue. We also deducted foreign inland freight, including inland insurance, and warehousing expenses, pursuant to section 773(a)(6)(B) of the Tariff Act. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Tariff Act, and 19 CFR 351.411. In accordance with section 773(a)(6)(iii) of the Tariff Act and 19 CFR 351.410, we made circumstance of sale (COS) adjustments for commissions and for imputed credit expenses less any interest revenue. We also deducted home market packing costs and added U.S. packing costs in accordance with section 773(a)(6)(A) and (B) of the Tariff Act.

## Price-to-CV Comparisons

In accordance with section 773(a)(4) of the Tariff Act, we based NV on CV if we were unable to find a home market match of identical or similar merchandise made at arm's length prices and otherwise in the ordinary course of trade. Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Tariff Act. For comparison to EP, we made COS adjustments by deducting home market direct selling expenses and adding U.S. direct selling expenses.

## Level of Trade

In accordance with section 773(a)(1)(B) of the Tariff Act, to the extent practicable, we determine the NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP transaction. The NV LOT is that of the starting-price sales in the

comparison market or, when NV is based on constructed value, that of the sales from which we derive SG&A expenses and profit. For EP the U.S. LOT is also the level of the starting-price sale, which is usually from the exporter to the importer. For CEP it is the level of the constructed sale from the exporter to the importer. To determine whether NV sales are at a different LOT than EP or CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and sales at the LOT of the export transaction, we make a LOT adjustment pursuant to section 773(a)(7)(A) of the Tariff Act. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731 (November 19, 1997).

In determining whether separate LOTs actually existed in the home market for Saarlstahl, we examined whether the respondent's sales involved different marketing stages (or their equivalent) based on the channel of distribution, customer categories, and selling functions (or services offered) to each customer or customer category in both markets. Saarlstahl claimed two LOTs in both the U.S. and home markets, corresponding with the two channels of distribution it identified in its response. *See* Saarlstahl's January 22, 2002 Sections B, C, and D Response at B-18 and C-20.

In examining the selling activities associated with both channels of distribution, we note Saarlstahl reported essentially identical selling activities for all sales in both markets, with one exception: inventory maintenance provided for channel 2 sales in the home market. *See* Saarlstahl's December 20, 2001 Section A Response at Appendix A-9. It is not clear from the record whether the inventory maintenance described for these home market sales is properly classified as a "sales function." With one exception, the unaffiliated customer bears all warehousing expenses, rendering moot these activities in our LOT discussion. For that one exception, the warehousing expenses are negligible. Therefore, we preliminarily find no significant differences in selling functions between the different claimed channels of distribution. Accordingly, for this preliminary determination, we find a single LOT exists for all sales in both

the home and U.S. market and, further, that these sales occurred at the same LOT. Therefore, we have not made a LOT adjustment to NV because all transactions are deemed at the same LOT, and an adjustment pursuant to section 773(a)(7)(A) of the Tariff Act is not appropriate. Finally, because we found the LOT in the home market matches the LOT of the CEP transactions, we did not provide a CEP offset to normal value as described at section 773(a)(7)(B) of the Tariff Act.

#### Currency Conversion

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank, in accordance with section 773A(a) of the Tariff Act.

#### Verification

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

#### Suspension of Liquidation

In accordance with section 733(d)(2) of the Tariff Act, the Department will direct the U.S. Customs Service to suspend liquidation of all entries of wire rod from Germany that are entered, or withdrawn from warehouse, for consumption on after 90 days prior to the date of publication of this notice in the Federal Register. We will instruct the U.S. Customs Service to require a cash deposit or posting of a bond equal to the estimated preliminary dumping margin indicated in the chart below. This suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins for this preliminary determination are as follows:

Exporter/manufacturer	Margin
Saarstahl AG .....	14.56 percent
All Others .....	14.56 percent

#### Commission Notification

In accordance with section 733(f) of the Tariff Act, we have notified the Commission of our determination. If our final determination is affirmative, the Commission shall determine, before the later of 120 days after the date of this preliminary determination or 45 days after our final determination, whether these imports are materially injuring, or threatening material injury to, the U.S. industry.

#### Public Comment

Case briefs for this investigation must be submitted no later than one week after the issuance of verification reports. Rebuttal briefs must be filed within five dates after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of the issues, limited to five pages, should accompany any briefs submitted to the Department. In accordance with section 774 of the Tariff Act, the Department will hold a hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, such a hearing, if one is requested, will be held two days after the deadline for submission of rebuttal briefs, at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230. In the event the Department receives requests for hearings from parties to several wire rod cases, the Department may schedule a single hearing to encompass all those cases. Parties should confirm by telephone or electronic mail the time, date, and place of the hearing at least 48 hours before the scheduled time. Interested parties who wish to request a hearing, or 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. At any hearing each party may make an affirmative presentation only on issues raised in that party's case brief, and may make a rebuttal presentation only on arguments raised in that party's rebuttal brief. See 19 CFR 351.310(c). If this investigation proceeds normally, we will make our final determination no later than 75 days after the date of this preliminary determination.

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

Dated: April 2, 2002

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

[FR Doc. 02-8704 Filed 4-9-02; 8:45 am]

**BILLING CODE 3510-DS-S**

#### DEPARTMENT OF COMMERCE

##### International Trade Administration

[A-122-840]

#### Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Carbon and Certain Alloy Steel Wire Rod from Canada

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

**EFFECTIVE DATE:** April 10, 2002.

**FOR FURTHER INFORMATION CONTACT:** Constance Handley or Edward Easton at (202) 482-0631 or (202) 482-3003, respectively; AD/CVD Enforcement Group II Office 5, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

##### The Applicable Statute and Regulation

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 (Department) regulations refer to the regulations codified at 19 CFR part 351 (2001).

##### Preliminary Determination

We preliminarily determine that carbon and certain alloy steel wire rod (steel wire rod) from Canada is being sold, or is 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 September 24, 2001.<sup>1</sup> See *Initiation of Antidumping Duty Investigations: Carbon and Certain Alloy Steel Wire Rod from Brazil, Canada, Egypt, Germany, Indonesia, Mexico, Moldova, South Africa, Trinidad and Tobago, Ukraine, and Venezuela*, 66 FR 50164 (October 2, 2001) (*Initiation Notice*). Since the initiation of the investigation, the following events have occurred:

On October 12, 2001, the United States International Trade Commission

<sup>1</sup> The petitioners in this investigation are Co-Steel Raritan, Inc., GS Industries, Inc., Keystone Consolidated Industries, Inc., and North Star Steel Texas, Inc.