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Case No. A-823-812
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§ 751(b) Changed-Circumstances Administrative Review
Office of Policy
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Secretary of Commerce
U.S. Department of Commerce
Attn: Import Administration
Central Records Unit, Room 1870
14th Street and Constitution Avenue, N.W.
Washington, DC 20230

Attn: Mr. Lawrence Norton; Ms. Shauna Lee-Alaia

Re: Carbon and Certain Alloy Steel Wire Rod From Ukraine

Dear Mr. Secretary:

On behalf of Gerdau Ameristeel, Keystone Consolidated Industries, Inc., and ISG Georgetown Inc., Petitioners in the underlying investigation and domestic producers of carbon and certain alloy steel wire rod ("Petitioners"), we present the following rebuttal to the comments filed July 11, 2005 by the Western NIS Enterprise Fund and Alticor Inc., parties supporting revocation of Ukraine's status as a non-market economy country.

The Government of Ukraine declined to present any additional comments in support of its request for market economy status, apparently determining to rely solely on its May 10, 2005 submission. The multiple, fundamental, and severe problems with the GOU's May 10, 2005 submission – in the form of mischaracterizations, misstatements, and omissions of critical

information concerning Ukraine's continued status as a non-market economy country— were discussed in detail in Petitioners' July 11, 2005 submission, as well as in the July 11, 2005 submissions presented on behalf of the American Iron and Steel Institute, Eramet Marietta Inc., the Rebar Trade Action Coalition, and The Ad Hoc Committee of Domestic Nitrogen Producers. Petitioners support the arguments advanced by these parties and incorporate them herein by reference. In stark contrast to the unsupported, conclusory statements presented by the Government of Ukraine on May 10, 2005, the analyses presented by Petitioners and other interested parties opposing revocation of Ukraine's non-market economy status are supported by a wealth of research from multiple sources. Indeed, as the Department is aware and must address in its determination in this matter, a very substantial amount of evidence supporting continuation of Ukraine's status as an NME comes from other agencies of the U.S. government.

In their comments, the Western NIS Fund and Amway's parent Alticor urge the Department to grant market economy status as a "reward" to Ukraine. Inherent in their comments is the contention that the United States government should not conduct a substantive analysis of the six statutory criteria established under 19 U.S.C. § 1677(18), but should approach the issue of market economy status with a generous heart. This approach is contrary to law and must be rejected by the Department. The statute requires that Ukraine make sufficient progress to be deemed a market economy based on a reasonable analysis of factors in section 1677(18). It does not permit the Department to "reward" Ukraine for efforts that have not yet created a market economy. While Ukraine's recent economic growth, like that of China, has been impressive, this does not constitute an appropriate basis for alteration of NME status.

As stated in our July 11 comments, Petitioners acknowledge and applaud the great strides made by the people of Ukraine over the recent months. The manifestation of political will exhibited through the "Orange Revolution" deserves clear and unequivocal support from the United States government and people. This does not mean, however, that the Department can ignore the requirements of law. Indeed, both the Western NIS Fund and Alticor themselves are evidence of the substantial ways that our government can and does act to foster democracy and free enterprise while recognizing that Ukraine is not yet a market economy. The Western NIS Fund, by its own admission, was established and funded by the U.S. Congress, who capitalized the enterprise with \$150 million. The NIS Fund has been active in Ukraine since 1995, notwithstanding and apparently not hindered by the country's NME status. The actions of our government in funding the Western NIS fund provide a good example of steps that can be taken to foster the development of market economy mechanisms in Ukraine before non-market economy status is revoked. Indeed, these actions will lay the groundwork for a successful transition to market economy status, and thereby ensure that Ukraine is ready and able to handle the dynamics of a market economy.

Similarly, Alticor apparently has also found economic opportunity in Ukraine, again notwithstanding the country's NME status. Importantly and fundamentally, neither the Western NIS Fund nor Alticor provide any analysis addressing the statutory criteria that must be considered by the Department. As the NIS Fund recognized, only 100 days have passed since the "Orange Revolution" took place. This is barely enough time to unpack the silverware, much less guide a country accustomed to state control through the transition to an economy that


operates on market principles of cost or pricing structures, as required by 19 U.S.C. § 1677(18)(A).

Ukraine may indeed be “on course with their challenging economic reforms,” as Alticor argues, but the country has not completed the transition to a market economy. The Government of Ukraine continues to hinder full currency convertibility through improper interventions in the currency market. The GOU maintains a “tariff” establishing wages for workers. The GOU is in the midst of renationalizing huge numbers of recently privatized enterprises. Corruption and cronyism remain a potent influences in Ukraine’s economy. These and the other fundamental problems detailed in our July 11, 2005 submission provide substantial, compelling evidence that Ukraine has not yet completed the transition to market economy status.

For these reasons, and for the reasons detailed in our July 11, 2005 submission, we respectfully submit that the Department should decline to revoke Ukraine’s designation as a non-market economy country.

Please contact the undersigned with any questions that may arise concerning this submission.

Respectfully submitted,


PAUL C. ROSENTHAL
R. ALAN LUBERDA
ADAM H. GORDON

PUBLIC CERTIFICATE OF SERVICE

Carbon and Certain Alloy Steel Wire Rod from Ukraine
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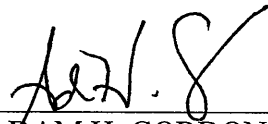
I hereby certify that on August 31, 2005, copies of the foregoing public submission were served upon the following by hand delivery:

On behalf of the Embassy of Ukraine:

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