

than the grade chemistry for AISI grade 420; thus, Mukand's grades 420 and 410 have been treated by the Department as one grade for purposes of the model match program. Finally, the chemistry ranges reported by Mukand for graded 304L and 304LN indicate that grade 304LN has a similar chemistry and composition to grade 304L; thus, Mukand's grades 304LN and 304L have been treated by the Department as one grade for purposes of the model match program.

It is the Department's practice not to create additional categories unless the physical characteristics are significantly different from an existing known category. *See Certain Cold-Rolled Carbon Steel Flat Products From Korea: Final Results of Antidumping Duty Administrative Review*, 63 FR 781 (January 7, 1998). Therefore, for the purposes of these preliminary results, the Department has combined the grades as follows in its model match program: grade 304M should be treated as grade 304, grade 304LN should be treated as grade 304L, and grade 420 should be treated as grade 410.

Export Price and Constructed Export Price

In accordance with section 772(a) of the Act, export price ("EP") is the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States. In accordance with section 772(b) of the Act, constructed export price ("CEP") is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d).

For purposes of this review, Mukand has classified certain sales as EP sales and certain sales as CEP sales. Based on the information on the record, we are using both export price and constructed export price as defined in section 772(a) and (b) of the Act.

For purposes of this review, the Viraj Group has classified all sales as CEP sales. Based on the information on the record, we are using constructed export price as defined in section 772(b) of the Act.

Mukand

Mukand reported both EP and CEP sales during the POR in the United States. Mukand originally reported all of its U.S. sales as EP sales. Mukand explained that it had reported its sales as EP sales because in the ordinary course of trade, Mukand International Limited ("MIL"), Mukand's wholly-owned subsidiary, which was based in the United Kingdom during the POR, sells to one unaffiliated U.S. customer ("U.S. customer"), a trading company, prior to importation, thus meeting the definition of an EP transaction.

At verification, the Department found that in an ordinary sale, the unaffiliated U.S. customer initiates a sale by sending a purchase order to MIL. *See Sales and Cost Verification of Mukand Limited in the Antidumping Administrative Review of Stainless Steel Wire Rod from India ("Mukand Verification Report")* at page 32. MIL acknowledges the customer's order and then sends the order information on to Mukand. *See Mukand Verification Report* at 32. Mukand produces the subject merchandise and upon completion of the order, invoices MIL and MIL invoices the unaffiliated U.S. customer in a back-to-back transaction. *See Mukand Verification Report* at 32. Mukand then ships the subject merchandise to the unaffiliated U.S. customer. *See Mukand Verification Report* at 32. Mukand arranges for shipping from its production facilities in Mumbai, India, and MIL becomes the importer of record in the U.S. *See Mukand Verification Report* at 32. MIL plays no further role with regard to sales between the unaffiliated U.S. customer and its customers once the subject merchandise is entered into the U.S. *See Mukand Verification Report* at page 32.

During the POR, however, the U.S. customer rejected several shipments, in full or in part, made pursuant to several purchase orders, because the merchandise was shipped late and therefore did not meet the terms of sale. Until this rejection, these sales had occurred in the manner described above. Upon further discussion between MIL and the U.S. customer, MIL cancelled the sales in its books and issued credit notes for the amount of merchandise rejected. *See Mukand Verification Report* at page 31. In addition, MIL and the U.S. customer reached an agreement with unique terms whereby the U.S. customer would hold the rejected subject merchandise at its U.S. warehouse at no expense to MIL until the U.S. customer needed to purchase the merchandise from MIL. *See Mukand Verification Report* at page

30. *See also Mukand's October 21, 2002 supplemental response* at annexure 1.

In accordance with this agreement, MIL's U.S. customer purchased a certain portion from the subject merchandise stored at the U.S. customer's U.S. warehouse during the POR. *See Mukand Verification Report* at page 30. The purchase was made in accordance with the agreement between MIL and the U.S. customer. *See Mukand Verification Report* at page 30. In its original response, Mukand reported these sales as EP sales, however, the Department sought clarification of whether Mukand was claiming that these sales were either EP or CEP sales. In response to the Department's questioning, Mukand reclassified the subject merchandise involved in these sales as CEP sales. Mukand reclassified these sales as CEP sales, because the sale of the subject material was made after its importation to the United States.

The Department has determined that Mukand's EP sales are properly reported sales, because those sales were made in accordance with the definition of an EP sale. In addition, the Department has determined that Mukand properly reported the reclassified EP sales as CEP sales, because those sales were made after the importation of the subject merchandise into the United States to the unaffiliated U.S. customer.

Based on the evidence on the record, the Department has preliminarily determined that those sales classified by Mukand as CEP sales should also be treated as consignment sales (with MIL's U.S. customer as the consignment agent) given the unique terms and circumstances of these sales; in particular, the existence of "consignment stock." Due to the proprietary nature of the information on the record please see the Department's memorandum, *Antidumping Duty Investigation of Stainless Steel Wire Rod from India: Consignment Sales Analysis Memorandum* dated December 3, 2002 ("Mukand Consignment Memorandum"), for a detailed explanation of our decision.

On December 5, 2002, the Department formally informed Mukand of its decision to treat the CEP sales as consignment sales and requested Mukand to respond to the Department's November 26, 2002 supplemental questionnaire. *See* Department's Letter of December 5, 2002. Mukand provided its response to the Department's supplemental questionnaire on December 13, 2002, but failed to provide the requested information concerning costs incurred by its unaffiliated U.S. customer related to the downstream consignment sales that are necessary to