

Import Administration Policy Bulletin

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Topic: Market or Non-Market Economy Country Designation

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Background

The Government of Bulgaria ("GOB") requested that the Department of Commerce ("Department") clarify Bulgaria's market economy status under the U.S. antidumping duty law. Bulgaria has never been subject to a U.S. antidumping duty investigation and, therefore, has never been formally designated a non-market economy ("NME") country. The GOB therefore seeks clarification of the basis (market or non-market) on which any future antidumping proceeding would proceed.

Statement of Policy

Under the U.S. antidumping law, countries receive market-economy treatment unless they have been formally designated as a NME country.⁽¹⁾ Therefore, in any future antidumping investigation of a country not formally designated as a NME, such as Bulgaria, the Department will treat it as a market-economy country for purposes of calculating normal value under section 773(c)(1) of the Act.⁽²⁾ The investigation will proceed on that basis, unless an interested party is able to rebut the presumption of market-economy status within the meaning of section 771(18)(A).

In order to rebut this presumption, the interested party must allege that the country is a NME within the meaning of section 771(18)(A). A mere allegation is not sufficient, however, but must be adequately and properly supported and documented with respect to each of the six factors listed in 771(18)(B) of the Act. If the allegation meets these requirements, the Department will initiate a formal inquiry into the status of the country's economy, to determine whether it should be treated as a NME for purposes of section 773(c)(1) of the Act.⁽³⁾ The allegation must be made early enough in the investigation (*e.g.*, in the petition) in order to enable the Department to reach a determination. If the country is designated a NME, the Department will complete the proceeding on a NME basis.⁽⁴⁾

1. The Tariff Act of 1930, as amended, sets out special rules under section 773(c) for calculating normal value that apply to countries designated as NME countries under section 771(18)(A) of the Act. For countries not so designated, *i.e.*, for market economy countries, the general rule under section 773(a) apply.

2. The selection of surrogate values is not addressed by this policy bulletin, but in our case practice.

3. See, Notice of Initiation of Antidumping Duty Investigation: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam, 67 FR 48437 (July 24, 2002).

4. For operational reasons, while such an analysis is pending, the Department may issue at the outset of a proceeding both a market economy and a NME questionnaire.