

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under §351.211 or a determination under §351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 USC 1675(a)), and 19 CFR 351.221(c)(1)(i).

Dated: May 16, 2002.

**Holly A. Kuga,**

*Senior Office Director, Group II, Office 4,  
Import Administration.*

[FR Doc. 02-13008 Filed 5-22-02; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-533-823; A-834-807; A-307-820]

#### **Notice of Amended Final Determination of Sales at Less than Fair Value and Antidumping Duty Orders: Silicomanganese from India, Kazakhstan, and Venezuela**

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

**ACTION:** Notice of amended final determination of sales at less than fair value and antidumping duty orders.

**EFFECTIVE DATE:** May 23, 2002.

**FOR FURTHER INFORMATION CONTACT:** Brett Royce (India), Cheryl Werner (Kazakhstan), and Deborah Scott (Venezuela) at (202) 482-4106, (202) 482-2667, and (202) 482-2657,

respectively; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

#### **SUPPLEMENTARY INFORMATION:**

#### **The Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 C.F.R. part 351 (2001).

#### **Background**

On April 2, 2002, the Department published its final determinations in the antidumping duty investigations of silicomanganese from Kazakhstan, India, and Venezuela. *See Notice of Final Determination of Sales at Less than Fair Value and Final Negative Critical Circumstances Determination: Silicomanganese from India*, 67 FR 15531 (April 2, 2002); *Notice of Final Determination of Sales at Less than Fair Value: Silicomanganese from Kazakhstan*, 67 FR 15535 (April 2, 2002); and *Notice of Final Determination of Sales at Less than Fair Value: Silicomanganese from Venezuela*, 67 FR 15533 (April 2, 2002).

On May 16, 2002, the International Trade Commission ("ITC") notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Act that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject merchandise from India, Kazakhstan, and Venezuela.

#### **Scope of the Orders**

For purposes of these orders, the products covered are all forms, sizes and compositions of silicomanganese, except low-carbon silicomanganese, including silicomanganese briquettes, fines and slag. Silicomanganese is a ferroalloy composed principally of manganese, silicon and iron, and normally contains much smaller proportions of minor elements, such as carbon, phosphorous and sulfur. Silicomanganese is sometimes referred to as ferrosilicon manganese. Silicomanganese is used primarily in

steel production as a source of both silicon and manganese.

Silicomanganese generally contains by weight not less than 4 percent iron, more than 30 percent manganese, more than 8 percent silicon and not more than 3 percent phosphorous. Silicomanganese is properly classifiable under subheading 7202.30.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Some silicomanganese may also be classified under HTSUS subheading 7202.99.5040. This scope covers all silicomanganese, regardless of its tariff classification. Although the HTSUS subheadings are provided for convenience and U.S. Customs Service (Customs) purposes, our written description of the scope remains dispositive.

The low-carbon silicomanganese excluded from this scope is a ferroalloy with the following chemical specifications: minimum 55 percent manganese, minimum 27 percent silicon, minimum 4 percent iron, maximum 0.10 percent phosphorus, maximum 0.10 percent carbon and maximum 0.05 percent sulfur. Low-carbon silicomanganese is used in the manufacture of stainless steel and special carbon steel grades, such as motor lamination grade steel, requiring a very low carbon content. It is sometimes referred to as ferromanganese-silicon. Low-carbon silicomanganese is classifiable under HTSUS subheading 7202.99.5040.

#### **Amended Final Determination: Silicomanganese from India**

On April 8, 2002, we received a submission from Eramet Marietta Inc. (Eramet) and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5-0639 (collectively, petitioners) alleging two ministerial errors in the final determination calculations in the investigation of imports from India. The allegations concerned the Department's calculations for one respondent, Universal Ferro and Allied Chemicals, Ltd (Universal). *See Analysis for Universal Ferro & Allied Chemicals, Ltd. (Universal) for the Final Determination in the Investigation of Silicomanganese from India for the Period April 1, 2000 Through March 31, 2001, (India Final Analysis)* (March 25, 2002). The allegations were timely filed pursuant to

section 351.224(c)(2) of the Department's regulations. On April 16, 2002, we received a rebuttal submission from Universal. These two allegations are addressed below.

We did not receive any timely submissions alleging ministerial errors in the India investigation with respect to the other respondent, Nava Bharat. See *Memorandum on Disclosure of Final Determination Documents in the Antidumping Investigation of Silicomanganese from India: Nava Bharat Ferro Alloys, Ltd. (Nava Bharat)*, from Javier Barrientos, through Sally C. Gannon, to the File (April 26, 2002). No ministerial allegations were received concerning the final determinations for Kazakhstan or Venezuela.

#### Ministerial Allegation 1: Cost of Slag

Petitioners contend that the Department made a ministerial error in calculating the cost of slag included in Universal's total cost of manufacture (COM). Petitioners argue that the Department claimed that, for the final calculations, it was assuming that all slag was used for non-conversion products. See *India Final Analysis*, at 3 ("For these final calculations we are assuming that all slag was used for non-conversion products."). Petitioners argue that the Department's calculation of the amount of slag costs to be included in COM is inconsistent with its statement that all slag costs were presumed to be consumed in the production of non-conversion silicomanganese. Specifically, petitioners maintain that the Department allocated only a portion of the total cost of slag to non-conversion silicomanganese. As per the Department's stated presumption that all slag was used for non-conversion products, petitioners claim that no allocation between conversion and non-conversion products was necessary.

Accordingly, petitioners request that the Department amend its final calculations to include all slag costs in Universal's COM.

In regard to the above allegation, the respondent maintains that petitioners selectively extracted parts of the Department's *India Final Analysis* to substantiate their ministerial error claim regarding the calculation of slag costs. Specifically, the respondent argues that the petitioners disregarded Department references in which the Department explicitly stated its intention to use a ratio of silicomanganese production in order to allocate slag costs. See *India Final Analysis*, at 2 ("We then multiplied this amount by the ratio of silicomanganese production quantity ... to total production quantity ... to derive

an amount attributable to subject merchandise.") Thus, according to the respondent, the Department's calculation method was intentional, and, therefore, there is no ministerial error.

According to the respondent, these statements by the Department regarding the use of an allocation ratio are contradicted by other statements made by the Department presuming that all slag was used for non-conversion products. According to the respondent, the Department only made this assumption as a result of its inability to locate the amount of slag used in the conversion products in Exhibit 5 of the verification exhibits. The respondent contends that it could have directed the Department to the subject information, if asked. Under these conditions, the respondent contends that there is no ministerial error, and that the Department would likely end up "confessing error before the Court of International Trade and seeking a remand."

#### Department's Position:

We agree with petitioners that the Department's objective was to assume slag was used only for non-conversion silicomanganese products. We made this assumption in applying adverse facts available, given our conclusion that the respondent had not provided the proper information. However, as the respondent has verified information on the record confirming its use of slag in conversion products (Verification Exhibit 5), the application of adverse facts available is no longer warranted. Therefore, the existing allocation of slag costs used in our calculations, which is between non-conversion and conversion silicomanganese products, is correct and no correction to the final determination calculations in this regard is necessary.

#### Ministerial Allegation 2: Interest Expense Ratio

Petitioners argue that the Department committed a ministerial error in its calculation of the ratio used to calculate the interest expense component of Universal's cost of production (COP). According to petitioners, based on the data in the *India Final Analysis*, the Department incorrectly calculated the revised interest expense ratio. As a result, they state that the Department should amend its final calculations to incorporate the correct interest expense ratio in the calculation of Universal's total COP. Respondent did not comment on this allegation.

#### Department's Position:

The Department agrees with petitioners in that, based on the data in the *India Final Analysis*, the ratio used to calculate the interest expense component of Universal's COP was calculated inaccurately as a result of an arithmetic error. The Department is revising its final calculations to incorporate the correct interest expense ratio in Universal's total COP for this amended final determination. See *Analysis for Universal Ferro & Allied Chemicals, Ltd. (Universal) for the Amended Final Determination in the Investigation of Silicomanganese from India for the Period April 1, 2000 Through March 31, 2001* (May 17, 2002). As a result of this modification to the interest expense ratio, the margin for Universal has changed along with the "all others" rate, which was based on the average of the rates for Nava Bharat and Universal. Universal's margin has increased from 20.42 percent to 20.53 percent, and the "all others" rate has increased from 17.69 percent to 17.74 percent.

#### Antidumping Duty Orders

In accordance with section 736(a)(1) of the Act, the Department will direct the Customs Service to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price or constructed export price of the merchandise for all relevant entries of silicomanganese from India, Kazakhstan, and Venezuela. The antidumping duties will be assessed on all unliquidated entries of silicomanganese from India, Kazakhstan, and Venezuela entered, or withdrawn from warehouse, for consumption on or after November 9, 2001, the date on which the Department published its notices of preliminary determination in the Federal Register. Customs must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below. The "all others" and "Kazakhstan-wide" rates apply to all exporters of subject merchandise not specifically listed. The weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-Average Margin
<i>India</i> Nava Bharat Ferro Alloys, Ltd. ....	15.32%

Exporter/Manufacturer	Weighted-Average Margin
Universal Ferro and Allied Chemicals, Ltd.	20.53%
All Others .....	17.74%
Kazakhstan	
Alloy 2000, S.A. ....	247.88%
Kazakhstan-Wide .....	247.88%
Venezuela	
Hornos Electricos de Venezuela, S.A. ....	24.62%
All Others .....	24.62%

This notice constitutes the antidumping duty orders with respect to silicomanganese from India, Kazakhstan, and Venezuela, pursuant to section 736(a) of the Act. Interested parties may contact the Department's Central Records Unit, Room B-099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

These orders are published in accordance with section 736(a) of Act and 19 C.F.R. 351.211.

Dated: May 17, 2002

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

[FR Doc. 02-13007 Filed 5-22-02; 8:45 am]

BILLING CODE 3510-DS-S

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-437-804]

#### **Sulfanilic Acid From Hungary: Postponement of Final Determination and Extension of Provisional Measures of Antidumping Duty Investigation**

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

**ACTION:** Notice of postponement of final antidumping duty determination and extension of provisional measures: Sulfanilic acid from Hungary.

**SUMMARY:** The Department of Commerce is postponing the final determination of the antidumping duty investigation of sulfanilic acid from Hungary. This postponement is made pursuant to section 735 (a)(2) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act. Suspension of liquidation will be extended accordingly.

**EFFECTIVE DATE:** May 23, 2002.

**FOR FURTHER INFORMATION CONTACT:** Craig Matney at (202) 482-1778, AD/CVD Enforcement, Office 1, DAS Group I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and

Constitution Avenue NW., Washington, DC 20230.

#### **Postponement of Final Determination and Extension of Provisional Measures**

On April 26, 2001, the Department of Commerce, ("the Department") issued its preliminary determination in this investigation. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Sulfanilic Acid from Hungary*, 67 FR 30358 (May 6, 2002) ("Preliminary Determination"). The *Preliminary Determination* notice indicated that the final determination would be made by not later than 75 days after the date of the *Preliminary Determination*.

Pursuant to section 735(a)(2) of the Tariff Act of 1930, as amended ("the Act"), on May 13, 2002, Nitrokemia 2000 Rt. ("Nitrokemia 2000"), the sole participating respondent in this investigation, requested that the Department postpone its final determination to no later than 135 days after the date of publication of the preliminary determination in the **Federal Register**.<sup>1</sup> Nitrokemia 2000 further requested that the Department extend to not more than six months the application of the provisional measures prescribed under paragraphs (1) and (2) of section 733(d) of the Act. In accordance with section 735(a) of the Act and 19 CFR 351.210(b), because (1) the preliminary determination in this case is affirmative, (2) the request for postponement was submitted in writing by an exporter who accounts for a significant proportion of exports of the subject merchandise in this investigation, and (3) no compelling reason for denial exists,<sup>2</sup> we are postponing the final determination until not later than 135 days after the publication of the preliminary determination in the **Federal Register** (i.e., until not later than September 18, 2002). Suspension of liquidation will be extended accordingly.

This extension is in accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2).

<sup>1</sup> Nitrokemia had previously requested a postponement of the final determination on April 8, 2002. However, that request was subsequently withdrawn on April 11, 2002.

<sup>2</sup> We note that, in response to Nitrokemia's original request for postponement of the final determination, on April 12, 2002, the petitioner submitted a letter objecting to Nitrokemia's request. The petitioner objected because, in light of the alignment of the concurrent countervailing duty investigation with the instant proceeding, Nitrokemia would not have to deposit countervailing duties once the provisional measures period in that investigation expires. However, we did not consider this objection to constitute a compelling reason to deny Nitrokemia's request for a postponement.

Dated: May 17, 2002.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

[FR Doc. 02-13009 Filed 5-22-02; 8:45 am]

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## DEPARTMENT OF COMMERCE

### **National Oceanic and Atmospheric Administration**

[I.D. 041602B]

#### **Small Takes of Marine Mammals Incidental to Specified Activities; Harbor Activities at Vandenberg Air Force Base, CA**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of issuance of incidental harassment authorization.

**SUMMARY:** In accordance with provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that an Incidental Harassment Authorization (IHA) to take small numbers of marine mammals by harassment incidental to harbor activities related to the Delta IV/Evolved Expendable Launch Vehicle (EELV) at south Vandenberg Air Force Base, CA (VAFB) has been issued to The Boeing Company (Boeing).

**DATES:** Effective from May 20, 2002, until May 20, 2003.

**ADDRESSES:** The application is available by writing to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3225, or by telephoning one of the contacts listed here.

**FOR FURTHER INFORMATION CONTACT:** Simona Perry, (301) 713-2322, ext. 106 or Christina Fahy, (562) 980-4023.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Permission for incidental takings may be granted if NMFS finds that the taking