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This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

February 1, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

APPENDIX I

Discussion of the Issues

Petitioners' Issues

Comment 1: Whether Import Prices Paid by FYG and Xinyi for Float Glass from Korea may be Subsidized

Comment 2: Whether Import Prices Paid by FYG and Xinyi for Float Glass from Thailand may be Subsidized

Comment 3: Whether Import Prices Paid by FYG and Xinyi for Float Glass from Korea and Thailand may be Dumped

Comment 4: Whether Xinyi's Prices for Imports of Float Glass From India May be Subsidized

Comment 5: Whether Chinese Prices for Indonesian Float Glass May Be Subsidized and/or Dumped

Comment 6: Whether the Department Should Continue to Use Indian Import Statistics as the Surrogate Value for Float Glass

Comment 7: Whether the Department Should Use as its Surrogate Value the Electricity rate Paid by the Indian Auto Glass Producers

Comment 8: Whether the Department Should Use Actual Molding Prices and Mirror Brackets/Button Prices as the Surrogate Value for Xinyi's Moldings and Mirror Brackets/Buttons

Comment 9: Whether the Department Should Use the Updated Surrogate Value Information Provided by Petitioners for Certain Inputs and Also Use a More Appropriate HTS Number for Scrap Iron Input

Comment 10: Whether the Department Should Calculate Factory Overhead, Selling, General and Administrative Expenses, and Profit in Accordance with Petitioners Proposed Methodology

Comment 11: Whether the Department Should Value the Labor Factor of Production on the Basis of Fully-Loaded Labor Costs

Comment 12: Whether Xinyi's Market Economy Based Inland Freight Expenses Are Controlled by the Chinese Government

Comment 13: Whether the Department Should Make Certain Adjustments to Freight for FYG

Comment 14: Whether Respondents Reported Usage Rates for Float Glass and PVB Are Understated

Comment 15: Whether Respondents Reported U.S. Selling Prices are Reliable

Comment 16: Critical Circumstances

Comment 17: Whether the Scope Includes ARG Windshields for Buses, Recreational Vehicles and Farm Machinery

Comment 18: Whether the Department Used Incorrect Inflation Figures

Company Specific Issues

FYG's Comments

Comment 19: Whether the Department Should Use the Remaining Average Float Glass Costs Specific to the Thickness and Type Required for the CONNUM

Comment 20: Whether the Department Should Calculate the Profit Ratio Based on the 1999–2000 Financial Report of Asahi India Safety Glass Ltd.

Comment 21: Whether the Net Profit Ratio Should be Based on a Simple Average of the Financial Results of Saint-Gobain Sekurit and Asahi

Comment 22: Whether the Asahi India Profit Ratio Contains a Clerical Error

Comment 23: Whether the Department's Calculation of the Factory Overhead Ratio Should Exclude the Cost of Stores and Spare Parts

Comment 24: Whether the Department's Calculation of the SG&A Expense Ratio Contains Errors

Comment 25: Whether Water as Part of Energy in the Cost of Manufacturing Results in Double-Counting

Comment 26: Whether the Department Should Value Water Using the Asian Development Bank Data

Comment 27: Whether the Department Erred in Including U.S. Duty and International Freight Charges Among the CEP Selling Expenses

Comment 28: Whether the Department Double-Counted Molding

Comment 29: Updated Labor Rate for 1999

Comment 30: Surrogate Value for Styrofoam

Comment 31: Whether the Department Should Remove International Freight and Insurance Costs from Indian Surrogate Values

Xinyi's Comments

Comment 32: Whether Market Economy Expenditures Should be Used in Place of Surrogate Values

Comment 33: Verification Issues

Comment 34: Whether Negative Margins Should be Taken into Consideration in

Calculating Certain Overall Weighted Average Margins

Comment 35: Whether the Department Should Calculate a Margin for Non-Mandatory Respondent Benxun Based on Its Data

Comment 36: Whether Recent Changes to the Antidumping Statute have Transformed the Law into a Penal Statute, thereby Violating Certain Respondent Parties' Procedural Due Process Rights

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–860]

Notice of Initiation of Antidumping Duty Investigation: Pneumatic Directional Control Valves from Japan

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

ACTION: Initiation of antidumping duty investigation.

EFFECTIVE DATE: February 12, 2002

FOR FURTHER INFORMATION CONTACT: Brian Ledgerwood or Frank Thomson at (202) 482–3836 or (202) 482–4793, respectively; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Initiation of Investigation

The Applicable Statute and Regulations

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 Act”), by the Uruguay Round Agreements Act (“URAA”). In addition, unless otherwise indicated, all citations to the Department of Commerce’s (“the Department’s”) regulations are references to the provisions codified at 19 CFR Part 351 (2001).

The Petition

On January 14, 2002, the Department received a petition filed in proper form by the Pneumatics Group (“the petitioners”), consisting of the following parties: Festo Corporation¹, IMI Norgren, Inc., Numatics, Inc., and Parker Hannifan Corporation. The

¹ Produces pneumatic fluid power products, but not pneumatic directional control valves (“PDCVs”), in the United States

Department received information supplementing the petition on January 30, 2002 and January 31, 2002.

In accordance with section 732(b) of the Act, the petitioners allege that imports of PDCVs from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or are threatening to materially injure, an industry in the United States.

The Department finds that the petitioners filed this petition on behalf of the domestic industry because they are an interested party, as defined in sections 771(9)(E) and 771(9)(F) of the Act and have demonstrated sufficient industry support with respect to the antidumping investigation that they are requesting the Department to initiate. (See the Determination of Industry Support for the Petition section below.)

Scope of Investigation

The scope of the investigation includes all pneumatic directional control valves, whether assembled or unassembled, regardless of size, configuration, intended or actual use, method of actuation, and material(s) employed in construction, other than aerospace-type fluid power valves as further described below. The subject merchandise thus includes, but is not necessarily limited to, manual, mechanical, air-operated, and solenoid type pneumatic directional control valves.

Specifically excluded from the scope are aerospace-type pneumatic fluid power valves, defined as pneumatic fluid power valves that have been certified for use in airframes, aircraft engines, or other aerospace applications pursuant to standards established or required by the Federal Aviation Administration or Department of Defense in the United States, or by the counterparts of these agencies in other countries.

The subject merchandise is currently classified under subheadings 8481.20.0060 and 8481.20.0070 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Aerospace-type fluid power valves, which are excluded from the scope, are not entered under the subheadings just described, but are instead entered under various other subheadings.

Although the HTSUS subheadings are provided for convenience and U.S. Customs Service ("Customs") purposes, the written description of the merchandise under investigation is dispositive.

During our review of the petition, we discussed the scope with the petitioners

to ensure that the scope in the petition accurately reflects the product for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations (Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments within 20 days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determination.

Determination of Industry Support for the Petition

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, when determining the degree of industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission ("ITC"), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to the law.²

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation,"

i.e., the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition. Moreover, the petitioners do not offer a definition of domestic like product distinct from the scope of the investigation.

The petition covers PDCVs as defined in the Scope of the Investigation section, above, a single class or kind of merchandise. The Department has no basis on the record to find the petitioners' definition of the domestic like product to be inaccurate. The Department, therefore, has adopted the domestic like product definition set forth in the petition.

On January 25, 2002, the Department received comments regarding industry support from the Japan Fluid Power Association (a majority of whose members, including SMC Corporation, are producers in Japan of PDCVs). On January 29, 2002 and February 1, 2002, the Department received comments regarding industry support from SMC Corporation, a Japanese producer of PDCVs and SMC Corporation of America, a U.S. importer of the subject merchandise (collectively, "SMC Corporation").

The Department has reviewed the comments of both the Japan Fluid Power Association and SMC Corporation. In order to estimate production for the domestic industry as defined for purposes of this case, the Department has relied on the petition and amendments thereto, and Department research. See the Industry Support Attachment to the Import Administration AD Investigation Checklist, dated February 4, 2002 ("Initiation Checklist") (public version on file in the Central Records Unit of the Department of Commerce, Room B-099) for further description.

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Information contained in the petition and its supplements, and information gathered through Department research demonstrate that the domestic producers or workers who support the petition account for over 50 percent of total production of the domestic like product. Therefore, the domestic producers or workers who

² See *Algoma Steel Corp. Ltd., v. United States*, 688 F. Supp. 639, 642-44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 FR 32376, 32380-81 (July 16, 1991).

support the petition account for at least 25 percent of the total production of the domestic like product, and the requirements of section 732(c)(4)(A)(i) and section 732(c)(4)(D) are met. See Initiation Checklist. Furthermore, because the Department received no domestic opposition to the petition, the domestic producers or workers who support the petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petitions. See Initiation Checklist. Thus, the requirement of section 732(c)(4)(A)(ii) is met.

Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. See Initiation Checklist.

Period of Investigation

The anticipated period of investigation ("POI") is January 1, 2001, through December 31, 2001.

Constructed Export Price and Normal Value

The following are descriptions of the allegations of sales at less than fair value upon which the Department has based its decision to initiate this investigation. The sources of data for the deductions and adjustments relating to home market and U.S. price are detailed in the Initiation Checklist.

The Department has analyzed the information in the petition and considers the country-wide import statistics for the anticipated POI and pricing information used to calculate the estimated margin to be sufficient for purposes of initiation. Based on the information submitted in the petition, adjusted where appropriate, we are initiating this investigation, as discussed below and in the Initiation Checklist. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determinations, we will re-examine the information and may revise the margin calculation, if appropriate.

Constructed Export Price

The petitioners identified one company that they believe accounts for a substantial majority of imports of subject merchandise from Japan. The petitioners state that this producer sells subject merchandise through its U.S. affiliate. The petitioners based constructed export price ("CEP") on the affiliate's price list. The list prices include all import charges and duties, but do not include U.S. inland

transportation. To arrive at a net-price, the petitioners deducted from the list price an amount for SMC Corporation of America's ("SMC-USA's") standard-discount. To arrive at ex-factory price, petitioners deducted import charges based on the average import charge reported in U.S. import statistics for entries of the subject merchandise during the last four quarters for which data are available (2000Q4 - 2001Q3). Petitioners made a further deduction for import duties and a deduction to account for SMC-USA's U.S. selling expenses. Petitioners based U.S. selling expenses on the aggregate selling expense ratio experienced by the PDCV-producing members of the Pneumatics Group during the year 2000.³ The petitioners stated that SMC-USA's selling expense ratio is not publicly available and cannot reasonably be estimated by other publicly available means. Therefore, the petitioners calculated a net U.S. price by subtracting import charges and duties, and U.S. selling expenses. The petitioners provided a publically available selling expense ratio in their January 30, 2002, amendment to the petition. However, because the non-public selling expense ratio provided in the original petition is more conservative, we have continued to use the ratio that was provided in the original petition.

Normal Value

With respect to normal value ("NV"), the petitioners provided home market prices that were obtained from a party in Japan for PDCVs that are comparable to the products exported to the United States which serve as the basis for CEP. Petitioners applied relevant discounts to the yen-denominated price and then converted the net price to U.S. dollars by using exchange rates applicable to the twelve-month period preceding the petition, as published by the Federal Reserve Board. Petitioners did not deduct inland freight from the sales value.

Based on the comparison of CEP to NV, petitioners calculated estimated dumping margins from 9.28 to 107.46 percent. Based on an examination of the information submitted in the petition, adjusted where appropriate, and comparing CEP to NV, we have determined that, for purposes of this initiation, there is a reasonable basis to believe or suspect that dumping has occurred (see Initiation Checklist).

³ The PDCV-producing members of the Pneumatics Group are not publically held companies, therefore it was necessary to aggregate and average these three companies' selling expenses to derive an appropriate ratio.

Fair Value Comparisons

The Department has examined the adequacy and accuracy of the information the petitioners used in their calculations of U.S. and home market prices and has found that it represents information reasonably available to petitioners supporting the allegation of dumping (see Initiation Checklist).

Based on the data provided by the petitioners, there is reason to believe that imports of PDCVs from Japan are being, or are likely to be, sold at less than fair value.

Allegations and Evidence of Material Injury and Causation

The petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than NV. The petitioners contend that the industry's injured condition is evident in the decline of U.S. producers' output, sales, market share, profits, productivity, return on investment, and capacity utilization, as well as negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, investment, and existing development and production efforts. The allegations of injury and causation are supported by relevant evidence including U.S. Customs import data, lost sales, and pricing information. We have examined the accuracy and adequacy of the evidence provided in the petition and have determined that the petition alleges the elements necessary for the imposition of a duty under section 731 of the Act and contains information reasonably available to the petitioners supporting the allegations (see Initiation Checklist, Material Injury section).

Initiation of Antidumping Investigation

Based upon our examination of the petition on PDCVs from Japan and the petitioners' responses to our supplemental questionnaire clarifying the petition, we have found that the petition meets the requirements of section 732 of the Act. See Initiation Checklist. Therefore, we are initiating an antidumping duty investigation to determine whether imports of PDCVs from Japan are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is postponed, we will make our preliminary determination no later than 140 days after the date of this initiation. See Case Calendar section of the Initiation Checklist.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representatives of the government of Japan. We will attempt to provide a copy of the public version of the petition to each exporter named in the petition, as appropriate.

International Trade Commission Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will determine, no later than February 28, 2002, whether there is a reasonable indication that imports of PDCVs from Japan are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

February 4, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE**INTERNATIONAL TRADE ADMINISTRATION**

[A-351-806]

Silicon Metal from Brazil; Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On August 6, 2001, the Department of Commerce (the Department) published the preliminary results of administrative review of the antidumping duty order on silicon metal from Brazil. The merchandise covered by this order is silicon metal from Brazil. The review covers four manufacturers/exporters, Rima Industrial SA (Rima), Companhia Ferroligas Minas Gerais - Minasligas (Minasligas), Ligas de Alumina S.A. (LIASA) and Companhia Carbureto de

Calcio (CBCC). The period of review (POR) is July 1, 1999, through June 30, 2000.

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margins for the reviewed firm is listed below in the section entitled "Final Results of the Review."

EFFECTIVE DATE: February 12, 2002.

FOR FURTHER INFORMATION CONTACT: Maisha Cryor, telephone: (202) 482-5831, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the 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 (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 351 (2000).

Background

On August 6, 2001, the Department published the preliminary results of administrative review of the antidumping duty order on silicon metal from Brazil. See Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Order in Part, 66 FR 40980 (August 6, 2001). The review covers four manufacturers/exporters, RIMA, Minasligas, LIASA and CBCC. The POR is July 1, 1999, through June 30, 2000. We invited parties to comment on our preliminary results of review. We received comments on November 21, 2001, from Rima, Minasligas, and CBCC (collectively respondents), and from American Silicon Technologies and Elkem Metals Company (collectively petitioners). On December 4, 2001, we received a rebuttal brief from petitioners and Rima, Minasligas and CBCC. On December 31, 2001, we received comments from petitioners concerning the Department's application of section 772(e) of the Act to CBCC's further manufactured sales in the preliminary results. On January 10, 2002, we received rebuttal comments from CBCC. In response to requests by petitioners, we issued a series of supplemental questionnaires to CBCC on January 2, 25 and 29 of 2002. We received supplemental responses from CBCC on

January 10, 28 and 30 of 2002. We received comments from petitioners on CBCC's responses on February 1, 2002. We received comments from CBCC on petitioners comments on February 4, 2002. The Department has conducted this administrative review in accordance with section 751 of the Act.

Scope of Review

The merchandise covered by this administrative review is silicon metal from Brazil containing at least 96.00 percent but less than 99.99 percent silicon by weight. Also covered by this administrative review is silicon metal from Brazil containing between 89.00 and 96.00 percent silicon by weight but which contains more aluminum than the silicon metal containing at least 96.00 percent but less than 99.99 percent silicon by weight. Silicon metal is currently provided for under subheadings 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule (HTS) as a chemical product, but is commonly referred to as a metal. Semiconductor grade silicon (silicon metal containing by weight not less than 99.99 percent silicon and provided for in subheading 2804.61.00 of the HTS) is not subject to the order. Although the HTS item numbers are provided for convenience and for U.S. Customs purposes, the written description remains dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the "Issues and Decision Memorandum" ("Decision Memorandum") from Bernard T. Carreau, Deputy Assistant Secretary, Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated February 4, 2002, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B-099 ("B-099") of the main Department building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at www.ita.doc.gov/import-admin/records/frn/. The paper copy and electronic version of the Decision Memorandum are identical in content.