Dated: March 26, 2002.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration, Group III.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–823]

Silicomanganese from India: Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances Determination

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

EFFECTIVE DATE: April 2, 2002.

FOR FURTHER INFORMATION CONTACT: Javier Barrientos for Nava Bharat Ferro Alloys Ltd. at (202) 482–2243 and Mark Hoadley or Brett Royce for Universal Ferro & Allied Chemicals, Ltd. at (202) 482–0666 or (202) 482–4106, respectively; Office of Antidumping and Countervailing Duty Enforcement VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230.

Final Determination

We determine that silicomanganese from India is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended. On November 9, 2001, the Department published its preliminary determination of sales at less than fair value of silicomanganese from India. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Silicomanganese from India*, 66 FR 56644 (November 9, 2001). Based on the results of verification and our analysis of the comments received, we have made changes to the margin calculations. The final weighted–average dumping margins of sales at LTFV are shown in the ''Continuation of Suspension of Liquidation'' section of this notice.

SUPPLEMENTARY INFORMATION:

Applicable Statue

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 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce (Department) regulations are to the regulations at 19 CFR part 351 (April 2001).

Background

This investigation covers two producers/exporters: Nava Bharat Ferro Alloys, Ltd.(Nava Bharat) and Universal Ferro and Allied Chemicals, Ltd. (Universal). We published in the Federal Register the preliminary determination of critical circumstances in this investigation on October 19, 2001. *See Notice of Preliminary Determination of Critical Circumstances: Silicomanganese from India*, 66 FR 53207 (October 19, 2001) (Preliminary Determination of Critical Circumstances). We subsequently published in the Federal Register the preliminary determination in this investigation on November 9, 2001. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Silicomanganese from India*, 66 FR 56644 (November 9, 2001) (*Preliminary Determination*).

On November 20, 2001, Universal requested that the Department postpone its final determination until not later than 135 days after the date of the publication of the preliminary determination in the *Federal Register* and requested an extension of the provisional measures. On December 7, 2001, we extended the final determination until no later than 135 days after the publication of the preliminary determination in the *Federal Register*. *See Notice of Postponement of Final Antidumping Duty Determination: Silicomanganese from Kazakhstan and India*, 66 FR 63522 (December 7, 2001).

The Department verified sections A–D of Universal's questionnaire responses, from January 7, 2002 through January 16, 2002, at Universal's headquarters in Mumbai, India and at its production facility in Tumsar, India. *See Sales and Cost Verification Report for Universal Ferro & Allied Chemicals Ltd., in the Antidumping Duty Investigation of Silicomanganese from India*, from Abdelali Elouaradia and Brett Royce, Case Analysts, through Sally C. Gannon, Program Manager, to The File (February 14, 2002). The Department also verified sections A–D of the questionnaire responses of Nava Bharat in Hyderabad, India and at its production facility in Paloncha, India from January 11, 2002 through January 18, 2002. *See Verification of Sales in the Antidumping Investigation of Silicomanganese from India: Nava Bharat Ferro Alloys, Ltd. (Nava Bharat)*, from Elfi Blum and Javier Barrientos, Case Analysts, through Sally Gannon, Program Manager, for The File (February 20, 2002); *see also Verification of Cost in the Antidumping Investigation of Silicomanganese from India: Nava Bharat Ferro Alloys, Ltd. (Nava Bharat)*, from Elfi Blum and Javier Barrientos, Case Analysts, through Sally Gannon, Program Manager, for The File (February 22, 2002). Public versions of these, and all other Department memoranda referred to herein, are on file in the Central Records Unit, Room B–099, of the main Commerce Building.

On December 11, 2001, the petitioners, Eramet Marietta Inc. (''Eramet''), and the Paper, Allied–Industrial, Chemical and Energy Workers International Union, Local 5–0639, requested a public hearing. On February 25, 2002, we received Nava Bharat's case brief. On February 26, 2002, pursuant to an extension requested by petitioners and granted by the Department, we received case briefs from petitioners and Universal. We received rebuttal briefs from petitioners and Universal on March 4, 2002 and, pursuant to an extension requested by Nava Bharat and granted by the Department, from Nava Bharat on March 6, 2002. We held a public hearing in this investigation on March 7, 2002.

Period of Investigation

The period of investigation (POI) is April 1, 2000 through March 31, 2001.

Critical Circumstances

In the Department's *Preliminary Determination of Critical Circumstances*, we determined that critical circumstances exist for imports of silicomanganese from India produced by Universal and by ''All Other'' producers, except for Nava Bharat. For Nava Bharat, we preliminarily found that critical circumstances do not exist. For this final determination, we have found that critical circumstances do not exist for imports of silicomanganese from India produced by Universal, Nava Bharat or any other producer because one of the required criteria for finding critical circumstances has not been met. For a discussion of interested party comments, and the Department's position, on this issue, *see* the *Decision Memorandum*.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the *Issues and Decision Memorandum in the Final Affirmative Antidumping Duty Determination on Silicomanganese from India*, from Joseph A. Spetrini, Deputy

Assistant Secretary for AD/CVD Enforcement III, to Faryar Shirzad, Assistant Secretary for Import Administration, dated March 25, 2002 (*Decision Memorandum*), 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 Room B–099 and accessible directly on the World Wide Web at **www.ia.ita.doc.gov**. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Scope of Investigation

For purposes of this investigation, the products covered are all forms, sizes and compositions of silicomanganese, except low–carbon silicomanganese, including silicomanganese briquettes, fines and slag. Silicomanganese is a ferro alloy 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 ferro silicon 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 purposes, our written description of the scope remains dispositive.

The low–carbon silicomanganese excluded from this scope is a ferro alloy 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 ferro manganese–silicon. Low–carbon silicomanganese is classifiable under HTSUS subheading 7202.99.5040.

Fair Value Comparisons

To determine whether sales of silicomanganese from India were made in the United States at less than fair value, we compared export price (EP) to normal value (NV), as described in the ''Export Price and ''Normal Value'' sections of the *Preliminary Determination*. In accordance with section 777(A)(d)(1)(A)(i) of the Tariff Act, we calculated weighted–average EPs for comparison to weighted–average NVs.

Changes Since the Preliminary Determination

Based on our analysis of comments received and findings at verification, we have made certain changes in the margin calculations for the final determination. *See Decision Memorandum*, *Final Determination in the Antidumping Duty Investigation on Silicomanganese from India: Analysis of Universal Ferro & Allied Chemicals Ltd.*, from Mark Hoadley and Brett Royce, through Sally Gannon, for The File (March 25, 2002) (*Universal Analysis Memorandum*), and *Final Determination in the Antidumping Duty Investigation on Silicomanganese from India: Analysis of Nava Bharat Ferro Alloys Ltd.*, from Javier Barrientos, through Sally Gannon, for The File (March 25, 2002) (*Nava Bharat Analysis Memorandum*). In addition to the Decision Memorandum, public versions of the *Universal Analysis Memorandum* and *Nava Bharat Analysis Memorandum* are on file in the Central Records Unit, Room B–099, of the main Commerce Building. Specifically, we made the following changes.

Regarding Universal:

1. We used revised sales databases provided by Universal reflecting minor changes in sales dates, invoice dates, credit expenses, gross unit prices, and movement expenses based on verification.
2. We added bank charges discovered at verification to U.S. credit expenses.
3. We changed indirect selling expenses in both the U.S. and home markets to reflect information discovered at verification.
4. We added an amount to total raw materials cost for the value of slag used in production.
5. We removed the quantity of recycled fines from the production quantity used in the per unit cost calculation.
6. We reduced electricity costs by an amount found to have been forgiven by the electricity authority.
7. We removed refunded taxes from the cost of raw materials.
8. We offset interest expense by revenue earned on bank accounts (short–term interest revenue).

Regarding Nava Bharat:

1. We changed shipment date to reflect factory shipment instead of port shipment.
2. We recalculated U.S. imputed credit and inventory carrying costs using gross unit price.
3. We recalculated credit expense for one home market sale.
4. We removed the quantity of generated fines from the production quantity used in the per unit cost calculation.
5. We also changed the cost of electricity by using: a) using a weighted–average of the market prices of other electricity suppliers as representative of the market price of the power supplied by Nava Bharat's affiliated electricity supplier and b) the cost of production of Nava Bharat's self–produced power.
6. We subtracted short–term interest income from interest expense to arrive at the interest expense ratio.
7. We added Nava Bharat's reported interest revenue to home market gross unit price for the final determination.

Use of Partial Facts Available

Nava Bharat

In accordance with section 776 of the Act, we have determined that the use of partial facts available is appropriate for certain portions of our analysis for Nava Bharat. We used partial facts available where, despite the Department's repeated requests, essential company–specific information needed to make certain calculations for the final determination was unavailable. For a discussion of our determination with respect to these matters. See Decision Memorandum.

Universal

In accordance with section 776 of the Act, we have determined that the use of partial facts available is appropriate for certain portions of our analysis for Universal. We used partial facts available where, despite the Department's repeated requests, essential company–specific information needed to make certain calculations for the final determination was unavailable. For a discussion of our determination with respect to these matters. *See Decision Memorandum.*

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we will instruct the U.S. Customs Service (Customs) to continue to suspend liquidation of all entries of silicomanganese from India that are entered, or withdrawn from warehouse, for consumption on or after November 9, 2001 (the date of publication of the *Preliminary Determination* in the *Federal Register*). For Universal and ''all others,'' we will instruct Customs to terminate the retroactive suspension of liquidation, between August 11, 2001 (90 days prior to the date of publication of the *Preliminary Determination* in the Federal Register) and November 8, 2001, which was instituted upon publication of the *Preliminary Determination* in the *Federal Register* due to the preliminary affirmative critical circumstances finding. Customs shall also release any bond or other security, and refund any cash deposit required, under section 733(d)(1)(B) of the Act with respect to entries of the merchandise the liquidation of which was suspended retroactively under section 733(e)(2). Customs shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. The suspension of liquidation instructions will remain in effect until further notice. We determine that the following weighted–average percentage dumping margins exist for the period April 1, 2000 through March 31, 2001:

Exporter/manufacturer	Average Margin Percentage
Nava Bharat Ferro Alloys, Ltd.	15.32%
Universal Ferro and Allied Chemicals, Ltd.	20.42%
All Others	17.69%

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. The ITC will determine, within 45 days, whether these imports are materially injuring, or threatening material injury to, an industry in the United States. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports on the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

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

Dated: March 25, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix I —Issues in Decision Memorandum

Regarding Universal Ferro & Allied Chemicals Ltd. (Universal):

1. Critical Circumstances
2. Clerical Errors in the Verification Report
3. Use of Revised Home Market Sales
4. Use of Revised Indirect Selling Expenses Found at Verification
5. Cost of Slag
6. Cost of Recycled Silicomanganese Fines
7. Inclusion of Losses on Inventory in Raw Materials Costs
8. Slag Handling Expenses
9. Disputed Electricity Charges
10. Refundable Tax Payments
11. Excise Duties on Closing Stock
12. Depreciation on Closed Furnaces and Furnaces Not Used to Produce Subject Merchandise
13. Use of Revalued Depreciation Costs
14. Calculation of General and Administrative Expenses
15. Offsetting Interest Expense by Interest Revenue
16. Severance Payments to Former Employees

Regarding Nava Bharat Ferro Alloys Ltd. (Nava Bharat):

17. Duty Drawback
18. Imputed Credit Expense (Home Market)
19. Imputed Credit Expense (U.S. Sales)
20. Tolling Raw Materials
21. Cost of Recycled Silicomanganese Fines
22. Cost of Power
23. Fixed Plant Overhead
24. Calculation of General & Administrative Expenses
25. Calculation of Net Interest Expense
26. Interest Revenue

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-307-820]

Notice of Final Determination of Sales at Less Than Fair Value; Silicomanganese from Venezuela.

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

DATES: April 2, 2002.

FOR FURTHER INFORMATION CONTACT: FOR FURTHER INFORMATION CONTACT: Deborah Scott at (202) 482-2657 or Robert James at (202) 482-0649; AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

Final Determination

The Department of Commerce is conducting an antidumping duty investigation of silicomanganese from Venezuela. We determine that silicomanganese from Venezuela is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended. On November 9, 2001, the Department published its preliminary determination of sales at less than fair value of silicomanganese from Venezuela. See Notice of Preliminary Determination of Sales at Less Than Fair Value; Silicomanganese from Venezuela, 66 FR