

## 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Service (Customs) to continue to suspend liquidation of all entries of silicomanganese from India that are entered, or withdrawn from warehouse, for consumption on or after November 9, 2001 (the date of publication of the *Preliminary Determination* in the *Federal Register*).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:

Average Margin Percentage

### Exporter/manufacturer

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order directing Customs officials to assess antidumping duties on all imports on the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.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

56635 (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.

#### The Applicable Statute and Regulations

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

#### Case History

Since the publication of the preliminary determination in this investigation, the following events have occurred:

From November 28 through December 9, 2001, we conducted a verification of the sales and cost questionnaire responses and supplemental questionnaire responses submitted by Hornos Eléctricos de Venezuela, S.A. (Hevensa). We issued the cost verification report for Hevensa on January 29, 2002, and the sales verification report on January 31, 2002.

Although the deadline for this determination was originally January 23, 2002, on December 28, 2001 we published in the **Federal Register** our notice of the extension of time limits (see 66 FR 67185). This extension established the deadline for this final determination as March 25, 2002.

On February 14, 2002, we received case briefs from respondent and Eramet Marietta, Inc. and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5-0639 (collectively, the petitioners). On February 19, 2002, we received rebuttal briefs from respondent and petitioners. On March 12, 2002, we held a public hearing in response to a request from the petitioners.

#### Period of Investigation

The period of investigation (POI) is April 1, 2000 through March 31, 2001. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (i.e., April 2001), in accordance with section 19 CFR 351.204(b)(1) of our regulations.

#### 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 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 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.

#### Facts Available

For the preliminary determination, we used partial facts available in accordance with section 776(a)(1) of the Tariff Act because we determined certain information was not available on the record. Specifically, in its original and supplemental questionnaire responses, Hevensa reported that it was owned by three holding companies who performed certain activities on its behalf during the POI, such as collection of payments from customers and payments to suppliers of inputs. Thus, we determined it was necessary to include a portion of the parents' financial and general and administrative (G&A) expenses in calculating HEVENSA's COP. However, despite repeated

requests, Hevensa did not provide any financial statements or other relevant documents allowing us to quantify the G&A and financial expenses incurred by the three holding companies in conducting these activities on HEVENSA's behalf. Since we did not have the information necessary to include a portion of the parents' financial and G&A expenses in HEVENSA's COP in making our preliminary determination, we found, pursuant to section 776(a) of the Tariff Act, it was appropriate to use the facts otherwise available in calculating COP. Section 776(a) of the Tariff Act provides that the Department will, subject to section 782(d), use the facts otherwise available in reaching a determination if "necessary information is not available on the record." As facts available for the preliminary determination, we used the G&A and financial expense ratios contained in the petition for Siderurgica Venezolana SIVENSA, S.A. (SIVENSA), a Venezuelan steel producer, to calculate HEVENSA's COP.

At verification, we determined none of the three holding companies engaged in any business activities on Hevensa's behalf during the POI. For information regarding the nature of the three holding companies, see "Verification of the Sales Information Submitted by Hornos Electricos de Venezuela (Hevensa) in the Investigation of Silicomanganese from Venezuela (A-307-820)," dated January 31, 2002, at 3 through 5 and "Silicomanganese from Venezuela-COP/CV Verification of Hornos Electricos de Venezuela," dated January 29, 2002, at 5 (Cost Verification Report). Both documents are on file in the Central Records Unit, room B-099, of the main Department building. Additionally, we found Hevensa's financial statements fully captured the financial and G&A expenses incurred by Hevensa. Therefore, we have not found it necessary to use partial facts available for financial and G&A expenses for the final determination. However, we have not used Hevensa's financial and G&A expense ratios as reported, but rather have revised these ratios as discussed in the "Issues and Decision Memorandum" from Joseph A. Spetrini, Deputy Assistant Secretary, Group III, Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated March 25, 2002 (Decision Memorandum), and the Department's Final Determination Analysis Memorandum, dated March 25, 2002.

#### Currency Conversion

We made currency conversions in accordance with section 773A of the

Tariff Act in the same manner as in the Preliminary Determination.

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the Decision Memorandum, dated March 25, 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, of the main Department building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at <http://ia.ita.doc.gov>. The paper copy and electronic version of the Decision Memorandum are identical in content.

#### Changes Since the Preliminary Determination

Based on our analysis of comments received, we have made certain changes in the margin calculations:

- We have revised the G&A expense ratio to include three expenses that were excluded from Hevensa's original calculation of G&A. Id. at Comment 2.
- We have revised the date of payment for certain of Hevensa's U.S. sales, and thus have recalculated imputed credit expenses for those sales. Id. at Comment 5.
- We have applied the corrections reported at the opening day of the Hevensa sales verification, and amended the indirect selling expense ratio (INDIRSH) and financial expense ratio (INTEX) pursuant to our findings at verification.

These changes are discussed in the relevant sections of the Decision Memorandum, accessible in room B-099 and on the Web at <http://ia.ita.doc.gov>.

#### Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Tariff Act, we are directing the Customs Service to continue to suspend all entries of silicomanganese from Venezuela 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. The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins for this LTFV proceeding are as follows:

Weighted-Average Margin Percentage

#### Exporter/Manufacturer

Hornos Eléctricos de Venezuela, S.A. ....	24.62
All Others .....	24.62

#### ITC Notification

In accordance with section 735(d) of the Tariff Act, we have notified the International Trade Commission (ITC) of our final determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. 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.

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 pursuant to sections 735(d) and 777(i)(1) of the Tariff Act.

Dated: March 25, 2002

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

#### Appendix Issues in Decision Memorandum

Cost of Production

Comment 1: Inflation

Comment 2: G&A Expenses

Comment 3: Interest Expenses on Shareholder Loans

Comment 4: Transformer Failures

Adjustments to United States Price

Comment 5: Date of Payment Used to Calculate Credit Expenses

Comment 6: Duty Drawback

Adjustments to Normal Value

Comment 7: Home Market Credit Expenses Miscellaneous Issues

Comment 8: Level of Trade

Comment 9: Date of Sale

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#### DEPARTMENT OF COMMERCE

#### International Trade Administration

[A-834-807]

#### Notice of Final Determination of Sales at Less Than Fair Value: Silicomanganese From Kazakhstan

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

**ACTION:** Notice of final determination in the less than fair value investigation of silicomanganese from Kazakhstan.

**SUMMARY:** We determine that silicomanganese from Kazakhstan is being, or is likely to be, sold in the United States at less than fair value. On November 9, 2001, the Department of Commerce published a notice of preliminary determination of sales at less than fair value in the investigation of silicomanganese from Kazakhstan. *See Notice of Preliminary Determination of Sales at Not Less Than Fair Value: Silicomanganese from Kazakhstan*, 66 FR 56639, November 9, 2001

(“Preliminary Determination”). This investigation covers one manufacturer and one exporter of the subject merchandise. The period of investigation (“POI”) is October 1, 2000 through March 31, 2001.