

482-5047 or (202) 482-3836, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On August 5, 2004, the Department published the preliminary results of administrative review of the antidumping duty order on sebacic acid from the PRC. See *Sebacic Acid from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Notice of Partial Recision*, 69 FR 47409 (August 5, 2004) (*Preliminary Results*). The review covers Guangdong Chemical Import and Export Corporation and the period July 1, 2002, through June 30, 2003. *Extension of Time Limits for Final Results*

Section 751(a)(3)(A) of the Act requires the Department to issue the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an antidumping duty order for which a review is requested and issue the final results within 120 days after the date on which the preliminary results are published. If it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend these deadlines to a maximum of 365 days and 180 days, respectively.

In the instant review, the Department has determined that it is not practicable to complete the review within the statutory time limit due to the need for analysis of certain complex issues, such as the selection of appropriate methodology for the calculation of the co-product. Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limit for the final results to no later than December 10, 2004, which is 127 days from the date of publication of the *Preliminary Results*.

This notice is issued and published in accordance with section 751(a)(1) of the Act and 19 CFR 351.213(h)(2).

Dated: December 2, 2004.

**Barbara E. Tillman,**

*Acting Deputy Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-351-824]

#### Silicomanganese From Brazil: Preliminary Results of Antidumping Duty Administrative Review

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

**SUMMARY:** The Department of Commerce is conducting an administrative review of the antidumping duty order on silicomanganese from Brazil in response to a request from manufacturers/exporters, Rio Doce Manganese S.A. (RDM), Companhia Paulista de Ferroligas (CPFL), and Urucum Mineracao S.A. (Urucum) (collectively RDM/CPFL).<sup>1</sup> This review covers the period December 1, 2002, through November 30, 2003.

We have preliminarily determined that RDM/CPFL did not make sales to the United States at prices below normal value during the period of review. We invite interested parties to comment on these preliminary results. Parties who submit comments are requested to submit with each comment a statement of the issue and a brief summary.

**EFFECTIVE DATE:** December 8, 2004.

**FOR FURTHER INFORMATION CONTACT:** Dmitry Vladimirov at (202) 482-0665 or Mino Hatten at (202) 482-1690, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

##### Background

On December 22, 1994, the Department of Commerce (the Department) published in the **Federal Register** the antidumping duty order on silicomanganese from Brazil. See *Notice of Antidumping Duty Order: Silicomanganese from Brazil*, 59 FR 66003, (December 22, 1994). On December 2, 2003, we published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order on silicomanganese from Brazil covering the period December 1, 2002, through November 30, 2003. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 68 FR 67401, (December 3,

2003). On December 31, 2003, RDM/CPFL requested that the Department conduct an administrative review of its sales. On January 22, 2004, the Department published in the **Federal Register** a notice of initiation of this antidumping duty administrative review. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 69 FR 3117 (January 22, 2004).

On August 17, 2004, the Department extended the due date for the preliminary results of this review until no later than November 30, 2004. See *Silicomanganese From Brazil: Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review*, 69 FR 51062 (August 17, 2004).

The Department is conducting this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

##### Scope of Review

The merchandise covered by this order is silicomanganese. Silicomanganese, which is sometimes called ferrosilicon manganese, 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 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. All compositions, forms, and sizes of silicomanganese are included within the scope of this review, including silicomanganese slag, fines, and briquettes. Silicomanganese is used primarily in steel production as a source of both silicon and manganese.

Silicomanganese is currently classifiable under subheading 7202.30.0000 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Some silicomanganese may also currently be classifiable 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 customs purposes, the written description of the scope remains dispositive.

##### Verification

From October 4, 2004, through October 15, 2004, in accordance with section 782(i) of the Act, the Department verified the sales and cost information provided by RDM/CPFL using standard verification procedures, the examination of relevant sales and financial records,

<sup>1</sup> We collapsed RDM, CPFL, and Urucum for purposes of this segment of the proceeding and have calculated a single dumping margin for them. See the "Collapsing" section.

and selection of original documentation containing relevant information. Our verification results are outlined in the public and proprietary versions of the verification reports. See memoranda entitled "Home-Market and U.S. Sales Verification of Information Submitted by Rio Doce Manganes S.A. (RDM), Companhia Paulista de Ferro-Ligas (CPFL) and Urucum Mineração S.A. (Urucum) (collectively, RDM/CPFL)," dated November 18, 2004 (*Sales Verification Report*), and "Verification Report on the Cost of Production and Constructed Value Data Submitted by Rio Doce Manganes S.A. (RDM), Companhia Paulista de Ferro-Ligas (CPFL) and Urucum Mineração S.A. (Urucum) (collectively, RDM/CPFL)," dated November 30, 2004 (*Cost Verification Report*), on file in the Central Records Unit (CRU), Room B-099 of the main Department of Commerce building.

### Collapsing

The Department's regulations at section 351.401(f) outline the criteria for collapsing (*i.e.*, treating as a single entity) affiliated producers for purposes of calculating a dumping margin. The regulations state that we will treat two or more affiliated producers as a single entity where (1) those producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities, and (2) we conclude that there is a significant potential for the manipulation of price or production. In identifying a significant potential for the manipulation of price or production, the Department may consider the following factors: (i) The level of common ownership; (ii) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and, (iii) whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers. See 19 CFR 351.401(f)(2).

For the reason that RDM and Urucum are wholly owned subsidiaries of Companhia Vale de Rio Doce (CVRD), and CPFL is a wholly owned subsidiary of RDM, pursuant to section 771(33)(E) of the Act, CVRD is affiliated with RDM and Urucum, and RDM is affiliated with CPFL. Furthermore, based on CVRD's investment interest in both companies, we find that CVRD is in the position legally and/or operationally to exercise restraint or direction over RDM, CPFL,

and Urucum, and thus, has direct or indirect control within the meaning of section 771(33)(F) of the Act. As such, we further determine that RDM, CPFL, and Urucum are affiliated pursuant to section 771(33)(F) of the Act.

With respect to the first criterion of section 351.401(f) of the Department's regulations, the information currently on the record indicates that RDM, CPFL, and Urucum use similar production facilities, in terms of production capacities and type machinery, and employ virtually identical production processes to produce identical or similar silicomanganese products. Because the companies could shift the production requirements from one facility to the other without incurring prohibitive costs, we find that RDM's, CPFL's, or Urucum's facilities would not require substantial retooling in order to restructure manufacturing priorities.

We also find that there exists a significant potential for manipulation of prices, production costs, and production priorities pursuant to section 351.401(f)(2) of the Department's regulations. Specifically, the information on the record indicates that CVRD has a direct and indirect involvement in RDM's, CPFL's, and Urucum's activities associated with the transportation of raw materials, production, and sales; all three companies share the expertise of an executive officer; and all three companies have heavily intertwined operations. Therefore, for the purposes of this administrative review, we find that RDM, CPFL, and Urucum are affiliated and have collapsed them into one entity pursuant to section 771(33) of the Act and section 351.401(f) of the Department's regulations. For a more complete discussion of this issue, see the November 30, 2004, Memorandum to Mark Ross, entitled "Collapsing of Affiliated Producers," which is on file in the CRU.

### Affiliation of Parties

Pursuant to sections 771(33)(E) and (F) of the Act, the Department has preliminarily determined that certain customers to whom RDM/CPFL sold silicomanganese during the period of review (POR) and whom RDM/CPFL identified as unaffiliated parties are, in fact, affiliated with RDM/CPFL. Specifically, the Department has determined that RDM/CPFL and some of its home-market customers are under the common control of CVRD, RDM/CPFL's parent company. According to section 771(33)(F) of the Act, two or more persons under common control with any other person shall be considered affiliated. Thus, we have

preliminarily found these companies to be affiliated with RDM/CPFL. For a complete discussion of this issue, see the November 30, 2004, Memorandum to the File, entitled "Analysis Memorandum for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Silicomanganese from Brazil" (*Preliminary Results Analysis Memo*), which is on file in the CRU.

### Comparisons to Normal Value

To determine whether sales of silicomanganese from Brazil were made in the United States at less than normal value, we compared the export price (EP) to the normal value.

When making comparisons in accordance with section 771(16) of the Act, we considered all products sold in the home market, as described in the "Scope" section of this notice, that were in the ordinary course of trade (*i.e.*, sales which passed the cost test) for purposes of determining appropriate product comparisons to U.S. sales.

### Merchandise

The construction of control numbers is based on two product characteristics, quality grade and size. In its questionnaire responses, RDM/CPFL stated that, in the normal course of business, it classifies silicomanganese products into three grades: 12/16, 15/20, and 16/20. According to RDM/CPFL's description of these grades of silicomanganese, 12/16 has a silicon content between 12% and 16% (by weight), 15/20 has a silicon content between 15% and 20%, and 16/20 has a silicon content between 16% and 20%. RDM/CPFL also reported production costs segregated by these grades, as tracked in its cost accounting system. In its questionnaire response, RDM/CPFL explained that it assigned a quality grade to each home-market and U.S. sale based on silicomanganese quality grade standards as suggested by Brazilian Associação Brasileira de Normas Técnicas (ABNT). We found that the ABNT grade classification does not distinguish quality grades based on silicon content. In our July 20, 2004, supplemental questionnaire, we instructed RDM/CPFL to refine the assignment of the quality grade to each sale based on quality standards imposed by the American Society of Testing and Materials (ASTM), which requires quality grades of silicomanganese distinguished by silicon content. We further instructed RDM/CPFL to distinguish the assignment of a quality grade based on two grades and each grade's silicon content. In its assignment of a quality grade to each sale, RDM/

CPFL did not round the silicon content of each sale as suggested by ASTM standards. As such, we had to reconstruct control numbers to reflect the proper assignment of the quality grade based on the rounding procedures specified by ASTM standards. For more information on this topic, see the *Preliminary Results Analysis Memo*.

#### Export Price

For the price to the United States, we used EP, as defined in section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to the date of importation. We based EP on the F.O.B. price to the first unaffiliated purchaser in the United States. We made deductions, where appropriate, consistent with section 772(c)(2) of the Act.

#### Normal Value

##### A. Home-Market Viability

Based on a comparison of the aggregate quantity of home-market and U.S. sales we determined that the quantity of foreign like product sold by RDM/CPFL in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a) of the Act. RDM/CPFL's quantity of sales in its home market was greater than five percent of its sales to the U.S. market. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based normal value on the prices at which the foreign like product was first sold for consumption in the exporting country in the usual commercial quantities and in the ordinary course of trade.

##### B. Arm's-Length Sales

RDM/CPFL made sales in the home market to affiliated and unaffiliated customers. The Department may calculate normal value based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the exporter or producer, *i.e.*, sales at arm's-length prices. See 19 CFR 351.403(c). We excluded sales to affiliated customers for consumption in the home market that we determined not to be at arm's-length prices from our analysis. To test whether these sales were made at arm's-length prices, the Department compared the prices of sales of comparable merchandise to affiliated and unaffiliated customers, net of movement charges, direct selling expenses, and packing. Pursuant to section 351.403(c) of the Department's

regulations and in accordance with the Department's practice, when the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise comparable to that sold to the affiliated party, we determined that the sales to the affiliated party were at arm's-length prices. See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002). We included in our calculation of normal value those sales to affiliated parties that were made at arm's-length prices.

##### C. Cost of Production Analysis

Because the Department disregarded all of RDM/CPFL's home-market sales that failed the cost test in the most recently completed administrative review, we had reasonable grounds to believe or suspect that sales of the foreign like product under consideration for the determination of normal value in this review may have been made at prices below the cost of production (COP) as provided by section 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we conducted the COP investigation of sales by RDM/CPFL in the home market.

Based on the respondent's request, we allowed the cost-reporting period (CRP) to correspond with the 2003 calendar year, which is also RDM's fiscal year. Before making any price comparisons, we conducted the COP analysis described below.

##### 1. Calculation of COP

We calculated COP, in accordance with section 773(b)(3) of the Act, based on the sum of the costs of materials and fabrication employed in producing the foreign like product, plus amounts for home-market selling, general, and administrative expenses. For the preliminary results of review, we relied on the COP information submitted by RDM/CPFL in its questionnaire responses, except, as stated below, in specific instances where the submitted costs were not appropriately quantified or valued. For a more detailed explanation of calculations described below and worksheets illustrating the calculations see the *Preliminary Analysis Memo*.

a. We weight-averaged the reported manufacturing costs for product reported as 16/20 grade silicomanganese and 15/20 grade silicomanganese to account for the refinements in the assignment of one product characteristic, quality grade, as described in the "Merchandise" section above.

b. We adjusted RDM/CPFL's reported cost of manufacturing (COM) to reflect the actual depreciation costs recorded in its financial accounting system.

c. We adjusted RDM/CPFL's reported COM to reflect the actual costs of inventory losses and other inventory adjustments recorded in its financial accounting system.

d. We adjusted RDM/CPFL's reported COM to include the omitted quantities for certain silicomanganese products that were manufactured during the CRP.

e. We adjusted RDM/CPFL's reported COM to account for purchases of certain types of manganese ore from affiliated parties at non-arm's-length prices.

f. We adjusted RDM/CPFL's reported COM to account for purchases of certain transportation services from affiliated parties at non-arm's-length prices, as well as other revisions to reported transportation costs.

g. We adjusted RDM/CPFL's reported COM to account for the revision to the submitted allocation methodology for conversion costs.

h. We adjusted RDM/CPFL's reported general and administrative expenses to exclude income items related to credits of PIS/COFINS taxes paid on purchases of raw materials that were used in the production of exported products.

i. We adjusted RDM/CPFL's reported COM to reflect additional exhaustion costs incurred in the production of charcoal.

j. We adjusted RDM/CPFL's reported COP value to reflect minor revisions to financial expenses and packing expenses.

k. Because we determined that the value assigned by RDM/CPFL to ferromanganese slag does not reasonably reflect the cost associated with the production and sale of silicomanganese, we, in our November 10, 2004, letter to interested parties, invited comments with respect to the valuation of ferromanganese slag. Based on the information submitted by RDM/CPFL and the petitioners in their November 17, 2004, letters, we calculated a value for ferromanganese slag. We adjusted RDM/CPFL's reported COM to reflect the calculated value for ferromanganese slag.

##### 2. Test of Home-Market Prices

In accordance with section 773(b)(1) of the Act, we tested whether home-market sales of the foreign like product were made at prices below the COP within an extended period of time in substantial quantities and whether such prices permitted the recovery of all costs within a reasonable period of time. We compared model-specific COPs to the

reported home-market prices less any applicable movement charges.

### 3. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, when less than 20 percent of the respondent's sales of the foreign like product were at prices less than the COP, we did not disregard any below-cost sales of that product because the below-cost sales were not made in substantial quantities within an extended period of time. When 20 percent or more of the respondent's sales of the foreign like product during the POR were at prices less than the COP, we disregarded the below-cost sales because they were made in substantial quantities within an extended period of time pursuant to sections 773(b)(2)(B) and (C) of the Act and, based on comparisons of prices to weighted-average COPs for the POR, we determined that these sales were at prices which would not permit recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act. Based on this test, we disregarded below-cost sales for RDM/CPFL.

#### D. Calculation of Normal Value

Because we were able to find contemporaneous home-market sales made in the ordinary course of trade for a comparison to EP sales, in accordance with section 773(a)(1)(B) of the Act, we based normal value on the prices at which the foreign like product was sold for consumption in the home market. Home-market prices were based on ex-factory or delivered prices to unaffiliated purchasers. When applicable, we made adjustments for differences in packing and for movement expenses in accordance with sections 773(a)(6)(A) and (B) of the Act. We also made adjustments for differences in circumstances of sale in accordance with section 773(a)(6)(C)(iii) of the Act and section 351.410 of the Department's regulations. Specifically, we made circumstances-of-sale adjustments by deducting home-market direct selling expenses from and adding U.S. direct selling expenses to normal value.

#### Preliminary Results of Review

As a result of our review, we preliminarily determine that a margin of 0.00 percent exists for RDM/CPFL for the period December 1, 2002, through November 30, 2003.

Pursuant to section 351.224(b) of the Department's regulations, the Department will disclose to parties calculations performed in connection with these preliminary results within

five days of the date of publication of this notice. Any interested party may request a hearing within 30 days of publication of this notice. A hearing, if requested, will be held at the main Department building. We will notify parties of the exact date, time, and place for any such hearing.

Issues raised in hearings will be limited to those raised in the respective case and rebuttal briefs. Case briefs from interested parties may be filed no later than 30 days after publication of this notice. Rebuttal briefs, limited to the issues raised in case briefs, may be submitted no later than five days after the deadline for filing case briefs. Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue, and (2) a brief summary of the argument with an electronic version included.

The Department will publish a notice of final results of this administrative review, which will include the results of its analysis of issues raised in the case briefs, within 120 days from the publication of these preliminary results.

#### Assessment

The Department shall determine, and Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. Upon completion of this review, the Department will issue appraisal instructions directly to the CBP.

Further, the following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of silicomanganese entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash-deposit rate for RDM/CPFL will be the rate established in the final results of review; (2) for previously reviewed or investigated companies not mentioned above, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation (LTFV), but the manufacturer is, the cash-deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the producer is a firm covered in this review, a prior review, or the LTFV investigation, the cash deposit rate shall be 17.60 percent, the all-others rate established in the LTFV investigation. *See Notice of Final Determination of Sales at Less than Fair Value: Silicomanganese from Brazil*, 59

FR 55432 (November 7, 1994). These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: November 30, 2004.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

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BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Availability of Seats for the Monterey Bay National Marine Sanctuary Advisory Council

**AGENCY:** National Marine Sanctuary Program (NMSPP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce (DOC).

**ACTION:** Notice and request for applications.

**SUMMARY:** The Monterey Bay National Marine Sanctuary (MBNMS or Sanctuary) is seeking applicants for the following seats on its Sanctuary Advisory Council: Education, Diving, Tourism, At-Large (one seat), Commercial Fishing (alternate) and Research (alternate). Applicants chosen for the Education, Diving, Tourism and At-large seats should expect to serve until April 2008. Applicants chosen for the Commercial Fishing (alternate) and Research (alternate) will be filling seats previously vacated and should expect to serve until February 2007. Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; philosophy regarding the protection and management of marine resources; and possibly the length of residence in the area affected by the Sanctuary.