

## ITC Notification

In accordance with section 733(f) of the Tariff Act, we have notified the ITC of our determination. If our final antidumping determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

The deadline for that ITC determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determinations.

## Public Comment

Case briefs or other written comments in at least six copies must be submitted to the Assistant Secretary for Import Administration no later than fifty days after the date of publication of this notice, and rebuttal briefs, limited to issues raised in case briefs, no later than fifty-five days after the date of publication of this preliminary determination. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on diskette. In accordance with section 774 of the Tariff Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs.

Tentatively, any hearing will be held fifty-seven days after publication of this notice, time and room to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the case and rebuttal briefs. If this investigation proceeds normally, we will make our final determination no later than 75 days after the date of this preliminary determination.

This determination is published pursuant to sections 733(f) and 777(i)(1) of the Tariff Act.

Dated: November 2, 2001.

**Faryar Shirzad,**

*Assistant Secretary, Import Administration.*

[FR Doc. 01-28225 Filed 11-8-01; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A-834-807]**

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

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

**EFFECTIVE DATE:** November 9, 2001.

**FOR FURTHER INFORMATION CONTACT:** Jean Kemp, Brandon Farlander and Cheryl Werner, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4037, (202) 482-0182, and (202) 482-2667 respectively.

#### The Applicable Statute and Regulations

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. In addition, unless otherwise indicated, all citations to the Department of Commerce's ("the Department's") regulations are to the regulations codified at 19 CFR part 351 (2001).

#### Preliminary Determination

We preliminarily determine that silicomanganese from Kazakhstan is being, or is likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

#### Case History

This investigation was initiated on April 26, 2001. See *Notice of Initiation of Antidumping Duty Investigations: Silicomanganese From Kazakhstan, India and Venezuela*, 66 FR 22209 (May 3, 2001) ("Notice of Initiation"). The Department set aside a period for all interested parties to raise issues regarding product coverage. See *Notice of Initiation*. On May 17, 2001, Eramet

Marietta Inc. and The Paper, Allied Industry, Chemical and Energy Workers International Union, Local 5-0639, ("petitioners") proposed an amendment to the scope. On July 13, 2001, we excluded low-carbon silicomanganese from the scope of these investigations. See *Decision Memorandum* from Barbara Tillman, Richard Weible, and Wedward Yang to Joseph Spetrini, dated July 13, 2001.

On May 2, 2001, the Department requested information from the U.S. Embassy in Kazakhstan to identify producers/exporters of the subject merchandise. We did not receive a response. On May 9, 2001, the Department issued a letter to interested parties in the silicomanganese antidumping investigations, providing an opportunity to comment on the Department's proposed model match/product characteristics and hierarchy. On May 11, 2001, we received comments from Universal Ferro & Allied Chemicals Ltd. We also received comments on May 14, 2001, from Spat Alloys Limited. On May 16, 2001, we received comments from petitioners.

For purposes of the questionnaires subsequently issued by the Department to the respondents, we modified the model match/product characteristics or the hierarchy of those characteristics from those originally proposed by the Department in its May 9, 2001 letter.

On June 5, 2001, the United States International Trade Commission ("ITC") issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of the subject merchandise from Kazakhstan. See *Silicomanganese From India, Kazakhstan, and Venezuela*, 66 FR 31258 (June 11, 2001) ("ITC Preliminary Determination").

On May 22, 2001, the Department issued its antidumping questionnaire to the Embassy of the Republic of Kazakhstan with a letter requesting that is forward the questionnaire to all manufacturers, and all manufacturers and exporters in Kazakhstan of silicomanganese who had shipments during the period of investigation ("POI"). We also sent courtesy copies of the antidumping questionnaire to the following possible producers/exporters of subject merchandise named in the petition: Transnational Co. Kazchrome and Aksu Ferroalloy Plant ("Kazchrome") and JSC Yermak Ferroalloys ("Yermak"). We received a Section A response from Kazchrome on June 26, 2001. On July 18, 2001, we received comments from petitioners on Kazchrome's Section A response. On

July 19, 2001, we received a Section C and Section D from Kazchrome. On September 14, 2001, we issued a supplemental questionnaire. On August 7, 2001, petitioners, Considar Inc. ("Considar"), a U.S. importer, and Kazchrome each submitted surrogate country factor values to be used to value Kazchrome's factors of production. On September 4, 2001, petitioners filed rebuttal comments regarding the Egyptian electricity value submitted by Kazchrome. On September 14, 2001, Kazchrome and Considar filed supplemental information on Egyptian electricity values.

On July 25, 2001, Kazchrome claimed that it had no knowledge of the final destination of subject merchandise. Rather, Kazchrome sold its exports of silicomanganese to an unaffiliated trading company that operates outside of Kazakhstan, Alloy 2000, S.A. ("Alloy 2000"). Alloy 2000 then resold silicomanganese to several international markets including the United States, during the POI. Accordingly, on September 19, 2001, we sent sections A, C, and E of the Department's questionnaire to Alloy 2000, the exporter of the subject merchandise. On September 19, 2001, we received comments from Kazchrome and Considar regarding the Department's September 14, 2001, supplemental questionnaire. On October 4, 2001, and October 5, 2001, we received responses from Kazchrome, Alloy 2000 and Considar to the Department's September 14, 2001 supplemental questionnaire, and Alloy 2000's Sections A and C responses to the Department's questionnaire. On October 9, 2001, petitioners filed comments on Kazchrome and Alloy 2000's failure to report Alloy 2000's sales of subject merchandise to Considar. On October 16, 2001, Kazchrome, Alloy 2000, and Considar submitted financial information and documentation regarding sales from Alloy 2000 through Considar to customers in the U.S. market. On October 23, 2001, Kazchrome, Alloy 2000, and Considar submitted additional comments on factors of production valuation of manganese ore. On October 23, 2001, the Department requested further financial information and documentation regarding certain sales from Alloy 2000 through Considar to customers in the U.S. market in a supplemental questionnaire to Kazchrome, Alloy 2000, and Considar. On October 29, 2001, the Department modified its request for financial information and documentation regarding certain sales from Alloy 2000

through Considar to customers in the U.S. market in another supplemental questionnaire to Kazchrome, Alloy 2000, and Considar. This questionnaire response is due on November 5, 2001 and will be considered for the final determination. On October 30, 2001, Kazchrome, Alloy 2000, and Considar submitted a response to the remaining question from the October 23, 2001 supplemental questionnaire. This information will be considered for the final determination.

On October 26, 2001, petitioners provided additional comments. On October 31, 2001, Kazchrome, Considar, and Alloy 2000 requested an update on the process for review of the status of Kazakhstan as a non-market economy country.

On August 17, 2001, petitioners requested a postponement of the preliminary determinations for India, Kazakhstan, and Venezuela by 30 days. On August 22, 2001, the Government of Kazakhstan (GOK) agreed with petitioners to postpone the preliminary determination in this investigation; however, the GOK requested that the postponement be for 50 days. On August 23, 2001, Kazchrome and Considar requested a 50-day postponement of the preliminary determination and also requested that the Department issued Kazchrome a Section B questionnaire and a market-oriented industry questionnaire. On August 24, 2001, the Department postponed the preliminary determination for the India, Venezuela, and Kazakhstan investigation by 30 days. *See Silicomanganese from Kazakhstan, India, and Venezuela; Notice of Postponement of Preliminary Determination in Antidumping Duty Investigations*, 66 FR 45964 (August 31, 2001). On October 19, 2001, the Department determined the investigation is extraordinarily complicated and postponed the preliminary determination for India, Venezuela, and Kazakhstan to the full 50 days, until November 2, 2001. *See Notice of Extension of Preliminary Results of Silicomanganese from India, Venezuela, and Kazakhstan* 66 FR 26448 (October 19, 2001).

#### Period of Investigation

The period of investigation ("POI") is October 1, 2000 through March 31, 2001. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition (April 6, 2001). *See* 19 CFR 351.204(b)(1).

#### 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 7202.30.0000.

#### Market Oriented Industry

On July 12, 2001, Kazchrome requested that the Department make a determination that the silicomanganese industry in Kazakhstan operates as a market-oriented industry ("MOI"). On August 14, 2001, petitioners submitted a response to Kazchrome's MOI claim. On August 23, 2001, petitioners submitted documents that were cited in the July 30, 2001 and August 14, 2001 submissions. On November 1, 2001, the Department issued a supplemental questionnaire requesting additional

information on Kazchrome's claim that it is operating in a market-oriented industry. Because we will not receive this response until after the preliminary determination, we will not be able to make a determination on the MOI request until the final determination.

#### Nonmarket Economy Country Status

On June 28, 2001, Kazchrome requested revocation of Kazakhstan's non-market economy status under section 771 (18) of the Act. Kazchrome requested that revocation be effective as of January 1, 2000. On July 5, 2001, the Ambassador of the Republic of Kazakhstan met with Import Administration officials and presented the GOK's submission requesting that Kazakhstan's non-market economy status be revoked. On July 30, 2001, petitioners submitted comments on why they believe Kazakhstan should remain a non-market economy. On August 14, 2001, Kazakhstan filed comments in response to petitioners' July 30, 2001 submission. On August 14, 2001, the GOK submitted a letter in which it concurred with the arguments made in Kazchrome's August 14, 2001 submission. On August 29, 2001, petitioners filed comments to Kazakhstan's August 14, 2001 submission.

The Department has treated Kazakhstan as a non-market economy ("NME") country in all past antidumping investigations and administrative reviews. *See, e.g., Notice of Final Results of Antidumping Duty Administrative Review; Titanium Sponge From the Republic of Kazakhstan*, 64 FR 66169 (November 24, 1999); *Final Determinations of Sales at Less Than Fair Value: Ferrosilicon From Kazakhstan and Ukraine*, 58 FR 13050 (March 9, 1993); and *Preliminary Determinations of Sales at Less Than Fair Value; Uranium From Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Ukraine and Uzbekistan*, 57 FR 23380 (June 3, 1992) (preliminary determination). A designation as a NME country remains in effect until it is revoked by the Department. *See* section 771(18)(C)(i) of the Act. The GOK, Kazchrome, and petitioners have filed extensive information on whether Kazakhstan should be granted market-economy status. The Department has not completed its evaluation of information obtained regarding Kazakhstan's NME status. In addition, we invite public comment with respect to Kazakhstan on factors listed in section 771(18) of the Act, which the Department must take into account in making a market/nonmarket economy determination. Any comments on Kazakhstan's NME status

must be submitted no later than December 10, 2001. Accordingly, for this preliminary determination, the Department is continuing to treat Kazakhstan as a NME country.

When the Department is investigating imports from a NME country, normal value ("NV") is based on the NME producer's factors of production, valued in a comparable market economy that is a significant producer of comparable merchandise, pursuant to section 773(c)(1) and (4) of the Act. The sources of individual factor values are discussed in the "Normal Value" section of this notice, *infra*.

#### Separate Rates

In a NME proceeding, the Department presumes that all companies within the country are subject to government control. Thus, it is the Department's policy to assign all producers of subject merchandise in a NME country a single rate, unless a producer can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. Moreover, the Department generally assigns separate rates only to the entities that export to the United States, not their suppliers. *See Notice of Final Determination of Sales at Less Than Fair Value: Pure Magnesium in Granular Form From the People's Republic of China*, 66 FR 49345 (September 27, 2001) and accompanying Issues and Decision Memorandum, at Comment 2. In this instance, the exporter to the United States, Alloy 2000, is not located within Kazakhstan. Furthermore, its supplier, Kazchrome, stated in its June 26, 2001 Section A response that it has no knowledge that its sales to Alloy 2000 are destined for the United States. Therefore, Kazchrome is not eligible to receive a separate rate. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Automotive Glass Windshield From the People's Republic of China*, 66 FR 48233, 48235 (September 19, 2001). We have assigned Alloy 2000 a separate rate. *Id.* However, because the only subject merchandise from Kazakhstan sold by Alloy 2000 is produced by Kazchrome, and because the subject merchandise is merely transshipped through Russia and sold directly to the U.S. by Alloy 2000, Alloy 2000's normal value will be based on Kazchrome's factors of production. *See* section 773(a)(3) of the Act.

#### Kazakhstan-Wide Rate

All exporters and producers were given the opportunity to respond to the Department's questionnaire. As explained above, we received a timely Section A response from Kazchrome.

Kazchrome stated that it is the only producer of silicomanganese in Kazakhstan. In Kazchrome's October 4, 2001 response, Kazchrome provided information from the GOK Statistics Agency, showing that for the 1st and 2nd quarters of 2001, its Aksu plant was the sole producer of ferrosilicomanganese, also known as silicomanganese, in the Republic of Kazakhstan. Moreover, the U.S. Geological Survey's ("USGS") *Minerals Yearbook*, 1999, lists the Aksu plant as the only producer of silicomanganese in Kazakhstan. *See* USGS report by Richard M. Levine, in the USGS *Minerals Yearbook*, 1999, located at <http://minerals.usgs.gov/minerals/pubs/country/europe.htm#kz> (October 2, 2001). Kazchrome states on page 5 of its Section A response that Aksu Ferro alloy Plant is a wholly-owned branch of Kazchrome. Moreover, the sole exporter, Alloy 2000, receives all of its subject merchandise produced in Kazakhstan from Kazchrome. Therefore, the Kazakhstan-wide rate will be the calculated margin for Alloy 2000, the sole exporter.

#### Surrogate Country

When the Department is investigating imports from NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production, valued in a surrogate market economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, the Department, in valuing the factors of production, shall utilize, to the extent possible, the prices or costs of factors of production in one or more market economy countries that: (1) Are at level of economic development comparable to that of the NME country; and (2) are significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the NV section below.

The Department has determined that Egypt, the Philippines, Morocco, Ecuador, and Algeria are countries comparable to Kazakhstan in terms of economic development. *See Memorandum from Jeffrey May to Jean Kemp: Antidumping Duty Investigation on Silicomanganese from Kazakhstan*, dated June 12, 2001.

On July 6, 2001, we requested comments on surrogate country selection, significant production in the potential countries, and surrogate values for the factors of production. On July 24, 2001, we received comments from Kazchrome and Considar regarding selection of a market-economy surrogate country. Also of July 24, 2001, we

received comments from petitioners regarding selection of market-economy surrogate country. On October 1, 2001, the Department selected Egypt as the primary surrogate country for Kazakhstan to value the factors of production for this investigation. *See Memorandum from Cheryl Werner on Selection of a Surrogate Country: Preliminary Determination: Antidumping Investigation on Silicomanganese from Kazakhstan* (October 1, 2001).

Therefore, we have relied, where possible, on Egyptian information in calculating NV by using Egyptian prices to value Kazchrome's factors of production, when available and where appropriate. We have obtained and relied upon public information wherever possible. *See Factor Valuation Memo.*

In accordance with section 351.301(c)(3)(i) of the Department's regulations, for the final determination in an antidumping investigation, interested parties may submit publicly available information to value factors of production within 40 days after the date of publication of the preliminary determination.

#### Fair Value Comparisons

To determine whether sales of silicomanganese to the United States by Alloy 2000 were made at less than fair value, we compared constructed export price ("CEP") to NV, as described in the "Constructed Export Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average CEPs.

#### Constructed Export Price

In accordance with section 772(b) of the Act, for Alloy 2000 we used CEP because the first sale on an unaffiliated customer in the United States was made in the United States by Considar, an affiliate of Alloy 2000. *See A.K. Steel Corp v. United States*, 226 F3d 1361 (Fed. Cir. 2000). Alloy 2000 is affiliated with Considar because there is an exclusive sales agency agreement between Considar and Alloy International S.A. for North America (see *Kazchrome and Considar's September 19, 2001 submission and October 4 and 5, 2001 supplemental questionnaire responses*), and because of the relationship between Alloy 2000 and Alloy International S.A. (see *Preliminary Analysis Memorandum*). Consistent with Department practice, in order to determine whether a principal/agent relationship exists between Alloy 2000 and Considar, we first examine whether an explicit agreement exists

from the alleged principal authorizing the agent to act on its behalf in a specified context. This agreement must not only state that such a relationship exists, but the alleged agent must expressly consent to such representation on behalf of the principal. *See, e.g., Stainless Steel Sheet and Strip in Coils From Taiwan: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 66 FR 41509, 41512 (August 8, 2001) and *Notice of Final Determination of Sales at Less than Fair Value: Engineered Process Gas Turbo-Compressor Systems, Whether Assembled or Unassembled, and Whether Complete or Incomplete, from Japan ("Gas Turbo Compressors")*, 62 FR 24392, 24402-24403 (May 5, 1997) (expressing the principal/agent test). Based on the Department's examination of the agreement between Alloy 2000 and Considar, and financial documents submitted by Alloy 2000 and Considar on October 16, 2001, detailing the payments between the parties on those sales, the Department preliminarily determines that there is a principal/agents relationship between Alloy 2000 and Considar and that Considar, the agent, has expressly consented to such representation on behalf of the principal, Alloy 2000.

On October 9, 2001, petitioners submitted a request that the Department require that Alloy 2000 submit its transaction prices to Considar as the U.S. sales in this investigation. On October 23, 2001, the Department requested further information from Considar and Alloy 2000 regarding their transactions which we will consider for the final determination in this investigation.

In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average CEPs to the NVs. We calculated weighted-average CEPs for Alloy 2000's U.S. sales made in the United States through Considar. We based CEP on prices to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight from the plant to the port of exportation, vessel loading costs, global insurance expense from the factory to the U.S. customer (*i.e.*, domestic inland insurance, marine insurance, and U.S. inland insurance), international freight, U.S. customs duty, U.S. inland freight from the port to warehouse, U.S. warehousing costs (which, in certain instances, includes U.S. repacking costs), and U.S. inland freight from the warehouse to the U.S. customer. Kazchrome reported that it

used a non-market economy carrier for foreign inland freight; therefore, we valued foreign inland freight using an appropriate surrogate value for rail transportation costs. Because foreign inland freight from the factory to the port occurred principally on railways in the Russian Federation, we valued the freight using a surrogate value from Thailand, a country at a similar level of economic development to Russia. *See Factor Valuation Memorandum*. In accordance with section 772(d)(1) of the Act, we deducted from CEP direct selling expenses (*i.e.*, imputed credit expenses) and indirect selling expenses including inventory carrying costs that were associated with Alloy 2000's and Considar's economic activities occurring in the United States. We also deducted early payment discounts from the gross unit price, where appropriate. Finally, we also made an adjustment for profit in accordance with section 772(d)(3) of the Act. *See Analysis Memorandum.*

#### Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using a factors-of-production methodology if: (1) The merchandise is exported from an NME country; and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act.

Factors of production include: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. We used factors of production, reported by Kazchrome, for materials, energy, labor, by-products, and packing. We valued all the input factors using publicly available information as discussed in the "Surrogate Country" and "Factor Valuations" sections of this notice.

In accordance with 19 CFR 351.408(c)(1), where a producer sources an input from a market economy and pays for it in market economy currency, the Department employs the actual price paid for the input to calculate the factors-based NV. *See also, Lasko Metal Products v. United States*, 437 F. 3d 1442, 1445-1446 (Fed. Cir. 1994) ("Lasko").

#### Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by Kazchrome for the POI. To calculate NV, the reported per-unit factor quantities were multiplied by publicly available surrogate values. In selecting the surrogate values, we considered the

quality, specificity, and contemporaneity of the data. For a detailed description of all surrogate values used from Kazchrome, see *Factor Valuation Memorandum*.

As appropriate, we adjusted input prices by including freight costs to derive delivered prices. We added to the surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp. v. United States*, 117 F.3d 1401 (Fed. Cir. 1997).

For the raw material surrogate values, except for the surrogate value for manganese ore, we used values for Egypt as reported in the United Nations Statistical Division Commodity Trade Database System ("UNCTS") for 1999, deducting those values from countries previously determined by the Department to be NME countries. As the UNCTS data are reported in U.S. dollars, we did not need to convert these values. Since the data from this publication were not contemporaneous with the POI, we adjusted material values for inflation by using the Producer Price Index ("PPI") rate for the United States, as discussed in the "Inflation/Deflation Factor" section of the *Factor Valuation Memorandum*. Because the Egyptian values we found for manganese ore were aberrational in 1999, we used a surrogate value for manganese ore from 1996. See *Factor Valuation Memorandum*.

To value electricity, we have accepted Kazchrome and Considár's submitted rate of \$0.0177/kWh for Egypt, which was from the Department's Trade Information Center ("TIC") website (<http://www.trade.gov/td/tic>). See *Factor Valuation Memorandum*.

Kazchrome reported a byproduct gas; however, the gas byproduct is not sold nor used as an input in the silicomanganese production process and, therefore, we are not giving a credit for this byproduct. Kazchrome also reported utilizable manganese scrap as a byproduct of the production process. Since this credit is already reflected in Kazchrome's reported factor of production for manganese ore, we are not granting a by-product credit for this excess manganese ore. See *Factor Valuation Memorandum*.

To determine appropriate overhead, financial expense, selling, general and administrative ("SG&A") expense, and profit percentages to be applied to the NV calculation, we used relevant data from a 1998 annual report of Alexandria

National Iron & Steel Co. ("ANS Steel"), an Egyptian hot-rolled steel producer, because we were unable to locate an annual report for any Egyptian ferroalloy producers. While we could not determine a complete value for overhead using ANS Steel's financial statements, we were able to determine a value for depreciation, a component of overhead, and have used this value for overhead.

For labor, consistent with section 351.408(c)(3) of the Department's regulations, we used the Kazakhstan regression-based wage rate at Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in September 2001 (see <http://ia.ita.doc.gov/wages/99wages/99wages.htm>). The source of the wage rate data on the Import Administration's Web site is the *Year Book of Labour Statistics 2000*, International Labor Office (Geneva: 2000), Chapter 5B: Wages in Manufacturing.

#### Verification

As provided in section 782(i)(1) of the Act, we intend to verify all company and GOK information relied upon in making our final determination.

#### Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all imports of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. We will instruct the U.S. Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the CEP, as indicated below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Margin-weighted average percent
Alloy 2000, S.A. ....	180.86
Kazakhstan-Wide ....	180.86

#### International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination of sales at LTFV. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days

after our final determination whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation, of the subject merchandise.

#### Public Comment

Cash briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than fifty days after the date of publication of this notice, and rebuttal briefs, limited to issues raised in case briefs, no later than fifty-five days after the date of publication of this preliminary determination. See 19 CFR 351.309(c)(1)(i); 19 CFR 351.309(d)(1). A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case of rebuttal briefs. Tentatively, any hearing will be held fifty-seven days after publication of this notice at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the schedule date. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice. See 19 CFR 351.310(c). Requests should contain: (1) The party's name, address, and telephone number, (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief, and may make rebuttal presentations only on arguments included in that party's rebuttal brief. See 19 CFR 351.310(c).

If this investigation proceeds normally, we will make our final determination no later than 75 days after the date of the preliminary determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: November 2, 2001.

**Faryar Shirzad,**

Assistant Secretary for Import Administration.

[FR Doc. 01-28226 Filed 11-8-01; 8:45 am]

BILLING CODE 3510-DS-M

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-533-823]

#### Notice of Preliminary Determination of Sales at Less Than Fair Value; Silicomanganese From India

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

**EFFECTIVE DATE:** November 9, 2001.

#### FOR FURTHER INFORMATION CONTACT:

Abdelali Elouaradia (Universal Ferro & Allied Chemicals) at (202) 482-1374, Elfi Blum (Nava Bharat Ferro Alloys Limited) at (202) 482-0197, or Sally C. Gannon at (202) 482-0162; Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

#### The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the Tariff Act of 1930 (the Tariff Act), as amended. In addition, unless otherwise indicated, all citations to the Department of Commerce (the Department) regulations are to the regulations at 19 CFR part 351 (April 2001).

#### Preliminary Determination

We preliminarily 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 733 of the Tariff Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

#### Case History

On April 26, 2001 the Department initiated antidumping investigations of silicomanganese from Kazakhstan, India, and Venezuela. *See Initiation of Antidumping Duty Investigations: Silicomanganese from Kazakhstan, India, and Venezuela*, 66 FR 22209 (May 3, 2001) (*Initiation Notice*). Since the initiation of these investigations the following events have occurred.

In its initiation notice, the Department set aside a period for all interested

parties to raise issues regarding product coverage. *See Initiation Notice*, 66 FR at 22209. On May 17, 2001, we received comments from Eramet Marietta, Inc. and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5-0639 (collectively, the petitioners) to amend the scope.

On May 9, 2001 the Department issued a letter to interested parties in all of the concurrent silicomanganese antidumping investigations, providing an opportunity to comment on the Department's proposed model matching characteristics and hierarchy. In that letter, the Department requested the comments to be filed by close of business May 16, 2001. Two interested parties, Universal Ferro & Allied Chemicals Ltd. (Universal) and Ispat Alloys Limited (Ispat), sent comments via facsimile, dated May 14, 2001, on the Department's proposed model match criteria. Another interested party, Nava Bharat Ferro Alloys Limited (Nava Bharat), mailed its comments, dated May 16, 2001, to the Department. In letters dated May 17, 2001, to Universal and Ispat, and May 30, 2001, to Nava Bharat, the Department informed the interested parties that their comments had not been properly filed and therefore could not be placed on the record of this case. Further, in that letter the Department informed the interested parties of the proper filing requirements in accordance with section 351.303 of the Department's regulations, and invited them to refile their comments accordingly. On June 19, 2001, the Department received the refiled comments from Nava Bharat. On May 16, 2001, petitioners submitted a letter suggesting certain modifications be made to the Department's proposed physical criteria which would be used for matching purposes. Petitioners suggested including options for Indian Grades 2 and 1 in the "Grade" field, and modifying the "Size" field to list only lump silicomanganese and fines. After reviewing comments submitted from all parties, the Department agreed with petitioners and included these proposals in its questionnaire.

On May 21, 2001, the United States International Trade Commission (ITC) notified the Department that it preliminarily determined there is a reasonable indication that an industry in the United States is materially injured by the reason of imports of the subject merchandise from India, Kazakhstan, and Venezuela. *See Silicomanganese from India, Kazakhstan, and Venezuela*, 66 FR 31258 (June 11, 2001).

On May 24, 2001, the Department issued an inquiry to 15 producers/exporters of silicomanganese to report quantity and value (Q&V) of sales of subject merchandise to the United States, the home market (HM), and third countries during the period of investigation (POI). The Department amended its inquiry regarding Q&V of sales on June 6, 2001, asking these 15 producers/exporters to separate out low carbon silicomanganese from subject merchandise when reporting to the Department, pending the Department's determination whether to exclude low-carbon silicomanganese from the scope, as requested by petitioners in their letter of May 17, 2001. The Department received a response to its Q&V inquiry from seven producers/exporters of subject merchandise, Universal, Ispat, Nava Bharat, Maharashtra Electrosmelts Ltd (Maharashtra), GMR Technologies and Industries Ltd. (GMR), Hira Ferro Alloys Limited (Hira Ferro), and Indsil Electrosmelts Ltd. (Indsil). Since the Department received Maharashtra's response late (dated August 18, 2001), the company was not considered in the respondent selection. Two companies, GMR and Hira Ferro, reported no shipments to the United States during the POI. Indsil informed the Department that, based on petitioners' request of May 17, 2001, to amend the scope, the company had no shipments of subject merchandise to the United States. For two more producers/exporters, Moldex International and Quality Steels & Forgings, the Department's inquiry of Q&V was undeliverable. Based on the information submitted, the Department selected the following two respondents: Universal and Nava Bharat. For further information, please *see Memorandum to Joseph Spetrini, Deputy Assistant Secretary, AD/CVD Enforcement, Group III, through Barbara E. Tillman, Director, Office of AD/CVD Enforcement VII, from Team: Antidumping Duty Investigation of Silicomanganese from India: Respondent Selection*, dated July 13, 2001. The public version is on file in the Central Records Unit, Room B-099 of the main Commerce Building (B-099).

On July 18, 2001, the Department issued an antidumping duty questionnaire to Universal and Nava Bharat, both producers/exporters of subject merchandise in India. We requested that both companies respond to section A (general information, corporate structure, sales practices, and merchandise produced), section B (home market or third-country sales), section C (U.S. sales), section D (cost of production/constructed value), and, if