(March 30, 2000) and accompanying Issues and Decision Memorandum, and *Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Polyester Staple Fiber from the Republic of Korea, and Antidumping Duty Orders: Certain Polyester Staple Fiber from the Republic of Korea and Taiwan*, 65 FR 33807 (May 25, 2000) (collectively, ''*Final Determination*''), the Court of International Trade (''CIT'') affirmed the Department's second remand redetermination and entered a judgment order. In the instant remand redetermination, in accordance with the Court's order, the Department reviewed the record evidence and derived a facts available profit cap using the financial statements of Saehan Industries, Inc., (''Saehan'') and SK Chemical Co. Ltd., (''SK Chemical''), and calculated a profit rate for Geum Poong Corporation (''Geum Poong'') using the same information.

As a result of the remand redetermination, Geum Poong will be excluded from the antidumping duty order on certain polyester staple fiber from Korea because its antidumping rate was decreased from 14.10 percent to 0.12 percent (*de minimis*). The ''all others'' rate was decreased from 11.38 percent, established in the Final Determination, to 7.91 percent. The antidumping duty rates for respondents Sam Young Synthetics Co. (''Sam Young''), and Samyang Corporation (''Samyang'') were unchanged from the *Final Determination*.

This decision was not in harmony with the Department's original *Final Determination*. Consistent with the decision of the Court of Appeals for the Federal Circuit in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (''*Timken*''), the Department will continue to order the suspension of liquidation of the subject merchandise until there is a ''conclusive'' decision in this case. If the case is not appealed, or if it is affirmed on appeal, the Department will instruct the U.S. Customs Service to terminate the suspension of liquidation for Geum Poong and revise the all others cash deposit rate.

EFFECTIVE DATE: September 30, 2002.

FOR FURTHER INFORMATION CONTACT: Jarrod Goldfeder or Scott Holland, Office 1, Group 1, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, D.C. 20230, telephone: (202) 482–0189 or (202) 482–1279, respectively.

SUPPLEMENTARY INFORMATION:

Background:

Following the publication of the *Final Determination*, the petitioners and the respondents in this case filed lawsuits with the CIT challenging the Department's *Final Determination*.

In the underlying investigation, the Department was required to calculate a CV profit rate for Geum Poong. Based on the information on the record, the Department determined that a combination of the CV profit rates calculated for the other respondents, Sam Young and Samyang, and a general profit ratio for the entire man-made fibers industry in Korea, extracted from a Bank of Korea (''BOK'') publication, was a reasonable method for calculating Geum Poong's profit and was permissible under section 773 (e)(2)(B)(iii) of the Act. (*See Final Determination*)

In its September 6, 2001, opinion, the Court affirmed certain aspects of the Department's method for calculating Geum Poong's CV profit. (*See Geum Poong Corp. v. United States*, 163 F. Supp. 2d. 669 (Ct. Int'l Trade 2002) (''*Geum Poong I*''). The Court also remanded certain aspects of the Department's determination. Specifically, the Court stated that the Department had not adequately explained why a profit cap was not available and, even assuming a profit cap could not be applied, Commerce had not adequately explained why the profit methodology it selected was reasonable. *Id.* at 678–9.

On October 5, 2001, Commerce submitted its *Final Results of Redetermination Pursuant to Court Remand* (''Redetermination I'') in response to the Court's remand order in *Geum Poong I*. In that redetermination, Commerce stated its view that as a matter of law none of the profit information on the record of this proceeding could be used as a profit cap because all of the profit rates under consideration included, or likely included, profits on non-Korean sales. Commerce further provided an explanation of its decision to reject certain profit data and to combine other profit rates to calculate the CV profit rate for Geum Poong.

In *Geum Poong Corporation and Sam Young Synthetics Co., Ltd. v. United States v. E. I. Dupont De Nemours, Inc., et. al.*, Slip Op 02–26 (March 8, 2002) (''*Geum Poong II*''), the Court remanded again the issue of Geum Poong's CV profit.

We released the *Draft Redetermination Pursuant to Court Remand* (''*Draft Results*'') to interested parties on April 16, 2002. Comments on the *Draft Results* were received from the petitioners and Geum Poong and Sam Young on April 23, 2002. On April 30, 2002, the Department responded to the Court's Order of Remand by filing its *Final Results of Redetermination Pursuant to Court Remand* (''*Final Results of Redetermination*'').

In the *Final Results of Redetermination*, we calculated a ''facts available profit cap'' using the financial statements of Saehan and SK Chemical. As per the Court's express instructions, we used this ''facts available profit cap'' as the CV profit rate for Geum Poong.

The Court affirmed the Department's *Final Results of Redetermination* on August 22, 2002. *See Geum Poong Corporation and Sam Young Synthetics Co., Ltd. v. United States v. E.I. Dupont De Nemours, Inc.*, Court No. 00–06–00298, Slip. Op. 02–95 (CIT 2002).

Suspension of Liquidation

The U.S. Court of Appeals for the Federal Circuit in Timken held that the Department must publish notice of a decision of the CIT or the Federal Circuit which is not ''in harmony'' with the Department's *Final Determination*. Publication of this notice fulfills that obligation. The Federal Circuit also held that the Department must suspend liquidation of the subject merchandise until there is a ''conclusive'' decision in the case. Therefore, pursuant to *Timken*, the Department must continue to suspend liquidation pending the expiration of the period to appeal the CIT's August 22, 2002, decision or, if that decision is appealed, pending a final decision by the Federal Circuit. The Department will instruct the U.S. Customs Service to revise cash deposit instructions and liquidate relevant entries covering the subject merchandise effective September 30, 2002, in the event that the CIT's ruling is not appealed.

Dated: September 23, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–24775 Filed 9–27–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–806]

Antidumping Duty Investigation; Silicon Metal from Brazil: Amended Final Determination in Accordance with Court Decision.

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

ACTION: Notice of Amended Final Determination of Antidumping Duty Investigation in Accordance with Court Decision.

SUMMARY: On February 14, 2001, the United States Court of International Trade (''CIT'') sustained the final remand determination made by the Department of Commerce (''the Department'') pursuant to the Court's remand of the final determination of sales at less than fair value of silicon metal from Brazil. *See Camargo Correa Metals, S.A., v. United States*, Ct. No. 91–09–00641, Slip Op. 01–15 (Ct. Int'l Trade February 14, 2001). As there is now a final and conclusive court decision in this case, we are amending our final determination of sales at less than fair value.

EFFECTIVE DATE: September 30, 2002.

FOR FURTHER INFORMATION CONTACT: Marlene Hewitt, Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W.,Washington DC 20230; telephone (202) 482–1385.

SUPPLEMENTARY INFORMATION:

Background

On June 12, 1991, the Department of Commerce (''the Department'') published its final Determination of Sales at Less Than Fair Value: Silicon Metal from Brazil. In its final determination, the Department also found that critical circumstances existed with respect to exports from Brazil by Companhia Brasileria Carbureto de Calcio (''CBCC''). *See Final Determination of Sales at Less Than Fair Value: Silicon Metal from Brazil*, 59 FR 26977 (June 12, 1991) (''*Final Determination*'').

On July 24, 1991, the International Trade Commission (''ITC'') notified the Department that such imports materially injure an United States industry. The ITC also notified the Department that critical circumstances do not exist with respect to any imports from Brazil.

On July 31, 1991, the Department issued its antidumping duty order on Silicon Metal from Brazil for two specific Brazilian manufacturers/exporters, CBCC, and Camargo Correa Metais, S.A. (''CCM''), and for all other Brazilian manufacturers/exporters (''all others''). *See Antidumping Duty Order: Silicon Metal from Brazil*, 56 FR 36135 (July 31, 1991).

CCM challenged certain aspects of the Department's *Final Determination* at the CIT.

On August 13, 1993, the CIT remanded the Department's *Final Determination* on the following issues: (1) to re-examine the circumstances of sale adjustment for letter of credit sales and explain why such sales constitute a bona fide difference in the circumstances of domestic sales; (2) to explain in greater detail the allocation of annual GS&A expenses to the merchandise produced during the period of investigation, and recalculate said allocation if it systematically overstates GS&A expenses; and (3) to announce a method and rationale for complying with 19 U.S.C. §1677a (d)(1)(C) and to calculate an amount equal to the sum of the amounts incurred and realized for the exporter in this review, that avoids double counting but accounts for the economic realty of the Brazilian value-added tax ''imposto sobre a circulacao de mercadorias e servicos'' (''ICMS'') paid on inputs to export production, and recovered from taxes otherwise due the Brazilian government which was not a cost of producing silicon metal for export in Brazil. See *Camargo Correa Metals, S.A., v. United States*, Ct. No. 91–09–00641, Slip Op. 93–163 (Ct. Int'l Trade August 13, 1993).

On December 13, 1993, the Department filed its redetermination pursuant to court remand. The Department recalculated the constructed value, excluding the ICMS paid by CBCC and CCM, pursuant to the CIT's instructions. *See Silicon Metal from Brazil: Final Results of Redetermination Pursuant to Court Remand* (December 12, 1993).

On April 29, 1994, the CIT affirmed the Department's redetermination on remand, ruling that since all other issues have been decided, the case was dismissed. See *Camargo Correa Metals, S.A., v. United States*, Ct. No. 91–09–00641 (91–09–00645), Slip Op. 94–68 (Ct. Int'l Trade April 29, 1994).

American producers of silicon metal, American Alloys, Inc., Globe Metallurgical, Inc., and American Silicon Technologies (collectively ''domestic producers'' or ''appellants''), appealed the CIT's judgment to the United States Court of Appeals for the Federal Circuit (''CAFC''). The CAFC vacated the judgment of the CIT and remanded with directions to draft a judgment that complied with the relevant statute requiring findings of fact and conclusions of law or an opinion stating the facts in support of the judgment. *See Camargo Correa Metals, S.A., v. United States*, 52 F.3d 1040 (Fed. Cir. 1995).

The Department sought a rehearing before the CIT to have its original methodology reinstated. The Department argued, contrary to the CIT's first ruling, that the ICMS is not remitted or refunded upon export, and is therefore a cost. The CIT held that it ''has found ICMS credit to be indistinguishable from a remittance or refund.'' *See Camargo Correa Metals, S.A., v.United States*, Ct. No. 91–09–00641, Slip Op. 97–159 (Ct. Int'l Trade November 25, 1997). Pursuant to the CAFC's directions, the CIT issued its opinion and remanded the case to the Department a second time with instructions to 1) consider the Brazilian ICMS credit to be a rebate or remittance for purposes of 19 U.S.C. §1677a(d)(1)(C) (1988); 2) propose a method to eliminate or account for the double counting problem between the same statutes; and 3) recalculate the dumping margin for CBCC. In the same opinion, the CIT affirmed the Department's Redetermination in all other respects. See *Camargo Correa Metals, S.A., v. United States*, Ct. No. 91–09–00641, Slip Op. 97–159 (Ct. Int'l Trade November 25, 1997).

On March 25, 1998, the Department submitted its remand results. The Department excluded CBCC's ICMS liability from its constructed value calculations, consistent with the Department's findings in its 1993 Final Remand Results. *See Silicon Metal from Brazil: Results of Redetermination Pursuant to Court Remand* (March 25, 1998).

On November 5, 1998, the CIT affirmed the Department's final result of redetermination on remand. *See Camargo Correa Metals, S.A., v. United States*, Ct. No. 91–09–00641, Slip Op. 98–152 (Ct. Int'l Trade November 5, 1998).

The United States and domestic producers, appealed the CIT's judgment to the CAFC. The CAFC reversed the CIT's judgment and remanded the case to the CIT to include the ICMS in the constructed value calculation. *See Camargo Correa Metals, S.A., v. United States*, 200 F.3d 771 (Fed. Cir. 1999).

On November 21, 2000, the Department issued its final results of redetermination pursuant to court remand. *See Silicon Metal from Brazil: Final Results of Redetermination*

Pursuant to Court Remand (November 21, 2000).

On February 14, 2001, the CIT sustained the Department's redetermination on remand. *See Camargo Correa Metals, S.A., v. United States*, Ct. No. 91–09–00641, Slip Op. 01–15 (Ct. Int'l Trade February 14, 2001).

Litigation in this case is final and conclusive. We are therefore amending our final determination of sales at less than fair value.

The weighted-average margins remain the same as in the antidumping duty order and are as follows:

Manufacturer/Exporter	Margin (percent)
CCM	87.79
CBCC	93.20
All others	91.06

CCM's and CBCC's current cash deposit rates are based upon an administrative review conducted subsequent to the investigation segment of the proceeding. Therefore, this amended final determination does not affect the cash deposit rates for CCM and CBCC currently in effect, which will continue to be based on the margins found to exist in the most recently completed review.

This notice is published in accordance with §§ 735(d) and 777(i) of the Tariff Act (19 U.S.C. §§ 1675(a)(1) and 1677f(i)).

Dated: September 23, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–24776 Filed 9–27–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–825]

Stainless Steel Sheet and Strip in Coils From Germany: Final Results of Changed Circumstances Antidumping Duty Administrative Review

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

ACTION: Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review.

SUMMARY: On July 29, 2002, the Department of Commerce (the Department) published the notice of initiation and preliminary results of its changed circumstances review examining whether ThyssenKrupp Nirosta GmbH is the successor-in-interest to Krupp Thyssen Nirosta GmbH by virtue of its corporate name change.[1] *See Stainless Steel Sheet and Strip in Coils from Germany: Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review,* 67 FR 49005 (July 29, 2002) (*Initiation and Preliminary Results*). We have now completed this changed circumstances review in accordance with section 751(b) of the Tariff Act of of 1930, as amended (the Tariff Act), and 19 CFR 351.216 and 351.221(c)(3) of the Department's regulations.

As a result of this review, the Department determines that ThyssenKrupp Nirosta GmbH is the successor-in-interest to Krupp Thyssen Nirosta GmbH, and that ThyssenKrupp Nirosta GmbH should retain the deposit rate assigned to Krupp Thyssen Nirosta GmbH by the Department for all entries of the subject merchandise produced or exported by ThyssenKrupp Nirosta GmbH.

EFFECTIVE DATE: September 30, 2002.

FOR FURTHER INFORMATION CONTACT: Patricia Tran or Robert James, AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–1121 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to 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 Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2002).

Background

On July 29, 2002, the Department published the notice of initiation and preliminary results of this changed circumstances review. *See Initiation and Preliminary Results.* We gave interested parties 21 days to comment on this initiation and preliminary results. However, no interested parties provided comments, and no request for a hearing was received by the Department.

Scope of the Review

For purposes of this administrative review, the products covered are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (*e.g.*, cold-rolled, polished, aluminized, coated, etc.) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States (HTS) at subheadings: 7219.13.00.31, 7219.13.00.51, 7219.13.00.71, 7219.13.00.81, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the Department's written description of the merchandise under review is dispositive.

Excluded from the scope of this order are the following: (1) Sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled; (2) sheet and strip that is cut to length; (3) plate (*i.e.,* flat-rolled

[1] In addition to ThyssenKrupp Nirosta GmbH the following companies involved in the production, importation, and U.S. sale of subject merchandise have changed their corporate names: Krupp Thyssen Nirosta North America, Inc. to ThyssenKrupp Nirosta North America, Inc.; Krupp VDM GmbH to ThyssenKrupp VDM GmbH; and Krupp VDM Technologies Corporation to Thyssen Krupp VDM USA, Inc.