

Dated: November 2, 2001.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

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## 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

applicable, section E (cost of further manufacture or assembly performed in the United States).

Nava Bharat and Universal submitted their initial responses to section A of the Department's questionnaire on August 8, 2001 and August 9, 2001, respectively. We received responses to sections B through D from Nava Bharat and Universal on September 4, 2001. Petitioners filed comments regarding section A and sections B through D of Nava Bharat's response on September 9, 2001 and September 13, 2001, respectively, and regarding section A and sections B through C and section D of Universal's response on September 12, 2001, September 13, 2001, and September 18, 2001, respectively. We issued a supplemental questionnaire to Nava Bharat for sections A through D on September 29, 2001, and we issued supplemental questionnaires to Universal for sections A through C on September 26, 2001, and for section D on October 2, 2001. Nava Bharat filed its response to our supplemental questionnaire on October 9, 2001. Universal filed its responses to our sections A through D supplemental questionnaire on October 11, 2001.

On July 16, 2001 petitioners filed an allegation that critical circumstances exist with respect to imports of silicomanganese from India. In its *Notice of Preliminary Determination Of Critical Circumstances; Silicomanganese from India*, 66 FR 53207 (October 19, 2001) (*Preliminary Determination of Critical Circumstances*), the Department preliminarily determined that critical circumstances exist for Universal and "all others," but not for Nava Bharat.

Based on petitioners' request, the Department postponed the preliminary determination in the antidumping duty investigation by 30 days, until October 15, 2001. See *Silicomanganese from Kazakhstan, India and Venezuela; Notice of Postponement of Preliminary Determinations in Antidumping Duty Investigations*, 66 FR 45964 (August 31, 2001). Because the Indian investigation is extraordinarily complicated, and the case-specific information to be analyzed within the time constraints was voluminous, the Department postponed the preliminary determination for a second time, until November 2, 2001. See *Silicomanganese From Kazakhstan, India and Venezuela; Notice of Postponement of Preliminary Determinations in Antidumping Duty Investigations*, 66 FR 53206 (October 19, 2001).

### 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), and is in accordance with our regulations. 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 ferro alloy composed principally of manganese, silicon and iron, and normally contains much smaller proportions of minor elements, such as carbon, phosphorous and sulfur. Silicomanganese is sometimes referred to as ferro silicon manganese. Silicomanganese is used primarily in steel production as a source of both silicon and manganese. Silicomanganese generally contains by weight not less than 4 percent iron, more than 30 percent manganese, more than 8 percent silicon and not more than 3 percent phosphorous. Silicomanganese is properly classifiable under subheading 7202.30.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Some silicomanganese may also be classified under HTSUS subheading 7202.99.5040. This scope covers all silicomanganese, regardless of its tariff classification. Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, our written description of the scope remains dispositive.

The low-carbon silicomanganese excluded from this scope is a ferro alloy with the following chemical specifications: minimum 55 percent manganese, minimum 27 percent silicon, minimum 4 percent iron, maximum 0.10 percent phosphorus, maximum 0.10 percent carbon and maximum 0.05 percent sulfur. Low-carbon silicomanganese is used in the manufacture of stainless steel and special carbon steel grades, such as motor lamination grade steel, requiring a very low carbon content. It is sometimes referred to as ferro manganese-silicon. Low-carbon silicomanganese is classifiable under HTSUS subheading 7202.30.0000.

### Product Comparisons

Pursuant to section 771(16) of the Tariff Act, all products produced by the respondent within the scope of the

investigation, detailed above, and sold in the comparison market during the POI, are considered to be foreign like products. To match U.S. sales of subject merchandise to comparison-market sales of the foreign like product, we relied on two physical characteristics: grade and size. During the POI, Nava Bharat sold two products in both the HM and the United States. Universal sold three products in the HM and one in the United States. Since the products sold in both markets by both companies were identical, no matches of similar merchandise were utilized in our calculations.

### Fair Value Comparisons

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

### Export Price

#### *Nava Bharat*

Nava Bharat reported, as export price (EP) transactions, sales of subject merchandise sold to unaffiliated U.S. customers prior to importation. See Nava Bharat's section A response of August 8, 2001, at 10, and section C response of September 4, 2001, at Exhibit C-7. We calculated EP in accordance with section 772(a) of the Tariff Act because the merchandise was sold to the first unaffiliated purchaser in the United States prior to importation and the CEP methodology was not otherwise warranted, based on the facts of record. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Tariff Act; these included, where appropriate, foreign inland freight and foreign brokerage and handling charges. See *Memorandum to File from Elfi Blum through Sally Gannon: Preliminary Determination of Antidumping Investigation of Silicomanganese from India-Analysis of Nava Bharat Ferro Alloys Limited* (November 2, 2001) (*Analysis Memorandum Nava Bharat*) (public version on file in the Department's Central Records Unit, in Room B-099). In addition, we did not add duty drawback to the starting price. Section 772(c)(1)(B) of the Tariff Act provides that export price (or constructed export price) shall be increased by "the amount of any import duties imposed by the country of

exportation which have been rebated, or which have not been collected, by reason of the exportation of the subject merchandise to the United States." The Department determines that an adjustment to U.S. price for a claimed duty drawback is appropriate when a company can demonstrate that it meets both parts of our two-part test. There must be: (1) a sufficient link between the import duty and the rebates, and (2) a sufficient amount of raw materials imported and used in the production of the final exported product. *See e.g. Stainless Steel Wire Rod From India; Final Results of Antidumping Duty Administrative Review*, 65 FR 31302 (May 17, 2000) (*Steel Wire Rod from India*). In its supplemental response, Nava Bharat neither established the link between import duty and the rebates received from the Indian government, nor showed that it imported sufficient volume of raw materials to account for the level of duty drawback claimed for its exports to the United States during the POI.

#### Universal

Universal reported, as export price (EP) transactions, sales of subject merchandise sold to unaffiliated U.S. customers prior to importation. *See* Universal's section A response of August 9, 2001, and section C response of September 4, 2001. We calculated EP in accordance with section 772(a) of the Tariff Act because the merchandise was sold to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise warranted, based on the facts of record. We based EP on FOB price to unaffiliated purchasers in the United States. Since respondent sells to the United States in bulk and did not incur any packing costs, we did not include it in our calculations. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Tariff Act; these included, where appropriate, foreign inland freight, foreign brokerage and handling charges, and insurance.

#### Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Tariff Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP transaction. The NV LOT is that of the starting price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general and administrative (SG&A) expenses and profit. For EP, the U.S. LOT is also the level of the starting price sale, which is

usually from the exporter to the importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Tariff Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the differences in the levels between NV and CEP affect price comparability, we adjust NV under section 773(A)(7)(B) of the Tariff Act (the CEP offset provision). *See, e.g., Certain Carbon Steel Plate from South Africa, Final Determination of Sales at Less Than Fair Value*, 62 FR 61731 (November 19, 1997).

Under section 351.412(c)(2) of the Department's regulations, the Secretary will determine that sales are made at different levels of trade if they are made at different marketing stages (or their equivalent). According to this regulation, "[s]ubstantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stage of marketing" and "[s]ome overlap in selling activities will not preclude a determination that two sales are at different stages of marketing."

#### Nava Bharat

In evaluating LOT for Nava Bharat, we obtained information from Nava Bharat about the marketing stages involved in its reported U.S. and home market sales, including a description of the selling activities performed by Nava Bharat for each channel of distribution.

In the home market, Nava Bharat reported two channels of distribution based on customer category. *See* Nava Bharat's August 8, 2001 response at page A-10 & 11, and its September 4, 2001 response at page B-5 & B-6. The selling activities did not differ significantly by channel of distribution. *See* page B-14. Because the selling functions performed for each channel are sufficiently similar, channels of distribution do not qualify as separate LOTs. Therefore, we preliminarily determine that one LOT exists for Nava Bharat's home market sales.

In the United States, Nava Bharat reported one channel of distribution for sales of subject merchandise during the POI (EP sales made directly to one customer category). For further proprietary details, *see Analysis Memorandum Nava Bharat*. Based on the information provided by Nava Bharat, we preliminarily determine that one LOT exists in the United States.

Nava Bharat claimed that its sales to home market customers were at a different LOT than its sales to U.S. customers and, therefore, claimed a LOT adjustment. Pursuant to section 351.412(c)(2) of the Department's regulations, substantial differences in selling activities are necessary in order to find a LOT difference. Also *see Notice of Final Determination of Sales at Less Than Fair Value; Honey from Argentina*, 66 FR 50611 (October 4, 2001), and accompanying Issues and Decision Memorandum at Comment 18, and *Grain-Oriented Electrical Steel From Italy: Final Results of Antidumping Administrative Review*, 66 FR 14887 (March 14, 2001), and accompanying Issues and Decisions Memorandum at Comment 2. The information submitted by Nava Bharat demonstrates only one difference in selling activities for one customer category in the home market. Based on the limited degree to which selling functions/services differ on Nava Bharat's sales to its home market customer category and Nava Bharat's sales to its U.S. customer category, we preliminarily determine that the U.S. LOT is comparable to the home market LOT. *See* Nava Bharat's supplemental response of October 9, 2001, at page 5.

#### Universal

In evaluating LOT for Universal, we obtained information from Universal about the marketing stages involved in its reported U.S. and home market sales, including a description of the selling activities performed by Universal for each channel of distribution.

In the home market, Universal reported two channels of distribution with respect to customer category and channel, one to distributors and one to end users. *See* Universal's August 9, 2001, response at page A-7 & 8, and its October 11, 2001 response at page A-4 & 5. Universal claims that more selling services are required in the home market because most of its customers are end users. Such activities include calling customers, negotiating for orders, arranging freight and delivery, and attending to quality-related matters. Universal did not specify what selling functions are required for sales to distributors, but it did state that sales made in the western region are handled

by an unaffiliated agent that earns three percent commission for his services. Universal did not fully explain the selling activities for its second channel of distribution and how the end user channel is different from the distributor channel in the home market. Therefore, based on the information on the record for this preliminary determination, we find that there is only one LOT. However, the Department will request further clarification from Universal through supplemental questionnaires and during verification.

In the United States, Universal states that the prices charged for United States sales are lower than the prices charged for home market sales because, in the United States, it sells to traders in bulk while, in the home market, it sells in bags of 50 kg to end users, and to some sales distributors. Id at A-9. In addition, Universal reported one channel of distribution for sales of subject merchandise during the POI (EP sales made directly to one customer category). For its U.S. sales, Universal claims that, aside from executing the sales transactions and arranging for freight and delivery, no other selling activities are provided on export sales.

Universal claims that its sales to home market customers were at a different LOT than its sales to U.S. customers and, therefore, the Department should adjust for the LOT difference. In this case, the selling activities for U.S. sales are similar if not identical to the selling activities for home market sales. For U.S. sales, just as for home market sales, Universal has to maintain contact with its customers, negotiate orders, and arrange for freight. Moreover, the only selling activity that is allegedly done in the home market and not the U.S. market is attending to quality-related matters. However, Universal failed to explain or quantify such selling activity. Furthermore, based on section 351.412(c)(2) of the Department's regulations, substantial differences in selling activities are necessary in order to find a LOT difference. Also see *Notice of Final Determination of Sales at Less Than Fair Value; Honey from Argentina*, 66 FR 50611 (October 4, 2001), and accompanying Issues and Decision Memorandum at Comment 18, and *Grain-Oriented Electrical Steel From Italy: Final Results of Antidumping Administrative Review*, 66 FR 14887 (March 14, 2001), and accompanying Issues and Decisions Memorandum at Comment 2. Therefore, based on the information provided by Universal, we preliminarily determine that one LOT exists in the United States and the home market.

## Normal Value

### Home Market Viability

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (i.e., the aggregate volume of home market sales of the foreign like product was equal to or greater than five percent of the aggregate volume of U.S. sales), we compared Nava Bharat's and Universal's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, respectively, in accordance with section 773(a)(1)(C) of the Tariff Act. As both Nava Bharat's and Universal's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable. Therefore, we have based NV on home market sales in the usual commercial quantities and in the ordinary course of trade.

### Cost of Production Analysis

Based on allegations contained in the petition, and in accordance with section 773(b)(2)(A)(i) of the Tariff Act, we found reasonable grounds to believe or suspect that sales of silicomanganese in India were made at prices below the cost of production (COP). As a result, the Department initiated an investigation to determine whether Nava Bharat or Universal made home market sales during the POI at prices below their respective COP, within the meaning of section 773(b) of the Tariff Act. We conducted the COP analysis described below.

#### A. Calculation of COP

In accordance with section 773(b)(3) of the Tariff Act, we calculated COP based on the sum of Nava Bharat's and Universal's cost of materials and fabrication for the foreign like product, plus an amount for home market SG&A expenses, including interest expenses, and packing costs, where applicable. We relied on the home market sales and COP information provided by both respondents in their original and supplemental responses. Where appropriate, we made certain adjustments to Nava Bharat's and Universal's reported COP. See *Analysis Memorandum Nava Bharat*; and *Memorandum to the File, from Abdelali Elouaradia through Sally Gannon: Preliminary Calculation Memo*, (November 2, 2001) on file in room B-099 of the Main Commerce building.

### B. Test of Home-Market Sales Prices

We compared the adjusted weighted-average COPs for Nava Bharat and Universal to the home market sales prices of the foreign like product, as required under section 773(b) of the Tariff Act, in order to determine whether these sales had been made at prices below the COP within an extended period of time (i.e., a period of one year) in substantial quantities and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. In accordance with section 773(b)(2)(C)(i) of the Tariff Act, we determined that sales made below the COP were made in substantial quantities if the volume of such sales represented 20 percent or more of the volume of sales under consideration for the determination of normal value.

On a model-specific basis, we compared the revised COP to the home market prices, less any applicable movement charges and other direct and indirect selling expenses.

### C. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Tariff Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the POI were at prices less than the COP, we determined such sales to have been made in "substantial quantities" within an extended period of time in accordance with section 773(b)(2)(B) or the Tariff Act. In such cases, because we compared prices to POI-average costs, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Tariff Act. Therefore, we disregarded the below-cost sales.

#### Nava Bharat

We found that for some of the models of silicomanganese sold in the home market, more than 20 percent of Nava Bharat's home market sales were made within an extended period of time at prices less than the COP. Further, the prices did not provide for the recovery of costs within a reasonable period of time. We therefore disregarded these below-cost sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Tariff Act. Since all U.S. sales of

silicomanganese were of a model identical or similar to that sold in the home market and there were sufficient above-cost sales of that model, we did not have to compare EP to CV in accordance with section 773(a)(4) of the Tariff Act.

#### *Universal*

We found that for some of the models of silicomanganese sold in the home market, more than 20 percent of Universal's home market sales were made within an extended period of time at prices less than the COP. Further, the prices did not provide for the recovery of costs within a reasonable period of time. We therefore disregarded these below-cost sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Tariff Act. Since all U.S. sales of silicomanganese were of a model identical to that sold in the home market and there were sufficient above-cost sales of that model, we did not have to compare EP to CV in accordance with section 773(a)(4) of the Tariff Act.

#### **Price-to-Price Comparisons**

##### *Nava Bharat*

We calculated NV based on the delivered prices to unaffiliated customers. We made deductions, where appropriate, from the starting price for inland freight. We made adjustments under section 773(a)(6)(C)(iii) of the Tariff Act for differences in circumstances of sale (COS) based on direct selling expenses. We have recalculated the value of other direct selling expenses, based on Nava Bharat's amended Exhibit D-8 in the supplemental response and included it in our calculations of the foreign unit price in dollars (FUPDOL). We also made COS adjustments for commissions. *See Analysis Memorandum Nava Bharat.* In addition, we made COS adjustments for imputed credit expenses. However, we did not rely on Nava Bharat's reported U.S. credit expenses, because Nava Bharat did not use the appropriate interest rate. Therefore, we recalculated credit expenses using the average short-term lending rates calculated by the Federal Reserve. We made deductions for home market packing costs.

##### *Universal*

We calculated NV based on the ex-factory prices to unaffiliated customers. We made adjustments under section 773(a)(6)(C)(iii) of the Tariff Act for differences in circumstances of sale for imputed credit expenses, interest revenue and banking charges. However,

we did not rely on Universal's reported home market credit expenses because Universal calculated these expenses using a gross unit price inclusive of taxes. Therefore, we recalculated credit expenses using the gross unit price exclusive of any taxes. Universal paid commissions to unaffiliated sales intermediaries on some home market sales of silicomanganese but did not pay commissions on its U.S. sales. Therefore, in accordance with 19 CFR 351.410(e), we offset the commission incurred in the home market, with indirect selling expenses incurred on U.S. sales to the extent of the lesser of the commission or the indirect selling expenses. We made deductions for home market packing costs. However, we did not add U.S. packing costs to NV as the respondent reported that it incurred no such expenses in selling silicomanganese in the U.S. market.

#### **Currency Conversions**

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Tariff Act, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

#### **Verification**

Pursuant to section 782(i) of the Tariff Act, we intend to verify all information relied upon in making our final determination.

#### **Suspension of Liquidation**

In accordance with section 733(d)(2) of the Tariff Act, we are directing the Customs Service to suspend liquidation of all entries of silicomanganese from India that are entered, or withdrawn from warehouse, for consumption, as follows: For Nava Bharat, Customs should suspend liquidation on or after the date of publication of this notice in the **Federal Register**; for Universal, and "all others," Customs should suspend liquidation on or after the date which is 90 days prior to the date of publication of this notice in the **Federal Register**, due to the *Preliminary Determination of Critical Circumstances*. We will instruct the 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 EP, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

| Exporter/manufacturer                          | Weighted-average margin percentage |
|------------------------------------------------|------------------------------------|
| Nava Bharat Ferro Alloys Ltd. ...              | 22.88                              |
| Universal Ferro and Allied Chemicals Ltd. .... | 13.24                              |
| All Others .....                               | 18.94                              |

#### **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**

Unless otherwise notified by the Department, 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, NW., Washington, DC 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 issued published pursuant to sections 733(f) and 777(i)(1) of the Tariff Act.

Dated: November 2, 2001.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Alcoa Point Comfort/Lavaca Bay NPL Site, Point Comfort, Texas; Notice of Availability

**AGENCY:** National Oceanic and Atmospheric Administration, Commerce.

**ACTION:** Alcoa Point Comfort/Lavaca Bay NPL Site, Point Comfort, Texas: Notice of availability of the final damage assessment and restoration plan/environmental assessment for ecological injuries and service losses.

**SUMMARY:** Under the Comprehensive Environmental Response, Compensation and Liability Act regulations (CERCLA, 43 CFR sections 11.32 and 11.81-11.82), natural resource trustees are providing notice to the public on the availability of a document entitled, "Final Damage Assessment and Restoration Plan and Environmental Assessment for the Point Comfort/Lavaca Bay NPL Site Ecological Injuries and Service Losses" (Final DARP/EA). This document has been approved by the state and federal natural resource trustee agencies to address natural resource injuries and resource services losses of an ecological nature attributable to releases of hazardous substances from the Alcoa Point Comfort/Lavaca Bay NPL Site (Site). This DARP/EA finalizes the trustees' assessment of these natural resource injuries and service losses attributable to the Site, and the plan for restoring ecological resources and services to compensate for those injuries and losses. This Final DARP/EA also contains the trustees' evaluation of ecological losses after 1999 and all terrestrial resource injuries, and their corresponding restoration requirements,

based on an anticipated final remedy. If the announced final remedy is consistent with this evaluation, this document will also constitute the final assessment and restoration plan for these remaining ecological losses.

The development of this Final DARP/EA included release of a Draft of this DARP/EA for public review and comment on July 14, 2000 (65 Fed. Reg. 43739, July 14, 2000; 25 Tex. Reg. 6843, July 14, 2000; *Port Lavaca Wave*, July 22 and 26, 2000; *Victoria Advocate*, July 25 and 27, 2000). The Draft DARP/EA described the trustees' assessment of the ecological injuries and services losses attributable to hazardous substances at the Site (including the evaluation of ecological losses after 1999 and terrestrial resource injuries based on the anticipated final remedy), evaluated a reasonable range of restoration actions with the potential to restore, replace or acquire similar resource services, and identified the restoration actions that were preferred for use to compensate for the resource injuries and losses being assessed. The period for public review and comment on the Draft DARP/EA, that ended on August 14, 2000, included a public meeting in Port Lavaca, Texas, on July 27, 2000. During the public review period, no written public comments on the document were received and all verbal comments at the public meeting were supportive of the actions proposed in the Draft DARP/EA. The Final DARP/EA has not been changed due to public review and input.

**ADDRESSES:** Requests for copies of this Final DARP/EA should be sent to Richard Seiler of the Texas Natural Resources and Conservation Commission (TNRCC), MC142, P.O. Box 13087, Austin, TX 78711-3087 or John Kern of the National Oceanic and Atmospheric Administration (NOAA), 9721 Executive Center Drive North, Suite 134, St. Petersburg, FL 33702. A copy of this Final DARP/EA is also available for downloading at <http://www.darp.noaa.gov/publicat.htm>.

**FOR FURTHER INFORMATION CONTACT:** Richard Seiler at (512) 239-2523, e-mail: [rseiler@tnrcc.state.tx.us](mailto:rseiler@tnrcc.state.tx.us), or John Kern at (727) 570-5391, ext 158, e-mail: [john.kern@noaa.gov](mailto:john.kern@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The Alcoa Point Comfort/Lavaca Bay NPL Site is located in Point Comfort, Calhoun County, Texas and encompasses releases of hazardous substances from Alcoa's Point Comfort Operations facility. Between 1948 and the present, Alcoa has constructed and operated several types of manufacturing processes at this facility, including aluminum smelting, carbon paste and

briquette manufacturing, gas processing, chlor-alkali processing, and alumina refining. Past operations at the facility have resulted in the release of hazardous substances into the environment, including through the discharge of mercury-containing wastewater into Lavaca Bay from 1966 to 1970 and releases of mercury into the bay through a groundwater pathway. In April 1988, the Texas Department of Health (TDH) issued a "closure" order prohibiting the taking of finfish and crabs for consumption from a specified area of Lavaca Bay near the facility due to elevated mercury concentrations found in these species.

The Alcoa Point Comfort/Lavaca Bay Site was added to the National Priorities List (NPL), under section 105 of CERCLA, 42 U.S.C. 9601 *et seq.*, on March 25, 1994 (59 FR 8724; February 23, 1994). The Site was listed primarily due to the presence of mercury in several species of finfish and crabs in Lavaca Bay, the fishing closure imposed by TDH, and the presence of mercury and other hazardous substances in bay sediments adjacent to the facility. Alcoa, the State of Texas and the U.S. Environmental Protection Agency (EPA) signed an Administrative Order on Consent (AOC) under CERCLA in March 1994 for the conduct of a remedial investigation and feasibility study (RI/FS) for the Site.

The National Oceanic and Atmospheric Administration (NOAA, acting on behalf of the Department of Commerce), the United States Department of the Interior (DOI), the Texas Parks and Wildlife Department (TPWD), the Texas General Land Office (TGLO), and the Texas Natural Resources and Conservation Commission (TNRCC) are designated natural resource trustees under section 107(f) of CERCLA, section 311 of the Federal Water Pollution and Control Act (FWPCA), 33 U.S.C. section 1321, and other applicable federal or state laws, including subpart G of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR sections 300.600-300.615. As trustees, these agencies are authorized to act on behalf of the public under these authorities to protect and restore natural resources injured or lost as a result of discharges or releases of hazardous substances.

Paralleling the RI/FS process for the Site, the trustees have undertaken an assessment of the natural resource injuries and service losses attributable to hazardous substances at the Site. The assessment for this Site has been aided and supported by Alcoa's cooperation under a Memorandum of Agreement