

## DEPARTMENT OF COMMERCE

## International Trade Administration

[A-351-820, A-834-804, A-821-804, A-823-804, A-307-807, A-570-819, C-307-808]

**Ferrosilicon From Brazil, Kazakhstan, People's Republic of China, Russia, Ukraine, and Venezuela**

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

**ACTION:** Notice of rescission of antidumping duty orders on ferrosilicon from Brazil, Kazakhstan, People's Republic of China, Russia, Ukraine, and Venezuela, rescission of countervailing duty order on ferrosilicon from Venezuela, and termination of administrative reviews of ferrosilicon from Brazil, the People's Republic of China, and Venezuela.

**SUMMARY:** In 1993 and 1994, the Department of Commerce (the Department) issued antidumping duty orders on ferrosilicon from Brazil, Kazakhstan, People's Republic of China (PRC), Russia, Ukraine, and Venezuela, as well as a countervailing duty order on ferrosilicon from Venezuela. The Department subsequently initiated administrative reviews pursuant to these orders. On August 24, 1999, the International Trade Commission (ITC), after reconsidering its previous injury determinations, informed the Department that it had determined that there is no material injury, or threat of material injury, to an industry with regard to ferrosilicon from the above countries. The Department is therefore rescinding these orders, terminating the related reviews, and instructing the U.S. Customs Service (Customs) accordingly.

**EFFECTIVE DATE:** September 21, 1999.

**FOR FURTHER INFORMATION CONTACT:** Jack K. Dulberger or Wendy Frankel, AD/CVD Enforcement, Group II, Office IV, Import Administration, International Trade Administration U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5505 and (202) 482-5849, respectively.

**SUPPLEMENTARY INFORMATION:**

**The Applicable Statute and Regulations**

The relevant antidumping and countervailing duty orders were issued prior to the amendments made to the Tariff Act of 1930, as amended (the Act) by the Uruguay Round Agreements Act (URAA). Because this notice addresses an ITC reconsideration made in a proceeding that was governed by the law in effect prior to URAA, all citations

to the Act are references to the provisions in existence prior to January 1, 1995 (the effective date of the URAA), unless otherwise indicated.

**Scope of Antidumping Duty and Countervailing Duty Orders**

The merchandise subject to the orders and administrative reviews in question is ferrosilicon, a ferro alloy generally containing, by weight, not less than four percent iron, more than eight percent but not more than 96 percent silicon, not more than 10 percent chromium, not more than 30 percent manganese, not more than three percent phosphorous, less than 2.75 percent magnesium, and not more than 10 percent calcium or any other element. Ferrosilicon is a ferro alloy produced by combining silicon and iron through smelting in a submerged-arc furnace. Ferrosilicon is used primarily as an alloying agent in the production of steel and cast iron. It is also used in the steel industry as a deoxidizer and a reducing agent, and by cast iron producers as an inoculant. Ferrosilicon is differentiated by size and by grade. The sizes express the maximum and minimum dimensions of the lumps of ferrosilicon found in a given shipment. Ferrosilicon grades are defined by the percentages by weight of contained silicon and other minor elements. Ferrosilicon is most commonly sold to the iron and steel industries in standard grades of 75 percent and 50 percent ferrosilicon. Calcium silicon, ferrocalcium silicon, and magnesium ferrosilicon are specifically excluded from the scope of this review. Calcium silicon is an alloy containing, by weight, not more than five percent iron, 60 to 65 percent silicon, and 28 to 32 percent calcium. Ferrocalcium silicon is a ferro alloy containing, by weight, not less than four percent iron, 60 to 65 percent silicon, and more than 10 percent calcium. Magnesium ferrosilicon is a ferro alloy containing, by weight, not less than four percent iron, not more than 55 percent silicon, and not less than 2.75 percent magnesium. Ferrosilicon is currently classifiable under the following subheadings of the Harmonized Tariff Schedule of the United States (HTSUS): 7202.21.1000, 7202.21.5000, 7202.21.7500, 7202.21.9000, 7202.29.0010, and 7202.29.0050. The HTSUS subheadings are provided for convenience and customs purposes. Our written description of the scope of these orders is dispositive. Ferrosilicon in the form of slag is included within the scope of these orders if it meets, in general, the chemical content definition stated above and is capable of being used as ferrosilicon.

**Background**

In 1993 and 1994 the Department issued antidumping duty orders on ferrosilicon from Brazil, Kazakhstan, PRC, Russia, Ukraine, and Venezuela, as well as a countervailing duty order on ferrosilicon from Venezuela. See *Antidumping Duty Order: Ferrosilicon From Brazil*, 59 FR 11769 (March 14, 1994) (*Antidumping Order—Brazil*); *Antidumping Duty Order: Ferrosilicon From the People's Republic of China*, 58 FR 13448 (March 11, 1993) (*Antidumping Order—PRC*); *Antidumping Duty Order: Ferrosilicon From Kazakhstan*, 58 FR 18079 (April 7, 1993) (*Antidumping Order—Kazakhstan*); *Antidumping Duty Order: Ferrosilicon From Russia*, 58 FR 34243 (June 24, 1993) (*Antidumping Order—Russia*); *Antidumping Duty Order: Ferrosilicon From Ukraine*, 58 FR 18079 (April 7, 1993) (*Antidumping Order—Ukraine*); *Antidumping Duty Order: Ferrosilicon from Venezuela*, 58 FR 34243 (June 24, 1993), amended by 60 FR 64018 (December 13, 1995) (*Antidumping Order—Venezuela*); *Countervailing Duty Order: Ferrosilicon From Venezuela*, 58 FR 27539 (May 10, 1993), amended by 58 FR 36394 (July 7, 1993) (*Countervailing Order—Venezuela*).

The Department subsequently initiated administrative reviews under section 751 of the Act pursuant to the orders. See *Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 63 FR 20378 (April 24, 1998) (Brazil—antidumping); *Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 64 FR 23269 (April 30, 1999) (Brazil and China—antidumping); *Initiation of Antidumping and Countervailing Duty Administrative Reviews, Requests for Revocation in Part and Deferral of Administrative Review*, 64 FR 35124 (June 30, 1999) (Venezuela—countervailing); *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 64 FR 41075 (July 29, 1999) (Venezuela—antidumping). These five administrative reviews are on-going.

On May 21, 1999, the ITC instituted proceedings to reconsider its original determinations in antidumping investigations Nos. 731-TA-566-570 and 731-TA-641 (Final) concerning ferrosilicon from Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela, and in countervailing duty investigation No. 303-TA-23 (Final) concerning ferrosilicon from Venezuela.

The ITC made its decision after learning that certain domestic producers had pleaded guilty or had been found guilty of conspiring to fix domestic ferrosilicon prices during the periods of the original investigations. See *Ferrosilicon from Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela*, Inv. Nos. 303-TA-566-570 and 731-TA-641 (*Reconsideration*), USITC Pub. 3218, at 3-4 (August 24, 1999). On August 24, 1999, the ITC informed the Department that it had reconsidered its original material injury determination in these cases. *Id.*

Upon reconsideration, the ITC determined that "an industry in the United States is neither materially injured nor threatened with material injury by reason of imports of ferrosilicon from Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela that have been found by the Department of Commerce to be sold at less than fair value and imports of ferrosilicon that the Department of Commerce has found are subsidized by the government of Venezuela." *Id.* at 4.

Subsequent to the ITC's publication of its *Reconsideration*, the Department received a letter dated August 30, 1999, from representatives of the domestic ferrosilicon industry, petitioners in this case, regarding the Department's possible revocation of the above named antidumping duty and countervailing duty orders. Petitioners argue that, pursuant to 19 U.S.C. section 1675(d), the Department is only authorized to revoke antidumping or countervailing duty orders after conducting some sort of review of the orders, in which parties have an opportunity to comment and in which the Department sets out the legal and factual basis for its determination to revoke.

The Department also received a letter dated September 1, 1999, from Companhia Carburato de Calcio, Companhia Ferroligas Minas Gerais-Minasligas, and Zunyi Ferroalloy Imp. & Exp. Company, Brazilian and Chinese respondents who are interested parties in the on-going administrative reviews of the antidumping duty orders on ferrosilicon from Brazil and China. Respondents assert that because the ITC notified the Department that no material injury or threat of material injury existed, pursuant to its reconsideration of the original injury determinations in these cases, the Department must terminate its activity under the affected antidumping and countervailing duty orders. Respondents state that the Department need not revoke the outstanding orders, because there are no longer any orders to revoke. Instead, respondents assert that "the Department

must terminate these investigations (sic), terminate the suspension of liquidation for all entries for which liquidation is currently suspended, and refund any cash deposits that have been paid."

Further, on September 3, 1999, the Department received a letter from Ferroatlantica de Venezuela ("Ferroven"), a Venezuelan respondent in the antidumping and countervailing duty order proceedings listed above, stating that the Department "has full authority under the statute to rescind [the above listed orders] *ab initio*." Ferroven asserts that pursuant to 19 U.S.C. sections 1671, 1673, an antidumping or countervailing duty order can only stand if the ITC determines that an industry in the United States is materially injured or threatened with material injury. Ferroven states that because the ITC reconsidered, *ab initio*, its original injury determination and found no injury, a mandatory element for an antidumping or countervailing duty order no longer exists. Therefore, Ferroven asserts that because the Department lacks the statutory authority to maintain an antidumping duty order, the Department has no choice but to rescind the outstanding orders, terminate the suspension of liquidation for all entries currently suspended, and refund any cash deposits.

Contrary to petitioners' argument, there is no statutory requirement that the Department conduct a review before acting upon the ITC's negative injury determination. The ITC's action in these cases is unique and there is no statutory provision which explicitly provides for the manner in which the Department should rescind these orders. The ITC's action in these cases is analogous to a negative injury finding in an original investigation under sections 705(b)(1) and 735(b)(1). Once the ITC renders a negative injury finding, the Department has no authority to issue an order and merely performs the ministerial act of terminating the suspension of liquidation pursuant to sections 705(c)(2) and 735(c)(2). The Department's response to the ITC's negative injury redetermination in these cases should be the equivalent of the action the Department would have been required to take had the ITC rendered negative injury determinations in 1993 and 1994.

However, because the ferrosilicon orders were issued in 1993 and 1994, the Department cannot merely terminate the suspension of liquidation as would be the case under sections 705(c)(2) and 735(c)(2) when no order is ever issued. In this instance, therefore, rescission of

the ferrosilicon orders from the dates of issuance is the legal equivalent of the action required to be taken by the Department under sections 705(c)(2) and 735(c)(2).

Conducting some sort of review is inappropriate under the circumstances in these cases. There are no issues of law or fact capable of review by the Department, because the Department's action in rescinding the ferrosilicon orders is merely a ministerial function which is the legal consequence of the ITC's redetermination of no material injury or threat thereof.

#### **Rescission of Antidumping Duty and Countervailing Duty Orders and Termination of Administrative Reviews**

Sections 705(c)(2), 735(c)(2), 706(a), and 736(a) of the Act require that as a prerequisite for the issuance and enforcement of an antidumping or countervailing duty order, the ITC must determine that an industry in the United States is materially injured or threatened by material injury. On August 24, 1999, the ITC notified the Department that it had reconsidered its original injury determinations in the above listed cases and determined that material injury, or threat of material injury, had never existed. As a necessary element for the imposition and enforcement of antidumping and countervailing duty orders does not exist, the Department has no legal authority to maintain and/or enforce any of the above listed orders.

Consequently, we are now rescinding the above listed antidumping orders concerning ferrosilicon from Brazil, Kazakhstan, PRC, Russia, Ukraine, and Venezuela. We also are rescinding the countervailing duty order concerning ferrosilicon from Venezuela. Because the ITC's negative injury determinations resulted from a reconsideration of its original injury determinations, these orders are rendered legally invalid from the date of issuance. Accordingly, our rescission of these orders are effective from the date of their original issuance and apply to all unliquidated entries of subject merchandise from the above countries.

Further, we are terminating the above listed administrative reviews of the antidumping duty orders concerning ferrosilicon from Brazil, Venezuela, and PRC. We also are terminating the above listed administrative review of the countervailing duty order concerning ferrosilicon from Venezuela.

#### **Customs Instructions**

The Department will issue instructions directly to Customs. The Department will direct Customs to lift

the suspension of all entries of the subject merchandise that are currently suspended pursuant to these orders, and to liquidate, without regard to antidumping or countervailing duties, all unliquidated entries of ferrosilicon from Brazil, Kazakhstan, PRC, Russia, Ukraine, and Venezuela.

The Department will further instruct Customs to release any bond or other security and refund any cash deposit collected, with interest, if applicable, with respect to all unliquidated entries of ferrosilicon from Brazil, Kazakhstan, PRC, Russia, Ukraine, and Venezuela.

With respect to unliquidated entries of ferrosilicon that are the subject of court-ordered injunctions, the Department continues to be enjoined from ordering the liquidation of these entries until the court disposes of the litigation or dissolves the injunctions.

This notice is in accordance with sections 705(c)(2) and 735(c)(2) of the Act.

Dated: September 15, 1999.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 090799D]

#### Pacific Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Pacific Fishery Management Council's (Council) Groundfish Management Team (GMT) will hold a working meeting which is open to the public.

**DATES:** The GMT working meeting will begin Monday, October 4, 1999, at noon and may go into the evening until business for the day is completed. The meeting will reconvene from 8 a.m. to 5 p.m., Tuesday, October 5 through Friday, October 8.

**ADDRESSES:** The meeting will be held at the Pacific Fishery Management Council Conference Room, 2130 SW Fifth Avenue, Suite 224, Portland, OR; telephone: (503) 326-6352.

**FOR FURTHER INFORMATION CONTACT:** Jim Glock, Groundfish Fishery Management Coordinator; telephone: (503) 326-6352.

**SUPPLEMENTARY INFORMATION:** The primary purpose of the meeting is to develop final recommendations for groundfish harvest levels and management measures for 2000. The GMT will prepare the annual Stock Assessment and Fishery Evaluation document, other reports, and technical advice for the upcoming Council meeting and in support of Council decisions throughout the year. The GMT will discuss, receive reports, and/or prepare reports on the following topics during this working session: (1) default harvest rate policies; (2) rebuilding plans for lingcod, bocaccio, and Pacific ocean perch, including allocation and bycatch reduction; (3) preparation of preliminary 2000 harvest level and management recommendations, including optimum yield/management line issues and identification of rockfish complexes; (4) fishing community baseline document; (5) inseason management; (6) observer program design and documentation needs; (7) survey of trawl gears; and (8) recreational data issues.

Although other issues not contained in this agenda may come before this Team for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice.

#### Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. John Rhoton at (503) 326-6352 at least 5 days prior to the meeting date.

Dated: September 10, 1999.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in Bangladesh

September 14, 1999.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs adjusting limits.

**EFFECTIVE DATE:** September 21, 1999.

**FOR FURTHER INFORMATION CONTACT:** Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927-5850, or refer to the U.S. Customs website at <http://www.customs.ustreas.gov>. For information on embargoes and quota re-openings, call (202) 482-3715.

#### SUPPLEMENTARY INFORMATION:

**Authority:** Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted, variously, for swing, carryforward and special shift. In addition, the current limit for Category 335 is being corrected to the level of 276,893 dozen.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Also see 63 FR 59942, published on November 6, 1998.

**Troy H. Cribb,**

*Chairman, Committee for the Implementation of Textile Agreements.*

#### Committee for the Implementation of Textile Agreements

September 14, 1999.

Commissioner of Customs,  
*Department of the Treasury, Washington, DC 20229.*

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 3, 1998, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Bangladesh and exported during the twelve-month period which began on January 1, 1999 and extends through December 31, 1999.

Effective on September 21, 1999, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit <sup>1</sup>
335 .....	276,893 dozen.
338/339 .....	1,697,310 dozen.