International Trade Commission Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, no later than August 25, 2002, whether there is a reasonable indication that imports of saccharin from the PRC are materially injuring, or threatening material injury to, a U.S. industry. A negative ITC determination will result in this investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 777(i) of the Act.

Dated: July 31, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–20076 Filed 8–7–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–806]

Silicon Metal From Brazil: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent To Revoke Order in Part.

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

SUMMARY: In response to requests by Elkem Metals Company and Globe Metallurgical (collectively petitioners), and requests by Companhia Brasileira Carbureto de Calcio (CBCC), Rima Industrial S.A. (Rima) and Companhia Ferroligas Minas Gerais - Minasligas (Minasligas) (collectively respondents), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on silicon metal from Brazil. The period of review (POR) is July 1, 2000 through June 30, 2001.

We preliminarily determine that one respondent sold subject merchandise at less than normal value (NV) during the POR. We also intend, preliminarily, to revoke the order, in part, with respect to Rima, because we find that Rima has met all of the requirements for revocation, as set forth in section 351.222(b) of the Department's regulations. If these preliminary results are adopted in our final results of this administrative review, we will instruct the U.S. Customs Service (Customs Service) to assess antidumping duties based on the difference between the export price (EP) or constructed export price (CEP) and NV. We invite interested parties to comment on the preliminary results. Parties who submit comments in this proceeding should also submit with the argument: (1) a statement of the issue(s), and (2) a brief summary of the argument (not to exceed five pages). 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.

EFFECTIVE DATE: August 8, 2002.

FOR FURTHER INFORMATION CONTACT: Maisha Cryor at (202) 482–5831 or Thomas Futtner at (202) 482–3814, AD/CVD Enforcement, Office IV, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

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 (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR Part 351 (2001).

Background

On July 31, 1991, the Department published in the **Federal Register** the antidumping duty order on silicon metal from Brazil. *See Antidumping Duty Order: Silicon Metal from Brazil* 56 FR 36135 (July 31, 1991). On July 2, 2001, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order on silicon metal from Brazil for the period July 1, 2000, through June 30, 2001. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 66 FR 34910 (July 2, 2001). On July 13, 2001, CBCC requested that the Department conduct an administrative review of its sales. On July 13, 2001, Minasligas requested that the Department conduct an administrative review of its sales and partially revoke the order with respect to Minasligas pursuant to 19 CFR 351.222. On July 31, 2001, Rima requested that the Department conduct an administrative review of its sales and partially revoke the order with respect to Rima pursuant to 19 CFR 351.222.

On July 31, 2001, petitioners requested that the Department conduct an administrative review of sales made by CBCC, Minasligas and Rima. On August 20, 2001, in accordance with 19 CFR 351.221(c)(1)(i), the Department published in the **Federal Register** a notice of initiation of this antidumping duty administrative review. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 66 FR 43570 (August 20, 2001). On September 5, 2001, the Department issued questionnaires to CBCC, Minasligas and Rima.[1]

On October 19, 2001, the Department received responses to sections A through D of the questionnaire from Minasligas. On October 22, 2001, the Department received responses to sections A through C of the questionnaire from Rima. On November 5, 2001, the Department received responses to sections A through D of the questionnaire from CBCC. On February 22, 2002, the Department initiated a cost investigation with respect to Rima. On March 5, 2002, the Department informed Rima that it was required to respond to section D of the Department's questionnaire. On March 22, 2002, the Department received a response to section D of the questionnaire from Rima.

The Department issued supplemental questionnaires to Minasligas on March 29, 2002, April 12, 2002, and June 7, 2002, and received responses on April 24, 2002, and June 21, 2002. The Department issued supplemental questionnaires to CBCC on March 29, 2002, and May 24, 2002, and received responses on April 19, 2002 and June 12, 2002. The Department issued supplemental questionnaires to Rima on April 12, 2002, May 15, 2002 and May 17, 2002 and received responses on May 3, 2002, and May 31, 2002.

On March 15, 2002, in accordance with section 751(a)(3)(A) of the Act, the

[1] Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in non-market economy (NME) cases). Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production (COP) of the foreign like product and the constructed value (CV) of the merchandise under investigation. Section E requests information on further manufacturing.

Department published in the **Federal Register** its notice extending the deadline for the preliminary results until July 31, 2002. *See Silicon Metal from Brazil: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 67 FR 11674 (March 15, 2002). The Department is conducting this review in accordance with section 751 of the Act.

Scope of Review

The merchandise covered by this administrative review is silicon metal from Brazil containing at least 96.00 percent but less than 99.99 percent silicon by weight. Also covered by this administrative review is silicon metal from Brazil containing between 89.00 and 96.00 percent silicon by weight but which contains more aluminum than the silicon metal containing at least 96.00 percent but less than 99.99 percent silicon by weight. Silicon metal is currently provided for under subheadings 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule (HTS) as a chemical product, but is commonly referred to as a metal. Semiconductor grade silicon (silicon metal containing by weight not less than 99.99 percent silicon and provided for in subheading 2804.61.00 of the HTS) is not subject to the order. Although the HTS item numbers are provided for convenience and for Customs purposes, the written description remains dispositive.

Fair Value Comparisons

During the POR, Brazilian respondents made both EP and CEP sales to the United States. To determine whether EP sales of silicon metal by the Brazilian respondents to the United States were made at less than NV, we compared EP to the NV, as described in the *Export Price* and *Normal Value* sections of this notice. To determine whether CEP sales of silicon metal by the Brazilian respondents to the United States were made at less than NV, we compared CEP to the NV, as described in the *Constructed Export Price* and *Normal Value* sections of this notice. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted-average prices for NV and compared these to individual EP or CEP transactions, as appropriate.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondents, covered by the description in the ''*Scope of Review*'' section, above, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Further, as in the preceding segment of this proceeding, we have continued to treat all silicon metal meeting the description of the merchandise under the ''*Scope of Review*'' section, above (with the exception of slag and contaminated products) as identical products for purposes of model-matching. *See Silicon Metal From Brazil: Preliminary Results, Intent To Revoke in Part, Partial Rescission of Antidumping Duty Administrative Review, and Extension of Time Limits*, 64 FR 43161 (August 9, 1999). Therefore, where there were no contemporaneous sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to the CV of the product sold in the U.S. market during the comparison period, consistent with section 351.405 of the Department's regulations.

Verification

As provided in section 782(i) of the Act, we conducted verifications of the information provided by Rima and CBCC. We used standard verification procedures including examination of relevant sales and financial records, and selection of relevant source documentation as exhibits. Our verification findings are detailed and on file in the Central Records Unit, Room B099 of the Main Commerce building (CRU--Public File).

Revocation

The Department ''may revoke, in whole or in part'' an antidumping duty order upon completion of a review under section 751 of the Act. While Congress has not specified the procedures that the Department must follow in revoking an order, the Department has developed a procedure for revocation that is described in 19 CFR 351.222 (2001). This regulation requires, *inter alia*, that a company requesting revocation must submit the following: (1) a certification that the company has sold the subject merchandise at not less than NV in the current review period and that the company will not sell at less than NV in the future; (2) a certification that the company sold the subject merchandise in commercial quantities in each of the three years forming the basis of the revocation request; and (3) an agreement to reinstatement in the order or suspended investigation, as long as any exporter or producer is subject to the order (or suspended investigation), if the Secretary concludes that the exporter or producer, subsequent to the revocation, sold the subject merchandise at less than NV. *See* 19 CFR 351.222(e)(1). Upon receipt of such a request, the Department will consider the following in determining whether to revoke the order in part: (1) whether the producer or exporter requesting revocation has sold subject merchandise at not less than NV for a period of at least three consecutive years; (2) whether the continued application of the antidumping duty order is otherwise necessary to offset dumping; and (3) whether the producer or exporter requesting revocation in part has agreed in writing to the immediate reinstatement of the order, as long as any exporter or producer is subject to the order, if the Department concludes that the exporter or producer, subsequent to revocation, sold the subject merchandise at less than NV. *See* 19 CFR 351.222(b)(2); *see also Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review and Intent to Revoke Antidumping Duty Order in Part: Certain Pasta From Italy*, 66 FR 34414, 34420 (June 28, 2001).

I. *Rima*

On July 31, 2001, Rima submitted a request, in accordance with 19 CFR 351.222, that the Department partially revoke the order covering silicon metal from Brazil with respect to its sales of subject merchandise. In accordance with 19 CFR 351.222(e)(1), the request was accompanied by certifications from Rima that, for a consecutive three-year period, including this review period, it sold the subject merchandise in commercial quantities at not less than NV, and would continue to do so in the future. Rima also agreed to its immediate reinstatement in this antidumping order, as long as any firm is subject to the order, if the Department concludes that, subsequent to revocation, Rima sold the subject merchandise at less than NV. We received no comments from petitioners on Rima's request for revocation.

Based on the preliminary results in this review and the final results of the two preceding reviews, Rima has preliminarily demonstrated three consecutive years of sales at not less than NV. Further, in determining whether three years of no dumping establish a sufficient basis to make a revocation determination, the Department must be able to determine that the company continued to participate meaningfully in the U.S. market during each of the three years at issue. *See Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada; Final Results of Antidumping*

Duty Administrative Reviews and Determination To Revoke in Part, 64 FR 2173, 2175 (January 13, 1999); *see also Pure Magnesium From Canada; Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke Order in Part*, 64 FR 12977, 12979 (March 16, 1999); and *Notice of Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke the Antidumping Order: Brass Sheet and Strip from the Netherlands*, 65 FR 742 (January 6, 2000). This practice has been codified in Sec. 351.222(d)(1) of the Department's regulations, which states that, ''before revoking an order or terminating a suspended investigation, the Secretary must be satisfied that, during each of the three (or five) years, there were exports to the United States in commercial quantities of the subject merchandise to which a revocation or termination will apply.'' 19 CFR 351.222(d)(1) (emphasis added); *see also* 19 CFR 351.222(e)(1)(ii). For purposes of revocation, the Department must be able to determine that past margins are reflective of a company's normal commercial activity. Sales during the POR which, in the aggregate, are of an abnormally small quantity do not provide a reasonable basis for determining that the discipline of the order is no longer necessary to offset dumping.

With respect to the threshold matter of whether Rima made sales of subject merchandise to the United States in commercial quantities, we find that Rima's aggregate sales to the United States were made in commercial quantities during the past three consecutive years. The quantity of Rima's shipments of subject merchandise to the United States has remained at a sufficiently high level to be considered as having been made in commercial quantities. Therefore, we can reasonably conclude that the zero and *de minimis* margins calculated for Rima in each of the last three administrative reviews are reflective of the company's normal commercial experience. *See* Memorandum from Maisha Cryor to File, ''Shipments of Silicon Metal to the United States by Rima,'' dated July 31, 2002.

Rima also agreed in writing that it will not sell subject merchandise at less than NV in the future and to the immediate reinstatement of the antidumping order, as long as any exporter or producer is subject to the order, if the Department concludes that, subsequent to the partial revocation, Rima has sold the subject merchandise at less than NV. Thus, in light of the above and pursuant to 19 CFR 351.222, we preliminarily find, for Rima, that the subject merchandise was sold at not less than NV for a period of at least three consecutive years and that dumping is not likely to resume in the future. Consequently, the continuing imposition of an antidumping duty is not necessary to offset dumping.

Therefore, if these preliminary results are affirmed in our final results, we intend to revoke the order in part with respect to merchandise produced and exported by Rima. In accordance with 19 CFR 351.222(f)(3), we will terminate the suspension of liquidation for any such merchandise entered, or withdrawn from warehouse, for consumption on or after the first day after the period under review, and will instruct the Customs Service to refund any cash deposits.

II. *Minasligas*

On July 13, 2001, Minasligas submitted a request, in accordance with 19 CFR 351.222, that the Department partially revoke the order covering silicon metal from Brazil with respect to its sales of subject merchandise. In accordance with 19 CFR 351.222(e)(1), the request was accompanied by certifications from Minasligas that for a consecutive three-year period, including this review period, it sold the subject merchandise in commercial quantities at not less than NV, and would continue to do so in the future. Minasligas also agreed to its immediate reinstatement in this antidumping order, as long as any firm is subject to the order, if the Department concludes that, subsequent to revocation, Minasligas sold the subject merchandise at less than NV.

After a review of the record, the Department preliminarily determines that because Minasligas did not have a zero or *de minimis* dumping margin during the 1999–2000 POR, the preceding review period, it has failed to make sales of subject merchandise ''at not less than NV for a period of at least three consecutive years,'' as required by the Department's regulations. During the 1999–2000 review period, Minasligas' weighted-average dumping margin was determined to be 1.23 percent, *i.e.*, not a *de minimis* rate. *See Silicon Metal from Brazil; Final Results of Antidumping Duty Administrative Review*, 67 FR 6488 (February 12, 2002) (*1999–2000 Silicon Metal*). Therefore, we do not intend to revoke the antidumping duty order with respect to Minasligas. Additionally, because one of the requirements to qualify for revocation has not been met, the Department has not addressed the issues of commercial quantities and whether the continued application of the antidumping duty order is otherwise necessary to offset dumping with respect to Minasligas.

Sales Reviewed

We have continued to employ the approach, adopted in the final results of the second review of this order, covering the 1992–1993 POR, in determining which U.S. sales to review for all companies. If a respondent sold subject merchandise, and the importer of that merchandise had at least one entry during the POR, we reviewed all sales to that importer during the POR. *See Silicon Metal from Brazil, Final Results of Antidumping Duty Administrative Review*, 61 FR 46763 (September 5, 1996).

Level of Trade

In accordance with section 773(a)(1)(B) of the 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, as appropriate. 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 sales, the U.S. LOT is also the level of the starting-price sale, which is usually from the exporter to the importer. For CEP sales, the U.S. LOT 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 or affiliated 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 the comparison market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. 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 difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

In determining whether separate LOTs actually existed in the home and U.S. markets for each respondent, we

examined whether the respondent's sales involved different marketing stages (or their equivalent) based on the channel of distribution, customer categories, and selling functions (or services offered) to each customer or customer category, in both markets.

I. *CBCC*

CBCC reported home market sales through one channel of distribution to three unaffiliated customer categories (*i.e.*, direct sales to traders, original equipment manufacturers and silicon metal producers). CBCC reported both EP and CEP sales in the U.S. market. For EP sales, CBCC reported one customer category and one channel of distribution (i.e., direct sales to unaffiliated trading companies). For CEP sales, CBCC reported one customer category and one channel of distribution (i.e., direct sales to original equipment manufacturers). In its response, CBCC stated that it performs the same type of services for home market customers as it does for its foreign market customers. For this reason, CBCC has not requested a LOT adjustment to NV for comparison to its EP and CEP sales.

Because of the similarity of the selling functions involved in the EP and CEP sales, we found there is only one LOT in the U.S. market. Moreover, in analyzing CBCC's selling activities in both the home and U.S. markets, we determined that essentially the same services were provided for both markets. The selling functions in both markets were minimal in nature and limited to arranging for freight and delivery. Therefore, based upon this information, we have preliminarily determined that for CBCC, the LOT for all U.S. sales is the same as that in the home market. Consequently, because we find the U.S. and home market sales to be at the same LOT, no LOT adjustment under section 773(a)(7) of the Act is warranted for CBCC.

II. *Rima*

Rima reported home market sales through one channel of distribution to one unaffiliated customer category (*i.e.*, direct sales to original equipment manufacturers). In the U.S. market, Rima reported EP sales through one channel of distribution to one unaffiliated customer category (i.e., direct sales to original equipment manufacturers). In its response, Rima stated that it performs the same type of services for home market customers as it does for its foreign market customers. For this reason, Rima has not requested a LOT adjustment.

In analyzing Rima's selling activities for the home and U.S. markets, we determined that essentially the same services were provided for both markets. The selling functions in both markets were minimal in nature and limited to arranging for freight and delivery. Therefore, based upon this information, we have preliminarily determined that for Rima, the LOT for all EP sales is the same as that in the home market. Accordingly, because we find the U.S. sales and home market sales to be at the same LOT, no LOT adjustment under section 773(a)(7)(A) of the Act is warranted for Rima.

III. *Minasligas*

Minasligas reported home market sales through one channel of distribution to two unaffiliated customer categories (*i.e.*, direct sales to domestic retailers and original equipment manufacturers). In the U.S. market, Minasligas reported EP sales through one channel of distribution to one unaffiliated customer category (*i.e.*, direct sales to trading companies). In its response, Minasligas stated that it performs the same type of services for home market customers as it does for its foreign market customers. For this reason, Minasligas has not requested a LOT adjustment.

In analyzing Minasligas' selling activities for the home and U.S. markets, we determined that essentially the same services were provided for both markets. The selling functions in both markets were minimal in nature and limited to arranging for freight and delivery. Therefore, based upon this information, we have preliminarily determined that for Minasligas, the LOT for all EP sales is the same as that in the home market. Accordingly, because we find the U.S. sales and home market sales to be at the same LOT, no LOT adjustment under section 773(a)(7)(A) of the Act is warranted for Minasligas.

Export Price

For Rima, Minasligas and CBCC (where appropriate) we used the Department's EP methodology, in accordance with section 772(a) of the Act, because the respondents sold the subject merchandise to unaffiliated purchasers in the United States prior to importation and because the Department's CEP methodology was not otherwise warranted. CBCC reported sales to unaffiliated trading companies as EP sales in its November 25, 2001, response. However, in a subsequent May 2, 2002, submission, CBCC stated that all of its sales to unaffiliated trading companies were ultimately purchased by Dow Corning Corporation, an affiliate of CBCC. Nevertheless, we have determined that the record evidence in this POR does not establish that at the time of the sales by CBCC to the unaffiliated trading companies, CBCC had or should have had knowledge that this merchandise would ultimately be purchased by Dow. Therefore, for the purposes of these preliminary results, we have continued to treat CBCC's sales to unaffiliated trading companies as EP sales.

We made deductions from the starting price for movement expenses in accordance with section 772(c) of the Act. Movement expenses included, where appropriate, foreign inland freight, brokerage and handling, international freight, insurance, U.S. duties and U.S. warehousing. For Minasligas, in accordance with section 772(c)(1)(B) of the Act, we increased EP by duty drawback. We made company-specific adjustments to reported expenses as follows:

I. *Minasligas*

We recalculated Minasligas' imputed U.S. credit expense using the date of payment by the U.S. customer to the bank as the date of payment. This adjustment is consistent with our past practice concerning the calculation of imputed U.S. credit expense in this proceeding. *See 1999–2000 Silicon Metal*, 67 FR 6488 (February 12, 2002) and accompanying Decision Memorandum at Comment 2. We revised Minasligas' reported duty drawback adjustment. *See* Minasligas' Preliminary Results Calculation Memorandum, dated July 31, 2002.

II. *Rima*

We recalculated Rima's U.S. credit expense using the date of shipment from the factory to the port as the date of shipment. *See* Rima's Preliminary Results Calculation Memorandum, dated July 31, 2002.

Constructed Export Price

In its November 5, 2001, response, CBCC reported sales to its U.S. affiliate, Dow as constructed export price (CEP) sales. CBCC also reported that Dow further manufactured the purchased silicon metal into a multitude of other products, mostly chemicals, and sold these products in the United States. Therefore, CBCC requested that the Department apply section 772(e) of the Act to the further manufactured sales.

Where appropriate, in accordance with section 772(d)(2) of the Act, the Department deducts from CEP the cost of any further manufacture or assembly in the United States, except where the special rule, provided in section 772(e) of the Act, is applied. Section 772(e) of the Act provides that, where the subject

merchandise is imported by an affiliated person and the value added in the United States by the affiliated person is likely to exceed substantially the value of the subject merchandise, the Department has the discretion to determine the CEP using alternative methods.

The alternative methods for establishing constructed export price are: (1) the price of identical subject merchandise sold by the exporter or producer to an unaffiliated person; or (2) the price of other subject merchandise sold by the exporter or producer to an unaffiliated person. The Statement of Administrative Action (SAA) notes the following with respect to these alternatives:

There is no hierarchy between these alternative methods of establishing the export price. If there is not a sufficient quantity of sales under either of these alternatives to provide a reasonable basis for comparison, or if the Department determines that neither of these alternatives is appropriate, it may use any other reasonable method to determine CEP, provided that it supplies the interested parties with a description of the method chosen and an explanation of the basis for its selection. Such a method may be based upon the price paid to the exporter or producer by the affiliated person for the subject merchandise, if the Department determines that such price is appropriate.

To determine whether the value added is likely to exceed substantially the value of the subject merchandise, we estimated the value added based on the difference between the averages of the prices charged to the first unaffiliated purchaser for one form of the merchandise sold in the United States and the averages of the prices paid for the subject merchandise by the affiliated person. *See* 19 C.F.R. 351.402(2). Based on this analysis, and the information on the record, we determined that the estimated value added in the United States by Dow accounted for at least 65 percent of the price charged to the first unaffiliated customer for the merchandise as sold in the United States. Therefore, we determined that the value added is likely to exceed substantially the value of the subject merchandise. As a consequence, the Department has relied upon an alternative methodology to calculate CBCC's margin for these sales. However, we found that there is not a sufficient quantity of sales to unaffiliated parties to use such sales as an alternative method of establishing export price. Therefore, as the alternative methodology, the Department used the price paid to CBCC by Dow. *See Memorandum on Whether to Determine the Constructed Export Price for Certain Further-Manufactured Sales Sold by Companhia Brasileira Carbureto de Calcio in the United States During the Period of Review Under Section 772(e) of the Act (Special Rule Memo*), dated July 31, 2002.

Normal Value

1. 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 is greater than five percent of the aggregate volume of U.S. sales), we compared each respondent's volume of home market sales of the foreign like product to the volume of its U.S. sales of subject merchandise, in accordance with section 773(a)(1) of the Act. Since each respondent'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 for the subject merchandise, we determined that the home market provides a viable basis for calculating NV for each respondent. Therefore, pursuant to section 773(a)(1)(B) of the Act, we based NV on home market sales.

2. Cost of Production Analysis

In the review segment of this proceeding that was most recently completed prior to initiating this review, we disregarded home market sales found to be below the cost of production (COP) for CBCC. *See Silicon Metal from Brazil; Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent Not to Revoke Order in Part*, 65 FR 47960, 47966 (August 4, 2000) aff'd *Silicon Metal from Brazil; Final Results of Antidumping Duty Administrative Review and Determination Not To Revoke in Part*, 66 FR 11256 (February 23, 2001) (*1998–1999 Silicon Metal*). Therefore, in accordance with section 773(b)(2)(A)(ii) of the Act, the Department has reasonable grounds to believe or suspect that sales of the foreign like product under consideration for the determination of NV in this review may have been made by CBCC at prices below the COP.

On November 13, 2001, petitioners in this proceeding filed a timely sales-below-cost allegation with respect to Rima. In the case of Rima, petitioners' allegation was based on Rima's antidumping duty questionnaire responses. Upon review of the allegation, we found that petitioners' methodology provided the Department with a reasonable basis to believe or suspect that sales in the home market had been made at prices below the COP by Rima. Accordingly, pursuant to section 773(b)(1) of the Act, we initiated an investigation to determine whether Rima's sales of silicon metal were made at prices below the COP during the POR. *See* Memorandum Regarding the Analysis of Petitioners' Allegation of Sales Below the COP for Rima, dated February 22, 2002.

We did not initiate a cost investigation with respect to Minasligas because its home market sales were not disregarded during the most recently completed segment of this proceeding prior to the initiation of this review (which was the 1998–1999 POR at the time this instant review was initiated) and petitioners did not file a sales-below-cost allegation. *See 1998–1999 Silicon Metal*.

A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated company- and product-specific COPs based on the sum of the respondent's cost of materials and fabrication for the foreign like product, plus amounts for home market SG&A expenses, including interest expenses, and packing costs.

We relied on the COP information submitted by each respondent in its questionnaire responses, except for the following adjustments. For Rima and CBCC, we compared home market prices and COP exclusive of value added taxes (VAT); we did not allow Rima and CBCC to reduce its COP for the amount paid with VAT credits. *See Final Results of Antidumping Duty Administrative Review: Silicon Metal from Brazil*, 65 FR 7497, 7499 (February 15, 2000); *see also Silicon Metal from Brazil: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Order in Part*, 65 FR 47960, 47966 (August 4, 2000). In addition, for Rima, we corrected the calculation of its COP. In its section D questionnaire response, Rima mistakenly doubled the value of its total cost of manufacturing (TOTCOM) prior to including TOTCOM in the calculation of its COP. *See* Rima's Preliminary Results Calculation Memorandum, dated July 31, 2002.

B. Test of Home Market Sales Prices for CBCC and Rima

For CBCC and Rima, we compared the per-unit adjusted weighted-average COP figures for the POR to home market sale prices of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these

sales were made at prices below the COP. On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges, rebates, and discounts. In determining whether to disregard home market sales made at prices below the COP, we examined whether: (1) within an extended period of time, such sales were made in substantial quantities; and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time.

C. Results of COP Test for CBCC and Rima

Pursuant to section 773(b)(2)(C), where less than 20 percent of a respondent's sales of a given product were at prices below 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 the respondent's sales of a given product during the POR were made at prices below 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) of the Act. In such cases, because we compared prices to POR-average costs, we also determined that such sales were not made at prices which would permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

We found that no respondent made comparison-market sales at prices below the COP within an extended period of time in substantial quantities. Therefore, we did not exclude any sales from our analysis in accordance with section 773(b)(1) of the Act.

Price-to-Price Comparisons

For those comparison products for which there were sales at prices above the COP, we based the respondents' NV on the prices at which the foreign like product was first sold to unaffiliated parties for consumption in Brazil, in the usual commercial quantities, in the ordinary course of trade in accordance with section 773(a)(1)(B)(i) of the Act. We based NV on sales at

the same LOT as the U.S. transactions. For LOT analysis, please see the *Level of Trade* section above. In accordance with section 773(a)(6) of the Act, we made adjustments to home market price, where appropriate for inland freight, brokerage and handling charges, and rebates. Where home market prices were reported exclusive of VAT we made no adjustment for this item. However, where home market prices were reported inclusive of VAT, we deducted the VAT from the gross home market price, consistent with past practice. *See Silicon Metal from Brazil: Preliminary Results of Antidumping Administrative Review and Notice of Intent Not to Revoke Order in Part*, 66 FR 40980, 40986 (August 6, 2001; aff'd *1999–2000 Silicon Metal from Brazil*.

Pursuant to section 773(a)(6)(B)(iii) of the Act, we deducted taxes imposed directly on sales of the foreign like product (VAT, PIS, and COFINS taxes), but not collected on the subject merchandise. We note that, in past cases involving Brazil, we have determined that since PIS and COFINS taxes are levied on total revenues, except for export revenues, the taxes are direct taxes (akin to taxes on profits or wages) and, as such, should not be deducted from NV. *See Certain Cut-To-Length Carbon Steel Plate From Brazil: Final Results of Antidumping Duty Administrative Review*, 63 FR 12744, 12746 (March 16, 1998) (*Plate from Brazil*). In *Plate from Brazil*, the Department determined that since these taxes are not indirect taxes, there is no basis on which to deduct them in the calculation of NV, according to section 773(a)(6)(B)(iii) of the Act. Id. However, in a recent countervailing duty preliminary determination regarding *Certain Cold-Rolled Carbon Steel Flat Products from Brazil*, the Department preliminarily concluded that the PIS and COFINS taxes are indirect. *See Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment with Final Antidumping Duty Determinations: Certain Cold-Rolled Carbon Steel Flat Products from Brazil*, 67 FR 9652, 9659 (March 4, 2002).

In reaching this decision, we note that in the *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Carbon and Certain Alloy Steel Wire Rod From Brazil (Steel Wire Rod from Brazil*), the Department examined the legislation underlying the PIS and COFINS in order to determine how Brazil assesses these taxes. 67 FR 18586, 18590 (April 16, 2002). In *Steel Wire Rod from Brazil* the Department found the following:

Article 2 of the COFINS legislation states that ''corporate bodies'' will contribute two percent, ''charged against monthly billings, that is, gross revenue derived from the sale of goods and services of any nature.'' Likewise, Article ''Second'' of the PIS tax law (also found in the PIS and COFINS legislation) provides similar language stating that this tax contribution will be calculated ''on the basis of the invoicing.'' The PIS legislation further defines invoicing under Article ''Third'' to be the gross revenue ''originating from the sale of goods.'' *Id*.

Section 351.102(b) of the Department's regulations defines an indirect tax as a ''sales, excise, turnover, value added, franchise, stamp, transfer, inventory, or equipment tax, border tax, or any other tax other than a direct tax or an import charge.'' As noted above in the discussion of the PIS and COFINS legislation, these taxes are derived from the ''monthly invoicing'' or ''invoicing'' originating from the sale of goods and services. Therefore, we preliminarily find that the manner in which these taxes are assessed is characteristic of an indirect tax, which is directly imposed on sales of the foreign like product and should be subtracted from NV.

To account for differences in circumstances of sale between the home market and the United States, where appropriate, we adjusted home market prices by deducting home market direct selling expenses (including credit) and adding an amount for late payment fees earned on home market sales, where appropriate. Specifically, for Minasligas, we recalculated Minasligas' home market imputed credit expense using a surrogate interest rate and the period of time between the date of shipment and the date of payment. Regarding Minasligas' reported interest rate, Minasligas did not demonstrate that it incurred short-term borrowings during the POR at the rate it reported in its questionnaire response. Therefore, as in the most recently completed segment of this proceeding, we have denied Minasligas reported credit expense and have used the Special Clearance and Custody System (SELIC), as the surrogate interest rate to calculate the expense. *See 1999–2000 Silicon Metal from Brazil*, 67 FR 6488 (February 12, 2002) and accompanying Decision Memorandum at Comment 1. *See also* Minasligas' Preliminary Results Calculation Memorandum, dated July 31, 2002.

Specifically, for CBCC, we recalculated CBCC's home market imputed credit expense using a surrogate interest rate. We reviewed documentation at verification pertaining to CBCC's short-term borrowing activity during the POR and found the activity to be outside the ''normal course of trade.'' In particular, at the verification of CBCC, conducted June 13, 2002, through June 14, 2002, CBCC characterized its own short-term borrowing activity during this POR as rare. *See* CBCC's Verification Report, dated July 15, 2002. We therefore determine that CBCC's short-term borrowing during this POR, was not in

the ''normal course of trade.'' Consequently, as in the most recently completed segment of this proceeding, we have denied CBCC's reported credit expense and have used the SELIC rate to calculate the expense. *See Silicon Metal 1999–2000*, 67 FR 6488 (February 12, 2002) and accompanying Decision Memorandum at Comment 18.

In order to adjust for differences in packing between the two markets, we deducted HM packing costs and added U.S. packing costs, where appropriate, in accordance with sections 773(a)(6)(A) and (B) of the Act.

Currency Conversions

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

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following weighted-average dumping margins exist for the period July 1, 2000 through June 30, 2001, and we preliminarily determine not to revoke the order covering silicon metal from Brazil with respect to sales of subject merchandise by Minasligas. However, we do preliminarily determine to revoke the order covering silicon metal from Brazil with respect to sales of subject merchandise by Rima.

Manufacturer/exporter	Weighted-average Margin Percentage
CBCC	0.00
Minasligas	4.30
Rima	0.00

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within 5 days of the date of publication of this notice. Any interested party may request a hearing within 30 days of the date of publication of this notice. Parties who submit arguments in this proceeding are requested to submit with each argument: (1) a statement of the issue and (2) a brief summary of the argument. 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. All case briefs must be submitted within 30 days of the date of publication of this notice. Rebuttal briefs, which are limited to issues raised in the case briefs, may be filed not later than seven days after the case briefs are filed. A hearing, if requested, will be held two days after the date the rebuttal briefs are filed or the first business day thereafter.

The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of the issues raised in any written comments or at the hearing, within 120 days from the publication of these preliminary results.

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. Upon completion of this review, the Department will issue appraisement instructions directly to Customs. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the determination and for future deposits of estimated duties. For duty assessment purposes, we calculated a per-unit customer or importer-specific assessment rate by aggregating the dumping margins calculated for all U.S. sales to each customer/importer and dividing this amount by the total quantity of those sales. Where the assessment rate is above *de minimis*, we will instruct the U.S. Customs Service to assess duties on all entries of subject merchandise by that importer.

Furthermore, the following deposit requirements will be effective for all shipments of silicon metal from Brazil entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed companies will be those established in the final results of this review except if the rate is less than 0.5 percent, and therefore, *de minimis*, the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) for all other manufacturers and/or exporters of this merchandise, the cash deposit rate will continue to be 91.06 percent, the ''all others'' rate established in the LTFV investigation. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

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

This administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221.

Dated: July 31, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–20077 Filed 8–7–02; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

Associated Universities, Inc.; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW, Washington, DC.

Docket Number: 02–016. *Applicant:* Associated Universities, Inc., National Radio Astronomy Observatory, Charlottesville, VA 22903. *Instrument:* Atacama Large Millimeter Array (ALMA) Radio Telescope. *Manufacturer:* Vertex Antennentechnik GmbH, Germany. *Intended Use: See* notice at 67 FR 35961, May 22, 2002.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides: (1) Extremely high surface precision (25.0 μm) and pointing accuracy (0.6 arcseconds), (2) a structure immune to changes in temperature, (3) high speed motion and (4) operation from 30–950 GHz. The Harvard-Smithsonian Center for Astrophysics advised July 30, 2002 that (1) these capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or