

### Compliance With Section IV(A) of the Suspension Agreement

Section IV(A) of the Suspension Agreement contains the reference price requirements for merchandise subject to the Suspension Agreement. We compared the price charged by the mill to the first unaffiliated customer in the United States to the reference price for the applicable period for that sale (based upon the order confirmation date). The Suspension Agreement states that the reference price includes all transportation charges to the U.S. port of entry, together with port fees, duties, offloading, wharfage and other charges incurred in bringing the steel to the first customs port of discharge in the U.S. market. In addition, the Suspension Agreement stipulates that if the sale for export is on terms that do not include these expenses, the Signatories will ensure that the actual terms are equivalent to a price that is not lower than the reference price. Therefore, we have added to the price to the first unaffiliated U.S. customer any of these charges that were not included in the price terms to that first unaffiliated U.S. customer, and we compared this total to the applicable reference price.

In our analysis, we examined the quantity of sales below the reference price established by the Suspension Agreement and the amount by which these prices were below the reference price. As a result, we found that for at least one company, neither the number of sales made below the reference price established by the Suspension Agreement nor the amount by which they were below the reference price was insignificant. On this basis, we cannot conclude that these sales with prices inconsistent with the reference price established by the Suspension Agreement are inconsequential or inadvertent. See Decision Memorandum and USIMINAS/COSIPA and CSN's Preliminary Analysis Memoranda, dated February 4, 2002.

### Termination of Agreement

Therefore, we determine that CSN and USIMINAS/COSIPA have made sales in violation of the terms of the Suspension Agreement as set out in section IV(E) and section IV(A). Pursuant to section XI(B) of the Agreement, the Department hereby terminates with this notice the Agreement Suspending the Antidumping Investigation on Hot-Rolled Flat-Rolled Carbon-Quality Steel from Brazil. In accordance with section XIII(B) of the Agreement and section 734(1)(A)(i) of the Act, the Department will instruct U.S. Customs to suspend liquidation of unliquidated entries of

the merchandise on the date of publication of this determination for all entries entered 90 days before the date of this publication. Given that the Department completed the original investigation (see *Notice of Final Determination of Sales at Less Than Fair Value; Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products from Brazil*, 64 FR 38756 (July 19, 1999)), the Department will publish in the **Federal Register** an antidumping duty order under section 736(a) of the Act with respect to the suspension of unliquidated entries entered 90 days before the date of this publication.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 4, 2002.

**Faryar Shirzad**,  
Assistant Secretary, for Import Administration.

### Appendix I—Issues in Decision Memorandum

1. Sales Involving Trading Companies / Agency Sale Approach
2. Adjustment to U.S. Price for Comparison to Reference Price—Commissions
3. Adjustment to U.S. Price for Comparison to Reference Price—Ocean Freight
4. Adjustment to U.S. Price for Comparison to Reference Price—U.S. Inland Freight
5. Adjustment to U.S. Price for Comparison to Reference Price—Credit Insurance
6. Violation of Suspension Agreement—Alleged Inadvertent Nature
7. Margin Calculation—Entry Basis versus Sales Item Basis
8. U.S. Commission Offset—Margin Calculation
9. U.S. Warranty—Direct versus Indirect Expense
10. U.S. Credit Expense—Credit Days
11. U.S. Credit Expense—Interest Rate
12. Freight Costs—Estimated versus Actual
13. PIS /COFINS Taxes

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-351-806]

### Silicon Metal From Brazil; Amended Final Results of Antidumping Duty Administrative Review in Accordance With Court Decision

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

**ACTION:** Notice of amended final results of antidumping duty administrative review in accordance with court decision.

**SUMMARY:** On August 6, 2001 the U.S. Court of Appeals for the Federal Circuit (CAFC) affirmed the final results of the 1995-96 administrative review by the Department of Commerce (the Department) arising from the antidumping duty order on silicon metal from Brazil. See *American Silicon Technologies v. United States* 261 F.3d 1371 (Fed. Cir. 2001). After recalculation of the dumping margin for RIMA, we are amending the final results of the review in this matter and will instruct the U.S. Customs Service to liquidate entries subject to these amended final results.

**EFFECTIVE DATE:** February 11, 2002.

**FOR FURTHER INFORMATION CONTACT:** Robert Bolling or Jim Doyle, Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone (202) 482-3434 and (202) 482-0159, respectively.

### SUPPLEMENTARY INFORMATION:

#### Background

On July 31, 1991 the Department issued an antidumping duty order on silicon metal from Brazil. See *Antidumping Duty Order: Silicon Metal from Brazil*, 56 FR 36135 (July 31, 1991) (*Antidumping Duty Order*). On February 11, 1998 the Department published its final results of the fifth administrative review of silicon metal for four Brazilian manufacturers/exporters, Companhia Brasileira Carubreto de Calcio ("CBCC"), Companhia Ferroligas Minas Gerais-Minasligas ("Minasligas"), Eletrosilex Belo Horizonte ("Eletrosilex"), and Rima Industrial S/A ("RIMA"). See *Silicon Metal from Brazil; Final Results of Antidumping Administrative Review*, 63 FR 6899 (February 11, 1998) (*Final Results*).

On August 19, 1999 the U.S. Court of International Trade (CIT) issued an order remanding to the Department the *Final Results*. See *American Silicon Technologies v. United States*, 63 F. Supp. 2d 1324 (CIT 1999). In its August 19, 1999 order, the CIT instructed the Department to: reconsider whether RIMA interest income consists of only short-term investments; recalculate RIMA's financial expenses to account for foreign exchange losses; and deduct RIMA's warehousing expenses from the export price in the calculation of the overall margin.

On March 9, 2000 the CIT affirmed the Department's redetermination and dismissed the case. See *American Silicon Technologies v. United States*,

No. 98-03-00567, Slip Op. 2000-26(CIT 2000). American Silicon timely appealed to the CAFC. On August 16, 2001 the CAFC affirmed the decision of the CIT and the Department's redetermination. See *American Silicon Technologies v. United States*, 261 F.3d 1371 (Fed. Cir. 2001). There was no appeal.

Litigation in this case is final and conclusive. We are therefore amending our final results of review for the period July 1, 1995 through June 30, 1996.

The revised weighted average margin for RIMA is as follows:

Manufacturer/exporter	Margin (percent)
RIMA .....	3.27

Accordingly, the Department will determine, and the Customs Service will assess, antidumping duties on all entries of subject merchandise from RIMA in accordance with these amended final results. For assessment purposes, we have calculated importer-specific duty assessment rates for each class or kind of merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total quantity of sales examined. The Department will issue appraisal instructions directly to Customs. The above rate will not affect RIMA's cash deposit rates currently in effect, which continue to be based on the margins found to exist in the most recently completed review.

This notice is published in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 351.221.

Dated: January 31, 2002.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[A-122-838] and [C-122-839]

**Amendment to Preliminary Determination of Sales at Less Than Fair Value: Certain Softwood Lumber Products from Canada; Amendment to Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Countervailing Duty Determination with Final Antidumping Determination: Certain Softwood Lumber Products from Canada.**

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

**ACTION:** Notice of amendment to preliminary determination of sales at less than fair value and amendment to preliminary affirmative countervailing duty determination, preliminary affirmative critical circumstances determination, and alignment of final countervailing duty determination with final antidumping determination.

**SUMMARY:** The Department of Commerce is amending its notices of preliminary determination in the antidumping duty (AD) investigation and preliminary determination in the countervailing duty (CVD) investigation of certain softwood lumber products from Canada to clarify Harmonized Tariff Schedule of the United States (HTSUS) coverage of the subject merchandise.

**EFFECTIVE DATE:** February 11, 2002.

**FOR FURTHER INFORMATION CONTACT:**

Charles Riggle at 202-482-0650 or Maria MacKay at 202-482-1775, Office of AD/CVD Enforcement V, and AD/CVD Enforcement VI, respectively, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW, Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:**

**Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (2000).

**ACTIONS SINCE PRELIMINARY DETERMINATIONS:** In the notice of preliminary determination in the

countervailing duty (CVD) investigation the Department published a list of products preliminarily excluded from the scope of these proceedings. See Notice of Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Determination With Final Antidumping Duty Determination: Certain Softwood Lumber Products From Canada, 66 FR 43186-43188 (August 17, 2001). Subsequently, in the notice of preliminary determination in the antidumping (AD) investigation, we amended that list, taking into account comments from interested parties and expert advice of the U.S. Customs Service (Customs). See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Softwood Lumber Products From Canada, 66 FR 56062, 56078 (November 6, 2001). Petitioners filed comments on this amended list.

**ANALYSIS:** Petitioners claim that, when the Department amended the list of the excluded products, it failed to correct an error: it did not clarify that certain products, included in the scope of these investigations, may be classified by Customs under Harmonized Tariff Schedule of the United States (HTSUS) headings other than those listed in the scope description (HTSUS 4407.1000, 4409.1010, 4409.1090, and 4409.1020). Petitioners point out that Customs has refused to enforce the suspension of liquidation based on the written description of the subject merchandise without a recitation of the HTSUS headings in which the subject merchandise could be classified.

We reviewed the HTSUS headings and subheadings of concern to petitioners, 4418.90.40.90, 4421.90.70, 4421.90.98.40, 4421.90, 4418.90.40.20, 4415.20, and the description of the subject merchandise (including the list of excluded products as updated in the AD preliminary determination). We also consulted with the National Import Specialist and took into account information provided by the U.S. International Trade Commission (ITC). See Memorandum to the File from Maria MacKay on Antidumping and Countervailing Duty Investigations on Softwood Lumber from Canada: Teleconference with Paul Garretto, National Import Specialist, U.S. Customs Service, dated 12/19/01, on file in the Central Record Unit, Room B-099, Main Commerce Building. As a result of our analysis, we concluded that certain products subject to the scope of these investigations may be classified by Customs under HTSUS 4418.90.40.90,