Dated: July 20, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix—Issues in Decision Memorandum

Comment

1. Ministerial Errors

[FR Doc. 01–19620 Filed 8–3–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–806]

Silicon Metal From Brazil: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Order in Part

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

ACTION: Notice of preliminary results of antidumping duty administrative review and notice of intent not to revoke order in part.

SUMMARY: In response to requests by American Silicon Technologies and Elkem Metals Company (collectively petitioners), and requests by Companhia Brasileira Carbureto De Calcio (CBCC), Ligas de Aluminio S.A. (LIASA), and RIMA Industrial S.A. (RIMA) (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, 1999 through June 30, 2000.

We preliminarily determine that no respondent sold subject merchandise at less than normal value (NV) during the POR. If these preliminary results are adopted in the final results of this administrative review, we will instruct Customs to assess antidumping duties on all appropriate entries. 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 6, 2001.

FOR FURTHER INFORMATION CONTACT: Maisha Cryor at (202) 482–5831 or Ron Trentham at (202) 482–6320, AD/CVD Enforcement, Office IV, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 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 (2000).

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 20, 2000, 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, 1999 through June 30, 2000. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 65 FR 45035 (July 20, 2000). On July 24, 2000, in accordance with 19 CFR 351.213(b)(1), LIASA requested that the Department conduct an administrative review of its sales and partially revoke the order with respect to LIASA pursuant to 19 CFR 351.222(e). On July 26, 2000, in accordance with 19 CFR 351.213(b)(1), CBCC requested that the Department conduct an administrative review of its sales and partially revoke the order with respect to CBCC pursuant to 19 CFR 351.222(e). On July 31, 2000, 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(e).

On July 31, 2000, petitioners requested that the Department conduct an administrative review of sales made by CBCC, Eletrosilex, LIASA, Companhia Ferroligas Minas Gerais-Minasligas (Minasligas) and RIMA. On August 8, 2000, the Department issued questionnaires to CBCC, Eletrosilex, LIASA, Minasligas and RIMA. On August 18, 2000, petitioners withdrew their request that the Department conduct an administrative review of sales made by Eletrosilex. On August 31, 2000, the Department informed Eletrosilex that it should not reply to the Department's August 8, 2000, questionnaire because an administrative review of its sales would not be conducted. On September 6, 2000, in accordance with 19 CFR 351.221(b)(1), 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,* 65 FR 53980 (September 6, 2000).

On September 22, 2000, the Department received responses to sections A through D of the questionnaire from Minasligas. On October 6, 2000, the Department received responses to sections A through D of the questionnaire from CBCC and LIASA. On October 10, 2000, the Department received responses to sections A through D of the questionnaire from RIMA. The Department issued a supplemental questionnaire to Minasligas on November 17, 2000 and received a response on December 1, 2000. The Department issued a supplemental questionnaire to LIASA on November 21, 2000 and received a response on December 19, 2000. The Department issued supplemental questionnaires to CBCC on December 4, 2000, February 16, February 23 and May 25 of 2001, and received responses on January 2, March 9, March 16 and June 22 of 2001, respectively. The Department issued supplemental questionnaires to RIMA on December 8, 2000 and February 1, 2001 and received responses on January 3, 2001 and March 1, 2001, respectively.

On March 15, 2001, in accordance with section 751(a)(3)(A) of the Act, the Department published in the **Federal Register** its notice extending the deadline for the preliminary results until July 30, 2001. *See Silicon Metal from Brazil: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review,* 66 FR 15078 (March 15, 2001). 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 U.S. Customs purposes, the written description remains dispositive.

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). Following the publication of these preliminary results, we plan to verify, as provided in section 782(i) of the Act, information provided by CBCC's U.S. affiliate. At that verification, we will use standard verification procedures, including on-site inspection of the manufacture's facilities, the examination of relevant sales and financial records, and the selection of original source documentation containing relevant information. We plan to prepare a verification report outlining our verification results and place this report on file in the CRU.

Intent Not To Revoke

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. 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 may revoke an order, in part, if it concludes, *inter alia,* that the exporter and producer: (1) Sold subject merchandise at not less than NV for a period of at least three consecutive years; and (2) are not likely in the future to sell the subject merchandise at less than NV. *See* 19 CFR 351.222(b)(2) (2000); *Final Results of Antidumping Duty Administrative Review and Determination Not To Revoke Order In Part: Pure Magnesium from Canada,* 64 FR 12977, 12982 (March 16, 1999) (*Pure Magnesium from Canada*).

I. CBCC

On July 26, 2000, CBCC submitted a request, in accordance with 19 CFR 351.222(e), 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 CBCC 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. CBCC 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, CBCC sold the subject merchandise at less than NV.

We received comments from CBCC and petitioners on March 16, 2001 concerning CBCC's revocation request. We received rebuttal comments from petitioners on March 26, 2001.

After a review of the record, the Department preliminarily determines that because CBCC did not have a zero or *de minimis* dumping margin during the preceding review period, the 1998–1999 POR, 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 1998–1999 review period, CBCC's weight-averaged dumping margin was determined to be 0.63 percent, a non-*de minimis* rate. *See Final Results of Antidumping Duty Administrative Review: Silicon Metal From Brazil,* 66 FR 11256 (February 23, 2001) (*1998–1999 Silicon Metal Final*). Therefore, we do not intend to revoke the antidumping duty order with respect to CBCC. 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 necessary to offset dumping with respect to CBCC.

II. LIASA

On July 24, 2000, LIASA submitted a request, in accordance with 19 CFR 351.222(e), 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 LIASA 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 do so in the future. LIASA 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, LIASA sold the subject merchandise at less than NV.

We received comments from LIASA on March 16, 2001 concerning LIASA's revocation request. We received rebuttal comments from petitioners on March 26, 2001.

After a review of the record, the Department preliminarily determines that because LIASA did not sell subject merchandise in commercial quantities during the most recently completed segment of this proceeding, the 1998–1999 POR, it has failed to demonstrate three consecutive years of sales in commercial quantities, as required by the Department's regulations. *See 1998–1999 Silicon Metal Final* and accompanying Decision Memo. A comparison of LIASA's aggregated U.S. sales during the 1998–1999 POR to its sales during the six month period of investigation (POI) revealed that LIASA's POR sales represented approximately 1.6 percent of its sales during the POI. *Id.* In addition, when LIASA's POI sales were annualized, its 1998–1999 POR sales declined even further, to approximately 0.8 percent, when compared to its POI sales volume. *Id.* On this basis, we concluded in the preceding administrative review that LIASA did not sell subject merchandise in commercial quantities during the 1998–1999 POR. Therefore, because LIASA did not sell subject merchandise in commercial quantities during the most recent three consecutive PORs, we do not intend to revoke the antidumping duty order with respect to LIASA. Additionally, because one of the

requirements to qualify for revocation has not been met, the Department has not addressed the issue of whether the continued application of the antidumping duty order is necessary to offset dumping with respect to LIASA.

III. RIMA

On July 31, 2000, RIMA submitted a request, in accordance with 19 CFR 351.222(e), 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, it sold the subject merchandise at less than NV.

We received comments from RIMA and petitioners on March 16, 2001, concerning RIMA's revocation request. We received rebuttal comments from RIMA and petitioners on March 26, 2001.

For these preliminary results, the Department has relied upon RIMA's sales activity during the 1997–1998, 1998–1999 and 1999–2000 PORs in making its decision regarding RIMA's revocation request.

In accordance with the regulations described above, the Department must determine whether the company requesting revocation sold the subject merchandise in commercial quantities in each of the three years forming the basis of the revocation request. *See* 19 CFR 351.222(d)(1). In other words, the Department must determine whether the quantities sold during these time periods are reflective of the company's normal commercial activity. *See Final Results of Antidumping Duty Administrative Reviews and Determination To Revoke in Part Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada,* 64 FR 2175 (January 13, 1999) (*Certain Corrosion-Resistant Carbon Steel Flat Products from Canada*). Sales during a POR which, in the aggregate, are of an abnormally small quantity, either in absolute terms or in comparison to an appropriate benchmark period, do not generally provide a reasonable basis for determining that the discipline of the order is no longer necessary to offset dumping. *Id.*; *see also*, *Pure Magnesium From Canada*, 64 FR 12977 (March 16, 1999). However, the determination as to whether or not sales volumes are made in commercial quantities is made on a case-by-case basis, based on the unique facts on the record of each proceeding. *See* section 751(d) of the Act; 19 CFR 351.222(e); *see also*, *Notice of Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke the Antidumping Duty Order: Brass Sheet and Strip from the Netherlands,* 65 FR 742, 750 (January 6, 2000) (*Brass from Netherlands*).

In the present case, the Department compared RIMA's aggregate U.S. sales during each of the aforementioned PORs to the six-month POI. The POI is an appropriate benchmark because it reflects sales activity without the discipline of an antidumping order in place. The comparison indicates that RIMA's sales to the U.S. market during the three above-mentioned PORs represent 0.039 percent (1997–1998), 63 percent (1998–1999), and 296 percent (1999–2000) of the U.S. sales during the POI. *See* Memorandum Regarding ''Ninth Administrative Review: RIMA and Commercial Quantities,'' dated July 31, 2001 (Commercial Quantities Memo). When the POI sales are annualized, the sales for each of the three consecutive PORs decline to approximately 0.02 percent, 32 percent, and 148 percent, respectively, when compared to the POI sales volume. *Id.* In *Brass from Netherlands,* the Department denied revocation by stating that the volume of merchandise sold to the United States during one of the relevant PORs was not sold in commercial quantities because it represented approximately two percent of the volume of merchandise sold in the benchmark investigative period. *Id.* at 65 FR 752. Similarly, in the most recently completed segment of this proceeding, the Department denied revocation for LIASA because it failed to meet the commercial quantities threshold. In that particular administrative review, the Department determined that LIASA's aggregate sales during the review period, represented less than one percent of the sales volume sold during the POI. Based on that finding, the Department denied LIASA's revocation request. *See 1998–1999 Silicon Metal Final*. In the instant review, we find that during the 1997–1998 POR, RIMA's sales to the United States were significantly lower, as a percentage of its POI sales, than in cases mentioned above.

After a review of the criteria outlined at sections 351.222(b) and 351.222(d) of the Department's regulations, the Department's practice, the comments of the parties, and the evidence on the record, we have preliminarily determined that the requirements for revocation have not been met. Based on the preliminary results of this review and the final results of the two preceding reviews, RIMA has not demonstrated three consecutive years of sales in commercial quantities. Therefore, because RIMA has not sold subject merchandise in commercial quantities during each of the three consecutive review periods, we do not intend to revoke the antidumping duty order with respect to RIMA. *See* Commercial Quantities Memo.

Additionally, because one of the requirements to qualify for revocation has not been met, the Department has not addressed the issue of whether the continued application of the antidumping duty order is necessary to offset dumping with regard to RIMA. However, should the decision regarding Rima's revocation be revised for the final results of review, it will be necessary to address this factor at that time. As a consequence, interested parties are invited to comment on this factor in their case briefs.

NV Comparisons

During the POR, U.S. sales by Brazilian respondents were both export price (EP) and constructed export price (CEP) sales. To determine whether EP sales of silicon metal by the Brazilian respondents to the United States were made at less than normal value, we compared EP to the NV, as described in the ''*EP*'' and ''*NV*'' sections of this notice, below. To determine whether CEP sales of silicon metal by the Brazilian respondents to the United States were made at less than normal value, we compared CEP to the NV, as described in the ''*CEP*'' and ''*NV*'' sections of this notice below. 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.

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).

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) (1997–1998 Silicon Metal Preliminary). 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 constructed value (CV) of the product sold in the U.S. market during the comparison period.

Level of Trade (LOT)

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 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, end-users 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 an unaffiliated trading company). CBCC claimed in its response that EP sales were made at the same LOT as home market sales to unaffiliated customers. For this reason, CBCC has not asked for a LOT adjustment to NV for comparison to its EP sales. For CEP sales, CBCC reported one customer category and one channel of distribution (*i.e.,* direct sales to an affiliated party). CBCC claimed in its response that CEP sales were made at the same LOT as home market sales to unaffiliated customers. For this reason, CBCC has not asked for a LOT adjustment to NV for comparison to its CEP sales.

In analyzing CBCC's selling activities for the home and U.S. markets, we determined that essentially the same selling functions 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 EP and CEP 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 or CEP offset under section 773(a)(7) of the Act is warranted for CBCC.

II. LIASA

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

In analyzing LIASA's selling activities for its EP sales, we determined that essentially the same services were provided for both markets. The selling functions in both markets were minimal in nature and usually limited to arranging for freight and delivery. Therefore, based upon this information, we have preliminarily determined for LIASA that 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 LIASA.

III. RIMA

RIMA reported home market sales through one channel of distribution to one customer category (*i.e.,* direct sales to unaffiliated end-users). In the U.S. market, RIMA reported EP sales through one channel of distribution to one customer category (*i.e.,* direct sales to unaffiliated end-users). 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. market, we determined that essentially the same selling functions 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.

IV. Minasligas

Minasligas reported home market sales through one channel of distribution to two unaffiliated

customer categories (*i.e.,* direct sales to domestic retailers and end-users). 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 for Minasligas that 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.

EP

For LIASA, RIMA, Minasligas, and a portion of CBCC's sales, we used the Department's EP methodology, in accordance with section 772(a) of the Act, because the subject merchandise was sold by each producer outside the United States directly to the first unaffiliated purchaser in the United States prior to importation (or to unaffiliated trading companies for export to the United States). 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 (where foreign inland freight was reported inclusive of the value-added tax (VAT), we deducted the VAT from the gross freight cost), brokerage and handling, and international freight. For Minasligas, we added duty drawback to the starting price. We made company-specific adjustments to EP as follows:

I. CBCC

We recalculated CBCC's home market inland freight, home market credit expense and international freight pursuant to corrections presented at verification. For a discussion of these changes, see Calculation Memorandum for CBCC dated , and Report on the Verification of the Sales and Cost Responses for CBCC, dated July 30, 2001, for further information regarding the sales verification.

CEP

Initially, in it's October 6, 2000, response, CBCC reported sales to its U.S. affiliate as EP sales. However, in response to the Department's December 4, 2000, supplemental questionnaire, CBCC reported all sales to its U.S. affiliate, Dow Corning Corporation (Dow), as CEP sales in its January 2, 2001, supplemental response. 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 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 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 relied upon an alternative methodology to calculate CBCC's margin for these sales. As the alternative methodology, the Department used all sales of subject merchandise to CBCC's unaffiliated customers. For further discussion, 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,* dated July 31, 2001. *NV*

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 (COP) Analysis

In the review segment of this proceeding most recently completed prior to initiating this review, we disregarded home market sales found to be below the COP for LIASA. *See 1997–1998 Silicon Metal Preliminary,* aff'd *Final Results of Antidumping Duty Administrative Review: Silicon Metal From Brazil,* 65 FR 7497 (February 15, 2000). 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 LIASA at prices below the COP as provided by section 773(b)(2)(A)(ii) of the Act.

On October 10, 2000, petitioners in this proceeding filed a timely sales-below-cost allegation with respect to Minasligas. On October 24, 2000, petitioners in this proceeding filed a timely sales-below-cost allegation with respect to CBCC. In the cases of CBCC and Minasligas, the petitioners' allegations were based on the respective respondents' antidumping duty questionnaire responses. Upon review of the allegations, 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 both CBCC and Minasligas. Accordingly, pursuant to section 773(b)(1) of the Act, we initiated an investigation to determine whether CBCC's and Minasligas' sales of silicon metal were made at prices below COP during the POR. *See* Analysis of Petitioners' Allegation of Sales Below the COP for Minasligas, dated November 13, 2000; Analysis of Petitioners' Allegation of Sales Below the COP for CBCC, dated November 16, 2000.

We have not initiated a cost investigation with respect to RIMA because home market sales were not disregarded during the most recently completed segment of this proceeding (which was the 1997–1998 POR at the time this instant review was initiated) and petitioners did not file a sales-below-cost allegation. *See 1997–1998 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 each respondent's cost of materials and fabrication for the foreign like product, plus amounts for home market selling, general and administrative (SG&A) expenses, including interest expenses, and packing costs.

We relied on the home market sales and COP information submitted by each respondent in its questionnaire responses.

B. Test of Home Market Sales Prices for CBCC, Minasligas and LIASA

For CBCC, Minasligas and LIASA, we compared the per-unit 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, Minasligas and LIASA

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 only LIASA and Minasligas made comparison-market sales at prices below the COP within an extended period of time in substantial quantities. Further, we found that these sales prices did not permit the recovery of costs within a reasonable period of time. We therefore excluded these sales from our analysis in accordance with section 773(b)(1) of the Act.

2. CV

In accordance with section 773(e)(1) of the Act, we calculated CV based on each respondents' cost of materials and fabrication in producing the subject merchandise, SG&A expenses, the profit incurred and realized in connection with the production and sale of the foreign like product, and U.S. packing costs. We used the cost of materials, fabrication, and SG&A expenses as reported in the CV portion of the questionnaire response, adjusted as discussed in the ''Calculation of COP'' section, above. In addition, we used the U.S. packing costs as reported in the U.S. sales portion of the questionnaire responses. For selling expenses, we used the average of the direct and indirect selling expenses reported for HM sales, weighted by the total quantity of those sales.

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 level of trade as the U.S. transactions. For level of trade, 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 inland freight was reported inclusive of value-added taxes VAT, we deducted the VAT from the gross freight cost.

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 commissions and adding an amount for late payment fees earned on home market sales, and by adding U.S. direct selling expenses (including U.S. credit expenses) and, where appropriate, deducting an amount for late payment fees earned on U.S. sales. Regarding CBCC's reported home market credit expense, the Department has reviewed documentation related to this expense and determined that the interest rate used by CBCC is substantially higher than the prevailing short-term interest rate in effect during the POR in Brazil. In the most recently completed segment of this proceeding, the Department denied CBCC's credit expense because ''* * * given the fact that there was only one short-term loan made during the course of the POR, a loan with an unusually high interest rate, it is the Department's opinion that the loan does not represent a short-term lending activity in the 'normal course of trade.' *See 1998–1999 Silicon Metal Final* and accompanying Decision Memo. In addition, CBCC's own internal memorandum stated that the loan ''* * * was made at an 'exorbitant' rate to be used only in 'emergency' situation [sic].'' *Id.*

Although there is no internal CBCC memorandum in the current review characterizing CBCC's loan activity as exorbitant, the Department finds that the conditions of CBCC's reported credit expense in this POR are similar to the conditions described in CBCC's internal memorandum from the 1998–1999 POR. *Id. See also* Calculation Memorandum

for CBCC dated July 31, 2001. We therefore determine that CBCC's short-term borrowing in this POR was not in the 'normal course of trade.' Therefore, for these preliminary results, as in the most recently completed segment of this proceeding, we have denied CBCC's reported credit expense and have used the Taxa Referential (TR) rate to calculate the expense. *See 1998–1999 Silicon Metal Final.*

Where commissions were paid on home market sales and no commissions were paid on U.S. sales, we increased NV by the lesser of either (1) the amount of commission paid on the home market sales or (2) the indirect selling expenses incurred on U.S. sales. *See* 19 CFR 351.410(e). 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. Where home market prices were reported exclusive of VAT we made no adjustment. However, where home market prices were reported inclusive of VAT, we deducted the VAT from the gross home market price, consistent with past practice.

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, 1999 through June 30, 2000, and we preliminarily determine not to revoke the order covering silicon metal from Brazil with respect to sales of subject merchandise by CBCC, RIMA and LIASA.

Manufacturer/exporter	Weighted-average margin percentage
CBCC	0.00
LIASA	0.00
RIMA	0.00
Minasligas	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, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–19621 Filed 8–3–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Woods Hole Oceanographic Institution; 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 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 01–014. *Applicant:* Woods Hole Oceanographic Institution, Woods Hole, MA 02543. *Instrument:* (2) Low-level Multicounter Systems. *Manufacturer:* Riso National Labs, Denmark. *Intended Use:* See notice at 66 FR 35224, July 3, 2001.

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) Ability to detect very low levels of radioactivity (having a background count <0.25 cpm), (2) a suitable signal-to-noise ratio and (3) high durability and portability for