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Sunset Reviews  
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MEMORANDUM TO: David M. Spooner  
Assistant Secretary  
for Import Administration

FROM: Stephen J. Claeys  
Deputy Assistant Secretary  
for Import Administration

SUBJECT: Issues and Decision Memorandum for the Expedited Sunset Reviews  
of the Antidumping Duty Orders of Silicomanganese from India,  
Kazakhstan, and Venezuela; Final Results

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### Summary

We have analyzed the responses of the interested parties in the sunset reviews of the antidumping duty orders covering silicomanganese from India, Kazakhstan, and Venezuela. We recommend that you approve the positions described in the Discussion of the Issues section of this memorandum. Below is the complete list of the issues in these sunset reviews for which we received substantive responses:

1. Likelihood of continuation or recurrence of dumping
2. Magnitude of the margins likely to prevail

### History of the Orders

On April 2, 2002, the Department of Commerce ("the Department") published its final affirmative determinations of sales at less than fair value ("LTFV") regarding silicomanganese from India, Kazakhstan, and Venezuela. See Silicomanganese from India: Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances Determination, 67 FR 15531 (April 2, 2002) (India Final Determination); Notice of Final Determination of Sales at Less Than Fair Value: Silicomanganese From Kazakhstan, 67 FR 15535 (April 2, 2002) (Kazakhstan Final Determination); and Notice of Final Determination of Sales at Less Than Fair Value: Silicomanganese from Venezuela, 67 FR 15533 (April 2, 2002) (Venezuela Final Determination). The period of investigation ("POI") was April 1, 2000 through March 31, 2001 for India and Venezuela. The POI for Kazakhstan was

October 1, 2000 though March 31, 2001. For India, the Department found antidumping duty margins of 15.32 percent for Nava Bharat, 20.42 percent for Universal Ferro and Allied Chemicals, Ltd. and 17.69 percent for all other Indian producers and exporters of subject merchandise. See India Final Determination. For Kazakhstan, the Department found an antidumping duty margin of 247.88 percent for Alloy 2000, S.A. and the Kazakhstan-wide entity. See Kazakhstan Final Determination. For Venezuela, the Department found an antidumping duty margin of 24.62 percent for Hornos Eléctricos de Venezuela, S.A. (HEVENSA) and for all other Venezuelan producers and exporters of the subject merchandise. See Venezuela Final Determination. On May 23, 2002, the Department published an amended final determination with respect to silicomanganese from India and the antidumping duty orders on silicomanganese from India, Kazakhstan, and Venezuela. The Department's amended final determination established a revised weighted-average dumping margin of 20.53 percent for Universal Ferro and Allied Chemicals, Ltd. and 17.74 percent for all other Indian producers and exporters of the subject merchandise. All other dumping margins in these orders remained the same. See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Orders: Silicomanganese from India, Kazakhstan, and Venezuela, 67 FR 36149 (May 23, 2002).

Since the issuance of the antidumping duty orders, the Department has conducted no administrative reviews with respect to imports of silicomanganese from India, Kazakhstan, or Venezuela.<sup>1</sup> There have been no changed circumstances determinations, no duty absorption findings, and no scope clarifications or rulings concerning the antidumping duty orders. No Harmonized Tariff Schedule categories have been added to the scope and the scope description itself has not changed. The orders remain in effect for all manufacturers, producers, and exporters of the subject merchandise.

On April 2, 2007, the Department published the notice of initiation of the sunset reviews of the antidumping duty orders on silicomanganese from India, Kazakhstan, and Venezuela, pursuant to section 751(c) of the Tariff Act of 1930, as amended, ("the Act"). See Initiation of Five-Year ("Sunset") Reviews, 72 FR 15652 (April 2, 2007) ("Notice of Initiation"). The Department received a notice of intent to participate from the following domestic parties within the deadline specified in 19 CFR 351.218(d)(1)(i): domestic producers Felman Production Inc. ("Felman") and Eramet Marietta Inc. ("Eramet") (collectively "domestic interested parties"). Eramet was a petitioner in the investigation. The companies claimed interested party status under section 771(9)(C) of the Act, as manufacturers, producers or wholesalers of a domestic like product in the United States. The Department received a complete substantive response to the notice of initiation from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).

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<sup>1</sup> On June 30, 2005, the Department initiated an administrative review of the antidumping duty order on silicomanganese from Venezuela for the period May 1, 2004 through April 30, 2005. See Initiation of Antidumping and Countervailing Duty Administrative Reviews, 70 FR 37749 (June 30, 2005). However, the Department rescinded this administrative review because HEVENSA, the only party to request this review, timely withdrew its request for review. See Silicomanganese from Venezuela: Notice of Rescission of Antidumping Administrative Review, 70 FR 58188 (October 5, 2005).

We received no responses from respondent interested parties with respect to the orders on silicomanganese from Kazakhstan and Venezuela. With respect to the order on silicomanganese from India, the Department granted an extension to and received a timely substantive response from respondent interested party, Nava Bharat Ventures Limited (“Nava Bharat”). On May 18, 2007, Eramet filed a rebuttal to Nava Bharat’s substantive response. On May 22, 2007, the Department determined that Nava Bharat did not account for more than 50 percent of exports by volume of the subject merchandise because Nava Bharat reported that it had no exports during the 2002-2007 sunset review period. Therefore, the Department found that Nava Bharat did not submit an adequate response to the Department’s Notice of Initiation. See Memorandum to Barbara E. Tillman entitled, “Sunset Review of the Antidumping Duty Order on Silicomanganese from India: Adequacy Determination” (May 22, 2007). Thus, pursuant to section 351.218(e)(1)(ii)(C)(2) of the Department’s regulations, the Department is conducting expedited (120-day) sunset reviews of the antidumping duty orders for India, Kazakhstan, and Venezuela.

### Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department has conducted these sunset reviews to determine whether revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making these determinations, the Department shall consider both the weighted-average dumping margins determined in the investigations and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty orders. In addition, section 752(c)(3) of the Act provides that the Department shall provide to the International Trade Commission (“ITC”) the magnitude of the margins of dumping likely to prevail if the orders were revoked. Below we address the comments of the interested parties.

#### 1. Likelihood of Continuation or Recurrence of Dumping

##### Interested Party Comments

Domestic interested parties argue that revocation of these antidumping duty orders would likely lead to a continuation or recurrence of dumping by the manufacturers, producers, and exporters of the subject merchandise.

*India:* Domestic interested parties state that antidumping margins remain at 15.32 percent for Nava Bharat, 20.53 percent for Universal Ferro and Allied Chemicals, Ltd. and 17.74 percent for all other exporters because there have been no administrative reviews. Also, domestic interested parties state that imports of subject merchandise greatly declined and ultimately ceased after the imposition of the order and there have been no imports during the sunset review period. Specifically, domestic interested parties state that imports fell from 60,496 MT in 2000, the last full year prior to the filing of the petition, to 770 MT in 2002 (the year of the order). Domestic

interested parties argue there have not been any imports of silicomanganese from India since that time. Thus, domestic interested parties conclude that the substantial antidumping margins and the cessation of all imports following the issuance of the antidumping duty order demonstrate that revocation of the order will certainly lead to a continuation of dumping. See Felman's Substantive Response at 5-7 (May 1, 2007) and Eramet's Substantive Response at 2-4 (May 2, 2007).

Nava Bharat claims that if they were to export to the United States, current prices in the U.S. market would enable them to do so at prices that exceed normal value. In addition, Nava Bharat indicates that it has a well-diversified international customer base with many orders to third country markets and a perceived high demand forecast for its domestic market. See Nava Bharat's Substantive Response at 2-3 (May 8, 2007).

*Kazakhstan:* Eramet argues the Department has not completed any administrative reviews of the antidumping duty order on silicomanganese from Kazakhstan, and therefore no exporter has shown it can ship the subject merchandise to the United States without dumping. In addition, both Eramet and Felman contend that imports of silicomanganese from Kazakhstan ceased after the order was imposed. Specifically, domestic interested parties state that imports fell from 66,396 MT in 2000, the last full year prior to the filing of the petition, to zero in 2002 (the year of the order). Domestic interested parties argue there have not been any imports of silicomanganese from Kazakhstan. See Felman's May 1, 2007 Substantive Response for Kazakhstan at 5-7 and Eramet's May 2, 2007 Substantive Response for Kazakhstan at 2-4.

*Venezuela:* Eramet argues the Department has not completed any administrative reviews of the antidumping duty order on silicomanganese from Venezuela, and therefore no exporter has shown it can ship the subject merchandise to the United States without dumping. In addition, both Eramet and Felman contend that imports of silicomanganese from Venezuela ceased after the order was imposed. Specifically, domestic interested parties state that imports fell from 24,100 MT in 2000, the last full year prior to the filing of the petition, to zero in 2002 (the year of the order). Domestic interested parties argue there have not been any imports of silicomanganese from Venezuela since that time except for 1,308 MT in 2004. See Felman's May 1, 2007 Substantive Response for Venezuela at 5-7 and Eramet's May 2, 2007 Substantive Response for Venezuela at 2-4.

### Department's Position

Consistent with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), the Department's determinations of likelihood will be made on an order-wide basis. See URAA Statement of Administrative Action, H.R. Doc. 103-316, vol. 1 at 879 (1994). In addition, the Department normally will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above de minimis after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated

after the issuance of the order and import volumes for the subject merchandise declined significantly. See Steel Concrete Reinforcing Bars from Moldova, the People's Republic of China, South Korea, Indonesia, Poland, and Belarus; Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders, 71 FR 70509 (December 5, 2006), and accompanying Issues and Decision Memorandum at 6. In addition, pursuant to section 752(c)(1)(B) of the Act, the Department considers the volume of imports of the subject merchandise for the period before and after the issuance of the antidumping duty order.

*India:* In this case, the Department found dumping at above de minimis levels in the original antidumping duty investigation. The cash deposit rates established in the investigation remain in effect and there have been no administrative reviews of the antidumping duty order. In addition, import statistics provided by Felman and Eramet and confirmed by the United States International Trade Commission ("USITC") Trade Dataweb<sup>2</sup> demonstrate that import volumes decreased significantly following the imposition of the antidumping duty order. Specifically, the USITC Trade Dataweb indicates that in 2001, imports were 38,786 MT; in 2002, imports were 770 MT; and from 2003 through 2007 (year to date), imports were zero. The pre-order import level was 60,496 MT. See Felman's Substantive Response at 5-7 (May 1, 2007) and Eramet's Substantive Response at 2-4 (May 2, 2007). Although Nava Bharat claims that current prices enable it to sell subject merchandise at prices above normal value in the U.S. market, dumping margins have continued to exist at levels above de minimis since the issuance of the order and there have been substantially lower import levels after the imposition of the order when compared to pre-order levels. Therefore, the Department finds that dumping would likely continue to occur if the order were revoked.

*Kazakhstan:* In this case, the Department found dumping at above de minimis levels in the original antidumping duty investigation. The cash deposit rates established in the investigation remain in effect and there have been no administrative reviews of the antidumping duty order. In addition, import statistics provided by Felman and Eramet and confirmed by the USITC Trade Dataweb demonstrate that import volumes decreased significantly following the imposition of the antidumping duty order. Specifically, the USITC Trade Dataweb indicates that in 2001, imports were 32,328 MT; in 2002, imports were zero; in 2003, imports were 5 MT; in 2004, imports were zero; in 2005, imports were 20 MT; and in 2006 and 2007 (year to date), imports were zero. The pre-order import level was 66,396 MT in 2000. See Felman's May 1, 2007 Substantive Response for Kazakhstan at Attachment A and Eramet's May 2, 2007 Substantive Response for Kazakhstan at Table A. Therefore, given that dumping margins have continued to exist at levels above de minimis since the issuance of the order, and there have been substantially lower import levels after the imposition of the order when compared to pre-order levels, the Department finds that dumping would likely continue to occur if the order were revoked.

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<sup>2</sup> The United States International Trade Commission Trade Dataweb can be found at <http://dataweb.usitc.gov>.

*Venezuela:* In this case, the Department found dumping at above de minimis levels in the original antidumping duty investigation. The cash deposit rates established in the investigation remain in effect and there have been no completed administrative reviews of the antidumping duty order. In addition, import statistics provided by Felman and Eramet and confirmed by the USITC Trade Dataweb demonstrate that import volumes decreased significantly following the imposition of the antidumping duty order. Specifically, the USITC Trade Dataweb indicates that in 2001, imports were 1,500 MT; in 2002-2003, imports were zero; in 2004, imports were 1,308 MT; and from 2005 through 2007 (year to date), imports were zero. The pre-order import level was 24,100 MT in 2000. See Felman's May 1, 2007 Substantive Response for Venezuela at Attachment A and Eramet's May 2, 2007 Substantive Response for Venezuela at Table A. Therefore, given that dumping margins have continued to exist at levels above de minimis since the issuance of the order, and there have been substantially lower import levels after the imposition of the order when compared to pre-order levels, the Department finds that dumping would likely continue to occur if the order were revoked.

## 2. Magnitude of the Margin Likely to Prevail

### Interested Party Comments

*India:* Domestic interested parties request that the Department report to the ITC the dumping margin that was determined in the investigation. See Felman's Substantive Response at 8-9 (May 1, 2007) and Eramet's Substantive Response for India at 4-6 (May 2, 2007). Thus, the domestic interested parties contend that the dumping margins likely to prevail in the event that the order were revoked are 15.32 percent for Nava Bharat, 20.53 percent for Universal Ferro and Allied Chemicals, Ltd. and 17.74 percent for all others. Nava Bharat states that the dumping margin likely to prevail is zero based on its arguments cited above. See Nava Bharat's Substantive Response at 4.

*Kazakhstan:* Because dumping margins for all Kazakh producers have remained unchanged since the order was imposed and imports have greatly declined and nearly ceased, domestic interested parties contend that the Department should report to the ITC as the margins likely to prevail, the dumping margins from the investigation for both Alloy 2000 and all other Kazakh producers and exporters of the silicomanganese. See Felman's May 1, 2007 Substantive Response for Venezuela at 8-9 and Eramet's May 2, 2007 Substantive Response for Kazakhstan at 5-6.

*Venezuela:* Domestic interested parties contend that the Department should report to the ITC, as the margins likely to prevail, the dumping margins from the investigation for HEVENSA and all other Venezuelan producers and exporters of the silicomanganese. See Felman's May 1, 2007 Substantive Response for Venezuela at 8-9 and Eramet's May 2, 2007 Substantive Response for Venezuela at 5-6.

Department’s Position

Normally, the Department will provide to the ITC the company-specific margin from the investigation for each company as the margin of dumping likely to prevail if the order were revoked. For companies not investigated specifically, or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the “all others” rate from the investigation. The Department’s preference for selecting a margin from the investigation is based on the fact that it is the only calculated rate that reflects the behavior of manufacturers, producers, and exporters without the discipline of an order in place. Under certain circumstances, however, the Department may select a more recently calculated margin to report to the ITC.

Since the orders, the Department has conducted no administrative reviews for silicomanganese from Kazakhstan and Venezuela and exports to the United States are significantly lower when compared to the pre-order export levels. For Kazakhstan, there have been almost no exports to the United States since the imposition of the order. Therefore, the Department finds that it is appropriate to provide the ITC with the antidumping duty rates from the investigation because these are the only calculated antidumping duty rates that reflect the behavior of manufacturers, producers, and exporters without the discipline of an order in place.

For India, Nava Bharat argues that its rate should be zero. However, there have been no administrative reviews, and Nava Bharat has stopped exporting to the United States since the imposition of the order. Therefore, the investigation rate provides the only indication of how the company would behave without the discipline of an order. The Department finds that it is appropriate to provide the ITC with the rate from the investigation.

Final Results of Reviews

As a result of these sunset reviews, we determine that revocation of the antidumping duty orders on silicomanganese from India, Kazakhstan, and Venezuela would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Manufacturers/Exporters/Producers	Weighted-Average Margin (percent)
<u>India</u>	
Nava Bharat	15.32
Universal Ferro and Allied Chemicals, Ltd.	20.53
All Others Rate	17.74
<u>Kazakhstan</u>	
Alloy 2000, S.A.	247.88
Kazakhstan-Wide Rate	247.88

<u>Venezuela</u>	
Hornos Eléctricos de Venezuela, S.A.	24.62
All Others Rate	24.62

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Recommendation

Based on our analysis of the responses received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish these final results of reviews in the Federal Register.

AGREE \_\_\_\_\_

DISAGREE \_\_\_\_\_

\_\_\_\_\_  
David M. Spooner  
Assistant Secretary  
for Import Administration

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(Date)