



A-821-807  
Sunset Review  
Public Document  
ADCVDOps2: DJG

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Import Administration

FROM: Christian Marsh  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Expedited Sunset  
Review of the Antidumping Duty Order on Ferrovandium and  
Nitrided Vanadium from Russia

### Summary

We have analyzed the responses of the interested parties in the third sunset review of the antidumping duty order covering ferrovandium and nitrided vanadium from the Russian Federation (Russia). We recommend that you approve the positions we developed in the “Discussion of the Issues” section of this memorandum. Below is the complete list of the issues in this sunset review 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 Order

On July 10, 1995, the Department published in the Federal Register the antidumping duty order on ferrovandium and nitrided vanadium from Russia. See Notice of Antidumping Order: Ferrovandium and Nitrided Vanadium From the Russian Federation, 60 FR 35550 (July 10, 1995). In the order, the Department assigned a margin of 3.75 percent to Galt Alloys, Inc. (Galt), 11.72 percent to Gesellschaft für Elektrometallurgie m.b.H. (and its related companies Shieldalloy Metallurgical Corporation and Metallurg, Inc.), 10.10 percent for Odermet, and 108.00 percent as the Russia-wide rate. See, id., 60 FR at 35551. The Department completed one administrative review since the issuance of the order which covered the period from January 4, 1995, through June 30, 1996. See Ferrovandium and Nitrided Vanadium From the Russian Federation: Notice of Final Results of Antidumping Duty Administrative Review, 62 FR 65656 (December 15, 1997). There have been no findings of duty absorption by the Department, and no scope clarifications, rulings, or changed circumstances determinations over the history of this order. The Department is currently conducting an anticircumvention inquiry with respect to imports of Russian-produced vanadium pentoxide which is converted into ferrovandium in the



United States.

The order remains in effect for all Russian manufacturers, producers, and exporters of the subject merchandise.

The Department conducted two sunset reviews on imports of ferrovanadium and nitrided vanadium from Russia pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act), and found in both reviews that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the same rates as found in the original investigation. See Final Results of Expedited Sunset Review: Ferrovanadium and Nitrided Vanadium From Russia, 65 FR 60168 (October 10, 2000), and Final Results of Expedited Sunset Review: Ferrovanadium and Nitrided Vanadium from Russia, 71 FR 44998 (August 8, 2006). The International Trade Commission (ITC) determined in both reviews, pursuant to section 751(c) of the Act, that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. See Ferrovanadium and Nitrided Vanadium From Russia, 66 FR 28540 (May 23, 2001), and Ferrovanadium and Nitrided Vanadium From Russia, 71 FR 58630 (October 4, 2006). Accordingly, the Department published notices of continuation of the antidumping duty order. See Continuation of Antidumping Duty Order: Ferrovanadium and Nitrided Vanadium From Russia, 66 FR 30694 (June 7, 2001), and Ferrovanadium and Nitrided Vanadium From Russia: Notice of Continuation of Antidumping Duty Order, 71 FR 60475 (October 13, 2006).

### Background

On September 1, 2011, the Department published the notice of initiation of the third sunset review of the antidumping duty order on ferrovanadium and nitrided vanadium from Russia pursuant to section 751(c) of the Act. See Initiation of Five-Year (“Sunset”) Review, 76 FR 54430 (September 1, 2011). The Department received notices of intent to participate from AMG Vanadium Inc. (AMG Vanadium), and Gulf Chemical and Metallurgical Corporation and its wholly owned subsidiary, Bear Metallurgical Corporation (GCMC/BMC) (collectively “the domestic interested parties”), within the deadline specified in 19 CFR 351.218(d)(1)(i). The domestic interested parties claimed interested party status under section 771(9)(C) of the Act, as manufacturers or wholesalers of a domestic like product in the United States.

We received complete substantive responses from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). We received no response from any respondent interested party. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited (120-day) sunset review of the order.

### Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department conducted this sunset review to determine whether revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in

making this determination, the Department shall consider both the weighted-average dumping margins determined in the investigation 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 order. In addition, section 752(c)(3) of the Act provides that the Department shall provide to the ITC the magnitude of the margins of dumping likely to prevail if the order were revoked. Below we address the comments of the interested parties.

## 1. Likelihood of Continuation or Recurrence of Dumping

### Interested Party Comments

The domestic interested parties assert that the Department should conclude that revocation of the order would be likely to lead to continuation or recurrence of dumping when applying the Department's Sunset Policy Bulletin 98.3. See Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) (Sunset Policy).

With respect to the weighted-average dumping margins, in their substantive response, the domestic interested parties point to the calculated dumping margins in the original investigation and the only completed administrative review where Galt Inc.'s margin increased from 3.75 percent (the investigation rate) to 34.66 percent (first administrative review rate). As to import volumes, the domestic interested parties assert that imports of the subject merchandise ceased after the issuance of the order, based on Bureau of Census import data, U.S. Customs and Border Protection data, and the domestic interested parties' own knowledge of the U.S. market. See AMG Vanadium's October 3, 2011, substantive response at 4-5 and Table A, and GCMC/BMC's October 3, 2011, substantive response at 5 and Exhibit 2. Therefore, in accordance with the Department's Sunset Policy, the domestic interested parties argue that the Department should conclude that there is likelihood that dumping would continue or recur if the order on Russian ferrovandium and nitrided vanadium were revoked.

### Department's Position:

Consistent with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the Statement of Administrative Action (SAA), H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H. Rep. No. 103-826, pt. 1 (1994) (House Report), and the Senate Report, S. Rep. No. 103-412 (1994) (Senate Report), the Department's determinations of likelihood will be made on an order-wide basis.<sup>1</sup> 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.<sup>2</sup>

The Department finds in this case that revocation of the order would be likely to lead to

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<sup>1</sup> See SAA at 879 and House Report at 56.

<sup>2</sup> See SAA at 889-90, House Report at 63-64, and Senate Report at 52.

continuation or recurrence of dumping. Imports of the subject merchandise have ceased during this sunset review period. Moreover, dumping margins at levels above de minimis have continued to exist after the issuance of the order and imports have fallen below pre-order levels. Therefore, because the record data align with what the Department normally considers as highly probative of the likelihood of continuation or recurrence of dumping, the Department determines that dumping is likely to continue or recur if the order were revoked. See, e.g., Welded ASTM A-312 Stainless Steel Pipe From South Korea and Taiwan: Final Results of Expedited Sunset Reviews of the Antidumping Duty Orders, 76 FR 67673 (November 2, 2011) and accompanying Issues and Decision Memorandum at 5-6.

## 2. Magnitude of the Margins Likely to Prevail

### Interested Party Comments

The domestic interested parties request that the Department report to the ITC the margins that were determined in the final determination of the less-than-fair-value investigation for all exporters. According to the domestic interested parties, these margins are the only calculated rates that reflect the behavior of exporters without the discipline of an antidumping duty order.

### Department's Position:

Section 752(c)(3) of the Act provides that the Department will report to the ITC the magnitude of the margin of dumping that is likely to prevail if the order were revoked. Normally, the Department will provide to the ITC the company-specific margin from the investigation for each company; however, 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. See, e.g., Welded ASTM A-312 Stainless Steel Pipe from South Korea and Taiwan: Notice of Final Results of Expedited ("Sunset") Reviews of the Antidumping Duty Orders, 71 FR 96 (January 3, 2006) and accompanying Issues and Decision Memorandum at 6-7. 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 or suspension agreement in place. See SAA at 890.

The Department finds in this case that the dumping margins calculated in the investigation likely would prevail in the absence of the order. Since the first sunset review, the Department has not conducted any administrative reviews of this order. Moreover, the Department has not found duty absorption or conducted a changed circumstances review over the history of the order. Therefore, consistent with our findings in the first and second sunset reviews, the Department determines in the instant sunset review that the rates from the investigation are probative of the behavior of manufacturers and/or exporters of the subject merchandise because these rates are the only calculated rates that reflect the behavior of manufacturers and/or exporters without the discipline of an order in place. See SAA at 890. Accordingly, the Department will provide the ITC with the margins from the investigation and has listed those margins in the "Final Results of Review" section below.

Final Results of Review

For the reasons stated above, we determine that revocation of the antidumping duty order on ferrovanadium and nitrided vanadium from Russia would likely lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

----- Manufacturer/Exporter	Weighted-Average Margin (percent) -----
Galt Alloys, Inc.	3.75
Gesellschaft für Elektrometallurgie m.b.H. (and its related companies Shieldalloy Metallurgical Corporation and Metallurg, Inc.)	11.72
Odermet	10.10
All Other Russian Manufacturers and Exporters	108.00
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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 sunset review in the Federal Register and notify the ITC of our determination.

Agree \_\_\_\_\_

Disagree \_\_\_\_\_

\_\_\_\_\_  
Paul Piquado  
Assistant Secretary  
for Import Administration

\_\_\_\_\_  
Date