DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–504]

Porcelain-on-Steel Cookware From Mexico: Notice of Extension of Time Limit for Antidumping Duty Administrative Review

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

EFFECTIVE DATE: August 6, 1998.

FOR FURTHER INFORMATION CONTACT: Kate Johnson at (202) 482–4929, or David J. Goldberger at (202) 482–4136, Office 5, AD/CVD Enforcement Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C., 20230.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the preliminary results of the eleventh administrative review of the antidumping duty order on porcelain-on-steel cookware from Mexico for the period December 1, 1996, through November 30, 1997. This extension is made pursuant to the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (hereinafter, ''the Act'').

POSTPONEMENT: Under the Act, the Department may extend the deadline for completion of an administrative review if it determines it is not practicable to complete the review within the statutory time limit of 365 days. The Department finds that it is not practicable to complete the eleventh administrative review of certain porcelain-on-steel cookware from Mexico within this time limit due to a number of complex issues, including reimbursement, and resource constraints.

In accordance with section 751(a)(3)(A) of the Act, the Department will extend the time for completion for the preliminary results of this review from a 245-day period to a period no longer than 365 days. Therefore, the final results are now due by December 31, 1998.

Dated: July 28, 1998.

Maria Harris Tildon,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 98–21063 Filed 8–5–98; 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

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

ACTION: Notice of Preliminary Results of the Antidumping Duty Administrative Review.

SUMMARY: In response to requests by American Silicon Technologies, Elkem Metals Company, Globe Metallurgical, Inc. and SKW Metals & Alloys, Inc. (petitioners) and Companhia Brasileira Carbureto De Calcio (CBCC), Eletrosilex Belo Horizonte (Eletrosilex), Ligas de Aluminio S.A. (LIASA), Companhia Ferroligas Minas Gerais-Minasligas (Minasligas) and RIMA Industrial S/A (RIMA) (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, 1996 through June 30, 1997.

We preliminarily determine that only Eletrosilex sold subject merchandise at less than normal value (NV) during the POR. If the preliminary results are adopted in the final results of administrative review, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between the export price (EP) and the NV.

We invite interested parties to comment on the preliminary results. Parties who submit comments in this proceeding should also submit with the argument: (1) A statement of the issue(s); and (2) a brief summary of the argument (not to exceed five pages).

EFFECTIVE DATE: August 6, 1998.

FOR FURTHER INFORMATION CONTACT: Robert Bolling, Abdelali Elouaradia, Letitia Kress, Lisette Lach or Sinem Sonmez, Office of Antidumping/Countervailing Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone 482–3793.

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 (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations refer to 19 CFR part 351 (62 FR 27296 (May 19, 1997)).

Background

On July 31, 1991, the Department published in the **Federal Register** the antidumping duty order on silicon metal from Brazil (56 FR 36135). On July 21, 1997, 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, 1996 through June 30, 1997 (62 FR 38973). On July 29, 1997, in accordance with 19 CFR 351.213(b)(1), CBCC, Minasligas, Eletrosilex, and RIMA requested that the Department conduct an administrative review of their respective sales. On July 31, 1997, LIASA requested that the Department conduct an administrative review of its sales. On July 31, 1997, petitioners also requested that the Department conduct an administrative review on sales made by CBCC, Eletrosilex, Minasligas and RIMA. On September 22, 1997, the Department issued the antidumping administrative review questionnaire to all respondents. On September 25, 1997, in accordance with 19 CFR 351.221(b)(1) of the Department's regulations, the Department published in the **Federal Register** a notice of initiation of this antidumping duty administrative review (62 FR 50292). The Department is conducting this review in accordance with section 751 of the Act.

On March 24, April 24, and July 2, 1998, we issued supplemental questionnaires to CBCC. We received responses from CBCC on April 15, April 30, and July 14, 1998, respectively. On March 20, April 30, April 22, and July 13, 1998, we issued supplemental questionnaires to LIASA. We received responses from LIASA, on April 3, April 27, April 30, and July 20, 1998, respectively. On March 30, and July 2, 1998, we issued supplemental questionnaires to Minasligas. We received responses from Minasligas, on April 14, and July 9, 1998, respectively. On March 31, June 29, and July 2, 1998, we issued supplemental questionnaires to RIMA. We received responses from RIMA, on April 17, July 9, and July 13, 1998, respectively. On March 24, June 29, and July 6, 1998, we issued supplemental questionnaires to Eletrosilex. We received a response from Eletrosilex on April 10, 1998. However, Eletrosilex did not respond to the

Department's final two supplemental questionnaires. *See* Use of Facts Available section below.

On March 27, 1998, in accordance with section 751(a)(3)(A) of the Act, the Department published in the **Federal Register** its notice extending the deadline in the preliminary results until July 30, 1998 (63 FR 14900).

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.

Period of Review

The POR is July 1, 1996 through June 30, 1997.

Verification

As provided in section 782(i) of the Act, we verified LIASA's sales and cost information from May 4, 1998 through May 9, 1998, and CBCC's sales and cost information from May 11, 1998 through May 16, 1998. At each verification, we used standard verification procedures, including on-site inspection of the manufacturers' facilities, the examination of relevant sales and financial records, and the selection of original source documentation containing relevant information. Our verification results are outlined in the public version of the respective verification reports, available to the public in Room B–099 of the U.S. Department of Commerce.

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 the Review'' section, above, and sold in the home market during the POR, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical or similar merchandise in the home market 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.

On January 8, 1998, the U.S. Court of Appeals for the Federal Circuit issued a decision in *Cemex S.A.* v. *United States*, 133 F. 3d 897 (Fed. Cir. 1998). In that case, based on the pre-URAA version of the Act, the Court discussed the appropriateness of using CV as the basis for foreign market value when the Department finds foreign market sales to be outside ''the ordinary course of trade.'' This issue was not raised by any party in this proceeding. However, the URAA amended the definition of sales outside the ''ordinary course of trade'' to include sales below cost. *See* section 771(15) of the Act. Consequently, the Department has reconsidered its practice in accordance with this court decision and has determined that it would be inappropriate to resort directly to CV, in lieu of foreign market sales, as the basis for NV if the Department finds foreign market sales of merchandise identical or most similar to that sold in the United States to be outside the ''ordinary course of trade.'' Instead, the Department will use sales of similar merchandise, if such sales exist. The Department will use CV as the basis for NV only when there are no above-cost sales that are otherwise suitable for comparison. Therefore, in this proceeding, when making comparisons in accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the ''Scope of the Review'' section of this notice, above, that were in the ordinary course of trade for purposes of determining appropriate product comparisons to U.S. sales. Where there were no 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 sales of the most similar foreign like product made in the ordinary course of trade, based on the information provided by each respondent in response to our antidumping questionnaire. We have implemented the Court's decision in this case to the extent that the data on the record permitted.

Fair Value Comparisons

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

Export Price

For CBCC, Eletrosilex, LIASA, Minasligas and RIMA, we used the Department's export price (EP) methodology, in accordance with section 772(a) of the Act, because the subject merchandise was sold by the producer outside the United States directly to the first unaffiliated purchaser in the United States prior to importation.

We made company-specific adjustments to EP as follows:

CBCC

In accordance with section 772(c) of the Act, we calculated EP based on packed, delivered prices to the first unaffiliated purchasers in the United States or to unaffiliated trading companies who sell the subject merchandise in the United States. We made deductions from the starting price (gross unit price), where appropriate, for foreign inland freight, brokerage and handling, international freight.

Eletrosilex

In accordance with section 772(c) of the Act, we calculated EP based on packed, delivered prices to the first unaffiliated customer in the United States or to unaffiliated trading companies who sell the subject merchandise in the United States. We made deductions from the starting price (gross unit price), where appropriate, for foreign inland freight, brokerage and handling, and international freight, and added duty drawback.

LIASA

In accordance with section 772(c) of the Act, we calculated EP based on packed, delivered prices to the first unaffiliated customer in the United States or to unaffiliated trading companies who sell the subject merchandise in the United States. We made deductions from the starting price (gross unit price), where appropriate, for foreign movement expenses. Upon our findings at verification, we modified the value for inland freight and packing, as appropriate. *See* LIASA's Verification Report dated July 30, 1998 and Memorandum dated July 30, 1998.

On May 1, 1998, petitioners requested in their pre-verification comments that the Department closely examine a particular sale in the LIASA U.S. sales database during its verification of

LIASA data. Petitioners stated that it appeared that this particular sale was not representative of a normal commercial transaction due to its aberrant sale price, quantity, and unusual mode of transportation. Thus, petitioners requested that the Department use its authority to exclude from the margin calculation this U.S. sale as it is distortive, atypical and unrepresentative of an arm's-length transaction.

At verification, the Department examined the sale in question. *See* LIASA Verification Report dated July 29, 1998. The evidence on the record indicates that this sale is a testing/trial run sale. *See* LIASA's Verification Exhibit 4 and verification report at pages 6–9. Because consideration was paid for the merchandise, we preliminarily determine in accordance with the Department's practice regarding samples to include this sale in our calculations. *See Antifriction Other than Tapered Roller Bearings from France; Final Results of Antidumping Duty Administrative Review*, 62 FR 2081, 2122 (January 15, 1997). Further, we preliminarily do not find that it is distortive or unrepresentative and should therefore be excluded.

Minasligas

In accordance with section 772(c) of the Act, we calculated EP based on packed, delivered prices to the first unaffiliated customer in the United States or to unaffiliated trading companies who sell the subject merchandise in the United States. We made adjustments from the starting price (FOB unit price), where appropriate, for foreign movement expense (comprising weighing, sampling and analysis, and port clerical expenses), inland freight, brokerage and handling, and duty drawback. We used the FOB unit price (a gross unit price in dollars) since Minasligas negotiated its U.S. sales in U.S. dollars. We also made modifications to the payment date. We used the date of payment by the U.S. customer to Minasligas for each sale rather than the date of payment by the bank to Minasligas. The date of payment information was provided to the Department in Minasligas's April 13, 1998 submission. In addition, we recalculated the interest rate to be used in Minasligas's U.S. credit expense calculation. For our calculation of the interest rate for U.S. sales, we relied on the Advance Exchange Contract (''ACC'') information presented in the company's April 13, 1998 submission.

Because Minasligas does not know the entry dates of its U.S. sales, it reported all shipments made during the POR, which included two shipments that were reported in the fifth administrative review. We have excluded the two U.S. sales that were reported in the fifth administrative review from our calculation as we have calculated a margin on these sales in the last review.

RIMA

In accordance with section 772(c) of the Act, we calculated EP based on packed, delivered prices to the first unaffiliated customer in the United States or to unaffiliated trading companies who sell the subject merchandise in the United States. We made deductions from the starting price (gross unit price), where appropriate, for domestic inland freight, brokerage and handling, and ocean freight.

Normal Value

A. 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 respective 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.

B. Home Market Sales

We based NV on the price at which the foreign like product was first sold 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. To the extent practicable, we based NV on sales at the same level of trade as the EP sales. For level of trade, please see the level of trade section below.

We made company-specific adjustments to the NV prices as follows:

CBCC

We based home market prices on the packed, delivered prices to affiliated and unaffiliated purchasers in the home market. Where appropriate, we used CV as the basis of NV. We made adjustments, where applicable, in accordance with section 773(a)(6) of the Act. Where applicable, we made adjustments to home market price for inland freight. To adjust for differences in circumstances of sale between the home market and the United States, we adjusted home market prices by deducting HM credit expenses and adding HM interest revenue and adding U.S. credit expenses (offset by interest revenue), U.S. post-sale warehousing, and U.S. direct selling expenses. In order to adjust for differences in packing between the two markets, we adjusted home market price by deducting HM packing costs and adding U.S. packing costs. Home market prices were reported inclusive of value-added taxes (VAT) and, therefore, a deduction for VAT was necessary.

Because CBCC paid commissions on home market sales, in calculating NV for this respondent, we added the lesser of either: (1) the weighted-average amount of commissions paid on the home market sales; or (2) the amount of indirect selling expenses paid on the U.S. sale. *See* 351.410(e) of the Department's regulations.

Eletrosilex

We based home market prices on the packed, delivered prices to affiliated and unaffiliated purchasers in the home market. We made adjustments, where applicable, in accordance with section 773(a)(6) of the Act. Where applicable, we made adjustments to home market price for inland freight. To adjust for differences in circumstances of sale between the home market and the United States, we adjusted home market prices by deducting HM credit expense and other HM direct selling expenses and adding U.S. directs selling expenses, including U.S. credit expenses. In order to adjust for differences in packing between the two markets, we deducted HM packing costs and added U.S. packing costs. Home market prices were reported exclusive of VAT and, therefore, no deduction was necessary.

Although Eletrosilex provided the Department with credit expenses based on Reais and U.S. dollar borrowings, the Department calculated home market credit expense based on Reais denominated loans.

LIASA

We based home market prices on the packed, delivered prices to affiliated and unaffiliated purchasers in the home market. Where appropriate, we used CV as the basis of NV. We made adjustments, where applicable, in accordance with section 773(a)(6) of the Act. Where applicable, we made adjustments for movement expenses. To

adjust for differences in circumstances of sale between the home market and the United States, we reduced home market prices by the amounts for direct selling expenses including credit and commission expenses and added U.S. credit expenses. In order to adjust for differences in packing between the two markets, we deducted HM packing costs and added U.S. packing costs. Home market prices were reported inclusive of VAT and, therefore, a deduction for VAT was necessary.

Minasligas

We based home market prices on the packed, delivered prices to affiliated and unaffiliated purchasers in the home market. We made adjustments, where applicable, in accordance with section 773(a)(6) of the Act. Where applicable, we made adjustments for movement expenses. To adjust for differences in circumstances of sale between the home market and the United States, we reduced home market prices by an amount for home market credit expenses and added U.S. credit expenses. In order to adjust for differences in packing between the two markets, we adjusted home market price by deducting HM packing costs and adding U.S. packing costs. Home market prices were reported inclusive of VAT and, therefore, a deduction for VAT was necessary.

RIMA

We based home market prices on the packed, delivered prices to affiliated or unaffiliated purchasers in the home market. Where appropriate, we used CV as the basis of NV. We made adjustments, where applicable, in accordance with section 773(a)(6) of the Act. Where applicable, we made adjustments for inland freight. To adjust for differences in circumstances of sale between the home market and the United States, we adjusted home market prices by deducting HM credit expenses and commissions and adding HM interest revenue and adding U.S. credit expenses. In order to adjust for differences in packing between the two markets, we adjusted home market price by deducting HM packing costs and adding U.S. packing costs. Home market prices were reported inclusive of VAT and, therefore, a deduction for VAT was necessary.

Because Rima paid commissions on home market sales, in calculating NV for this respondent, we added the lesser of either: (1) the weighted-average amount of commissions paid on the home market sales; or (2) the amount of indirect selling expenses paid on the U.S. sale. *See* 351.410(e) of the Department's regulations.

C. ICMS Tax

In general, most foreign governments that establish value-added taxes (''VAT'') allow for a credit for VAT paid on inputs that can be used to offset tax liability to the government arising from home market sales (*i.e.*, VAT collected from domestic customers). In addition, most foreign governments allow for a rebate or remittance of the tax paid on material inputs upon the exportation of the finished product, provided companies submit documentation that such inputs are used in the products for exportation.

Under Brazil's VAT system, however, there is no provision for refunding the taxes based upon export sales. Rather, in Brazil's system only a tax credit arises upon the purchase of inputs for use in the finished product. That credit can be used to offset tax liability to the government arising from sales in the domestic market (*i.e.*, ICMS taxes collected from home market customers) to the extent that a company makes such sales in the home market.

In the past, the Department included ICMS taxes in the calculation of CV because such taxes are considered a cost of production. However, recent decisions by the Court of International Trade (CIT) on this issue have accorded substantial weight to the ''economic reality'' of the Brazilian tax system which in some circumstances allows for recovery of the ICMS tax paid on material inputs used in the production of export sales. *See Aimcor* v. *United States*, 19 CIT 966 (CIT 1995); *Camargo Correa Metais, S.A.* v. *United States*, 17 CIT 897, 911 (CIT 1993). In light of these decisions, the Department is reconsidering its current policy of including ICMS tax in CV.

We will now no longer assume that VAT taxes are a cost when calculating CV. Instead, we will examine the actual experience of each producer/exporter subject to an investigation or review. If any exporter/producer is able to demonstrate that it was able to offset its tax liability on domestic sales, no addition for such taxes should be made in calculating CV for that producer/exporter. Similarly, if any producer/exporter is able to use only a portion of the credits generated by export sales we will treat as a cost in calculating CV only that portion which was not used during the period. Only if a producer/exporter is unable to use any of the tax credits, or if the producer/exporter fails to provide satisfactory evidence of its tax experience on this question, will we continue to treat the entire amount of VAT taxes as a direct cost in calculating CV. The Department invites comment from interested parties with respect to this issue.

Additionally, CBCC, LIASA, and Minasligas have noted that Brazil's new ICMS tax law allows companies to use ICMS tax credits generated during the POR for the reduction in payment of electricity costs. These companies have requested that the Department reduce their ICMS tax paid during the POR by the amount of tax credits used for electricity after the POR, because such credits were generated during the POR. We preliminarily determine that, since the companies used these tax credits after the POR, that would be the appropriate time to account for this reduction in these companies' ICMS tax credit balance.

Price to Price Comparisons

Where there were contemporaneous sales of the comparison product that passed the COP test, we based NV on home market prices.

Price to CV Comparisons

When we based NV on CV, we calculated CV in the manner described below. See ''Cost of Production (COP) Analysis'' section. Where we compared export prices to CV, we deducted from CV the weighted-average home market direct selling expenses and added the U.S. direct selling expenses, where applicable, in accordance with sections 773(a)(8) and 773(a)(6)(C)(iii) of the Act.

Cost of Production (COP) Analysis

On February 11, 1998, the Department published in the **Federal Register** the final results of the fifth administrative review on silicon metal from Brazil. *See Final Results of Antidumping Duty Administrative Review: Silicon Metal From Brazil*, 63 FR 6899. In that review, in accordance with section 773(b)(1) of the Act, the Department disregarded home market sales found to be below COP for CBCC, Eletrosilex, Minasligas and RIMA. 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 at prices below the COP as provided by section 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we initiated an investigation to determine whether these respondents made home market sales during the POR at prices below their COP. In addition, on March 16, 1998, we initiated a below-cost investigation for LIASA pursuant to petitioners' allegation on

December 12, 1997. *See* 1996–1997 Administrative Review of the Antidumping Duty Order on Silicon Metal from Brazil: Analysis of Petitioners' Allegation of Sales Below the Cost of Production (''COP'') for Ligas de Aluminio S.A.

A. Calculation of COP

In accordance with section 773(b)(3) of the Tariff Act, we calculated COP based on the sum of each respondent's cost of materials and fabrication employed in producing the foreign like product, plus amounts for home market general and administrative expenses and packing costs. We relied on the home market sales and COP information that each respondent provided in its questionnaire responses. We adjusted each respondent's reported COP as follows:

CBCC

As a result of verification findings, we recalculated depreciation based on the Departmental methodology. *See* CBCC's 1996–1997 Verification Report dated July 30, 1998, and Analysis Memorandum on the Sixth Administrative Review of Silicon Metal from Brazil from Lisette Lach through James Doyle to the File dated July 30, 1998 (''Memorandum''), a public version of which is in the file in Central Records, Room B–099 at the U.S. Department of Commerce.

We recalculated CBCC's G&A expenses using CBCC's and Solvay & Cie's 1996 G&A expenses and COGS as reported in Exhibit 3 of CBCC's November 21, 1997 submission, because it is Departmental practice to calculate G&A expenses on an annual basis as a ratio of total G&A expenses divided by cost of goods sold (COGS). *See Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Canada; Notice of Final Antidumping Duty Administrative Reviews,* 62 FR 18448, 18456 (April 15, 1997). To obtain the amount of unit G&A expense for the POR, we multiplied the G&A expense ratio for CBCC and Solvay & Cie by the unit COM of the merchandise under investigation. *See* CBCC's Memorandum and Attachment to that Memorandum.

Additionally, the Department recalculated CBCC's cost of manufacture because CBCC did not provide its COP for self-produced charcoal. Instead, CBCC only provided costs based on its purchases of charcoal from an unaffiliated supplier(s). Therefore, we had to apply facts available in accordance with section 776(a) of the Act for the cost of self-produced charcoal. As facts available, we used as the cost for CBCC's self-produced charcoal the prices that CBCC paid to unaffiliated supplier(s) for purchased charcoal. Therefore, we have recalculated the cost of CBCC's charcoal production by using the annual average cost CBCC was charged by unaffiliated supplier(s). *See* CBCC's Verification Report dated July 30, 1998 and Memorandum dated July 30, 1998.

The Department's established policy is to calculate interest expenses (INTEX) incurred on behalf of the consolidated group of companies (*e.g.,* Solvay & Cie) to which the respondent belongs, based on consolidated financial statements. This practice recognizes two facts: (1) The fungible nature of invested capital resources such debt and equity of the controlling entity within a consolidated group of companies, and (2) the controlling entity within a consolidated group has the power to determine the capital structure of each member country within its group. *See, e.g., Notice of Final Results of Antidumping Duty Administrative Review Aramid Fiber Formed of Poly ParaPhneylene Terephthalamide from the Netherlands,* 62 FR 38058 (July 16, 1997). Accordingly, we recalculated INTEX by multiplying the reported the percentage of Solvay & Cie's financial expenses by cost of manufacture (COM). *See* CBCC's Memorandum and Attachment to Memorandum.

Eletrosilex

As a result of our determination to recalculate interest expense based on the facts available (*see* facts available section), we have recalculated Eletrosilex's general and administrative expenses on the same basis as interest expense in order to be consistent with the interest expense calculation. See Analysis Memorandum on the Sixth Administrative Review of Silicon Metal from Brazil from Letitia Kress through James Doyle to the File dated July 30, 1998 (''Memorandum''), a public version of which is in the file in Central Records, Room B–099 at the U.S. Department of Commerce.

LIASA

As a result of verification, the Department recalculated LIASA's total cost of manufacture because at we found that certain sales of slag were incorrectly classified as off-grade silicon metal. *See* LIASA's Verification Report dated July 30, 1998 and LIASA's Analysis Memorandum dated July 30, 1998.

Minasligas

We recalculated Minasligas's G&A expenses, using Minasligas's and Delp Engenharia Mecanica S.A. (Delp) 1996 G&A expenses and COGS as reported in Minasligas's November 21, 1997 submission. We recalculated G&A because it is Departmental practice to include both the parent (Delp) and subsidiary company (Minasligas) G&A expenses in its calculation of total G&A. *See* Minasligas's Analysis Memorandum.

RIMA

The Department adjusted RIMA's G&A and interest expense calculations. In our original questionnaire of September 22, 1997, and supplemental questionnaire of March 31, 1998, we requested RIMA to compute its G&A expenses on an annual basis as a ratio of its total G&A expenses divided by its cost of goods sold. In both instances, RIMA did not calculate its G&A expenses using the methodology requested by the Department. Therefore, we have recalculated RIMA's G&A based on its 1996 and 1997 financial statements, and Departmental practice of calculating G&A on total G&A expenses divided by cost of sales. *See* Analysis Memorandum on the Sixth Administrative Review of Silicon Metal from Brazil from Abdelali Elouaradia through James Doyle to the File dated July 30, 1998 (''Memorandum''), a public version of which is in the file in Central Records, Room B–099 at the U.S. Department of Commerce.

Additionally, the Department has recalculated RIMA's interest expense. In our supplemental questionnaire of June 29, 1998, we requested RIMA to provide a breakout for 1996 and 1997 of their Income of Financial Investment by the type of investment. In its July 8, 1998 supplemental response, RIMA stated that it did not have financial investments during this period. However, in its April 17, 1998 supplemental response, RIMA applied certain accounts (*i.e.,* Currency Adjustment, Asset Discounts, and Asset Interest) to offset its financial expenses in its calculation of interest expense. Although requested, RIMA has not provided the Department with an explanation why these accounts were included as offsets to its interest expense. Therefore, the Department has recalculated RIMA's interest expense based on RIMA's 1996 and 1997 financial statements without the offsets claimed by RIMA. *See* Analysis Memorandum on the of the Sixth Administrative Review of Silicon Metal from Brazil from Abdelali Elouaradia through James Doyle to the File dated July 30, 1998 (''Memorandum''), a public version of which is in the file in

Central Records, Room B–099 at the U.S. Department of Commerce.

B. Test of Home Market Prices

After calculating COP, we tested whether home market sales of silicon metal were made at prices below COP within an extended period of time in substantial quantities and whether such prices permitted the recovery of all costs within a reasonable period of time. We compared model-specific COP to the reported home market prices less any applicable movement charges and discounts, where appropriate.

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of each respondent's home market sales for a model were at prices less than the COP, we did not disregard any below-cost sales of that model because we determined that the below cost sales were not made within an extended period of time in ''substantial quantities.'' Where 20 percent or more of each respondent's home market sales of a given product during the POR were at prices less than the COP, we determined that such sales were made within an extended period of time in substantial quantities in accordance with section 773(b)(2) (C) of the Tariff Act. To determine whether such sales were at prices which would not permit the full recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Tariff Act, we compared home market prices to the weighted-average COP for the POR. When we found that below-cost sales had been made in ''substantial quantities'' and were not at prices which would permit recovery of all costs within a reasonable period of time, we disregarded these below-cost sales in the preliminary results in accordance with section 773(b)(1) of the Act.

In these preliminary results, our cost tests for CBCC, Minasligas, and Rima indicated that less than twenty percent of the sales of subject merchandise were at prices below COP. We therefore retained all sales of subject merchandise in our analysis and used them in our determination of NV, where applicable.

The results of our cost tests for Eletrosilex and LIASA indicated that, within an extended period of time (one year, in accordance with section 773(b)(2)(B) of the Act), more than twenty percent of the sales of all products of each company were at prices below COP. Thus these below-cost sales were in ''substantial quantities.'' In addition, these sales were at prices which would not permit the full recovery of all costs within a reasonable period of time. In accordance with section 773(b)(1) of the Act, we disregarded the below-cost sales of subject merchandise for each of these two companies and used the remaining above-cost sales as the basis for determining each company's NV, where applicable.

For all respondents in accordance with section 773(a)(4) of the Act, we used CV as the basis for NV when there were no usable sales of the foreign like product in the comparison market. We calculated CV in accordance with section 773(e) of the Act.

Constructed Value

In accordance with section 773(e) of the Act, for CBCC, LIASA, and Rima, we calculated CV based on the sum of respondent's cost of materials and fabrication employed in producing the subject merchandise, selling, general and administrative expenses, and profit incurred and realized in connection with production and sale of the foreign like product, and U.S. packing costs. In accordance with section 773(e)(2)(A), we based SG&A and profit on the amounts incurred and realized by each respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. We used the costs of materials, fabrication, and SG&A as reported in the CV portion of respondent's questionnaire response.

For Rima, we adjusted its general and administrative and interest expenses. *See* Analysis Memorandum on the Sixth Administrative Review of Silicon Metal from Brazil from Abdelali Elouaradia through James Doyle to the File dated July 30, 1998 (''Memorandum''), a public version of which is in the file in Central Records, Room B–099 at the U.S. Department of Commerce. Additionally, because Rima has recovered ICMS tax on material inputs used in the production of silicon metal for export, we have excluded such taxes in the calculation of constructed value. We used the U.S. packing costs as reported in the U.S. sales portion of respondent's questionnaire responses. We based selling expenses and profit on the information reported in the home market sales portion of respondent's questionnaire responses. *See Certain Pasta from Italy; Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 61 FR 1344, 1349 (January 19, 1996). For selling expenses, we used the weighted-average home market selling expenses.

For CBCC, we made adjustments to fixed overhead to reflect the correct depreciation expense, G&A expenses and interest expense. These adjustments reflect those made in CBCC's COP. *See* adjustments to CBCC's COP in ''Calculation of COP'' section above. Because CBCC did not recover ICMS tax on material inputs used in the production of silicon metal for export to the United States, we have included CBCC's ICMS tax in the calculation of constructed value. To the extent CBCC recovered ICMS taxes for sales in the home market during the POR, we have excluded such tax from the calculation of CV.

For LIASA, because LIASA did not recover ICMS tax on material inputs used in the production of silicon metal for export to the United States we have included LIASA's ICMS tax in the calculation of constructed value. To the extent LIASA recovered ICMS taxes for sales in the home market during the POR, we have excluded such tax from the calculation of CV.

For Eletrosilex, we included the cost of materials and fabrication, and G&A expenses in CV. We made adjustments to depreciation expenses, amortization expenses, electricity cost, general and administrative expenses, and financial expenses. These adjustments reflect those made in Eletrosilex's COP. *See* adjustments to Eletrosilex's COP in ''Calculation of COP'' section above and Facts Available section below. In these preliminary results, since we found that Eletrosilex made no above-cost sales of the foreign like product in the comparison market, we were therefore unable to derive profit for use in the constructed value calculation using Eletrosilex's home market sales data. For this reason, in accordance with section 773(e)(2)(B)(ii) of the Act, we used the average of the actual amounts of selling expenses incurred, and profit realized, by CBCC, LIASA, Minasligas and Rima in connection with the production and sale of the foreign like product, in the ordinary course of trade, for consumption in the home market. Additionally, we have included Eletrosilex's ICMS tax balance in the calculation of constructed value because Eletrosilex failed to provide the Department complete information on its ICMS tax balance. *See* Facts Available Section below and Analysis Memorandum. In accordance with section 773(2)(B)(i) of the Act, we based G&A expenses (including net interest expenses) on the amounts incurred by the respondent in connection with the production and sale, for consumption in the foreign country, of the same general category of products.

Use of Facts Available

Eletrosilex

We preliminarily determine that the use of adverse facts available is appropriate with respect to certain aspects of Eletrosilex's submitted data in accordance with section 776(a)(2)(C) and section 776(b) of the Act because we find that Eletrosilex failed to cooperate to the best of its ability in failing to comply with our requests for complete information. In two supplemental questionnaires issued by the Department, Eletrosilex failed to provide the requested information. *See Memorandum to Robert S. LaRussa from Joseph A. Spetrini, July 20, 1998 on file in the Central Records Unit, Room B–099 of the main Commerce Building.*

On June 29 and July 6, 1998, the Department issued supplemental questionnaires to Eletrosilex requesting additional information on its home market sales, U.S. sales, cost of production, constructed value, and ICMS taxes. *See* Departmental letters to Eletrosilex on those dates. Eletrosilex failed to respond to two supplemental questionnaires requesting clarification of specific sales and cost questions and the nature of Eletrosilex's ICMS taxes. We must therefore consider whether Eletrosilex's submitted response is usable under section 782(e) of the Act.

Section 782(e) provides that the Department shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet the applicable requirements established by the Department if: (1) the information is submitted by the deadline established for its submission; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the Department with respect to the information; and (5) the information can be used without undue difficulties.

When examined in light of the requirements of section 782(e), the facts of this review demonstrate that while Eletrosilex data is incomplete for certain elements of the calculation, nevertheless the Department has enough data on the record to reasonably calculate a dumping margin. On this basis, we determine that it is appropriate to resort to partial facts available, based on Departmental adjustments to Eletrosilex's cost of production data.

The Department finds that Eletrosilex did not act to the best of its ability to comply with requests for information. In the past, Eletrosilex has demonstrated an understanding for requests of additional information by the Department. In this review, Eletrosilex responded on April 10, 1998, to the Department's March 24, 1998 supplemental questionnaire. However, its failure to provide responses to our other supplemental questionnaires (i.e., dated June 29 and July 6, 1998) despite numerous opportunities to do so constitutes a failure to cooperate to the best of its ability with respect to our request for information. *See* Public Version of Memorandum to File from Robert Bolling, dated July 20, 1998. It is therefore appropriate, under section 776(b) of the Act, for the Department to use an adverse inference in applying facts available.

Accordingly, based on facts available, we have determined to recalculate Eletrosilex's depreciation expenses, amortization expenses, electricity cost, and financial expenses. *See* Analysis Memorandum dated July 30, 1998.

Level of Trade

In accordance with section 773(a)(7) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP transaction. 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 sales, which is usually from exporter to importer. For CEP sales, it 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 the stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated 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 comparison-market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, 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 adjusted 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).

To determine whether a LOT adjustment or CEP offset was warranted for all Brazilian respondents, we compared the EP sales to the HM sales in accordance with the principles discussed above. For purposes of our analysis, we examined information regarding the distribution systems in both the U.S. and Brazilian markets, including the selling functions, classes of customer, and selling expenses for each respondent.

In the home market, all respondents sold the subject merchandise to one or more of the following three categories of customers: end-users, and trading companies. Regardless of the category of customer, all respondents' home market sales were manufactured to order and the merchandise was shipped directly from the factory to each type of customer. Their packing processes were also identical for all sales, and the selling expenses for the POR were comparable for all sales, regardless of the category of customer. Evidence on the record also demonstrates that respondents did not have formal policies for providing special payment terms, such as discounts, to different types of customers. Additionally, we found no differences in the selling activities performed for each respondent's U.S. sales in comparison to its home market sales. Thus, we have determine that the selling activities each respondent performed for its home market sales were the same for all home market sales, and that each respondent's home market sales were all made at a single LOT.

All respondents reported only EP sales in the U.S. market. All U.S. sales were made to either U.S. end-users or traders, where each sale was manufactured to order, and the selling activities were comparable for all sales, regardless of the category of customer. Therefore, we have concluded that for each respondent a single LOT exists in the United States which is the same as the HM LOT. Therefore, no LOT adjustment is warranted in this review.

Currency Conversion

For purposes of the preliminary results, we made currency conversions in accordance with section 773A of the Act based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York.

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, 1996 through June 30, 1997, to be as follows:

Manufacturer/exporter	Margin (percent)
CBCC	0
Eletrosilex	33.11
LIASA	0
Minasligas	0
RIMA	0

Parties to the proceeding may request disclosure within five (5) days of the date of publication of this notice. Any interested party may request a hearing within ten (30) days of publication. Any hearing, if requested, will be held 44 days after the date of publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. Parties who submit argument are requested to submit with the argument: (1) A statement of the issues and (2) a brief summary of the argument. The Department will publish a notice of final results of this administrative review, which will include the results of its analysis of issues raised in any such comments or at a hearing, within 120 days of publication of these preliminary results.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Upon completion of this review, the Department will issue appraisement instructions directly to the Customs Service. The Department calculated the assessment of duties in accordance with section 351.212 of its regulations.

Furthermore, the following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of silicon metal from Brazil entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1)(c) of the Act: (1) The cash deposit rate for the reviewed companies will be the rate established in the final results of this review (except that no deposit will be required for firms with zero or *de minims* margins, *i.e.*, margins less than 0.5 percent); (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 less than fair value (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 producers and/or exporters of this merchandise, the cash deposit rate shall be 91.06 percent, the all others rate established in the LTFV investigation, 56 FR 36135 (July 31, 1991).

These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) 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 determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 30, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–21061 Filed 8–5–98; 8:45 am]

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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

[A–405–071]

Viscose Rayon Staple Fiber from Finland: Notice of Termination of Antidumping Duty Administrative Review

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

ACTION: Notice of Termination of Antidumping Duty Administrative Review.

SUMMARY: On April 24, 1998, the Department of Commerce (the Department) published in the **Federal Register** (63 FR 20378) a notice announcing the initiation of an administrative review of the antidumping duty order on viscose rayon staple fiber from Finland, covering the period March 1, 1997 through February 28, 1998, and one manufacturer/exporter of the subject merchandise, Säteri Oy. This review has now been terminated as a result of the interested party's withdrawal of its request for an administrative review.

EFFECTIVE DATE: August 6, 1998.

FOR FURTHER INFORMATION CONTACT: Alexander Amdur, Office of AD/CVD Enforcement, Group II, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–5346.

SUPPLEMENTARY INFORMATION:

Background

On March 30, 1998, Courtaulds Fibers Inc., a domestic interested party, requested an administrative review of the antidumping duty order on viscose rayon staple fiber from Finland in accordance with 19 CFR 351.1213(b). On April 24, 1998, in accordance with 19 CFR 351.221(c)(1)(ii), we initiated an administrative review of this order for the period March 1, 1997 through February 28, 1998. On July 20, 1998, Courtaulds Fibers Inc. withdrew its request for this review.

Termination of Review

Courtaulds Fibers withdrew its request within the time limit provided by the Department's regulations at 19 CFR 351.213(d)(1). Therefore, the Department is terminating this review.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended.

Dated: July 31, 1998.

Maria Harris Tildon,

Acting Deputy Assistant Secretary, Import Administration.

[FR Doc. 98–21064 Filed 8–5–98; 8:45 am]

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DEPARTMENT OF COMMERCE

Coastal Zone Management

Federal Consistency Appeal by Chevron U.S.A. Production Company by an Objection by the State of Florida Department of Community Affairs.

AGENCY: National Oceanic and Atmospheric Administration, Commerce.