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DEPARTMENT OF COMMERCE

International Trade Administration

A-307-824

Ferrosilicon from Venezuela: Final Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (“the Department”) determines that ferrosilicon from Venezuela is being, or is likely to be, sold in the United States at less than fair value (“LTFV”), as provided in section 735 of the Tariff Act of 1930, as amended (“the Act”). The final weighted-average dumping margin is listed below in the section entitled “Final Determination Margins.”

DATES: Effective Date: (Insert date of publication in the Federal Register.)

FOR FURTHER INFORMATION: Kabir Archuletta, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2593.

SUPPLEMENTARY INFORMATION:

Background

On March 11, 2014, the Department published in the Federal Register the preliminary determination of sales at LTFV in the antidumping duty (“AD”) investigation of ferrosilicon from Venezuela.¹ The following events occurred since we issued the Preliminary Determination.

¹ See Ferrosilicon From Venezuela: Preliminary Determination of Sales at Less Than Fair Value and Postponement of the Final Determination, 79 FR 13619 (March 11, 2014) (“Preliminary Determination”) and accompanying Preliminary Decision Memorandum (“Preliminary Decision Memorandum”).

On February 24, 2014, FerroVen submitted comments regarding the security situation in Venezuela, explaining the risks posed to FerroVen staff and Department representatives by an on-site verification in Venezuela.² FerroVen included in its comments news articles and the U.S. State Department's travel warnings regarding Venezuela, noting that the unrest was not limited to Caracas, but was also occurring in Puerto Ordaz, the location of FerroVen's facility.³ On March 7, 2014, we issued a letter to the mandatory respondent in this investigation, FerroAtlantica de Venezuela ("FerroVen"), in which we accepted its proposal to conduct the verification which would normally occur in Venezuela in Medina, Ohio, the location of FerroVen's U.S. affiliate, FerroAtlantica North America.⁴ Specifically, we stated that "in light of the evolving security threat to an on-site verification conducted in a country in the midst of civil unrest, the Department has decided that such a threat would not be conducive to the efficient completion of an on-site verification or the safety of all persons involved."⁵

On April 9, 2014, CC Metals and Alloys, LLC and Globe Specialty Metals, Inc. ("Petitioners") filed pre-verification comments for the U.S. sales verification that occurred from April 21, 2014, through April 23, 2014.⁶ The Department conducted the home market sales verification from April 24, 2014, through April 30, 2014.⁷ On May 9, 2014, Petitioners filed pre-

² See Letter to the Secretary of Commerce from FerroVen "Letter Regarding Situation in Venezuela" (February 24, 2014).

³ Id.

⁴ See Letter to FerroVen from Catherine Bertrand, Program Manager, Office V, regarding security situation in Venezuela (March 7, 2014).

⁵ Id.

⁶ See Letter from Petitioners "Ferrosilicon From Venezuela; CC Metals and Alloys, LLC and Globe Specialty Metals, Inc. U.S. Sales Verification Comments" (April 9, 2014); Letter to FerroVen from Catherine Bertrand, Program Manager, Office V "CEP Verification Agenda" (April 7, 2014).

⁷ See Letter to FerroVen from Catherine Bertrand, Program Manager, Office V "Verification Agenda" (April 7, 2014).

verification comments⁸ for the cost verification that occurred from May 12, 2014, through May 16, 2014, in Madrid, Spain.⁹

On April 10, 2014, Petitioners and FerroVen requested that the Department hold a hearing in this investigation.¹⁰ On June 30, 2014, Petitioners and FerroVen withdrew their requests for a hearing.¹¹

The Department issued the home market and U.S. sales verification reports on June 4, 2014,¹² and the cost verification report on June 17, 2014.¹³ On June 26, 2014, Petitioners and FerroVen filed case briefs.¹⁴ On July 3, 2014, Petitioners and FerroVen filed rebuttal briefs.¹⁵

Period of Investigation

The period of investigation (“POI”) is July 1, 2012, through June 30, 2013.

Scope of the Investigation

The merchandise covered by this investigation is all forms and sizes of ferrosilicon,

⁸ See Letter from Petitioners “Ferrosilicon From Venezuela; CC Metals and Alloys, LLC and Globe Specialty Metals, Inc. Cost Verification Comments” (May 9, 2014).

⁹ See Letter to FerroVen from Michael Martin, Lead Accountant, Office of Accounting “Antidumping Duty Investigation of Ferrosilicon from Venezuela” (April 25, 2014).

¹⁰ See Letter from Petitioners “Ferrosilicon From Venezuela; Investigation; CC Metals and Alloys, LLC and Globe Specialty Metals, Inc. Request for Hearing” (April 10, 2014); Letter to the Secretary of Commerce from FerroVen “Ferrosilicon from Venezuela. Case No. A-307-824: Request for Hearing” (April 10, 2014).

¹¹ See Letter Commerce from Petitioners “Ferrosilicon From Venezuela; Investigation; Withdrawal of Request for Hearing” (June 30, 2014); Letter from FerroVen “Ferrosilicon from Venezuela. Case No. A-307-824: Withdrawal of Hearing Request” (June 30, 2014).

¹² See Memorandum to the File from Kabir Archuleta, Senior International Trade Analyst, Office V, and Irene Gorelik, Senior International Trade Analyst, Office V, through Catherine Bertrand, Program Manager, Office V “Verification of Home Market Sales of FerroAtlantica de Venezuela (‘FerroVen’) in the Antidumping Duty Investigation of Ferrosilicon from Venezuela” (June 4, 2014) (“HM Verification Report”); Memorandum to the File from Kabir Archuleta, Senior International Trade Analyst, Office V, and Irene Gorelik, Senior International Trade Analyst, Office V, through Catherine Bertrand, Program Manager, Office V “Verification of FerroAtlantica North America in the Antidumping Duty Investigation of Ferrosilicon from Venezuela” (June 4, 2014) (“CEP Verification Report”).

¹³ See Memorandum to the File from Laurens van Houten, Senior Accountant, through Michael Martin, Lead Accountant, and Neal Halper, Office Director “Verification of the Cost Response FerroAtlantica de Venezuela in the Antidumping Duty Investigation of Ferrosilicon from Venezuela” (June 17, 2014) (“Cost Verification Report”).

¹⁴ See Letter from Petitioners “Ferrosilicon From Venezuela; Investigation; Case Brief of CC Metals and Alloys, LLC and Globe Specialty Metals, Inc.” (June 26, 2014); Letter from FerroVen “Ferrosilicon from Venezuela, Case No. A-307-824: Case Brief” (June 26, 2014).

¹⁵ See Letter from Petitioners “Ferrosilicon From Venezuela; Investigation; Rebuttal Brief of CC Metals and Alloys, LLC and Globe Specialty Metals, Inc.” (June 26, 2014); Letter from FerroVen “Ferrosilicon from Venezuela, Case No. A-307-824: Rebuttal Brief” (June 26, 2014).

regardless of grade, including ferrosilicon briquettes. Ferrosilicon is a ferroalloy containing by weight four percent or more iron, more than eight percent but not more than 96 percent silicon, three percent or less phosphorus, 30 percent or less manganese, less than three percent magnesium, and 10 percent or less any other element. The merchandise covered also includes product described as slag, if the product meets these specifications.

Ferrosilicon is currently classified under U.S. Harmonized Tariff Schedule (“HTSUS”) subheadings 7202.21.1000, 7202.21.5000, 7202.21.7500, 7202.21.9000, 7202.29.0010, and 7202.29.0050. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum¹⁶ which is hereby adopted by this notice. A list of the issues raised is attached to this notice as Appendix I. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (“IA ACCESS”). IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and it is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

¹⁶ See Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations “Issues and Decision Memorandum for the Antidumping Duty Investigation of Ferrosilicon from Venezuela” dated concurrently with this notice (“Issues and Decision Memorandum”).

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculations. For a discussion of these changes, see the “Margin Calculations” section of the Issues and Decision Memorandum.

Verification

As provided in section 782(i) of the Act, in April and May 2014, we verified the sales and cost information submitted by FerroVen for use in our final determination. We used standard verification procedures including an examination of relevant accounting and production records, and original source documents provided by FerroVen.¹⁷

Final Determination

The weighted-average dumping margins are as follows:

Producer or Exporter	Weighted-Average Dumping Margin
FerroAtlantica de Venezuela ¹⁸	22.84 percent
All Others	22.84 percent

All Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated “all others” rate shall be an amount equal to the weighted average of the weighted-average dumping margins calculated for the producers or exporters individually examined, excluding rates that are zero, de minimis or

¹⁷ See HM Verification Report; CEP Verification Report; Cost Verification Report.

¹⁸ In this final determination, we determine that FerroAtlantica de Venezuela and FerroAtlantica, S.A., constitute a single entity. See Issues and Decision Memorandum at Comment 1, and Memorandum to the File from Kabir Archuleta, Senior International Trade Analyst, Office V, through Catherine Bertrand, Program Manager, Office V “Calculations Performed for FerroAtlantica de Venezuela for the Final Determination in the Antidumping Duty Investigation of Ferrosilicon from Venezuela” (July 24, 2014), at 2-3.

determined entirely under section 776 of the Act. Since we calculated a weighted-average dumping margin for only one respondent that was not zero, de minimis, or determined entirely under section 776 of the Act, we assigned to all other producers and exporters the rate calculated for FerroVen, 22.84 percent.

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (“CBP”) to continue to suspend liquidation of all appropriate entries of ferrosilicon from Venezuela as described in the “Scope of the Investigation” section, which was entered, or withdrawn from warehouse, for consumption on or after March 11, 2014, the date of publication of the Preliminary Determination. CBP shall require a cash deposit equal to the estimated amount by which the normal value exceeds the U.S. price as follows: (1) the rate for FerroVen will be the rate we have determined in this final determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the merchandise under consideration; (3) the rate for all other producers or exporters will be 22.84 percent, as discussed in the “All Others Rate” section, above. These instructions suspending liquidation will remain in effect until further notice.

U.S. International Trade Commission (“ITC”) Notification

In accordance with section 735(d) of the Act, we notified the U.S. International Trade Commission (“ITC”) of our final determination. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act the ITC will determine within 45 days whether the

domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the merchandise under consideration. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Return or Destruction of Proprietary Information

This notice will serve as the only reminder to parties subject to administrative protective order (“APO”) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/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.

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

July 24, 2014_
Date

Appendix - List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Investigation
- IV. Margin Calculations
- V. Discussion of the Issues
 - 1. Whether FerroVen and FASA Should be Treated as a Single Entity
 - 2. FerroVen's Purchases of Quartz
 - 3. FerroVen's HM Interest Rate
 - 4. U.S. Import Duties
 - 5. Tax Adjustment to Certain HM Sales Based on Verification Observations
 - 6. CEP Offset
 - 7. General and Administrative Expense
 - 8. Depreciation
 - 9. Financial Expense Ratio
 - 10. FASA's G&A rate
- VI. Recommendation

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