

**Ministry of Commerce and Industry**  
**(Department of Commerce)**  
**(Directorate General of Anti-Dumping and Allied Duties)**

**NOTIFICATION**

New Delhi, the 16th January 2002

**FINAL FINDINGS**

**Subject:** Anti-Dumping investigations concerning import of Ferro Silicon from Ukraine.

**17/1/2001-DGAD** - Having regard to the Customs Tariff Act, 1975, as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 thereof:

**A. PROCEDURE**

1. The procedure described below has been followed subsequent to the preliminary findings:

- a. The Designated Authority (hereinafter also referred to as the Authority) notified Preliminary Findings vide notification dated 17/1/2001-DGAD dated 21st June 2001 with regard to anti-dumping investigations concerning imports of Ferro Silicon from Ukraine and requested the interested parties to make their views known in writing within forty days from the date of its publication;
- b. The Authority forwarded a copy of the preliminary findings to the known interested parties, who were requested to furnish their views, if any, on the said findings within forty days from the date of the letter;
- c. The Authority provided an opportunity to all interested parties to present their views orally on 11/12/2001. All parties presenting views orally were requested to file written submissions of the views expressed orally. The parties were advised to collect copies of the views expressed by the opposing parties and offer rejoinders, if any. Only the petitioners submitted written submissions.
- d. The Authority made available the public file to all interested parties containing non-confidential version of all evidence submitted and arguments made by various interested parties;
- e. The arguments raised by the petitioners and other interested parties have been appropriately dealt with in the preliminary findings and/or these findings;

- f. In accordance with Rule 16 supra, the essential facts/basis considered for these findings were disclosed to known interested parties and comments received on the same, (submitted by the domestic industry alone) have been duly considered in these findings;
- g. \*\*\* in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.

## **B. PRODUCT UNDER CONSIDERATION**

2. Ferro Silicon is an alloy of iron and silicon containing calcium, aluminum, carbon, sulphur and phosphorous as impurities. Silicon constitutes the major proportion in Ferro Silicon. The size of Ferro Silicon is generally described in terms of millimeter of the outer dia of the product.

Ferro Silicon is primarily used as a deoxidiser in the production of steel and alloy steels. Ferro Silicon is also used in the manufacturing of power rectifiers and welding electrodes. The various users of Ferro Silicon can be described as under:

- Deoxidiser in the production of steel,
- As an alloying element for steel,
- In the making of electrical grade steel,
- In the production of anti-corrosive and acid resistant steel,
- In the manufacturing of power rectifiers,
- In the manufacturing of welding electrodes,
- It is added to cast iron as graphitising agent,

Ferro Silicon is classified under Customs sub-heading Nos. 7202.21 and 7202.2100 of Chapter 72 of the Customs Tariff Act, 1975.

The Authority confirms the preliminary findings on product under consideration.

## **C. LIKE ARTICLES**

3. Ferro Silicon is an alloy of iron and silicon containing calcium, aluminum, carbon, sulphur and phosphorous as impurities. There is however no significant difference in terms of process, equipment or technology for the production of Ferro Silicon. Ferro Silicon is primarily used as a deoxidiser in the production of steel and alloy steels. Ferro Silicon is also used in the manufacturing of power rectifiers and welding electrodes. In order to establish that Ferro Silicon produced by the domestic industry is a Like Article to that exported from Ukraine, characteristics such as technical

specifications, manufacturing process, functions and uses and tariff classification have been considered by the Authority.

The Authority therefore finds that there is no argument disputing that Ferro Silicon produced by the domestic industry has characteristics closely resembling the imported material and is substitutable by Ferro Silicon imported from the subject country both commercially and technically. Ferro Silicon produced by the domestic industry has been treated as Like Article to the product exported from Ukraine, within the meaning of Rule 2(d).

In view of the above, the Authority confirms the preliminary findings on Like Articles.

#### **D. DOMESTIC INDUSTRY:-**

4. The petition has been filed by M/s. Indian Metals and Ferro Alloys Ltd., Bhubaneswar, alleging dumping of Ferro Silicon originating in or exported from Ukraine. The petition has been supported by M/s VBC Ferro Alloys Ltd., Hyderabad. As per the information available, the petitioner excluding the supporter represents 47.46% of the total Indian production. The petitioner and the supporter account for 65.75% of the total Indian production.

The Authority notes therefore that the petitioners constitute "domestic industry" and have the required standing to file the present petition under the Rules.

#### **E. Price Undertaking:-**

5. The Authority indicated its readiness to accept a price undertaking from the concerned exporters of Ferro Silicon in Ukraine. The Ministry of Economy of Ukraine had forwarded a draft agreement through the Trade and Economic Mission of the Embassy of Ukraine titled as 'Agreement between the Ministry of Commerce and Industry of the Republic of India and the Ministry of Economy of Ukraine concerning import to India Ferro Silicon originating from Ukraine'. The Ministry of Economy of Ukraine had requested for consideration of the draft agreement on suspension of the anti-dumping investigation in accordance with Rule 15 of the anti-dumping rules. A copy of the draft agreement as given by the Ukraine Embassy was forwarded to the domestic industry for their views. A copy of a standard format of price undertaking was also forwarded to the Ukraine Embassy for their perusal and comments. However no comments on the format of price undertaking was received by the Authority from the Ukraine Embassy. On the draft agreement, the petitioner commented that there

was no price offer by the Ministry of Economy of Ukraine and hence the agreement was beyond the scope of the legal provisions contained under the Act and the Rules.

## **F. Oral Hearing:-**

6. The representatives of the domestic industry and the Counsellor and First Secretary of the Trade and Economic Mission under the Embassy of Ukraine attended the Oral Hearing held on 11/12/2001. Only the domestic industry gave written submissions of the views expressed by them at the time of the Oral Hearing. The Counsellor of the Embassy of Ukraine, Trade and Economic Mission, stated that no response in the matter of Price Undertaking had been received from any of the concerned exporters of Ferro Silicon in Ukraine. As such the Ministry of Economy of Ukraine and the Trade and Economic Mission under the Embassy of Ukraine had nothing further to say in the matter.

## **G. Authority's Position:-**

7. There was no response from the Ukrainian exporters or the Ministry of Economy of Ukraine regarding the price undertaking that the Designated Authority was prepared to accept. The Authority noted that in the draft agreement there was no mention of the price at which exports of Ferro Silicon from Ukraine would be effected to India which is the essential aspect of a price undertaking. The names and addresses of the exporters/producers in Ukraine on whose behalf the Ministry of Economy of Ukraine was prepared to enter into an agreement with the Ministry of Commerce and Industry of India did not appear on the draft agreement. The Authority also noted that in the Oral Hearing held on 11/12/2001 the Counsellor of the Trade and Economic Mission under the Embassy of Ukraine, stated that no response in the matter of Price Undertaking had been received from any of the concerned exporters of Ferro Silicon in Ukraine. As such the Ministry of Economy of Ukraine and the Trade and Economic Mission under the Embassy of Ukraine had nothing further to say in the matter.

The Authority therefore concluded that the exporters of Ferro Silicon in Ukraine were not interested in a price undertaking. In the stated circumstances and considering the fact that none of the exporters had co-operated in the investigations, the Authority decided to proceed further on the basis of best available information.

## **H. Views expressed by Interested Parties:-**

(1) **Views expressed by importers:-**

The views expressed by some of the known importers have been reflected at Para C 3 (A) of the preliminary Findings are not repeated here. They include views by Calcutta Metal Depot and information on countrywise details of import of Ferro Silicon and details of purchase of the quantity and value of the product under investigations from indigenous manufacturers during the POI by Tata Steel and Mukand Ltd.

## **(2) Exporters Views**

The known exporters in Ukraine did not respond to the Authority's request for information as per the prescribed exporters questionnaire.

## **(3) Views expressed by the Ministry of Economy of Ukraine through the Trade & Economic Mission under the Embassy of Ukraine:-**

The views expressed by the Ministry of Economy of Ukraine are reflected in Para 4 (A) of the Preliminary Findings. The Ministry of Economy of Ukraine had forwarded a draft agreement through the Trade and Economic Mission of the Embassy of Ukraine and had requested for consideration of the draft agreement on suspension of the anti-dumping investigation in accordance with Rule 15 of the anti-dumping rules. A perusal of the draft showed that the Ukrainian party (exporter) would undertake quantity restrictions of amounts specified in the draft.

They were informed by the Directorate that the Authority may suspend or terminate the investigation if the exporter (s) in question furnished a price undertaking in writing to the Authority as stipulated under the provisions of Rule 15. However, the Authority noted that there was no mention of the price at which exports of Ferro Silicon from Ukraine would be effected to India which is the essential aspect of a price undertaking. There was also no mention of any revision of price. The names and addresses of the exporters/producers in Ukraine on whose behalf the Ministry of Economy of Ukraine was prepared to give a price undertaking did not appear on the draft agreement.

## **(4) Views expressed by Domestic Industry**

### **(a) Procedure**

The Designated Authority has followed an elaborate procedure before recording Preliminary Findings. Notices were sent to a large number of exporters/producers in the subject country, their respective Government and importers/users of Ferro Silicon in India. However none of the exporters in Ukraine responded to the Designated Authority.

(b) Product under consideration and Like Articles

Ferro Silicon is classified under customs subheading no. 7202.2100 and 7202.2900 of the Customs Tariff Act. The product under consideration is "Ferro Silicon" regardless of silicon content. In the preliminary findings, the Designated Authority has restricted the duty to only one sub-classification. However, as brought out earlier, Ferro Silicon regardless of its silicon content is being imported in both the sub-classifications. In any event, the scope of the present investigations is not restricted with reference to the Silicon content. The issue of Silicon content is relevant only to the issue of comparison of normal value with export price and non-injurious price with the landed price of imports. However, the manner of comparison can not imply any restriction on the scope of the duties. The present situation may lead to circumvention of duties. The final duties may please be recommended on the product regardless of customs classification.

Ferro Silicon produced by the Indian Industry is comparable to the goods imported from the subject countries in terms of characteristic such as physical and chemical characteristics, manufacturing process and technology, functions and uses, product specifications, pricing, distribution and marketing and tariff classification of the subject goods. The two are technically and commercially substitutable.

(c) Standing

The petitioners account for a major proportion of the Indian production and therefore satisfy the requirement of standing and constitute domestic industry within the meaning of Anti-Dumping Rules.

(d) Dumping

None of the exporters from the subject country have responded to the Designated Authority. The exporters have thus preferred non-cooperation in the present investigation. The Authority is therefore fully justified in proceeding with the best information available in accordance with the Indian anti-dumping Rules.

(e) Injury and Causal Link

The following parameters summarise injury to the domestic industry:

- i. Imports from the subject country increased in absolute terms;
- ii. Increase in imports have resulted in increase in market share of imports in demand of Ferro Silicon in India. As a direct consequence, market share of domestic industry in demand have declined;

- iii. Export price from the subject country declined significantly;
- iv. Though production, capacity utilisation and sales of the domestic industry have increased it is submitted that production, cost of production, sales, sales realisation are related factors and are required to be seen at the same time at the same level of trade. In the instant case, the petitioner is making losses on each unit of material sold in the Indian market;
- v. The landed value of imports from the subject country was below the selling price of the domestic industry causing price undercutting in the Indian market;
- vi. Landed value of imports was below the cost of production and fair selling price of the domestic industry, thus resulting in financial losses to the domestic industry and prevented it from effecting legitimate price increases;
- vii. Profitability of the domestic industry deteriorated.

(f) Duty in US \$ terms:

It is submitted that the final duties may please be recommended in terms of US \$ only, so that erosion in the quantum of protection does not take place on account of changes in the exchange rates.

## **I. DUMPING:-**

8. The Authority sent questionnaires to the known exporters from the subject country in terms of section 9 A (1). However, the exporters did not respond with the information called for. Therefore there are no claims made by the exporters with regard to Normal Value and Export Price. The Authority has therefore been constrained to rely upon constructed price and best available information with regard to Normal Value and Export Price respectively.

### **(A) Normal Value**

The Authority observes that the exporters from the subject country have not responded to the questionnaire in the prescribed format and have not furnished information relating to normal value, export price, and dumping margin. The Authority therefore considers all exporters to be non-cooperative and has proceeded on best available information.

In the absence of information from the concerned exporters from the subject country, the Authority has been constrained to determine the constructed cost of the subject goods in Ukraine and has determined export price from the named countries as available in official data.

The normal value in Ukraine is therefore considered to be USD \*\*\*/MT or Rs \*\*\*/MT at an average exchange rate during POI of 1USD=Rs 43.5.

**(B) Export Price**

The weighted average cif price as per the information available with the Authority is determined at Rs \*\*\*/MT. The ex-factory export price has been determined after taking USD \*\*\*/MT as ocean freight, \*\*\*% as marine insurance charges, commission @\*\*\*% for the agent in Ukraine, \*\*\*% of fob value for port handling and port charges as per the Indian experience and transportation costs @ \*\*\*% likely to be incurred by the producers in Ukraine to their sea ports. However, commission @\*\*\*% for the Indian indenting agent as claimed by the petitioners is not allowed by the Authority for want of documentary evidence. After adjustments on these accounts the ex- factory fob export price is estimated to be Rs \*\*\*/MT or USD \*\*\*/MT at an average exchange rate of Rs 43.5=1USD.

**(c) Dumping margin**

Based on the normal value and export price as indicated above, the Authority assessed the dumping margins in case of all exporters from Ukraine as given in the table below:-

Country	Producer/Exporter	Dumping Margin (%)
Ukraine	All producers/exporters	81.6%

**J. INJURY:-**

For the examination of the impact of imports on the domestic industry in India, the Authority has considered such further indices having a bearing on the state of the industry as production, capacity utilisation, quantum of sales, stock, profitability, net sales realisation, the magnitude and margin of dumping etc. in accordance with Annexure II (iv) of the rules supra, the details of which as brought out in the Preliminary Findings are reproduced below:-

**(a) Quantum of Imports**

As per DGCIS Quantity (MT)

Country	1997-98	1998-99	1999-00	Apr-Aug 2000	POI
Ukraine	---	20	887.12	809.079	1696.19
Other Sources	1173.18	4354.7	19412.3	6838.43	26250.73
Total imports	1173.18	4374.7	20299.5	7647.51	27947

(Imports of the the subject goods have been considered under custom classification no. 7202.2100).

The total imports of Ferro Silicon increased by 73% in 99-00 over that of 97-98 and by 364% in 99-00 over 98-99. The increase in the total imports of Ferro Silicon was 138% in the POI over the level of 1997-98. Thus the quantum of imports have gone up significantly during the period of investigation.

The Imports of Ferro Silicon from Ukraine increased significantly in the POI over all previous levels as evident from the table above.

### (b) Production and Capacity Utilisation

The production capacity, actual production and capacity utilisation of the petitioners was as follows: -

Petitioner	Year	Installed Capacity (MT)	Production (MT)	Capacity Utilisation %
IMFA	1997-98	45000	25130	55.8
	1998-99	45000	22319	49.59
	1999-2000	45000	26731	59.4
	POI (Apr'99-Aug'2000)	63750	39583	62.09

### (c) Sales and Market Share

As reported by the Indian Ferro Alloy Producers' Association (IFAPA), the estimated sales (MT) of Ferro Silicon in the domestic market based on information available with them is as follows:-

Domestic Sales	1996-97	97-98	98-99	99-2000	POI
Members	54,987	57,918	42,891	41,605	56,887
Non-members (Estimated)	17,000	13,000	12,000	13,000	17,764
Total Sales of Indian Producers (Estimated)	71,987	70,918	54,891	54,605	74,651

The quantum of sales made by the petitioners were as follows:-

Petitioners	97-98	98-99	99-2000	POI
IMFA	22445	24984	26239	39691 (annl. 28,017)

It is observed from the above that the demand of Ferro Silicon was approximately 72,091 MT, 59,265 Mt and 74,904 Mt in 97-98, 98-99 and 99-2000 respectively. The demand for the POI is 102,598 MT (annualised 72,422MT). The share of imports in total demand was 1.63%, 7.38% and 27.10% in 97-98, 98-99 and 99-2000 respectively and 27.24% in the POI. The share of imports have thus been rising in

demand. The share of the domestic industry was 31.13%, 42.15% and 35.03% in 97-98, 98-99 and 99-2000 respectively and 38.68% in the POI.

**(d) Closing Stocks**

The closing stocks of the petitioners were as given in the table below:-

Closing Stocks (MT)	97-98	98-99	99-00	POI
IMFA	6323	3658	Not available	4550

**(e) Price undercutting and price depression**

The landed prices of the imported material are below the non-injurious price and net sales realisation of the domestic industry as shown in the table below.

**Rs/MT**

Year	Sales Realisation of Dom. Industry	Landed Price of Ukraine	Imports Other sources
1997-98	***	---	35.1
1998-99	***	***	41.52
1999-2000	***	***	39.78
POI	***	***	39.07

**(f) Profitability:-**

The domestic industry has been forced to reduce its selling prices below its cost of production, resulting in substantial financial losses. The injury to the domestic industry is evident from the per unit profit/loss made by the industry from sales in the domestic markets, as shown below:-

IMFA Rs/kg	97-98	98-99	99-00	POI
COP	***	***	***	***
Selling Price	***	***	***	***
P/L	***	(***)	(***)	(***)

**K. CONCLUSION ON INJURY**

9. In view of the foregoing the Authority confirms the conclusions on injury in Para K.14 of the Provisional Findings and reiterates that:-

- a. the quantum of imports from the subject country have increased in absolute terms;

- b. the market share of the petitioners have gone down while that of imports has increased;
- c. the petitioners have been forced to match import prices that are below their non-injurious price and net sales realisation resulting in losses

The Authority therefore concludes that the domestic industry has suffered material injury.

#### **10. Causal Link**

Ukraine has established itself as a major exporter of Ferro Silicon to India and there has been a significant increase in import volumes from the said country prior to and in the period of investigation. As already stated, the imports of Ferro Silicon from Ukraine increased tremendously in the POI over all previous levels. The reduction in the export price resulted in low landed price followed by reduction in sales realisation of the petitioners. The increase in the market share of imports from Ukraine resulted in the decline in the market share of the petitioner. The domestic industry in its attempts to match the dumped import prices was forced to sell below its non-injurious price which resultantly, the domestic industry was unable to recover. The Authority therefore holds that the material injury to the domestic industry was caused by the dumped imports from the subject countries.

#### **11. Anti-Dumping duty imposed:-**

The Authority has carefully evaluated the injury caused to the domestic industry on account of dumping of Ferro Silicon and has recommended the amount of anti-dumping duty equivalent to the dumping margin or less, which if levied, would remove injury to the domestic industry. For this purpose, the Authority has compared the non-injurious selling price of the domestic industry with the landed value of imports from the subject countries. Wherever the margin is found to be less than the dumping margin, the Authority has recommended duty lower than the dumping margin.

#### **12. FINAL FINDINGS:-**

The Authority after considering the foregoing, concludes that:

- a. Ferro Silicon originating in or exported from Ukraine has been exported to India below normal value, resulting in dumping;
- b. the domestic industry has suffered injury;
- c. injury has been caused by imports from the subject country.

13. The Authority recommends imposition of definitive Anti-dumping duty on all imports of Ferro Silicon originating in or exported from Ukraine falling under Chapter 72 of the Customs Tariff Act. The anti-dumping duty shall be the difference between the amount mentioned in Col.3. and the landed value of imports:

Country	Name of the producer/exporter	Amount
1	2	3
Ukraine	All producers/exporters	740

14. Landed value of imports for the purpose shall be the assessable value as determined by Customs under the Customs Act, 1962 and all duties of customs except duties levied under Sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

15. Subject to the above, the Authority confirms the preliminary findings dated 21st June 2001.

16. An appeal against this order shall lie before the Customs, Excise and Gold (Control) Appellate Tribunal in accordance with the Act, supra.

**L.V.SAPTHARISHI**  
DESIGNATED AUTHORITY