ACTION: Notice of preliminary results of antidumping duty administrative review and termination in part.

SUMMARY: In response to a request from petitioners, the Department of Commerce (the Department) is conducting an administrative review of the antidumpting duty order on silcon metal from Argentina. Petitioners requested that the review cover two manufacturers/exporters, Electrometalurgica Andian, S.A.I.C. (Andina) and Silarsa, S.A. (Silarsa), and the period September 1, 1993 through August 31, 1994. However, within 90 days of the publication of the Department's initiation notice, the petitioners withdrew their request for review of Andina in accordance with 19 CFR § 353.22(a). Because no other party requested a review of Andina, we are terminating this administrative review with respect to Andina. Petitioners did not withdraw their request with respect to Silarsa.

Since Silarsa did not provide the information requested by the Department in its questionnaire, we were unable to conduct an administrative review of this firm. We have, therefore, preliminary determined to use the best information available (BIA) and have assigned to Silarsa a 24.62 percent margin, the highest margin obtained in any review of this order. Interested parties are invited to comment on these preliminary results. EFFECTIVE DATE: August 9, 1995.

FOR FURTHER INFORMATION CONTACT: Maureen McPhillips or John Kugelman, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–5253.

SUPPLEMENTARY INFORMATION: On September 26, 1991, the Department published in the Federal Register (56 FR 48779) the antidumping duty order on silicon metal from Argentina. On September 2, 1994, the Department published in the Federal Register (59 FR 45664) a notice of "Opportunity to Request an Administrative Review" of this antidumping duty order for the period September 1, 1993 through August 31, 1994. We received timely requests on September 30, 1994, to conduct an administrative review of Andina and Silarsa from a group of four domestic producers of silicon metal (the petitioners): American Silicon Technologies, Elkem Metals Company, Globe Metallurgical, Inc., and SKW Metals and Alloys, Inc.

On October 13, 1994, in accordance with 19 § CFR 353.22(c), we published

notice of initiation (59 FR 51939) covering the two manufacturing/exports named above.

Applicable Statute and Regulations

The Department is conducting this review in accordance with section 751(a) of the Tariff Act. Unless otherwise indicated, all citations of the statute and the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Scope of the Review

The product covered by the review is silicon metal. During the less-than-fairvalue (LTFV) investigation, silicon metal was described as containing at least 96.00 percent, but less than 99.99 percent, silicon by weight. In response to a request by petitioners for clarification of the scope of the antidumping duty order on silicon metal from the People's Republic of China (PRC), the Department determined that material with a higher aluminum content containing between 89.00 and 96.00 percent silicon by weight is the same class or kind of merchandise as silicon metal described in the less-than-fair-value (LTFV) investigation (Final Scope Rulings-Antidumping Duty Orders on Silicon Metal from the People's Republic of China, Brazil, and Argentina (February 3. 1993)). Therefore, such material is within the scope of the orders on silicon metal from the PRC, Brazil, and Argentina. Silicon metal is currently provided for under subheadings 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule (HTS) and is commonly referred to as a metal.

Semiconductor-grade silicon (silicon metal containing by weight not less than 99.9 percent of silicon metal and provided for in subheading 2804.61.00 of the HTS) is not subject to this order. The HTS subheadings are provided for convenience and U.S. Customs Service purposes only; our written description of the scope of the proceedings is dispositive.

This review covers two manufactures/exporters of silicon metal to the United States, Andina and Salarsa. The period of review (POR) is September 1, 1993 through August 31, 1994.

Best Information Available

In accordance with section 776(c) of the Tariff Act, we have preliminarily determined that the use of BIA is appropriate for Silarsa. The Department's regulations provide that we may take into account whether a party refuses to provide information (19 CFR § 353.37(b)) in selecting BIA. Generally, whenever a company refuses

to cooperate with the Department, or otherwise significantly impedes the proceeding, the Department uses as BIA the highest rate for any company for the same class or kind of merchandise for the current or any prior segment of the proceeding. When a company substantially cooperates with our requests for information, but fails to provide all the information requested in a timely manner or in the form requested, we use as BIA the higher of (1) the highest rate (including the "all others" rate) ever applicable to the firm for the same class or kind of merchandise from the same country from either the LTFV investigation or a prior administrative review; or (2) the highest calculated rate in the review for any firm for the same class or kind of merchandise from the same country. See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany, et. al.; Final Results of Antidumping Duty Administrative Review, 56 FR 31692, (Fed. Cir. 1993).

On October 26, 1994, the Department sent questionnaires to Andina and Silarsa requesting their respective responses to company-specific information needed to conduct the administrative review. The deadline for submission of the respondents information was December 28, 1994. Andina submitted its response in a timely manner. However, petitioners subsequently withdrew their request for review of Andina in accordance with 19 CFR § 353.22(a)(5) of the Department's regulations. The Department, therefore, is terminating its review with respect to Andina, On December 29, 1994, Silarsa requested that it be excused from responding to the Department's antidumping duty request for information as it had exported only a small amount of silicon metal in October 1993. Moreover, Silarsa stated that it had ceased to produce silicon metal as of January 1994 (see letter from Silarsa to the Department dated December 29, 1994). Absent a timely filed withdrawal of the petitioners' review request, pursuant to 19 CFR § 353.22(a), the Department is obligated to conduct an administrative review following specific procedures after receipt of a timely request for review from an interested party, pursuant to 19 CFR § 353.22(c). In this instance, the petitioners did not withdraw their request for review of Silarsa. Neither the volume of Silarsa's exports to the United States, nor its claim that it ceased producing silicon metal is relevant to the Department's obligation to conduct this administrative review.