Ferrosilicon From Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela

Investigations Nos. 303-TA-23, 731-TA-566-570, and 731-TA-641 (Final) (Reconsideration) (Remand)

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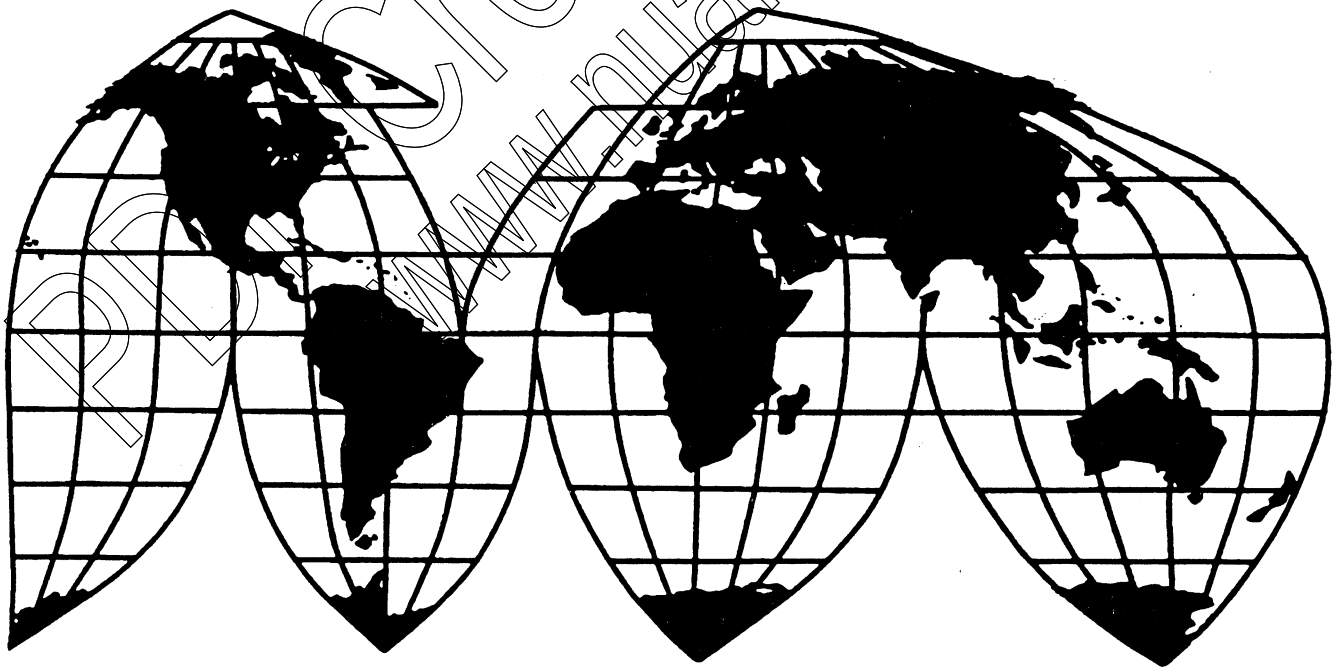

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UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 303-TA-23, 731-TA-566-570, and 731-TA-641 (Final) (Reconsideration) (Remand)

FERROSILICON FROM BRAZIL, CHINA, KAZAKHSTAN, RUSSIA, UKRAINE, AND VENEZUELA

DETERMINATIONS

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela of ferrosilicon, provided for in subheadings 7202.21.10, 7202.21.50, 7202.21.75, 7202.21.90, and 7202.29.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be subsidized by the Government of Venezuela and to be sold in the United States at less than fair value (LTFV). These negative determinations are in connection with the remand of the Commission's reconsideration proceedings pertaining to its final countervailing duty and antidumping duty investigations.

BACKGROUND

These investigations were remanded to the Commission by the U.S. Court of International Trade (CIT) on February 21, 2002, and concerned the Commission's August 1999 negative determinations upon reconsideration of earlier affirmative determinations regarding these imports. On April 24, 1998, the Commission received a request to review its affirmative determination as it applied to imports of ferrosilicon from Brazil in light of changed circumstances, pursuant to section 751(b) of the Act. The request concerned only imports from Brazil; however, as the alleged changed circumstances predominantly related to the domestic industry, the Commission solicited comments from interested parties on the possibility of initiating reviews of the outstanding orders from Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela. After reviewing the comments it received, the Commission determined on July 28, 1998, that certain of the alleged changed circumstances were sufficient to warrant review investigations. Among the issues that were briefed by the parties to the investigations was the fact that, between 1995 and 1997, two domestic producers pleaded guilty to conspiring to fix prices of commodity ferrosilicon products during certain portions of the periods of the Commission's original investigations, and a third producer, and an officer of that producer, were convicted of conspiring to fix prices of commodity ferrosilicon products during certain portions of the periods of the Commission's original investigations. The Commission held a hearing in the changed circumstance investigations on April 13, 1999. On May 21, 1999, the Commission issued a *Federal Register* notice (64 FR 28212, May 25, 2002) indicating that it had decided to suspend its changed circumstances review investigations and instead reconsider the original Commission determinations. On August 6, 1999, the Commission made negative determinations upon reconsideration in these investigations. The Commission's determinations were

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

appealed to the U.S. Court of International Trade (CIT). On February 21, 2002, the CIT issued an opinion finding the Commission's proceedings on reconsideration defective because it did not accord the parties an opportunity to participate in a hearing specifically concerning the reconsideration proceeding. The CIT accordingly remanded the matter to the Commission for further proceedings. As part of these proceedings, the Commission held a hearing on June 6, 2002.

VIEWS OF THE COMMISSION

I. INTRODUCTION

In August 1999, the Commission determined upon reconsideration that an industry in the United States was neither materially injured nor threatened with material injury by reason of imports of ferrosilicon from Venezuela found to be subsidized, and imports of ferrosilicon from Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela found to be sold at less than fair value (LTFV).[1] The Commission's determination was then appealed to the U.S. Court of International Trade (CIT), which remanded the matter to the Commission so it could conduct a hearing and other procedures.

On remand, we again make a negative determination. Except as otherwise stated below, the grounds for our determination on remand are the same as those articulated in the Commission's August 1999 opinion.[2] [3]

II. BACKGROUND

The August 1999 Commission opinion provides a comprehensive background explaining the circumstances that led the Commission to institute reconsideration proceedings.[4] We incorporate by reference that discussion here.

Various domestic ferrosilicon producers subsequently filed suits at the CIT challenging the Commission's negative determinations on reconsideration. In the litigation, the plaintiffs raised three distinct sets of issues. First, certain plaintiffs contended that the Commission lacked the authority to conduct reconsideration proceedings, and that the proceedings the Commission instituted were untimely. Second, plaintiffs contended that the Commission did not follow proper procedures in its reconsideration proceedings. Third, they argued that the Commission's negative determination on reconsideration of material injury by reason of subject imports was not supported by substantial evidence and not in accordance with law.

The CIT's February 21, 2002, opinion resolved the first set of issues in the Commission's favor. It concluded that the Commission had inherent authority to reconsider its original injury determinations and that the Commission instituted reconsideration proceedings in a timely manner.[5]

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[1] Ferrosilicon from Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela, Inv. Nos. 303-TA-23, 731-TA-566-570, 731-TA-641 (Reconsideration), USITC Pub. 3218 (Aug. 1999) ("1999 Reconsideration Opinion"). The Commission had originally made affirmative determinations in these investigations in 1993 and 1994. Ferrosilicon from the People's Republic of China, Inv. No. 731-TA-566 (Final), USITC Pub. 2606 (March 1993) ("China Final"); Ferrosilicon from Kazakhstan and Ukraine, Inv. Nos. 731-TA-567, 569 (Final), USITC Pub. 2616 (March 1993); Ferrosilicon from Russia and Venezuela, Inv. Nos. 731-TA-568, 570 (Final), USITC Pub. 2650 (June 1993); Ferrosilicon from Brazil, Inv. No. 731-TA-641 (Final), USITC Pub. 2722 (Jan. 1994).

[2] Chairman Okun was not a member of the Commission in 1999 and consequently did not participate in the original reconsideration proceedings. She joins the Commission's negative determination on remand as a result of her initial review of the record in these proceedings.

[3] Commissioner Miller incorporates into this remand opinion her Additional Views from the 1999 opinion in their entirety. 1999 Reconsideration Opinion at 45-50.

[4] 1999 Reconsideration Opinion at 4-6.

[5] Elkem Metals Co. v. United States, 193 F. Supp.2d 1314, 1319-23 (Ct. Int'l Trade 2002).

The CIT resolved the second set of issues in favor of the plaintiffs. It concluded that the Commission acted inconsistently with its own regulations, and with the notice instituting the reconsideration proceedings, by not conducting a hearing specifically directed to the reconsideration proceedings.[6] The CIT concluded that the domestic producers were entitled not only to a hearing, but "to all of the other benefits" of the Commission's procedural regulations, which it indicated included adequate notice, and the ability to file prehearing and posthearing briefs.[7] The CIT found that, because the Commission "failed to adhere to the procedures that it published as those that would govern its Reconsideration Proceedings," the proceedings were "conducted in a manner not in accordance with law."[8] The CIT subsequently issued an Order on March 18, 2002, remanding the matter to the Commission "for further proceedings providing all of the procedures contemplated by the opinion of this Court dated February 21, 2002, and including a hearing on all issues relevant to reconsideration of material injury and any allegations of misconduct."[9]

The CIT acknowledged in its opinion that the plaintiffs also raised substantive issues concerning the merits of the Commission's opinion on reconsideration. However, it stated that it need only address the procedural issues concerning the Commission's authority and procedures.[10] This is consistent with the excerpt from the March 18, 2002 order, quoted above, which directs the Commission to conduct additional procedures and to convene a hearing for the purpose of receiving additional evidence and argument.[11]

Pursuant to that order, the Commission instituted remand proceedings effective April 11, 2002.[12] During the remand proceedings the Commission has, consistent with the direction of the CIT, provided the parties with all pertinent benefits of the Commission's procedural regulations applicable to antidumping and countervailing duty investigations. It reopened the record and permitted the parties to submit new factual information on matters within the scope of the proceedings.[13] Prior to the hearing the Commission staff transmitted to the parties factual information concerning the subject matter of the investigations pursuant to Commission rule 207.22(a). The Commission permitted parties to the investigation to file prehearing briefs pursuant to Commission rule 207.23. It conducted a hearing on June 6, 2002. At this hearing, conducted pursuant to Commission rule 207.24, the parties presented additional arguments and testimony.[14] Subsequently, the parties filed posthearing briefs pursuant to

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[6] The Commission incorporated into the record of the 1999 reconsideration proceedings transcripts from the hearings in the original investigations and the April 1999 hearing in the changed circumstances review that the Commission conducted immediately prior to instituting the reconsideration proceedings. The CIT found, however, that "[t]hese hearings . . . were not sufficient to fulfill the ITC's commitments." 193 F. Supp.2d at 1324.

[7] The record in the 1999 reconsideration proceedings contained, among other submissions, opening and rebuttal comments the parties submitted in those proceedings, as well as prehearing and posthearing briefs the parties had filed in the 1999 changed circumstances review.

[8] 193 F. Supp.2d at 1324-25.

[9] Elkem Metals Co. v. United States, Consol. Ct. No. 99-10-00628, Order (Ct. Int'l Trade Mar. 18, 2002).

[10] 193 F. Supp.2d at 1319.

[11] The CIT indicated in its opinion that the Commission should consider any evidence presented during the remand proceedings as to the effect of the conspiracy on domestic ferrosilicon prices. 193 F. Supp.2d at 1325.

[12] 67 Fed. Reg. 18633 (April 16, 2002).

[13] See 67 Fed. Reg. at 18633.

[14] The basis of the CIT's remand order, as discussed above, was that the Commission was required in the reconsideration proceedings to provide the parties the benefits of its published procedures in antidumping and

(continued...)

section 207.25 of the Commission rules and final comments pursuant to section 207.30 of the Commission rules. Four of the five domestic producers that participated in the 1999 reconsideration proceedings – Elkem Metals Co. (Elkem), CC Metals and Alloys, Inc. (CCMA), Globe Metallurgical Inc. (Globe), and Applied Industrial Materials Corp. (AIMCOR) – filed briefs, submitted new factual information, and participated in the Commission hearing.[15] The Commission additionally prepared and released to the parties under administrative protective order a final staff report pursuant to Commission rule 207.22(b).

III. MISCONDUCT IN THE ORIGINAL INVESTIGATIONS

The Commission's August 1999 opinion contains an extensive discussion explaining how certain domestic ferrosilicon producers were culpable of material misrepresentations and omissions in the original ferrosilicon investigations the Commission conducted between 1992 and 1994. The Commission observed that "much of the information [the domestic producers] submitted was false, misleading, and incomplete, and . . . they repeatedly omitted critical information pertaining to pricing and competition in the market."[16]

Subsequent to the original Commission investigations, Elkem and American Alloys each pleaded guilty to criminal charges of conspiring to fix prices of commodity ferrosilicon from at least as early as late 1989 and continuing at least until mid-1991, a violation of Section 1 of the Sherman Act.[17] CCMA's predecessor firm, SKW Metals & Alloys, Inc. (SKW) and an SKW officer were convicted of violating Section 1 of the Sherman Act by conspiring to fix ferrosilicon prices.[18]

The 1989-91 period was within the period examined in the Commission's original ferrosilicon investigations. Nevertheless, the Commission was never informed about the price-fixing conspiracy in the original investigations. Instead, contrary to fact, the Commission was told repeatedly that prices in the ferrosilicon market were established solely on the basis of marketplace competition. The 1999 opinion contains over six pages detailing specific instances in which domestic producers misled the Commission concerning pricing practices in the original investigation or failed to disclose material information about how prices were established.[19]

The Commission consequently found that American Alloys, Elkem, and SKW impeded the original Commission investigations by failing to disclose information concerning the price-fixing conspiracy in which they were convicted or found guilty of participating. It also found that AIMCOR

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[14] (...continued)
countervailing duty investigations, including those governing hearings. The CIT did not require the Commission to engage in any particular procedure not described in its regulations. Consequently, the Commission denied the requests of certain parties seeking that it adopt procedures that did not conform to those described in Commission regulations. See Letter from Marilyn R. Abbott to George R. Kucik and William D. Kramer (May 10, 2002) (denying, inter alia, requests from domestic producer CC Metals and Alloys, Inc. that the Commission issue formal "charges" of misconduct against domestic producers and that it conduct a trial-type evidentiary hearing).

[15] The remaining domestic producer, American Alloys, Inc. (American Alloys) is now in liquidation and did not participate in these remand proceedings.

[16] 1999 Reconsideration Opinion at 10.

[17] 15 U.S.C. § 1. See generally 1999 Reconsideration Opinion at 10.

[18] The Second Circuit, in affirming the convictions, found that evidence indicated a conspiracy existed between October 1, 1989 through June 30, 1991. United States v. SKW Metals & Alloys, Inc., 195 F.3d 83, 86-87 (2d Cir. 1999).

[19] 1999 Reconsideration Opinion at 13-19.

and Globe impeded the original Commission investigations because they were aware of the conspiracy but failed to disclose information about it.[20]

In these remand proceedings, we adopt all findings we made in the 1999 reconsideration opinion with respect to party misconduct, except for findings pertaining to AIMCOR and Globe, which we discuss below. During the remand proceedings, AIMCOR and Globe presented to the Commission additional evidence, and, in Globe's case, oral witness testimony, regarding these firms' respective lack of knowledge about the ferrosilicon price-fixing conspiracy at the time of the original investigations. We have considered all information in the record, including this new information, in making findings concerning these firms.[21] [22]

AIMCOR. As indicated in the Commission's 1999 opinion, there is some information in the record that could support a conclusion that AIMCOR knew about the price-fixing conspiracy. The record contains testimony from William Beard, who at the time of the original Commission investigations was president of American Alloys, that he attended a meeting at the Marriott Hotel near the Pittsburgh Airport some time after June 1992 with Charles Kopec, who was then president of AIMCOR, and Charles Zak of SKW. Mr. Beard testified that Mr. Zak had previously agreed that the floor price for ferrosilicon for the next quarter would be 42 cents and that Mr. Beard was supposed to "take the message to AIMCOR." Mr. Beard stated that when he did so, Mr. Kopec did not seem surprised and that "I think his comment was, 'Okay.' That's all I remember." Mr. Beard also testified that Mr. Kopec seemed to be familiar with the concept of a floor price.[23] Additionally, there was trial testimony in civil antitrust litigation from Donald Freas, Mr. Kopec's predecessor as AIMCOR president, that he had a "get-acquainted" meeting with David Beistel of Elkem some time in 1990 or 1991. Mr. Freas said, "I believe [Mr. Beistel's] words were what can we do, what should we do about pricing. Whereupon, I was shocked and said, we're not going to talk about that. Let's go to lunch. I, basically, ended the conversation."[24]

In the remand proceedings, AIMCOR submitted an affidavit of Mr. Kopec, who is no longer affiliated with the firm, in an effort to rebut the testimony of Mr. Beard. Mr. Kopec states that he never had any discussion or conversation with any competitor while at AIMCOR concerning floor prices and had no knowledge about any price-fixing conspiracy until Elkem made its guilty plea in 1995.[25] Mr. Kopec categorically states that Mr. Beard's grand jury testimony concerning the purported meeting between Messrs. Beard, Kopec, and Zak is false. Mr. Kopec states that, after review of his calendars and

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[20] See 1999 Reconsideration Opinion at 10-11.

[21] By contrast, Elkem acknowledged that it misled the Commission during the original investigations. Tr. at 49 (Nields). American Alloys, as previously discussed, did not participate in the remand proceedings. While in the remand CCMA has disputed the Commission's finding that SKW was responsible for material misrepresentations and omissions, it submitted no new evidence with respect to this issue and its arguments provide no basis to modify or revisit the findings concerning SKW that the Commission made in the 1999 reconsideration opinion.

[22] Chairman Okun did not participate in the original reconsideration proceedings. Based on the reasons discussed below, she finds that there is insufficient evidence on this remand record to conclude that AIMCOR and Globe were culpable of material misrepresentations or omissions during the original Commission investigations.

[23] William Beard Deposition Tr. (submitted as Ex. 25 to General Motors Prehearing Changed Circumstances Brief (AR List 1, Doc. 162)) at 80-83 (Apr. 28, 1998).

[24] Donald Freas Trial Testimony (submitted as Ex. E to General Motors Reconsideration Comments (AR List 1, Doc. 302)) at 218-19 (May 6, 1999).

[25] AIMCOR Prehearing Brief, Kopec Aff., ¶¶ 3-5.

diaries, he does not believe he ever attended a meeting in which the only participants were himself, Mr. Beard, and Mr. Zak.[26]

The remand record therefore contains some information that would support a conclusion that AIMCOR knew about the price-fixing conspiracy, and some material that would support a conclusion that it had no knowledge. We observe that much of the evidence that would support the conclusion that AIMCOR did have knowledge came from Mr. Beard, who also testified that AIMCOR did not send a representative to group meetings he attended.[27] Based on our review of all material in the record in these remand proceedings, we find that there is not a sufficient evidentiary basis to conclude that AIMCOR had knowledge of the price-fixing conspiracy. Consequently, we cannot find that AIMCOR was culpable of material misrepresentations or omissions during the original investigations.

Globe. As with AIMCOR, the record in these remand proceedings contains information that could support a conclusion that Globe was aware of the price-fixing conspiracy. Edward Boardwine, a former vice-president of Elkem, testified in the criminal trial of SKW that he attended a meeting at the Holiday Inn near the Pittsburgh airport in September or October of 1989 with Arden Sims, who was then and is currently president of Globe, and Messrs. Zak and Beard. Mr. Boardwine testified that, after a discussion of a recent importation of ferrosilicon from Russia, the participants considered the possibility of pursuing antidumping duties against the Russians. This was followed by a discussion of the state of the ferrosilicon business in North America. Subsequently, Mr. Boardwine testified, "[t]here was a discussion on possibilities of establishing a floor price." He also indicated that "almost everyone had a comment on the floor price," but that he could not remember specific comments by the individuals present.[28] In deposition testimony taken during civil antitrust litigation concerning the same meeting, Mr. Boardwine stated that Mr. Sims participated very little during the meeting.[29]

Mr. Beard testified in the criminal trial of SKW that he attended a meeting in the Pittsburgh Airport Holiday Inn on September 17, 1990 with Messrs. Boardwine, Zak, and Sims. He said that at the meeting Mr. Boardwine suggested 45 cents as an appropriate floor price. Subsequently, the participants agreed to a 43 cent floor price.[30]

Globe presented Mr. Sims as a witness in the Commission hearing in these remand proceedings. Mr. Sims testified that Globe did not participate in a price-fixing conspiracy, was not aware of any such conspiracy, and did not cut production based on any conspiracy.[31] Globe also has submitted in the remand proceedings the trial testimony and deposition testimony Mr. Sims gave in the Industrial Silicon Antitrust Litigation civil proceedings. At the trial, Mr. Sims testified that he attended a meeting on September 7, 1989, at the Holiday Inn near the Pittsburgh airport with Messrs. Beard and Boardwine. He stated that the only conversation at the meeting pertaining to ferrosilicon prices was that pricing was low and conditions were bad. He specifically denied either being asked or agreeing to set a floor price for

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[26] AIMCOR Prehearing Brief, Kopec Aff., ¶¶ 6-9.

[27] William Beard Grand Jury Testimony (submitted as Ex. D to AIMCOR Prehearing Brief) at 84 (May 19, 1995).

[28] Edward Boardwine Trial Testimony (submitted as Ex. D to General Motors Reconsideration Comments) at 151-63.

[29] Edward Boardwine Deposition Tr. (submitted in conjunction with Globe Posthearing Brief) at 39 (July 31, 1997).

[30] William Beard Trial Testimony (submitted as Ex. D to General Motors Reconsideration Comments) at 654-57, 661-71.

[31] Tr. at 38-39 (Sims).

ferrosilicon.[32] Mr. Sims also testified that the meeting was the only one he recalled having with Mr. Boardwine and that its principal purpose was to discuss a possible antidumping petition on silicon metal.[33] Mr. Sims additionally testified at trial that he attended a September 1990 meeting at the Pittsburgh Airport Holiday Inn with Messrs. Zak, Beard, and others; the Elkem representative was not Mr. Boardwine, but a Mr. Sorli. He stated that the principal purpose of that meeting was to discuss the ongoing silicon metal antidumping investigation. Mr. Sims further testified that there was some discussion of a possible ferrosilicon antidumping action but no discussion of individual producers' ferrosilicon prices.[34]

Thus, Mr. Boardwine and Mr. Beard each identify Mr. Sims as being a participant at meetings where discussions took place on establishment of floor prices while Mr. Sims denies ever being aware of such discussions. The testimony of Mr. Boardwine and the testimony of Mr. Beard are inconsistent with regard to the individuals present at the various meetings.[35] Evaluating the mixed evidence in the record of these remand proceedings, we find that there is not a sufficient evidentiary basis to conclude that Globe was knowledgeable about the price-fixing conspiracy. Consequently, we cannot find that Globe was culpable of material misrepresentations or omissions during the original investigations.

Conclusion. While we have concluded that AIMCOR and Globe were not culpable of material misrepresentations or omissions during the original Commission investigations, we emphasize that they both were relatively small producers. The share of U.S. production represented by AIMCOR and Globe combined was *** percent during 1992, the final full year encompassed by the Commission's original periods of investigation, and never exceeded *** percent during any full year of the periods of investigation. By contrast, American Alloys, Elkem, and SKW collectively represented a significant majority of U.S. production throughout the original periods of investigation. These three firms had a combined share of *** percent of U.S. production in 1992, and their combined share was at least *** percent throughout the Commission's original periods of investigation.[36]

Consequently, our finding on remand that AIMCOR and Globe did not make material misrepresentations or omissions during the original Commission investigations does not undercut the findings the Commission made in its 1999 opinion concerning either the pervasiveness or the significance of the misrepresentations and omissions that domestic ferrosilicon producers made during the original investigations. We emphasize in this respect that not a single misrepresentation of those detailed in section IV.D. of the Commission's 1999 reconsideration opinion was attributed solely to AIMCOR or Globe, individually or collectively. Additionally, as the Commission emphasized in its 1999 opinion, the main witness for the petitioners at the Commission hearings in the original hearings was William Beard, the president of American Alloys who attended numerous price-fixing meetings and was clearly knowledgeable about the price-fixing schemes to which his firm ultimately pled guilty. As

[32] Arden Sims Trial Testimony (submitted in conjunction with Globe Posthearing Brief) at 125-28 (Oct. 29, 1998).

[33] Arden Sims Trial Testimony at 132, 186-87 (April 22, 1999).

[34] Arden Sims Trial Testimony at 138-42 (Oct. 28, 1998); at 202-05 (Apr. 22, 1999).

[35] Specifically, Mr. Beard testified that Mr. Boardwine was present at the September 1990 meeting and proposed a particular floor price, but Mr. Boardwine testified that he did not recall meeting Mr. Sims any time during 1990. Edward Boardwine Deposition Tr. at 91, 258.

[36] Confidential Report (CR) and Public Report (PR), Table II-1.

detailed in the 1999 opinion, Mr. Beard repeatedly gave incomplete and misleading testimony to the Commission concerning the nature of price competition in the U.S. ferrosilicon market.[37]

The remand record thus supports the same central conclusion that the Commission made in 1999: that "the vast majority of the domestic industry significantly impeded the Commission's investigations" by making misstatements and omissions that "affected central issues in the original investigations pertaining to the relevant conditions of competition in the domestic industry, pricing of the like product, and factors that affected pricing of the like product."[38]

IV. USE OF BEST INFORMATION AVAILABLE AND ADVERSE INFERENCES

A. Statutory Framework

As stated in the 1999 opinion, these reconsideration proceedings, because they concern determinations on antidumping and countervailing duty petitions filed before January 1, 1995, are governed by the statute as it existed before the Uruguay Round Agreements Act (URAA) became effective.[39] The pre-URAA statute stated that:

> In making [its] determinations under this title . . . the Commission shall, whenever a party or any other person refuses or is unable to provide information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation, use the best information otherwise available.[40]

This provision authorizes the Commission to take adverse inferences against parties that do not cooperate in or that impede an investigation; the Commission did in fact take adverse inferences in the 1999 opinion.[41] The provision enables the Commission and the Department of Commerce to avoid "rewarding the uncooperative and recalcitrant party for its failure to supply requested information,"[42] and recognizes that "the [agency] cannot be left merely to the largesse of the parties at their discretion to supply the [agency] with information. . . ."[43] Application of the provision "fairly places the burden of production on the [party], which has in its possession the information capable of rebutting the agency's inference."[44]

B. Effect of the Conspiracy on Prices

In examining how to apply the "best information available" provision in these remand proceedings, we first examine the information in the record pertinent to prices charged during the

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37 1999 Reconsideration Opinion at 14-16. Moreover, American Alloys, ***, was clearly aware of the misleading statements made in the petition and the briefs concerning the nature of price competition in the U.S. ferrosilicon market. See id. at 13-14, 18-19.

38 1999 Reconsideration Opinion at 20.

39 1999 Reconsideration Opinion at 6 & n.7. Consequently, all references to the statute in this opinion are to the statute as it existed prior to the URAA, unless otherwise indicated.

40 19 U.S.C. § 1677e(c) (1988).

41 1999 Reconsideration Opinion at 21-22.

42 Allied-Signal Aerospace Co. v. United States, 996 F.2d 1185, 1192 (Fed. Cir. 1993).

43 Olympic Adhesives, Inc. v. United States, 899 F.2d 1565, 1571 (Fed. Cir. 1990).

44 Rhone Poulenc, Inc. v. United States, 899 F.2d 1185, 1190-91 (Fed. Cir. 1990).

original periods of investigation. The domestic producers argue with great vehemence that there is no indication that the pricing data that they provided in the original investigations did not represent the actual prices they charged in particular transactions.[45] This argument, however, overlooks that the statute does not direct the Commission to examine prices in the abstract. Instead, it directs the Commission to evaluate the "effects of imports of [subject] merchandise on the prices in the United States for like products."[46] Moreover, in ascertaining the impact of imports subject to investigation on the domestic industry, the Commission is directed to consider "factors affecting domestic prices."[47] Consequently, the Commission's role in an antidumping and countervailing duty investigation is not merely to tabulate pricing data. It is to ascertain the significance of that data in light of the conditions of competition that affect the industry that the Commission is investigating. In turn, ascertaining the significance of the pricing data enables the Commission to determine the effects of subject imports in the U.S. market.

It is undisputed that a central condition of competition pertinent to domestic pricing during the original periods of investigation – but never disclosed in the original investigations – was that a majority of the domestic industry was participating in a price-fixing conspiracy for a substantial portion of those periods. The charging documents which served as the basis for the guilty pleas of American Alloys and Elkem stated that each firm engaged in a conspiracy to fix prices of commodity ferrosilicon sold in the United States "[b]eginning at least as early as late 1989 and continuing at least until mid 1991."[48] As part of its proffer of proof of Elkem's guilt, the Government stated that "Elkem Metals Company and its co-conspirators quoted and charged prices consistent with the price fixing agreement to many of its customers."[49] According to the U.S. Court of Appeals opinion affirming SKW's criminal conviction, the conspiracy involved a number of meetings and telephone conversations between the conspirators throughout the period from 1989 to 1991.[50]

We believe that the existence of a price-fixing conspiracy is fundamentally incompatible with intense price competition. Firms that engage in regular meetings and telephone conversations in an attempt to establish price floors -- as did American Alloys, Elkem, and SKW here -- presumably do not do so in the expectation that their efforts will be futile. Instead, the regular meetings to establish price levels will presumably accomplish their intended objective of influencing the prices the participants charge. Even if the conspiracy does not fully satisfy its objectives, its existence is likely to have a significant influence on how the conspirators establish prices and other conditions of sale. In other words, market participants that conspire to fix prices are likely to behave differently than those that do not, because they will have a mutual interest in effecting at least partial success for the conspiracy. Thus, absent evidence in the record to the contrary, we would normally expect that when a price-fixing conspiracy exists, it will serve to have some effect on the prices that the conspirators have charged

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[45] See, e.g., Elkem Prehearing Brief at 3-6, 8.

[46] 19 U.S.C. § 1677(7)(B)(i)(II) (1988).

[47] 19 U.S.C. § 1677(7)(C)(iii)(II) (1988).

[48] Domestic Producers' Rebuttal Comments on Reconsideration (AR List 1, Doc. 325), exs. 8, 9 (July 8, 1999).

[49] United States v. Elkem Metals Co., No. 95-CR-1545, Transcript of Proceedings at 41 (Sept. 22, 1995) (submitted as Ex. B to General Motors Reconsideration Comments). In response, Elkem's counsel indicated that "there is a factual basis for the allegations made by [the prosecutor] and that he would be able to sustain the case that he has described" and that Elkem did not dispute the Government's statement. Id. at 42. The Government made a substantially similar proffer with respect to American Alloys, which the company accepted without qualification. United States v. American Alloys, Inc., No. 96-CR-68S, Transcript of Proceedings at 44-45 (Apr. 18, 1995) (submitted as Ex. C to General Motors Reconsideration Comments).

[50] United States v. SKW Metals & Alloys, Inc., 195 F.3d 83, 86 (2d Cir. 1999).

during the pendency of the conspiracy, as well as other conditions of competition relating to their sales transactions, and that it will prevent prices from being set by normal market forces.

We now examine the remand record to ascertain whether there is any evidence that would tend to establish that the price-fixing conspiracy that existed between 1989 and 1991 did not actually affect ferrosilicon prices. Elkem and CCMA claim that such evidence exists. They point to two types of material in the record: information concerning selected results of antitrust litigation and an affidavit submitted in these remand proceedings by their economic witness, Dr. Joseph P. Kalt.[51]

Based on the Commission's experience in observing pricing activities in many diverse industries in the over 1,000 antidumping and countervailing duty investigations that it has conducted since the current statutory scheme came into effect in 1979, we conclude that the results in the particular antitrust litigation matters, including findings with respect to the actual success of the conspiracy and any penalties imposed on the conspirators, to which Elkem and CCMA refer have little probative value in these Commission proceedings. As we have previously discussed, the inquiry concerning conditions of competition affecting prices for domestically-produced products is one statutorily charged to the Commission under the trade laws. The Commission has the prerogative – and the duty – to fulfill its responsibilities under these laws independently.[52] Moreover, CCMA and Elkem's arguments have largely focused on litigation results, rather than on the particular facts that underlie these results, with the exception of Dr. Kalt's affidavit and testimony at the Commission hearing in the remand proceedings.[53]

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[51] Dr. Kalt was the sole witness, other than counsel, who provided testimony on behalf of Elkem and CCMA. Elkem and CCMA, in contrast to Globe and AIMCOR, did not present during the remand proceedings either oral or written testimony from corporate officials who were responsible for making pricing decisions in their firms during the original periods of investigation.

[52] Even assuming *arguendo* that we were to consider ourselves limited by the results of the antitrust litigation, the record concerning these results now before the Commission does not establish that the price-fixing conspiracy had no or only a *de minimis* effect. Elkem cannot point to *any* civil or criminal litigation in which it went to trial exonerating it from liability with respect to the price-fixing. To the contrary, it paid ***, including $14.4 million in a class action proceeding, to settle civil antitrust actions in which it was a defendant. Elkem Posthearing Brief, Responses to Commission Questions at 6; Globe Posthearing Brief, app. at 4 n.5. CCMA has placed heavy emphasis on a ruling in SKW's criminal litigation that the conspiracy actually affected a volume of commerce only from February 14, 1991 through April 4, 1991, and from May 29, 1991 through June 30, 1991. United States v. SKW Metals & Alloys, Inc., No. 96-CR-71S, Tr. of Status Conference at 9-10 (W.D.N.Y. May 8, 2000), aff'd without opinion, 2001 WL 273824 (2d Cir. March 20, 2001). Nevertheless, CCMA/SKW paid *** to settle civil litigation, including $6.95 million in the class action. CCMA Response to Commission Questions at 10-13. It is true that the settlements are not admissions of liability and that the litigation in which the settlements were reached involved both ferrosilicon and other products. Nevertheless, we believe that such large settlements undercut the arguments of CCMA and Elkem that the antitrust litigation results establish that the price-fixing conspiracy had no more than a negligible impact on ferrosilicon prices.

[53] In particular, litigation results attributable to a failure of a party to satisfy a burden of proof lack evidentiary value. In antidumping and countervailing duty investigations, there is no burden of proof on a party. See Chung Ling Co. v. United States, 805 F. Supp. 56, 63 (Ct. Int'l Trade 1992). Thus, we cannot agree with CCMA and Elkem that the district court finding in the SKW criminal litigation that the conspiracy was successful for only a limited period of time is probative with respect to these remand proceedings. The district court premised its finding on the government's failure to satisfy its burden of proving that the conspiracy was successful during other periods. United States v. SKW Metals and Alloys, Inc., Case No. 96-CR-71S, Tr. of Status Conference at 10 (W.D.N.Y. May 8, 2000), Decision and Order ¶ 8 (W.D.N.Y. May 17, 2000). Moreover, in the criminal case, the district court initially determined that the "successful" periods were those when the conspirators charged prices exceeding the floor prices to which they had agreed. As discussed below, the Commission's analysis requires a broader view of

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In his affidavit and testimony, Dr. Kalt presented an economic analysis purporting to show that actual ferrosilicon prices charged by the conspirators during what he defined as the conspiracy period (October 1989 through June 1991) did not systematically exceed those that the conspirators would have been expected to charge absent the conspiracy. We have examined Dr. Kalt's analysis carefully and find that it lacks probative value for purposes of these proceedings.

A principal difficulty with Dr. Kalt's analysis is that it does not address cause and effect – in other words, what effects the pricing conspiracy had, particularly on factors essential to the Commission's analysis such as underselling, price levels, and subject import market penetration. Instead, the analysis merely measures correlation. Dr. Kalt's analysis posits that the conspiracy was not successful, because, among other reasons, the companies involved continued to operate unprofitably, but it does not address the question central to our inquiry: the conspiracy's broader impact on the U.S. ferrosilicon market.[54]

Dr. Kalt developed a model based on ten factors he selected that purportedly explained virtually all of the variation in the conspirators' prices for the periods January 1986-September 1989 and July 1991-December 1993, the periods immediately preceding and following the conspiracy dates at issue in the criminal proceedings. He then used this model to estimate "fair market" prices during the conspiracy period and found that the prices estimated by his model did not significantly deviate from those the conspirators actually charged. But this is merely a finding that the same factors that correlated well with prices outside the conspiracy period also correlated well with prices during the conspiracy period. As noted by the Commission economic staff, the analysis does not model the effects of the conspiracy either on prices charged by the conspirators or on the competitive behavior of non-conspiring U.S. producers and U.S. importers of ferrosilicon. Moreover, Dr. Kalt's analysis assumed that the market conditions he measured operated independently of price fixing. In so doing, Dr. Kalt essentially assumed away one of the most pertinent analytical issues – whether the conspiracy actually affected market behavior, including subject import prices and the prices charged by nonconspiring domestic producers.

Additionally, Dr. Kalt did not purport to examine individual sales transactions in his analysis.[55] This defect is particularly significant because an appreciable percentage of U.S. purchasers had

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[53] (...continued)
the effects of the conspiracy.

[54] In this regard, we reiterate that the Government's proffers of proof with respect to American Alloys and Elkem indicated that the co-conspirators actually quoted and charged prices consistent with the conspiracy agreement to many customers.

[55] See EC-Z-040 (July 25, 2002). The Commission economic staff's critique of Dr. Kalt's analysis was circulated to the parties pursuant to administrative protective order prior to the filing of final comments. The principal argument of the sole party to comment on the substance of the critique, Elkem, is that Dr. Kalt's analysis "has been found by the triers of fact to be valid and probative." Elkem Final Comments at 9. Elkem provides no citation for this assertion and none exists. The only "triers of fact" to which Dr. Kalt states in his affidavit he previously presented his analysis were the members of the jury in one of the civil antitrust cases which Elkem settled but which proceeded to trial against other defendants. See Elkem Prehearing Brief, ex. I at 2. But juries, unlike administrative agencies, do not state the precise factual basis for their conclusions or identify the evidence on which they relied.

Elkem's other comments are no more availing. Elkem states, for example, that Dr. Kalt has shown that imports played a larger role than price-fixing in establishing overall price levels and that prices were not "unusually high" during the conspiracy period. See Elkem Final Comments at 11-12. These criticisms do not address the crux of the economic staff's comments about the failure of Dr. Kalt's analysis to examine the causal relationship between the conspiracy and price levels or market behavior during the conspiracy period.

requirements that could only be satisfied by the conspirators and *** U.S. producer.[56] Because of the many flaws in Dr. Kalt's analysis pertinent to the inquiry before the Commission, we cannot conclude that the analysis provides support for the conclusion that the conspiracy did not actually affect ferrosilicon prices.

On the other hand, there is information in the record that supports the conclusion that the conspiracy affected prices charged by the domestic industry. For the three conspirators, the frequency of underselling for the subject countries in these reconsideration proceedings was significantly higher during the conspiracy period than during the preceding or following period.[57] This is consistent with the theory that the conspiracy would tend to inflate the conspirators' prices as compared to the fair market price that would otherwise have been established in the U.S. market during the time of the conspiracy. The frequency of underselling was also significantly higher during the conspiracy period for all domestic ferrosilicon producers, underscoring the dominance of the three conspirators in the domestic market during the original periods of investigation.[58]

Consequently, the record evidence supports the conclusion that the price-fixing conspiracy actually affected prices charged for domestically-produced ferrosilicon and prevented normal market forces from determining prices.

C. Finding Concerning Conditions of Competition Affecting Prices

In light of our analysis above, we find that a significant condition of competition affecting domestic ferrosilicon prices during the original periods of investigation was the price-fixing conspiracy.

We emphasize that the underlying premise of this finding is based on information in the record. As we explained above, the remand record supports the conclusion that the conspiracy affected prices charged by the conspirators during the period the conspiracy was effective. This conclusion is based on

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[56] The record indicates that between January 1989 and September 1992, about 17 percent of U.S. producers' sales were to purchasers that required statistical process control ("SPC") documentation from their suppliers in order to ensure the requisite quality of the ferrosilicon. See CR at III-4 n.8, III-5 n.11, PR at III-3 n.8, III-4 n.11 (the 17 percent figure is a weighted average derived from the cited data). Only the three conspirators and *** shipped SPC-documented ferrosilicon during the original POI. CR at III-7, PR at III-5. By contrast, U.S. importers reported that none of their sales of subject imports required them to supply SPC documentation; indeed, some foreign producers reported that they could not supply such documentation. CR at III-4 & n.9, PR at III-3 & n.9. As a result, the three conspirators did not face competition from subject imports in this large and growing segment of the market, and the absence of such competition would enhance the effectiveness of a price fixing conspiracy in this segment. The assumption underlying Dr. Kalt's analysis that the U.S. ferrosilicon market is homogeneous, and his consequent failure to examine individual sales transactions, overlooks this important condition of competition.

[57] For the three conspirators, the frequency of underselling based on delivered prices was 80 percent (24 of 30 comparisons) during the conspiracy period (the fourth quarter of 1989 through the second quarter of 1991) and 61.8 percent (21 of 34 comparisons) during the non-conspiracy period. Derived from CR and PR, Tables III-1-6, III-7-a-c, III-8-a-c, III-9-a-b. We emphasize that this analysis is not an underselling analysis conducted pursuant to 19 U.S.C. § 1677(7)(C)(ii)(II) (1988). Instead, our purpose is to examine all available data in the record as to whether the price fixing conspiracy actually affected prices for domestically produced ferrosilicon, in response to the CIT opinion directing these remand proceedings.

[58] For the industry as a whole, the frequency of underselling based on delivered prices was also 80 percent (24 of 30 comparisons) during the conspiracy period (the fourth quarter of 1989 through the second quarter of 1991) and 61.8 percent (21 of 34 comparisons) during the non-conspiracy period. Derived from CR and PR, Tables III-1-6, III-7-a-c, III-8-a-c, III-9-a-b.

both the evidence of record, including that submitted by CCMA and Elkem, and neutral inferences that the Commission has developed in light of its long-standing expertise in evaluating conditions of competition affecting the establishment of prices.

In light of the conspirators' dominant position in the domestic industry, it is reasonable to conclude that factors that affected their prices would affect prices of the industry as a whole, including those of the nonconspirators, during the conspiracy period. The record in the original investigations indicates that producers frequently refer to published prices in responding to bid requests.[59] In turn, Metals Week price information was based ***.[60] Consequently, the larger producers, because they engaged in more transactions, would have a heavy influence on published price information, which in turn would influence prices charged by smaller producers. Indeed, at the hearing counsel for Globe acknowledged that because Globe stated in its original questionnaires that it relied on prices published in publications such as Metals Week in establishing its own prices for ferrosilicon, factors that affected prices for the largest producers could affect it as well.[61]

Our finding, however, concerns the entire original periods of investigation, not merely the conspiracy period, for the following reasons. First, we have taken an adverse inference that the conspiracy affected prices during those portions of the period of investigation where there has been no judicial finding that the conspiracy was in effect.[62] Analysis that would focus on periods when the conspiracy may not have been in effect, or only on transactions involving nonconspirators, would merely serve to reward American Alloys, CCMA, and Elkem for making material misrepresentations and omissions which continue to pervade the current record.[63] This would contravene one of the principal policies behind permitting the Commission to take adverse inferences, which is to ensure that parties that

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[59] China Final, USITC Pub. 2606 at I-47 & n.55.

[60] EC-Z-040 at 4 n.8.

[61] Tr. at 84 (Dangel).

[62] We emphasize that the adverse inference we have taken concerns only the periods for which there are no judicial findings that the conspiracy was in existence. As stated above, the information in the record supports the conclusion that the conspiracy affected U.S. ferrosilicon prices during the period that the conspiracy was operating.

Use of this adverse inference in these remand proceedings is consistent with the CIT's opinion. The CIT acknowledged in its opinion that, while the parties had raised substantive issues concerning the merits of the Commission's opinion on reconsideration, it need only address arguments concerning the Commission's reconsideration authority and procedures. 193 F. Supp. 2d at 1319. Consequently, the CIT did not make any ruling governing the Commission's ability to take adverse inferences on remand. In fact, in instructing the Commission to consider on remand evidence presented by the parties, the CIT cited to 19 U.S.C. § 1677e (1988), the statutory provision providing the authority for the Commission to take adverse inferences. See 193 F. Supp.2d at 1325.

Additionally, we provide below a separate basis for our finding concerning the portions of the original periods of investigation for which there are no judicial findings that the conspiracy was operating.

[63] Elkem in particular argues that the reconsideration proceeding has served to remedy any defects in the record of the original investigation and that "[t]he information that was missing is now before the Commission." Elkem Prehearing Brief at 28. We do not agree with Elkem that these reconsideration proceedings have served to eliminate the taint in the record from the original proceedings.

Initially, we observe that, of the three conspirators, only Elkem has acknowledged that it was culpable of any misconduct during the original investigations. Elkem, however, only acknowledges that "it should have disclosed the agreement to set floor prices to the Commission." It maintains that during the original investigation "there were no Elkem misrepresentations to the Commission." Elkem Posthearing Brief at 9 n.33. Consequently, none of the conspirators have disavowed the statements during the original investigation that the Commission found to be misleading in 1999 reconsideration opinion, findings we have reaffirmed here. In light of this, we emphasize that American Alloys, CCMA, and Elkem have continued to impede the Commission investigation.

do not provide requested information or impede an investigation do not benefit from their actions. As stated at length in the 1999 reconsideration opinion,[64] it is important that American Alloys, CCMA, and Elkem not benefit from their material misrepresentations and omissions that impeded the original investigations. We are mindful of the policies articulated in the 1999 reconsideration opinion that support preserving the integrity of Commission investigations.[65] We therefore conclude that it is appropriate for us to exercise our statutory authority to take an adverse inference based on information in the record concerning the conspiracy among American Alloys, CCMA/SKW, and Elkem. Additionally, given the predominance of the conspirators in the industry and the influence that their pricing practices had on those of smaller producers, we conclude that our finding concerning the effects of the conspiracy is applicable to the market as a whole, notwithstanding the lack of culpability of some relatively small firms such as AIMCOR and Globe.[66]

Additionally, we would make the same finding even if we did not have the statutory authority to take adverse inferences. The Commission has the discretion to establish an appropriate time frame for its investigations in antidumping and countervailing duty proceedings.[67] A substantial portion of the pertinent periods of investigation in these proceedings encompasses the period in which there are judicial findings concerning, or guilty pleas acknowledging, the existence of a price-fixing conspiracy; additionally, the guilty pleas of American Alloys and Elkem do not state that the conspiracy existed only from the fourth quarter of 1989 through the second quarter of 1991.[68] In any event, there is no basis to conclude that at some point in 1991 the ferrosilicon market transformed overnight from one characterized by price-fixing to one characterized by unfettered price competition. Consequently, if we were to weigh the evidence in the record concerning those portions of the period of investigation where the conspiracy was and was not judicially found to be operative, we would still conclude that a significant condition of competition affecting domestic prices during the original periods of investigation was the price-fixing conspiracy.[69]

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[64] See 1999 Reconsideration Opinion at 22-23.

[65] See 1999 Reconsideration Opinion at 23 ("the Commission – and the parties before it – must rely heavily on parties' certifications and representations that the information they present is accurate and complete. Parties that misrepresent the facts regarding critical issues and otherwise fail to provide accurate and complete information that forms the basis for our determinations subvert our investigative process. In such circumstances, it is entirely appropriate – indeed, arguably we are obliged – to exercise our authority to take adverse inferences as authorized by the statute.").

[66] We have also taken into account the fact that some of the domestic producers who were not members of the conspiracy have shown a lack of interest in the imposition of duties. One such firm, Keokuk Ferro-Sil, *** and has not participated in the reconsideration proceedings. Another, Globe, has stated that it no longer supports the imposition of duties. Tr. at 102, 105 (Dangel).

[67] Steel Authority of India, Ltd. v. United States, 146 F. Supp.2d 900, 906-07 (Ct. Int'l Trade 2001); Metallverken Nederland, B.V. v. United States, 728 F. Supp. 730, 735 (Ct. Int'l Trade 1989).

[68] As stated above, the charging documents which serve as the basis for these pleas merely indicate that this period was the minimum duration of the conspiracy.

[69] We observe that such generalization is typical when the Commission identifies conditions of competition. Indeed, it is rare that every transaction with respect to a product under investigation will be characterized by the conditions of competition that the Commission identifies. Moreover, in this remand proceeding neither CCMA or Elkem argued that the Commission should distinguish between different portions of the period of investigation in making conclusions about factors affecting pricing. They argued that the same conditions were prevalent throughout the periods of investigation. We agree, although we disagree entirely with CCMA and Elkem as to how (continued...)

V. DETERMINATION ON RECONSIDERATION

A. Overview

The only aspect of the Commission's 1999 determination on reconsideration which was at issue in either these remand proceedings or the preceding litigation before the CIT was the determination of no material injury by reason of subject imports. Consequently, we again adopt the definition of like product, definition of the domestic industry, and findings on cumulation that the Commission made in its 1999 reconsideration opinion.[70]

For the most part, we also reaffirm the findings and analysis underlying the 1999 determination of no material injury by reason of subject imports.[71] We write below to elaborate on some of our findings in light of the arguments that the domestic producers have asserted during these remand proceedings.[72]

B. No Material Injury by Reason of Subject Imports

In its 1999 opinion, the Commission first reviewed the original determinations. It noted that in the original determinations the Commission emphasized "'the price-sensitive nature of competition among ferrosilicon suppliers,' echo[ing] testimony from the domestic industry that the ferrosilicon market was price-sensitive and competitive, to the extent that extremely small differences in prices could lead to lost sales."[73] It concluded that this conclusion could not be sustained: "this testimony was misleading because domestic ferrosilicon suppliers did not necessarily compete on price. Instead, several of the suppliers conspired to fix prices and establish price minimums."[74] As stated above, we have found on remand that the price-fixing conspiracy was an important factor affecting the domestic industry's pricing practices during the original periods of investigation and that the conspiracy prevented normal market forces from determining prices. In other words, because of the conspiracy, prices charged by domestic producers were higher than they would have been otherwise. In light of this, we adopt the findings the Commission made in the 1999 reconsideration opinion concerning the inapplicability of the analysis of subject import volume and price effects in our original determinations. Below we supplement the analysis of the 1999 opinion on these issues based on the remand record.

That domestic producers were charging higher prices than market conditions warranted provided opportunities for the subject imports to increase their sales in the U.S. market. As the Commission found

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[69] (...continued)
those conditions should be described.

[70] 1999 Reconsideration Opinion at 24-27. Chairman Okun, who was not a member of the Commission in 1999, also adopts all findings from the 1999 opinion that the Commission has reaffirmed in this opinion.

[71] Commissioner Miller also reaffirms her view, as stated in her 1999 Additional Views, that it was the existence of the conspiracy during the Commission's period of investigation – not its effects – that undermined the integrity of the Commission's proceedings. 1999 Reconsideration Opinion at 48.

[72] We do not revisit the issue of threat of material injury in light of the lack of any arguments in this remand proceeding on the issue of threat. We again adopt the analysis used in the 1999 opinion in finding no threat of material injury by reason of subject imports. 1999 Reconsideration Opinion at 33-41.

[73] 1999 Reconsideration Opinion at 28-29 (footnote and citations omitted).

[74] 1999 Reconsideration Opinion at 29.

in the original investigations, domestic and imported ferrosilicon products are highly substitutable.[75] In these circumstances, purchasers would be expected to switch from domestic products sold at an artificially established and inflated price to imports sold at market prices. Consequently, the increasing volumes and market share of subject imports that occurred during the original periods of investigation is a natural consequence of the conspiracy.[76] Thus, in light of both the pertinent conditions of competition and our analysis below of price effects, we do not find the volume of subject imports to be significant.

We also cannot find the underselling observed during the original periods of investigation to be significant. As the Commission observed in the 1999 opinion:

> [b]ecause of the conspirators' efforts to establish price minimums, we cannot conclude that the competitive pressure from the subject imports was responsible for the underselling the Commission found to be significant [in the original investigations]. Rather, the domestic producers' own efforts to establish a floor price and thereby raise domestic prices above market levels undermine the significance of the observed underselling. Similarly, the domestic producers' conspiracy to maintain floor prices undermines the Commission's findings regarding the significance of sales and revenues lost by the domestic industry to lower-priced subject imports.[77]

In other words, the underselling and lost sales data in the record are not probative because they compare the subject imports with domestically-produced ferrosilicon priced at a level not reflecting competitive marketplace conditions. In light of our finding that the price-fixing conspiracy affected the prices charged for domestically produced ferrosilicon for the entire domestic industry throughout the original periods of investigation, we cannot find that there is a significant nexus between the subject imports and the observed underselling.[78]

Our analysis of price depression and suppression largely parallels the analysis in the 1999 opinion. As stated above, a central factor affecting domestic producers' prices during the original periods of investigation was the conspiracy. To the extent that prices were also affected by market forces, however, they reflected trends in demand, as explained in the 1999 opinion. During 1989, the beginning of the Commission's original periods of investigation, demand was high and prices were near

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[75] China Final, USITC Pub. 2606 at 25.

[76] We note that we do not (and need not) reach any conclusions on the effect of the price-fixing conspiracy on domestic sales volume, or on whether there was any agreement not to sell in order to raise or maintain prices. We observe that there is some evidence of differing sales volume trends among conspirators and nonconspirators. The domestic industry's loss of market share during the 1989-91 period of the conspiracy was attributable solely to the three conspirators and to small producers that ceased production in 1989. The share of U.S. apparent consumption represented by the remaining producers (AIMCOR, Alabama Silicon, Globe, and Keokuk) actually increased from *** percent in 1989 to 21.9 percent in 1991. CR and PR, Table II-1. These data tend to refute Dr. Kalt's assertion, Elkem Prehearing Brief, ex. I at 29-30, that the conspiracy could not have been responsible for drawing imports into the U.S. market, because if it had, nonconspiring U.S. producers would also have increased their supplies to the market.

[77] 1999 Reconsideration Opinion at 29.

[78] We note in this respect that it is not our responsibility to determine what prices would have been for U.S.-produced ferrosilicon had there been no price fixing-conspiracy and how such theoretical prices would have compared with whatever subject import prices would have been charged in the absence of a conspiracy, nor does the record contain any probative information with respect to these issues. We can only ascertain the significance of underselling with respect to prices actually charged. The effect of the conspiracy on these prices precludes us from finding any causal link between the subject imports and the observed underselling.

a historic peak.[79] From 1989 to 1991, demand for steel in applications such as construction, automobiles, and appliances fell. Because ferrosilicon is used as an input in the production of steel, as demand for steel declined, demand for ferrosilicon also fell.[80] Indeed, U.S. apparent consumption of ferrosilicon declined by 5.1 percent from 1989 to 1990 and by 12.4 percent from 1990 to 1991. While apparent consumption did increase from 1991 to 1992, the 1992 apparent consumption quantity was still below that of 1989 or 1990.[81] In instances of falling demand, we would generally expect prices to decline. This is particularly true in light of the difficulty in modulating ferrosilicon production to reflect changes in demand. Ferrosilicon is produced in furnaces that must be continuously run and cannot easily and quickly be switched to or from production of other products.[82]

Consequently, the declines in ferrosilicon prices from 1989 to 1991 largely parallel changes in demand; we observe that in 1992, when demand increased somewhat, there were also price increases for some domestically produced ferrosilicon products.[83] In light of the fact that domestic prices were a function of the conspiracy, demand trends, and the ferrosilicon production process, we cannot conclude that there is a significant nexus between the subject imports and any price suppression or depression experienced by the domestic industry.

In the 1999 opinion, we concluded that, absent volume or price effects, we could not find that the subject imports had a significant impact on the domestic industry.[84] We reaffirm that conclusion here.

The crux of the argument by the domestic producers in this proceeding is that, because subject import volumes were increasing, prices were declining, and the domestic ferrosilicon industry performed poorly during the original periods of investigation, the Commission is compelled to reach an affirmative determination, notwithstanding their material misrepresentations and omissions to the agency. This argument reflects a misunderstanding of the Commission's role under the trade laws. Our reviewing court, the Federal Circuit, has made clear that we cannot make an affirmative determination based upon the fact that "economic harm to a domestic industry occurred while LTFV imports are also on the market." Instead, the Commission must also make a showing of "causal -- not merely temporal -- connection between the LTFV goods and the material injury."[85] For the reasons explained above and in our 1999 opinion as adopted by reference here, the record does not show the requisite causal nexus between the subject imports and any difficulties the domestic industry was experiencing.[86] This conclusion reflects our analysis in light of the pertinent conditions of competition, which include, but are by no means limited to, our finding that the prices charged by the domestic industry during the original periods of investigation were not a function of marketplace competition.

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[79] China Final, USITC Pub. 2606 at I-56.

[80] China Final, USITC Pub. 2606 at I-13.

[81] CR and PR, Table II-1.

[82] EC-Q-025 at 22-23 (March 9, 1993).

[83] CR and PR, Tables III-1, III-2, III-4.

[84] 1999 Reconsideration Opinion at 32-33.

[85] Gerald Metals, Inc. v. United States, 132 F.3d 716, 719-20 (Fed. Cir. 1997). While Gerald Metals was decided after the time of the Commission's original determinations, the statutory provisions it construes are those that were in effect as of the time of those determinations.

[86] When the record indicates that there is not the necessary causal nexus between the subject imports and any injury the domestic industry is experiencing, a negative determination is warranted. The Commission need not further demonstrate a causal link between the injury and some cause or causes other than the subject imports. See Altx, Inc. v. United States, 167 F. Supp.2d 1353, 1361-62 (Ct. Int'l Trade 2001).

CONCLUSION

For the foregoing reasons, we have reached negative determinations on remand in these reconsideration proceedings.

PART I: INTRODUCTION

BACKGROUND

The Commission conducted a countervailing duty investigation concerning ferrosilicon[1] from Venezuela and antidumping duty investigations concerning ferrosilicon from China, Kazakhstan, Russia, Ukraine, and Venezuela in 1992 and 1993.[2] In 1993, the Commission determined that the domestic ferrosilicon industry was materially injured by reason of imports from these countries that were found by Commerce to be subsidized and/or sold at LTFV. A subsequent petition addressed ferrosilicon imports from Brazil.[3] In 1994 the Commission determined that the domestic ferrosilicon industry was materially injured by reason of imports from Brazil that were found by Commerce to be sold at LTFV.

In April 1998, the Commission received a request from producers in Brazil for a changed circumstances review of the affirmative determination with respect to imports from Brazil. The basis for the request was that, since the Commission's original determination, a nationwide criminal ferrosilicon price-fixing conspiracy from as early as late 1989 to at least mid-1991 was uncovered and successfully prosecuted. In July 1998 the Commission instituted changed circumstances review investigations with respect to all subject countries on which it had originally made affirmative injury determinations.

The Commission subsequently determined that reconsideration was a more appropriate procedure for review of the original determinations. In May 1999, it suspended the changed circumstances review and instituted a proceeding to reconsider the original determinations. In August 1999, the Commission reached negative determinations upon reconsideration.

Various domestic ferrosilicon producers filed appeals at the Court of International Trade ("CIT") challenging the Commission's reconsideration determination. In a February 21, 2002 opinion, the CIT concluded that the domestic producers were entitled to a hearing, and "to all the other benefits" of the Commission's procedural regulations, which it indicated included adequate notice and the ability to file prehearing and posthearing briefs. The CIT found that the Commission "failed to adhere to the procedures it published as those that would govern its Reconsideration Proceedings" by not conducting a hearing specifically directed to the reconsideration proceeding. Therefore, the court stated that the

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[1] For purposes of these investigations, ferrosilicon is defined as a ferroalloy generally containing, by weight, not less than 4 percent iron, more than 8 percent but not more than 96 percent silicon, not more than 10 percent chromium, not more than 30 percent manganese, not more than 3 percent phosphorous, less than 2.75 percent magnesium, and not more than 10 percent calcium or any other element. Calcium silicon, ferrocalcium silicon, and magnesium ferrosilicon are specifically excluded from the scope of these investigations.

Ferrosilicon (chemical symbol FeSi) is used primarily as an alloying agent in the production of steel and cast iron. It is also used in the steel industry as a deoxidizer and a reducing agent, and by cast iron producers as an inoculant. Ferrosilicon is classified under subheadings 7202.21.10, 7202.21.50, 7202.21.75, 7202.21.90, and 7202.29.00 of the Harmonized Tariff Schedule of the United States (HTS), depending on the material's silicon content by weight.

[2] The original petition also alleged that imports of ferrosilicon from Argentina were being sold at less than fair value ("LTFV"). The U.S. Department of Commerce ("Commerce") determined, however, in both its preliminary and final phases of its investigation that imports of ferrosilicon from Argentina were not being, and were not likely to be, sold in the United States at LTFV (58 FR 27534, May 10, 1993).

[3] The original petition also alleged that imports from Egypt were being sold at LTFV. The Commission, however, in the final phase of its investigation, determined that the domestic industry was not materially injured or threatened with material injury by imports from Egypt (58 FR 58709, November 3, 1993).

proceeding was "conducted in a manner not in accordance with law."[4] The CIT subsequently issued an order on March 18, 2002, remanding the matter to the Commission.

The Commission instituted remand proceedings on April 11, 2002 and conducted a hearing on June 6, 2002.[5] Information relating to the background of the investigations is provided below.

Effective date	*Action*
May 22, 1992	Petitions filed with Commerce and the Commission; institution of Commission investigations with regard to Argentina, China, Kazakhstan, Russia, Ukraine, and Venezuela (57 FR 23244, June 2, 1992)
July 7, 1992	Commission's affirmative preliminary determinations with regard to Argentina, China, Kazakhstan, Russia, Ukraine, and Venezuela (57 FR 31388, July 15, 1992)
November 5, 1992 ..	Commerce's affirmative preliminary determination with regard to China (57 FR 52759, November 5, 1992)
December 29, 1992 .	Commerce's negative preliminary determination with regard to Argentina (57 FR 61874, December 29, 1992)
December 29, 1992 .	Commerce's affirmative preliminary determinations regarding Kazakhstan, Russia, Ukraine, and Venezuela (57 FR 61876, 61879, December 29, 1992)
January 12, 1993 ...	Petitions filed with Commerce and the Commission; institution of Commission investigations with regard to Brazil and Egypt (58 FR 5413, January 21, 1993)
January 21, 1993 ...	Commerce's affirmative final determination with regard to China (58 FR 5356, January 21, 1993)
February 26, 1993 ..	Commission's affirmative preliminary determinations with regard to Brazil and Egypt (58 FR 12273, March 8, 1993)
March 9, 1993	Commerce's affirmative final determinations with regard to Kazakhstan and Ukraine (58 FR 13050, March 9, 1993)
March 5, 1993	Commission's affirmative final determination with regard to China (58 FR 13503, March 11, 1993; USITC Pub No. 2606)
March 24, 1993	Commission's affirmative final determinations with regard to Kazakhstan and Ukraine (58 FR 16847, March 31, 1993; USITC Pub No. 2616)
May 10, 1993	Commerce's affirmative final determination with regard to Venezuela (58 FR 27522, May 10, 1993)
May 10, 1993	Commerce's negative final determination with regard to Argentina (58 FR 27534, May 10, 1993)
May 19, 1993	Commerce's affirmative final determination with regard to Russia (58 FR 29192, May 19, 1993)
June 17, 1993	Commission's affirmative final determinations with regard to Russia and Venezuela (58 FR 34064, June 23, 1993; USITC Pub. No. 2650)
August 16, 1993	Commerce's affirmative preliminary determination with regard to Brazil (58 FR 43323, August 16, 1993)

[4] *Elkem Metals Co. v. United States*, slip op. 02-18 at 20-21 (Ct. Int'l. Trade, February 21, 2002).

[5] *Federal Register* notices relating to the remand proceeding are presented in app. A. and a list of witnesses appearing at the hearing is presented in app. B.

September 14, 1993 .	Commerce's affirmative preliminary determination with regard to Egypt (58 FR 48037, September 14, 1993)
October 27, 1993 ...	Commission's negative final determination with regard to Egypt (58 FR 58709, November 3, 1993)
January 6, 1994	Commerce's affirmative final determination with regard to Brazil (59 FR 732, January 6, 1994)
January 24 , 1994 ...	Commission's affirmative final determination with regard to Brazil (59 FR 10165, January 24, 1994; USITC Pub. No. 2722)
April 24 , 1998	Request filed with the Commission for a section 751(b) changed circumstances review of the Commission's affirmative determination in inv. No. 731-TA-641 (Final) with regard to imports of ferrosilicon from Brazil
July 20 , 1998	Commission institutes review investigations concerning the Commission's affirmative determinations in invs. Nos. 303-TA-23, 731-TA-566-570, and 731-TA-641 (63 FR 40314, July 28, 1998)
April 13, 1999	Commission's hearing in the review investigations
May 21, 1999	Commission suspends review investigations and institutes reconsideration proceedings (64 FR 28212, May 25, 1999)
August 25 , 1999 ...	Commission's negative determinations on reconsideration with regard to Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela (64 FR 47865, September 1, 1999)
February 21 , 2002 ..	Court of International Trade issued its opinion in *Elkem Metals Co. v. United States*
March 18, 2002	Court of International Trade ordered the Commission to institute further reconsideration proceedings on remand
April 11 , 2002	Commission instituted remand proceedings (67 FR 18633, April 16, 2002)
June 6, 2002	Commission's hearing in the reconsideration/remand investigations
August 6, 2002	Commission's vote in the reconsideration/remand investigations
September 13, 2002 .	Commission's administrative deadline to submit its remand results to the Court of International Trade

PART II: U.S. PRODUCERS' DATA

SUMMARY DATA

Table II-1 shows the quantity and value of U.S. consumption, U.S. imports, and U.S. producers' domestic shipments as well as market shares, U.S. producers' capacity, U.S. producers' production, capacity utilization, and end-of-period inventories.[1] These data are subdivided into four groups of U.S. producers based upon their level of involvement in the ferrosilicon price-fixing conspiracy uncovered by the U.S. Department of Justice ("Justice Department") antitrust investigation.[2] The first group, the price-fixing conspirators, consists of (1) American Alloys, (2) Elkem Metals ("Elkem"), and (3) SKW Metals & Alloys ("SKW"). For all data depicted in table II-1, these companies are listed separately and also subtotaled. The second group of companies consists of those firms not subject to the antitrust investigation: (1) Alabama Silicon, (2) Keokuk, (3) Silicon Metaltech, (4) Northwest Alloys, and (5) Glenbrook Nickel. Again, these companies are listed separately and also subtotaled.[3] The third and fourth groups are data separately displayed for Applied Industrial Materials Corp. ("AIMCOR") and Globe, respectively, the companies under investigation by the Justice Department but not indicted.[4]

The data for 1990 to June 1993 presented in table II-1 are based on the questionnaire data in investigations Nos. 731-TA-641-642 (Final), *Ferrosilicon from Brazil and Egypt*.[5] The data for 1989 are based on questionnaire data from investigation No. 731-TA-567 (Final), *Ferrosilicon from China*.[6]

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[1] Financial data were separated by company in the respective staff reports compiled in the original investigations.

[2] In October of 1993, the Justice Department began a 30-month grand jury investigation into whether certain U.S. producers of ferrosilicon had engaged in a conspiracy to fix prices of ferrosilicon in the United States in violation of the Sherman Antitrust Act (15 U.S.C. § 1) from late 1989 to mid-1991. Five U.S. producers (Elkem, American Alloys, SKW, AIMCOR, and Globe) were subject to the Justice Department's investigation. Two of these companies, Elkem and American Alloys, pled guilty to conspiracy to fix prices and settled with the government, while SKW and one of its officers were found guilty of similar charges. AIMCOR and Globe were not indicted. There has also been civil litigation concerning ferrosilicon, as discussed in the Commission's staff report in its review investigations concerning Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela (INV-W-088, May 6, 1999), pp. I-3-I-6, and in, e.g., the posthearing brief of AIMCOR in the current investigations, app. p. 1.

[3] Silicon Metaltech, Northwest Alloys, and Glenbrook Nickel all ceased ferrosilicon production activities during the period for which data were collected (***) and are included only in the 1989 data set. Alabama Silicon ceased ferrosilicon production in 1991.

[4] AIMCOR and Globe were subject to the Justice Department's antitrust investigation but were not indicted. An issue, however, arose in the Commission's remand proceedings regarding whether these companies were at least aware of a ferrosilicon price-fixing conspiracy. Transcript, ferrosilicon remand hearing, June 6, 2002, pp. 196-198. These companies strongly deny any involvement in the price-fixing conspiracy. *Id.* at pp. 44-45 and 64-65.

[5] These data were originally presented to the Commission in the final staff report in the investigations on ferrosilicon from Brazil and Egypt (INV-Q-171, October 7, 1993).

[6] These data were incorporated into the final staff report in the investigations on ferrosilicon from Argentina, Brazil, Egypt, Kazakhstan, China, Russia, Ukraine, and Venezuela (INV-Q-029, February 17, 1993). The 1989 data presented in that report differ marginally from table II-1 of this report. Also, it should be noted that the 1993 report used import data gathered from importer questionnaires whereas all import data presented in table II-1 are based on official Commerce statistics. Finally, because the 1989 data presented in table II-1 are derived from a separate data base compiled during separate investigations than the 1990 through June 1993 data, caution should be exercised in comparing the 1989 data with the 1990 through June 1993 data.

Table II-1
Ferrosilicon: Summary data concerning the U.S. market, 1989-92, January-June 1992, and January-June 1993

(Quantity=silicon content short tons, value=1,000 dollars, unit values, are per silicon content short ton; period changes=percent, except where noted)

Item	Reported data						Period changes			
					January-June					Jan.-June
	1989	1990	1991	1992	1992	1993	1989-92	1990-92	1991-92	1992-1993
U.S. consumption quantity:										
Amount	375,609	356,547	312,205	334,536	180,742	172,766	-10.9	-6.2	7.2	-4.4
Producers' share (1):										
American Alloys	***	***	***	***	***	***	***	***	***	***
Elkem Metals	***	***	***	***	***	***	***	***	***	***
SKW Alloys	***	***	***	***	***	***	***	***	***	***
Subtotal	43.5	37.3	38.7	33.2	31.8	33.9	-10.3	-4.1	-5.5	2.2
Alabama Silicon	***	***	***	***	***	***	***	***	***	***
Keokuk	***	***	***	***	***	***	***	***	***	***
Silicon Metaltech	***	***	***	***	***	***	***	***	***	***
Northwest Alloys	***	***	***	***	***	***	***	***	***	***
Glenbrook Nickel	***	***	***	***	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***	***	***	***	***
AIMCOR	***	***	***	***	***	***	***	***	***	***
Globe Metallurgical	***	***	***	***	***	***	***	***	***	***
Total	66.8	59.3	60.8	48.0	43.9	51.4	-18.8	-11.3	-12.8	7.5
Importers' share (1):										
Argentina	2.2	2.4	1.8	0.1	0.1	0.0	-2.1	-2.3	-1.7	-0.0
Brazil	8.0	11.2	6.2	15.8	13.5	23.0	7.8	4.6	9.7	9.5
China	0.3	0.9	1.1	0.8	0.0	0.0	0.5	-0.1	-0.3	0.0
Egypt	0.0	0.6	0.0	1.3	2.4	0.0	1.3	0.7	1.3	-2.4
Kazakhstan	(2)	(2)	(2)	1.7	3.1	0.0	(3)	(3)	(3)	-3.1
Russia	(2)	(2)	(2)	0.2	0.4	0.0	(3)	(3)	(3)	-0.4
Former Soviet Union	4.1	5.2	5.7	8.1	15.1	0.0	4.0	2.9	2.5	-15.1
Venezuela	5.8	7.2	10.6	7.7	8.2	4.8	1.9	0.5	-2.8	-3.4
Subtotal	20.5	27.6	25.2	35.8	42.9	27.9	15.4	8.2	10.6	-15.0
Other sources	12.7	13.1	14.0	16.2	13.3	20.8	3.5	3.1	2.2	7.5
Total imports	33.2	40.7	39.2	52.0	56.1	48.6	18.8	11.3	12.8	-7.5
U.S. consumption value:										
Amount	393,937	293,465	239,840	249,661	130,228	132,072	-36.6	-14.9	4.1	1.4
Producers' share (1):										
American Alloys	***	***	***	***	***	***	***	***	***	***
Elkem Metals	***	***	***	***	***	***	***	***	***	***
SKW Alloys	***	***	***	***	***	***	***	***	***	***
Subtotal	42.3	40.9	42.7	36.6	35.5	37.1	-5.7	-4.3	-6.0	1.6
Alabama Silicon	***	***	***	***	***	***	***	***	***	***
Keokuk	***	***	***	***	***	***	***	***	***	***
Silicon Metaltech	***	***	***	***	***	***	***	***	***	***
Northwest Alloys	***	***	***	***	***	***	***	***	***	***
Glenbrook Nickel	***	***	***	***	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***	***	***	***	***
AIMCOR	***	***	***	***	***	***	***	***	***	***
Globe Metallurgical	***	***	***	***	***	***	***	***	***	***
Total	64.2	62.6	63.8	52.9	49.3	55.9	-11.3	-9.7	-11.0	6.6
Importers' share (1):										
Argentina	2.3	2.4	1.5	0.2	0.2	0.1	-2.1	-2.2	-1.3	-0.1
Brazil	11.5	10.5	4.8	13.7	11.5	19.3	2.2	3.2	8.9	7.7
China	0.3	0.7	1.0	0.7	0.0	0.0	0.4	0.0	-0.3	0.0
Egypt	0.0	0.9	0.0	0.8	1.5	0.0	0.8	-0.1	0.8	-1.5
Kazakhstan	(2)	(2)	(2)	1.5	2.9	0.0	(3)	(3)	(3)	-2.9
Russia	(2)	(2)	(2)	0.2	0.4	0.0	(3)	(3)	(3)	-0.4
Former Soviet Union	3.8	4.9	5.2	7.2	13.8	0.0	3.4	2.3	2.0	-13.8
Venezuela	5.2	5.3	8.7	6.0	6.5	3.7	0.9	0.8	-2.7	-2.7
Subtotal	23.1	24.6	21.2	30.4	36.9	23.1	7.3	5.7	9.2	-13.8
Other sources	12.7	12.7	14.9	16.7	13.8	21.0	4.0	4.0	1.8	7.2
Total imports	35.8	37.4	36.2	47.1	50.7	44.1	11.3	9.7	11.0	-6.6

Table II-1--Continued
Ferrosilicon: Summary data concerning the U.S. market, 1989-92, January-June 1992, and January-June 1993

(Quantity=silicon content short tons, value=1,000 dollars, unit values, are per silicon content short ton; period changes=percent, except where noted)

Item	Reported data						Period changes			
					January-June					Jan.-June
	1989	1990	1991	1992	1992	1993	1989-92	1990-92	1991-92	1992-1993
U.S. imports from:										
Argentina:										
Quantity	8,336	8,632	5,496	321	131	67	-96.1	-96.3	-94.2	-48.7
Value	9,082	7,118	3,595	544	232	99	-94.0	-92.4	-84.9	-57.5
Unit value	$1,089.41	$824.61	$654.20	$1,691.20	$1,775.46	$1,472.14	55.2	105.1	158.5	-17.1
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***
Brazil:										
Quantity	30,187	40,010	19,259	52,994	24,474	39,760	75.6	32.5	175.2	62.5
Value	45,289	30,874	11,454	34,232	15,028	25,433	-24.4	10.9	198.9	69.2
Unit value	$1,500.31	$771.66	$594.73	$645.96	$614.04	$639.66	-56.9	-16.3	8.6	4.2
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***
China:										
Quantity	1,161	3,324	3,324	2,716	0	14	133.9	-18.3	-18.3	(3)
Value	1,300	2,010	2,442	1,722	0	57	32.5	-14.3	-29.5	(3)
Unit value	$1,118.98	$604.69	$734.66	$634.02	(3)	$4,071.43	-43.3	4.8	-13.7	(3)
Ending inventory quantity	***	***	***	(2)	(2)	(2)	(3)	(3)	(3)	(3)
Egypt:										
Quantity	0	2,085	0	4,292	4,292	0	(3)	105.9	(3)	-100.0
Value	0	2,556	0	2,008	2,008	0	(3)	-21.4	(3)	-100.0
Unit value	(3)	$1,225.90	(3)	$467.85	$467.85	(3)	(3)	-61.8	(3)	(3)
Ending inventory quantity	***	***	***	***	***	***	(3)	(3)	(3)	(3)
Kazakhstan:										
Quantity	(2)	(2)	(2)	5,637	5,637	0	(3)	(3)	(3)	-100.0
Value	(2)	(2)	(2)	3,753	3,753	0	(3)	(3)	(3)	-100.0
Unit value	(2)	(2)	(2)	$665.79	$665.79	(3)	(3)	(3)	(3)	(3)
Ending inventory quantity	***	***	***	(2)	(2)	(2)	(3)	(3)	(3)	(3)
Russia:										
Quantity	(2)	(2)	(2)	794	794	0	(3)	(3)	(3)	-100.0
Value	(2)	(2)	(2)	518	518	0	(3)	(3)	(3)	-100.0
Unit value	(2)	(2)	(2)	$652.69	$652.69	(3)	(3)	(3)	(3)	(3)
Ending inventory quantity	***	***	***	(2)	(2)	(2)	(3)	(3)	(3)	(3)
Former Soviet Union:										
Quantity	15,452	18,578	17,710	27,256	27,256	0	76.4	46.7	53.9	-100.0
Value	14,909	14,363	12,485	18,028	18,028	0	20.9	25.5	44.4	-100.0
Unit value	$964.86	$773.12	$704.97	$661.42	$661.42	(3)	-31.4	-14.4	-6.2	(3)
Ending inventory quantity	***	***	***	(2)	(2)	(2)	(3)	(3)	(3)	(3)
Venezuela:										
Quantity	21,680	25,708	32,969	25,793	14,867	8,288	19.0	0.3	-21.8	-44.3
Value	20,335	15,416	20,964	15,083	8,459	4,952	-25.8	-2.2	-28.1	-41.5
Unit value	$937.97	$599.66	$635.87	$584.77	$568.98	$597.49	-37.7	-2.5	-8.0	5.0
Ending inventory quantity	***	***	***	(2)	(2)	(2)	(3)	(3)	(3)	(3)
Subtotal:										
Quantity	76,817	98,337	78,758	119,803	77,451	48,129	56.0	21.8	52.1	-37.9
Value	90,915	72,337	50,940	75,886	48,026	30,541	-16.5	4.9	49.0	-36.4
Unit value	$1,183.53	$735.60	$646.80	$633.43	$620.09	$634.56	-46.5	-13.9	-2.1	2.3
Ending inventory quantity	***	***	***	(2)	(2)	(2)	(3)	(3)	(3)	(3)
Other sources:										
Quantity	47,856	46,781	43,723	54,229	23,976	35,877	13.3	15.9	24.0	49.6
Value	50,195	37,333	35,771	41,719	18,023	27,737	-16.9	11.7	16.6	53.9
Unit value	$1,048.88	$798.04	$818.11	$769.32	$751.69	$773.12	-26.7	-3.6	-6.0	2.9
All sources:										
Quantity	124,672	145,118	122,481	174,032	101,427	84,006	39.6	19.9	42.1	-17.2
Value	141,110	109,670	86,711	117,607	66,049	58,278	-16.7	7.2	35.6	-11.8
Unit value	$1,131.85	$755.73	$707.95	$675.78	$651.20	$693.74	-40.3	-10.6	-4.5	6.5

Table continued on next page.

Table II-1--Continued
Ferrosilicon: Summary data concerning the U.S. market, 1989-92, January-June 1992, and January-June 1993

(Quantity=silicon content short tons, value=1,000 dollars, unit values, are per silicon content short ton; period changes=percent, except where noted)

	Reported data						Period changes			
					January-June					Jan.-June
Item	1989	1990	1991	1992	1992	1993	1989-92	1990-92	1991-92	1992-1993
U.S. producers':										
Average capacity quantity:										
American Alloys	***	***	***	***	***	***	***	***	***	***
Elkem Metals	***	***	***	***	***	***	***	***	***	***
SKW Alloys	***	***	***	***	***	***	***	***	***	***
Subtotal	210,523	208,214	210,731	209,593	104,730	104,846	-0.4	0.7	-0.5	0.1
Alabama Silicon	***	***	***	***	***	***	***	***	***	***
Keokuk	***	***	***	***	***	***	***	***	***	***
Silicon Metaltech	***	***	***	***	***	***	***	***	***	***
Northwest Alloys	***	***	***	***	***	***	***	***	***	***
Glenbrook Nickel	***	***	***	***	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***	***	***	***	***
AIMCOR	***	***	***	***	***	***	***	***	***	***
Globe Metallurgical	***	***	***	***	***	***	***	***	***	***
Total	325,988	283,303	275,498	268,210	132,314	133,135	-17.7	-5.3	-2.6	0.6
Production quantity:										
American Alloys	***	***	***	***	***	***	***	***	***	***
Elkem Metals	***	***	***	***	***	***	***	***	***	***
SKW Alloys	***	***	***	***	***	***	***	***	***	***
Subtotal	176,193	151,164	117,543	116,946	56,434	59,060	-33.6	-22.6	-0.5	4.7
Alabama Silicon	***	***	***	***	***	***	***	***	***	***
Keokuk	***	***	***	***	***	***	***	***	***	***
Silicon Metaltech	***	***	***	***	***	***	***	***	***	***
Northwest Alloys	***	***	***	***	***	***	***	***	***	***
Glenbrook Nickel	***	***	***	***	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***	***	***	***	***
AIMCOR	***	***	***	***	***	***	***	***	***	***
Globe Metallurgical	***	***	***	***	***	***	***	***	***	***
Total	277,409	225,011	186,591	172,257	82,208	85,929	-37.9	-23.4	-7.7	4.5
Capacity utilization (1):										
American Alloys	***	***	***	***	***	***	***	***	***	***
Elkem Metals	***	***	***	***	***	***	***	***	***	***
SKW Alloys	***	***	***	***	***	***	***	***	***	***
Subtotal	83.7	72.8	55.8	55.8	53.9	56.3	-27.9	-16.8	0.0	2.4
Alabama Silicon	***	***	***	***	***	***	***	***	***	***
Keokuk	***	***	***	***	***	***	***	***	***	***
Silicon Metaltech	***	***	***	***	***	***	***	***	***	***
Northwest Alloys	***	***	***	***	***	***	***	***	***	***
Glenbrook Nickel	***	***	***	***	***	***	***	***	***	***
Subtotal (4)	***	***	***	***	***	***	***	***	***	***
AIMCOR	***	***	***	***	***	***	***	***	***	***
Globe Metallurgical	***	***	***	***	***	***	***	***	***	***
Total (4)	85.1	78.3	64.8	64.2	62.1	64.5	-20.9	-14.1	-0.6	2.4
End-of-period inventories:										
American Alloys	***	***	***	***	***	***	***	***	***	***
Elkem Metals	***	***	***	***	***	***	***	***	***	***
SKW Alloys	***	***	***	***	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***	***	***	***	***
Alabama Silicon	***	***	***	***	***	***	***	***	***	***
Keokuk	***	***	***	***	***	***	***	***	***	***
Silicon Metaltech	***	***	***	***	***	***	***	***	***	***
Northwest Alloys	***	***	***	***	***	***	***	***	***	***
Glenbrook Nickel	***	***	***	***	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***	***	***	***	***
AIMCOR	***	***	***	***	***	***	***	***	***	***
Globe Metallurgical	***	***	***	***	***	***	***	***	***	***
Total	54,288	50,712	40,177	44,142	40,440	40,598	-18.7	-13.0	9.9	0.4

Table II-1--Continued
Ferrosilicon: Summary data concerning the U.S. market, 1989-92, January-June 1992, and January-June 1993

(Quantity=silicon content short tons, value=1,000 dollars, unit values, are per silicon content short ton; period changes=percent, except where noted)

Item	Reported data						Period changes			
					January-June					Jan.-June
	1989	1990	1991	1992	1992	1993	1989-92	1990-92	1991-92	1992-1993
U.S. shipments:										
American Alloys										
Quantity	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***
Elkem Metals										
Quantity	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***
SKW Alloys										
Quantity	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***
Subtotal										
Quantity	163,564	133,049	120,848	111,078	57,415	58,845	-32.1	-16.5	-8.1	2.1
Value	166,787	120,033	102,294	91,478	46,286	49,034	-45.2	-23.8	-10.6	5.9
Unit value	$1,019.70	$902.17	$846.47	$823.55	$806.17	$836.12	-19.2	-8.7	-2.7	3.7
Alabama Silicon										
Quantity	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***
Keokuk										
Quantity	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***
Silicon Metaltech										
Quantity	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***
Northwest Alloys										
Quantity	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***
Glenbrook Nickel										
Quantity	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***
Subtotal										
Quantity	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***
Unit value (4)	***	***	***	***	***	***	***	***	***	***
AIMCOR										
Quantity	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***
Globe Metallurgical										
Quantity	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***
Total										
Quantity	250,937	211,429	189,724	160,504	79,315	88,760	-36.0	-24.1	-15.4	11.9
Value	252,827	183,795	153,129	132,054	64,179	73,794	-47.8	-28.2	-13.8	15.0
Unit value (4)	$1,007.53	$882.42	$842.33	$822.75	$809.17	$831.39	-18.3	-6.8	-2.3	2.7

(1) "Reported data" are in percent and "period changes" are in percentage points.
(2) Not available.
(3) Not applicable.
(4) Calculation *** in 1990 and 1991.

Note.--Import data from Kazakhstan, Russia, and Ukraine for 1989-1991 are presented under the heading "Former Soviet Union." Import data from Kazakhstan and Russia for 1992 - June 1993 are presented separately under their own respective headings. The data presented under the heading "Former Soviet Union" for 1992 - June 1993 are believed to be primarily imports from Ukraine. Because the 1989 data presented in this table are derived from a separate data base compiled during separate investigations than the 1990 through June 1993 data, caution should be exercised when comparing the 1989 data with the 1990 through June 1993 data.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.

PART III: PRICING AND RELATED DATA[1]

FACTORS AFFECTING PRICING

Ferrosilicon prices can fluctuate based on demand factors such as the business cycle and the size of an order, and on supply factors such as the distance shipped, the mode of transportation, inventory levels, and the price of electrical power. Ferrosilicon prices also differ by the silicon content, purity requirements, the size of the pieces of ferrosilicon, and bulk versus packaged shipments.[2] The two largest types of ferrosilicon are the commodity grades 50 percent and 75 percent by silicon content (ferrosilicon 50 and ferrosilicon 75, respectively).[3]

Ferrosilicon is used predominantly in the production of steel and iron, with the remainder used in the production of nickel, aluminum, and some other metals. Possible alternatives to ferrosilicon include silicon carbide, silicomanganese, ferrochrome silicon, and silicon metal.

U.S. ferrosilicon producers sold their products almost exclusively to steel producers and iron foundries during January 1989-September 1992. U.S. importers sold the ferrosilicon from Brazil, China, and Venezuela almost exclusively to steel producers, and the ferrosilicon from Kazakhstan, Russia, and Ukraine primarily to steel producers and nickel producers.

U.S. Inland Transportation Costs

U.S. ferrosilicon producers and importers reported that the high weight-to-value ratio for ferrosilicon leads to costly U.S. overland shipping costs, which sharply constrain competitive selling

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[1] Information contained in Part III is based on data and information gathered in connection with *Investigations Nos. 303-TA-23 (Final), 731-TA-566-570 (Final) and 731-TA-641-642 (Preliminary): Ferrosilicon from Argentina, Brazil, Egypt, Kazakhstan, China, Russia, Ukraine, and Venezuela*, much of which was reported in the final staff report, INV-Q-029, February 17, 1993, and in economic memorandum EC-Q-017, February 19, 1993. Data and information from subsequent ferrosilicon investigations were not used to avoid combining price data sets that were not always compatible due to differing specifications and response coverage.

[2] *Types* of ferrosilicon refer to the different proportions of silicon, and *grades* of silicon refer to the different proportions of the non-silicon elements in ferrosilicon. Ferrosilicon is purchased for its silicon content and is generally priced in dollars per pound of contained silicon; towards the end of 1992 commodity grades of ferrosilicon sold in a price range of about $0.34-$0.39 per pound of contained silicon. Iron in the ferrosilicon is the preferred silicon conveyance material for iron foundries and steel producers because, as an ingredient in producing iron and steel products, it does not contaminate or otherwise distort the required chemical mix of inputs. But the limited amount of ferrosilicon required in such production (typically less than 1.5 percent of total production costs and less than 1 percent by weight of the iron and steel products) renders consideration of the volume of the iron component in ferrosilicon minimal to these end users, who rely on iron ore and iron and steel scrap for the bulk of their iron requirements.

[3] Steel producers tend to buy larger quantities of ferrosilicon than iron foundries, which, in turn, tend to buy larger quantities of ferrosilicon than producers of other metals such as nickel; larger quantities of the same type and grade of ferrosilicon tend to be priced less than smaller quantities. High-purity grades, which frequently require tighter control over the non-silicon elements, and other specialty grades tend to be priced higher than commodity grades. Ferrosilicon 75 costs more to produce than ferrosilicon 50, but ferrosilicon 75 tends to carry a lower freight cost per pound of contained silicon than ferrosilicon 50 for comparable shipping distances.

areas for ferrosilicon suppliers in the United States.[4] Ferrosilicon products were typically delivered by truck in the United States, but some ferrosilicon was shipped by rail or barge. The producers' average shipping costs as a percentage of their f.o.b. costs ranged from 1 to 3 percent for shipments less than 100 miles; from 1.7 to 6 percent for shipments between 100 and 500 miles; and from 6 to 15 percent for shipments over 500 miles. The importers' average shipping costs as a percentage of total costs ranged from 1 to 3.8 percent for shipments less than 100 miles; from 2.8 to 9.7 percent for shipments between 100 and 500 miles; and from 6.3 to 11.5 percent for shipments over 500 miles.

Ferrosilicon is most frequently purchased in bulk, but is also purchased packaged in drums, pallet boxes, super sacks, drop-box containers, and 50-pound bags.

PRICING PRACTICES

Large steel and iron producers typically determine the quantities and specifications of the ferrosilicon they will require for the following quarter/semiannual period and request prices from ferrosilicon producers, importers, and/or distributors to provide these requirements.[5] Prices are generally fixed for the specific quarter or semiannual period and the total quantity is specified; the number and timing of individual shipments, typically in single truckload quantities, are determined by the customer during the contract period.[6] Ferrosilicon producers and importers reported that the prices they submit in response to bid requests are based on factors such as their cost of production, the quantity of the order, the type of packaging required (if any), the latest published market prices,[7] the level of iron and steel production, and the current level of their own inventories and those of the iron and steel producers. In addition, end-user concerns about ferrosilicon product quality led increasing numbers of end users to require statistical process control ("SPC") documentation for the ferrosilicon they purchase. SPC documentation was developed by the ferrosilicon producers and showed detailed heat level readings, raw material additions, and chemistry readings at different stages in the production of ferrosilicon. U.S.

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[4] The major U.S. consuming areas for ferrosilicon are the Midwest, mid-Atlantic, Southeast, and Southwest.

[5] U.S. ferrosilicon producers and importers sell the majority of their products on a quarterly/semiannual requirements basis. However, long-term contracts, which typically run for one year with prices generally fixed for the contract period, accounted for 11 percent of domestic product sales and 17 percent of subject imported product sales during January 1989-September 1992. Due to the volatile nature of the ferrosilicon market, the prices specified in long-term contracts may sometimes be fixed for an initial one-quarter period and then periodically adjusted at specified intervals during the rest of the contract period.

[6] Purchasers requested bids from as few as 3 vendors for small orders to as many as 15 vendors for large-volume orders. U.S. producers, importers, and distributors generally were not sure how many firms were bidding, who they were bidding against, or the country of origin of the ferrosilicon of their rivals for a particular contract. Purchasing end users also may not know for sure the country of origin of the ferrosilicon they will receive from their vendors until the product is delivered. In most instances, end users require their suppliers to deliver ferrosilicon that is acceptable in quality, frequently leaving the choice of the country of origin to the vendor.

[7] Suppliers and purchasers frequently refer to ferrosilicon prices available in several publications, including *Metals Week*, *American Metal Market Report*, and *Metal Bulletin*. U.S. purchasers reported in their questionnaire responses that they refer most frequently to ferrosilicon prices in *Metals Week*, but use this and the other published price information only as a general guide to price trends and price levels. Purchasers indicated that published prices do not reflect U.S.-inland freight, availability, volume, and a myriad of other factors that vary from transaction to transaction. Three domestic producers also use their own price lists in negotiations; no importer reported using their own price list.

producers reported that SPC documentation was required on 23.3 percent of their sales of the commodity-grade ferrosilicon for which they reported price data during January-September 1992, up from 12.5 percent in 1991.[8] U.S. importers reported that all of their U.S. sales of the subject imported ferrosilicon were to U.S. purchasers that did not require them to supply SPC documentation.[9]

The outcome of prior bids is also a significant factor in determining the ferrosilicon prices submitted to iron and steel producers in subsequent bids. In response to the Commission's questionnaire, the responding domestic producers and importers reported that they would consider lowering their prices for the next bid request if prior sales they bid on had been awarded to competitors.

PRICE DATA

The Commission requested U.S. quarterly pricing data for bulk shipments of two ferrosilicon products that were crushed in sizes ranging from 2" x 1/4" up to and including 8" x 4". The specified products are described below.

PRODUCT 1: *Regular (commodity) grade 75-percent ferrosilicon.*--Ferrosilicon containing by weight 74.0 to 79.0 percent silicon; 0.10 percent or less carbon; 0.025 percent or less sulfur; 0.035 percent or less phosphorous; 1.50 percent or less aluminum; and 0.40 percent or less manganese.

PRODUCT 2: *Regular (commodity) grade 50-percent ferrosilicon.*--Ferrosilicon containing by weight 47.0 to 51.0 percent silicon; 0.10 percent or less carbon; 0.025 percent or less sulfur; 0.040 percent or less phosphorous; 1.25 percent or less aluminum; and 0.75 percent or less manganese.

The Commission requested U.S. producers and importers to provide U.S. quarterly selling price data for products 1 and 2 shipped to steel producers and product 2 shipped to iron foundries, on a quarterly/semiannual requirements sales basis, between January 1989 and September 1992.[10] The price data were requested on net U.S. f.o.b. and delivered bases for the firms' total quarterly shipments to each of the specified types of end users. A total of seven domestic producers and nine importers provided the Commission with usable selling price data for at least one of the products and for at least part of the period requested for the domestic ferrosilicon and that imported from the subject countries.

The seven responding U.S. producers provided price information for products accounting for 35 percent of the total quantity of domestic shipments of U.S.-produced ferrosilicon between January 1989

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[8] Between January 1989 and September 1992, about 23 percent of the U.S. producers' sales to iron foundries required SPC documentation, while about 14 percent of the reported sales to steel producers required SPC documentation.

[9] Hearing testimony of Minerais indicates that producers of its subject imported ferrosilicon are unable to provide SPC documentation (hearing transcript in the investigations cited in footnote 1, p. 123). *** (letter to the Commission, February 1, 1993).

[10] Iron foundries tend to pay a higher price for ferrosilicon of the same type and grade as that used by steel producers because foundries typically use smaller volumes of ferrosilicon than steel producing firms. Therefore, separate price series were requested for sales of the commodity grade ferrosilicon 50 to steel producers and iron foundries.

and September 1992.[11] The responding U.S. importers provided price information for products accounting for *** percent of the total quantity of reported U.S. shipments of imports of ferrosilicon from Brazil,[12] *** percent from China,[13] *** percent from Kazakhstan,[14] *** percent from Russia,[15] *** percent from Ukraine,[16] and *** percent from Venezuela[17] during this period.[18]

Price **trends** of the domestic and subject imported ferrosilicon products are based on quarterly net U.S. f.o.b. selling price data reported by U.S. producers and importers for sales of product 1 to U.S. steel producers and product 2 to U.S. steel and iron producers during January 1989-September 1992.[19] Price **comparisons** between the domestic and subject imported products are based on quarterly net U.S. delivered selling price data reported by U.S. producers and importers for sales of product 1 to U.S. steel producers and product 2 to U.S. steel and iron producers during January 1989-September 1992.[20] In addition, for both price trends and price comparisons, the price data for sales of U.S.-produced ferrosilicon are shown separately, as applicable, by up to five categories of U.S. producers: (1) all U.S.

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[11] The U.S. producers reported price data for shipments of product 1 (commodity grade ferrosilicon 75) to steel producers and product 2 (commodity grade ferrosilicon 50) to steel producers and to iron foundries. Sales of the domestic product 1 to steel producers accounted for 16 percent of the total quantity of ferrosilicon for which U.S. producers reported price data, while sales of product 2 to steel producers accounted for 51 percent and sales of product 2 to iron foundries accounted for 33 percent.

[12] Seven U.S. importers reported price data for the Brazilian ferrosilicon, all of which was product 1 shipped to steel producers.

[13] Two U.S. importers reported price data for the Chinese ferrosilicon, all of which was product 1 shipped to steel producers.

[14] *** reported price data for the Kazakh ferrosilicon, all of which was product 2 shipped mostly to steel producers and some to iron foundries. Sales of the Kazakh product 2 to steel producers accounted for *** percent of the total quantity of Kazakh ferrosilicon for which the importer reported price data, while sales of product 2 to iron foundries accounted for *** percent.

[15] *** reported price data for the Russian ferrosilicon, all of which was product 2 shipped to steel producers.

[16] *** reported price data for the Ukrainian ferrosilicon, all of which was product 2 shipped mostly to steel producers and some to iron foundries. Sales of the Ukrainian product 2 to steel producers accounted for more than *** percent of the total quantity of Ukrainian ferrosilicon for which the importer reported price data, while sales of product 2 to iron foundries accounted for ***.

[17] Five U.S. importers reported price data for the Venezuelan ferrosilicon, all of which was product 1 shipped to steel producers.

[18] Price data for the imported ferrosilicon from Argentina are not shown here but were included in appendix E of the February 17, 1993 report. No price data were reported for the ferrosilicon imported from Egypt for the investigations cited in footnote 1.

[19] Price trends were shown on a net U.S. f.o.b. basis because this represented the most reliable trend data; the importance of U.S. transportation costs could result in delivered price data that would obscure actual selling price trends. In addition, reported net U.S. f.o.b. price data represented the most complete price data; U.S. importers of the Brazilian and Venezuelan ferrosilicon could not report a total of 10.5 percent of their U.S. sales of the subject imported ferrosilicon products on a delivered price basis.

[20] Price comparisons were reported on a net U.S. delivered basis because of the importance of U.S. overland transportation costs.

producers combined, (2) the three conspirators combined (American Alloys, Elkem, and SKW), (3) AIMCOR, (4) Globe, and (5) remaining U.S. producers combined (Glenbrook Nickel and Keokuk).

Any comparisons of prices between the group of three conspirators (American Alloys, Elkem, and SKW) and the other U.S. producers involve a number factors including different relative sales volumes and shares of SPC sales that could affect relative price levels.[21] Average sales volume of the three conspirators tended to be *** than other reporting U.S. producers for sales of product 1 to steel producers, while the relative average sales volume of the conspirators varied vis-a-vis the other responding producers for product 2 sold to steel producers and to iron foundries. The three conspirators were the only U.S. firms shipping SPC-documented ferrosilicon for portions of their sales of product 1 to steel companies and sales of product 2 to iron foundries.[22] Some sales of product 2 to steel producers reported by the three conspirators and by *** involved SPC-documented ferrosilicon.[23] Because of these and other factors mentioned earlier, conclusions drawn from comparisons between the conspirators and other U.S. producers of price trends, margins of underselling/(overselling) with the subject imported ferrosilicon, or price levels, should be made with caution.

Price Trends

Price trend data are shown for the U.S.-produced products in tables III-1 through III-3 and figure III-1, and for the subject imported products in tables III-4 through III-6 and figures III-2 and III-3. Quarterly net U.S. f.o.b. selling prices for the U.S.-produced ferrosilicon products 1 and 2 and those imported from Brazil, Kazakhstan, and Venezuela followed similar trends during January 1989-September 1992, whereas limited reported price data for ferrosilicon imported from China, Russia, and Ukraine did not allow definitive trends to be determined. Quarterly prices of the domestic and applicable subject imported ferrosilicon fluctuated but generally fell from period highs during the first half of 1989 through much of the remaining period, before generally showing a tendency to turn up somewhat during April-September 1992. Prices reported in *Metals Week* indicated that U.S. ferrosilicon prices during the 1980s peaked in 1988 and were beginning to fall in 1989. Weakened U.S. iron and steel production in 1990 and a decline in 1991 led to weakened and then reduced U.S. demand for ferrosilicon, which, in turn, likely contributed to further declines in U.S. ferrosilicon prices during 1990 and 1991.

[21] Lower sales volumes tend to carry higher prices than greater sales volumes and sales of SPC-documented ferrosilicon tend to involve fewer suppliers than non-documented ferrosilicon.

[22] About 28 percent of the three conspirators' combined sales of product 1 to steel producers involved SPC-documented ferrosilicon, while almost 34 percent of their combined sales of product 2 to iron foundries involved SPC-documented ferrosilicon.

[23] Almost 9 percent of the three conspirators' combined sales of product 2 to steel producers involved SPC-documented ferrosilicon, while about *** percent of *** sales of product 2 to steel producers involved SPC-documented ferrosilicon.

Table III-1
Ferrosilicon: U.S. weighted-average net f.o.b. selling prices and quantities of domestically produced product 1 (75 percent silicon content) sold to U.S. steel producers, by categories of U.S. ferrosilicon producers and by quarters, January 1989-September 1992[1]

Period	All reporting U.S. producers			The three conspirators[2]			AIMCOR		Globe	
	Price (*per lb. silicon content*)	Quantity (*lbs. silicon content*)	No. of firms	Price (*per lb. silicon content*)	Quantity (*lbs. silicon content*)	No. of firms	Price (*per lb. silicon content*)	Quantity (*lbs. silicon content*)	Price (*per lb. silicon content*)	Quantity (*lbs. silicon content*)
1989:										
Jan.-Mar.	$0.5927	5,445,916	4	***	***	***	***	***	***	***
Apr.-June	.5763	5,371,713	4	***	***	***	***	***	***	***
July-Sept.	.4807	6,687,620	4	***	***	***	***	***	***	***
Oct.-Dec.	.3899	8,946,833	4	***	***	***	***	***	***	***
1990:										
Jan.-Mar.	.3931	4,540,972	5	***	***	***	***	***	***	***
Apr.-June	.3979	5,095,504	5	***	***	***	***	***	***	***
July-Sept.	***	***	***	***	***	***	***	***	***	***
Oct.-Dec.	***	***	***	***	***	***	***	***	***	***
1991:										
Jan.-Mar.	.3690	9,555,729	4	***	***	***	***	***	***	***
Apr.-June	.3788	5,738,892	4	***	***	***	***	***	***	***
July-Sept.	.3822	3,324,120	4	***	***	***	***	***	***	***
Oct.-Dec.	.3583	4,057,492	4	***	***	***	***	***	***	***
1992:										
Jan.-Mar.	***	***	***	***	***	***	***	***	***	***
Apr.-June	***	***	***	***	***	***	***	***	***	***
July-Sept.	***	***	***	***	***	***	***	***	***	***
TOTALS[3]	$0.4149	82,426,707	5	***	***	***	***	***	***	***

[1] The ferrosilicon prices shown are averages of the net U.S. f.o.b. quarterly/semi-annual requirements sales prices reported by U.S. producers for the product and type of customer shown above; the averages were calculated by weighting each reporting producer's prices by the quantities reported. Ferrosilicon quantities shown are the sum of the reporting producers' total quarterly sales volume.
[2] The three conspiring U.S. ferrosilicon producers were American Alloys, Elkem, and SKW.
[3] "Total" prices are averages of prices for all quarters reported that were weighted by the quarterly quantities reported.

Note.--No other U.S. ferrosilicon producers reported selling product 1 to U.S. steel producers.

Source: Compiled from data submitted in response to Commission questionnaires.

Table III-2
Ferrosilicon: U.S. weighted-average net f.o.b. selling prices and quantities of domestically produced product 2 (50 percent silicon content) sold to U.S. steel producers, by categories of U.S. ferrosilicon producers and by quarters, January 1989-September 1992[1]

Period	All reporting U.S. producers			The three conspirators[2]			AIMCOR		Globe		Remaining U.S. producers[3]		
	Price (*per lb. silicon content*)	Quantity (*lbs. silicon content*)	No. of firms	Price (*per lb. silicon content*)	Quantity (*lbs. silicon content*)	No. of firms	Price (*per lb. silicon content*)	Quantity (*lbs. silicon content*)	Price (*per lb. silicon content*)	Quantity (*lbs. silicon content*)	Price (*per lb. silicon content*)	Quantity (*lbs. silicon content*)	No. of firms
1989:													
Jan.-Mar.	$0.4832	24,415,550	6	***	***	***	***	***	***	***	***	***	***
Apr.-June	.4906	24,772,836	5	***	***	***	***	***	***	***	***	***	***
July-Sept.	.4596	19,425,164	7	***	***	***	***	***	***	***	***	***	***
Oct.-Dec.	.4043	18,597,243	7	***	***	***	***	***	***	***	***	***	***
1990:													
Jan.-Mar.	.3977	19,829,906	7	$0.3962	6,718,365	3	***	***	***	***	***	***	***
Apr.-June	.4020	21,318,192	7	.4092	5,718,076	3	***	***	***	***	***	***	***
July-Sept.	.4074	19,599,236	6	.4177	5,859,355	3	***	***	***	***	***	***	***
Oct.-Dec.	.4056	19,448,034	6	.4117	7,259,115	3	***	***	***	***	***	***	***
1991:													
Jan.-Mar.	.3715	18,131,824	5	.3735	6,579,512	3	***	***	***	***	***	***	***
Apr.-June	.3789	15,772,651	5	.3821	5,653,184	3	***	***	***	***	***	***	***
July-Sept.	.3832	16,363,055	5	.3991	5,082,744	3	***	***	***	***	***	***	***
Oct.-Dec.	.3655	17,130,019	5	.3693	7,987,630	3	***	***	***	***	***	***	***

Continued on next page.

Table III-2--Continued
Ferrosilicon: U.S. weighted-average net f.o.b. selling prices and quantities of domestically produced product 2 (50 percent silicon content) sold to U.S. steel producers, by categories of U.S. ferrosilicon producers and by quarters, January 1989-September 1992[1]

Period	All reporting U.S. producers			The three conspirators[2]			AIMCOR		Globe		Remaining U.S. producers[3]		
	Price (*per lb. silicon content*)	Quantity (*lbs. silicon content*)	No. of firms	Price (*per lb. silicon content*)	Quantity (*lbs. silicon content*)	No. of firms	Price (*per lb. silicon content*)	Quantity (*lbs. silicon content*)	Price (*per lb. silicon content*)	Quantity (*lbs. silicon content*)	Price (*per lb. silicon content*)	Quantity (*lbs. silicon content*)	No. of firms
1992:													
Jan.-Mar.	$0.3415	14,410,494	5	$0.3468	6,429,639	3	***	***	***	***	***	***	***
Apr.-June	.3438	13,261,919	5	.3430	6,444,389	3	***	***	***	***	***	***	***
July-Sept.	.3635	11,639,453	5	.3708	4,624,175	3	***	***	***	***	***	***	***
TOTALS[4]	$0.4074	274,115,576	7	$0.4143	105,010,704	3	***	***	***	***	***	***	***

[1] The ferrosilicon prices shown are averages of the net U.S. f.o.b. quarterly/semi-annual requirements sales prices reported by U.S. producers for the product and type of customer shown above; the averages were calculated by weighting each reporting producer's prices by the quantities reported. Ferrosilicon quantities shown are the sum of the reporting producers' total quarterly sales volume.

[2] The three conspiring U.S. ferrosilicon producers were American Alloys, Elkem, and SKW.

[3] The remaining responding U.S. ferrosilicon producers were ***. *** accounted for *** percent of the reported total quantity by these two remaining U.S. ferrosilicon producers for product 2 sold to U.S. steel producers.

[4] "Total" prices are averages of prices for all quarters reported that were weighted by the quarterly quantities reported.

Source: Compiled from data submitted in response to Commission questionnaires.

Table III-3
Ferrosilicon: U.S. weighted-average net f.o.b. selling prices and quantities of domestically produced product 2 (50 percent silicon content) sold to U.S. iron foundries, by categories of U.S. ferrosilicon producers and by quarters, January 1989-September 1992[1]

Period	All reporting U.S. producers			The three conspirators[2]			AIMCOR		Globe		Remaining U.S. producers[3]		
	Price (*per lb. silicon content*)	Quantity (*lbs. silicon content*)	No. of firms	Price (*per lb. silicon content*)	Quantity (*lbs. silicon content*)	No. of firms	Price (*per lb. silicon content*)	Quantity (*lbs. silicon content*)	Price (*per lb. silicon content*)	Quantity (*lbs. silicon content*)	Price (*per lb. silicon content*)	Quantity (*lbs. silicon content*)	No. of firms
1989:													
Jan.-Mar.	$0.5197	16,115,233	5	***	***	***	***	***	***	***	***	***	***
Apr.-June	.5205	14,207,513	5	***	***	***	***	***	***	***	***	***	***
July-Sept.	.4881	10,906,191	6	***	***	***	***	***	***	***	***	***	***
Oct.-Dec.	.4296	11,874,457	7	$0.4410	7,441,494	3	***	***	***	***	***	***	***
1990:													
Jan.-Mar.	.4062	13,857,584	7	.4099	9,065,759	3	***	***	***	***	***	***	***
Apr.-June	.4067	12,715,965	7	.4110	8,448,914	3	***	***	***	***	***	***	***
July-Sept.	.4135	10,749,924	6	.4247	6,301,862	3	***	***	***	***	***	***	***
Oct.-Dec.	.4083	9,818,420	6	.4103	6,875,976	3	***	***	***	***	***	***	***
1991:													
Jan.-Mar.	.4006	10,288,285	5	.4040	7,130,757	3	***	***	***	***	***	***	***
Apr.-June	.4007	10,186,102	5	.4044	6,987,226	3	***	***	***	***	***	***	***
July-Sept.	.4050	11,169,193	5	.4046	8,159,949	3	***	***	***	***	***	***	***
Oct.-Dec.	.3998	9,606,460	5	.3988	6,743,002	3	***	***	***	***	***	***	***

Continued on next page.

Table III-3--Continued
Ferrosilicon: U.S. weighted-average net f.o.b. selling prices and quantities of domestically produced product 2 (50 percent silicon content) sold to U.S. iron foundries, by categories of U.S. ferrosilicon producers and by quarters, January 1989-September 1992[1]

Period	All reporting U.S. producers			The three conspirators[2]			AIMCOR		Globe		Remaining U.S. producers[3]		
	Price (*per lb. silicon content*)	Quantity (*lbs. silicon content*)	No. of firms	Price (*per lb. silicon content*)	Quantity (*lbs. silicon content*)	No. of firms	Price (*per lb. silicon content*)	Quantity (*lbs. silicon content*)	Price (*per lb. silicon content*)	Quantity (*lbs. silicon content*)	Price (*per lb. silicon content*)	Quantity (*lbs. silicon content*)	No. of firms
1992:													
Jan.-Mar.	$0.3867	10,314,994	5	$0.3884	7,307,899	3	***	***	***	***	***	***	***
Apr.-June	.3808	10,680,130	5	.3876	6,777,102	3	***	***	***	***	***	***	***
July-Sept.	.3781	14,588,622	5	.3769	8,392,711	3	***	***	***	***	***	***	***
TOTALS[4]	$0.4269	177,079,073	7	$0.4291	118,641,470	3	***	***	***	***	***	***	***

[1] The ferrosilicon prices shown are averages of the net U.S. f.o.b. quarterly/semi-annual requirements sales prices reported by U.S. producers for the product and type of customer shown above; the averages were calculated by weighting each reporting producer's prices by the quantities reported. Ferrosilicon quantities shown are the sum of the reporting producers' total quarterly sales volume.

[2] The three conspiring U.S. ferrosilicon producers were American Alloys, Elkem, and SKW.

[3] The remaining responding U.S. ferrosilicon producers were ***. *** accounted for *** percent of the reported total quantity by these two remaining U.S. ferrosilicon producers for product 2 sold to U.S. iron foundries.

[4] "Total" prices are averages of prices for all quarters reported that were weighted by the quarterly quantities reported.

Source: Compiled from data submitted in response to Commission questionnaires.

Table III-4
Ferrosilicon: U.S. weighted-average net f.o.b. selling prices and quantities of product 1 (75 percent silicon content) imported from Brazil, China, and Venezuela and sold to U.S. steel producers, by quarters, January 1989-September 1992[1]

Period	Brazil			China			Venezuela		
	Price (*per lb. silicon content*)	Quantity (*lbs. silicon content*)	No. of firms	Price (*per lb. silicon content*)	Quantity (*lbs. silicon content*)	No. of firms	Price (*per lb. silicon content*)	Quantity (*lbs. silicon content*)	No. of firms
1989:									
Jan.-Mar.	***	***	***	***	***	***	***	***	***
Apr.-June	***	***	***	***	***	***	$0.6004	3,608,986	3
July-Sept.	***	***	***	***	***	***	***	***	***
Oct.-Dec.	***	***	***	***	***	***	***	***	***
1990:									
Jan.-Mar.	***	***	***	***	***	***	.3758	6,714,511	4
Apr.-June	***	***	***	***	***	***	.3805	3,396,234	4
July-Sept.	$0.3733	4,639,845	4	***	***	***	.4208	3,542,628	3
Oct.-Dec.	.4013	1,871,934	3	***	***	***	.4067	2,683,238	3
1991:									
Jan.-Mar.	***	***	***	***	***	***	***	***	***
Apr.-June	.3995	1,194,123	3	***	***	***	***	***	***
July-Sept.	***	***	***	***	***	***	***	***	***
Oct.-Dec.	***	***	***	***	***	***	.3621	5,423,955	5
1992:									
Jan.-Mar.	***	***	***	***	***	***	.3258	7,167,633	4
Apr.-June	***	***	***	***	***	***	.3446	5,914,409	3
July-Sept.	.3712	16,854,460	4	***	***	***	.3733	9,895,162	3
TOTALS[2]	$0.3663	59,083,721	7	***	***	***	$0.4014	60,185,675	5

[1] The ferrosilicon prices shown are averages of the net U.S. f.o.b. quarterly/semi-annual requirements sales prices reported by U.S. importers for the product and type of customer shown above; the averages were calculated by weighting each reporting importer's prices by the quantities reported. Ferrosilicon quantities shown are the sum of the reporting importers' total quarterly sales volume.

[2] "Total" prices are averages of prices for all quarters reported that were weighted by the quarterly quantities reported.

Source: Compiled from data submitted in response to Commission questionnaires.

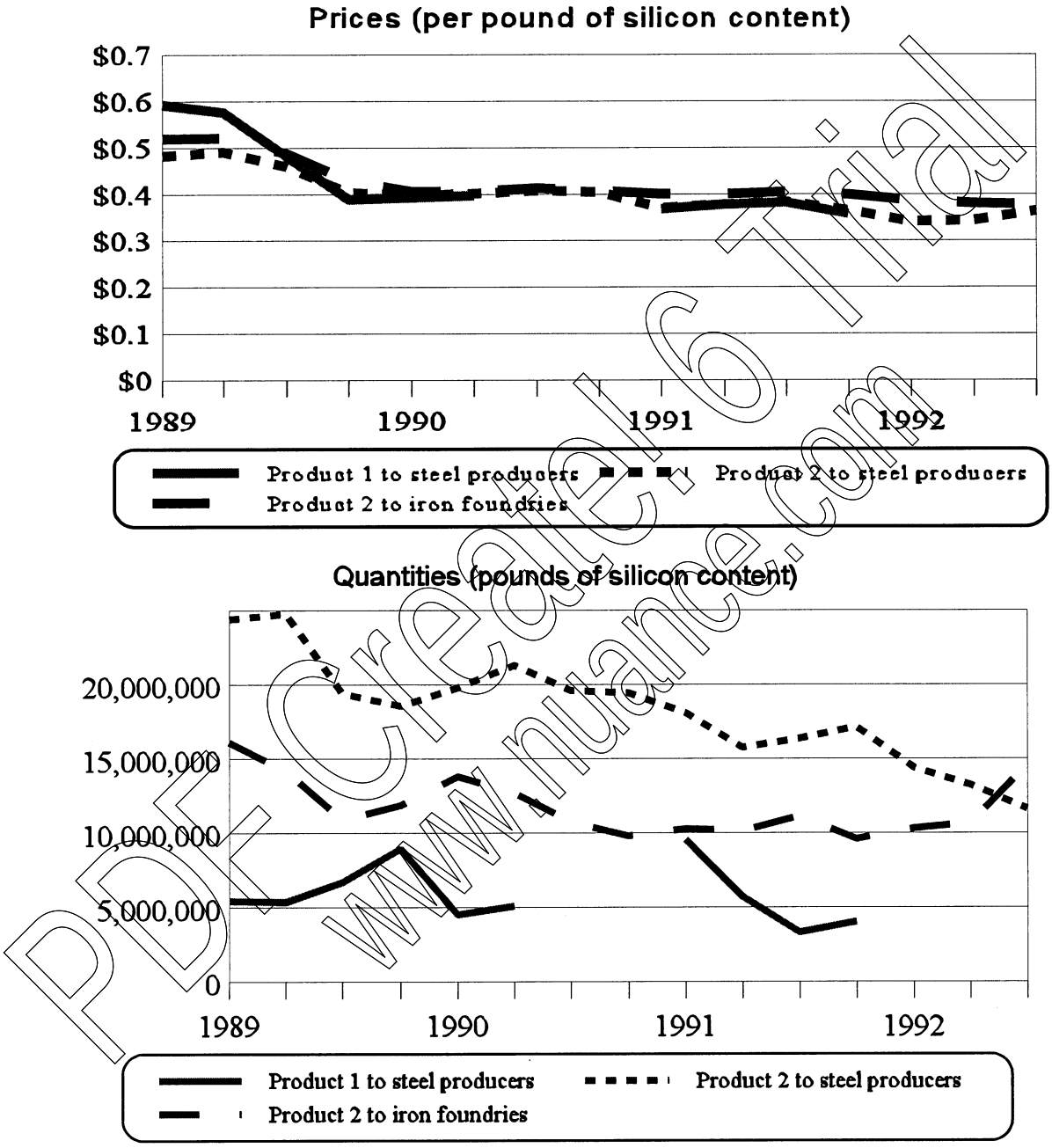
Table III-5
Ferrosilicon: U.S. weighted-average net f.o.b. selling prices and quantities of product 2 (50 percent silicon content) imported from Kazakhstan, Russia, and Ukraine and sold to U.S. steel producers, by quarters, January 1989-September 1992

* * * * * * *

Table III-6
Ferrosilicon: U.S. weighted-average net f.o.b. selling prices and quantities of product 2 (50 percent silicon content) imported from Kazakhstan and Ukraine and sold to U.S. iron foundries, by quarters, January 1989-September 1992

* * * * * * *

Figure III-1a
Ferrosilicon: U.S. weighted-average net f.o.b. selling prices and quantities of U.S.-produced ferrosilicon for all reporting U.S. ferrosilicon producers, by product and customer categories and by quarters, January 1989-September 1992



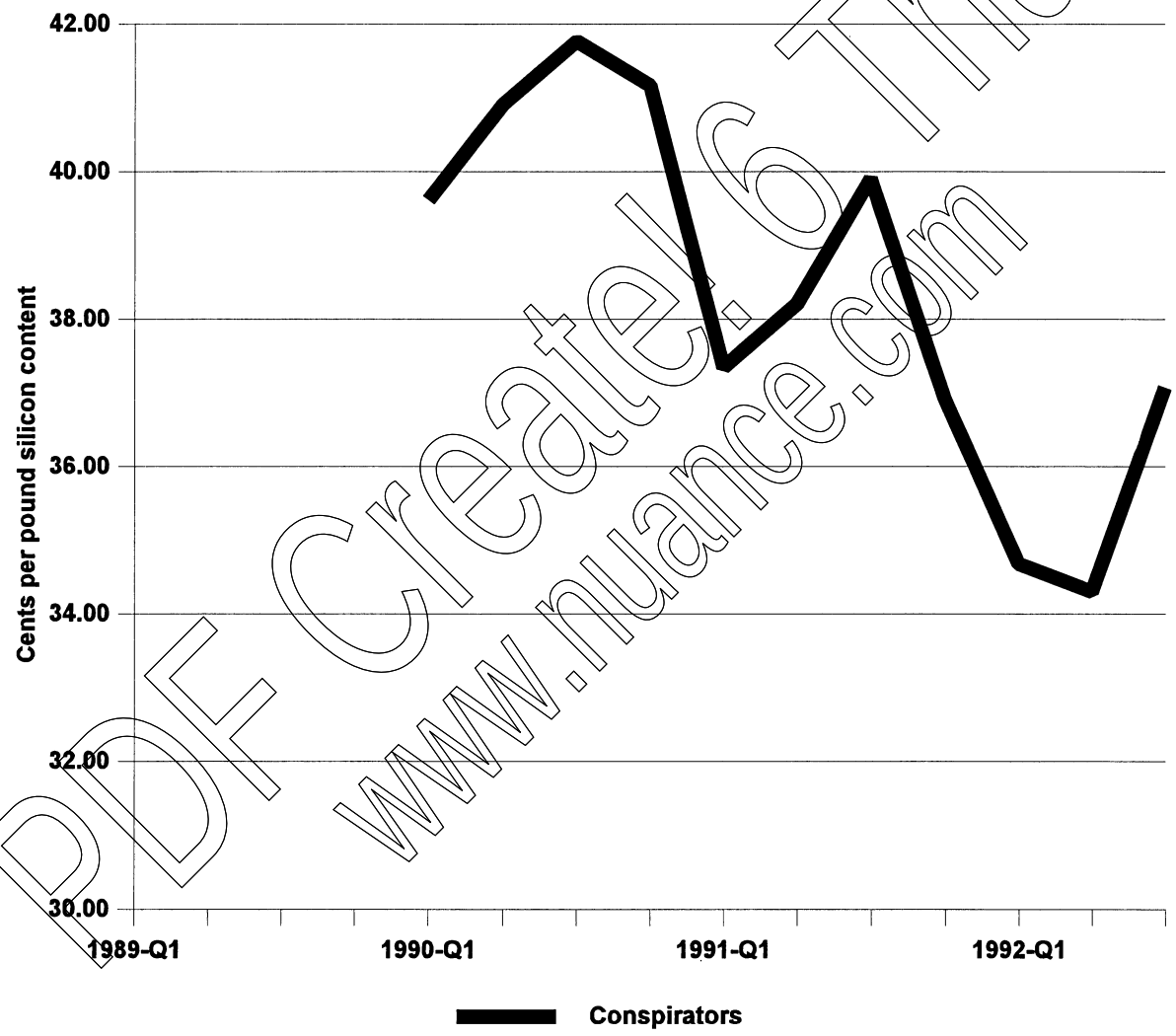
Note.--Product 1 is 75 percent silicon content and product 2 is 50 percent silicon content.

Source: Compiled from data submitted in response to Commission questionnaires.

Figure III-1b
Ferrosilicon: U.S. producers' weighted-average net f.o.b. selling prices of product 1 to U.S. steel producers, by producer groups and by quarters, January 1989-September 1992

* * * * * * *

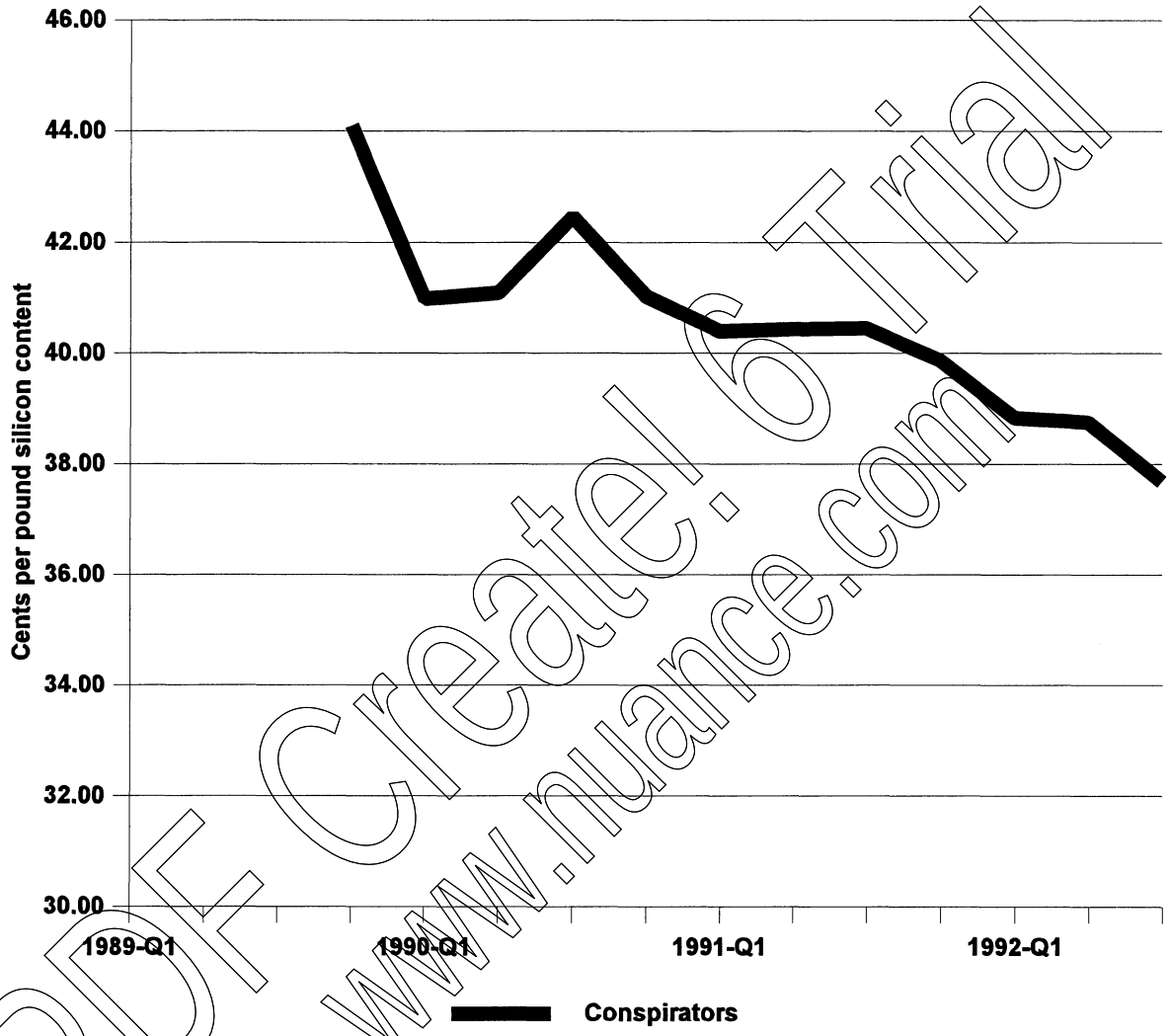
Figure III-1c
Ferrosilicon: U.S. producers' weighted-average net f.o.b. selling prices of product 2 to U.S. steel producers, by producer groups and by quarters, January 1989-September 1992



Note.–Product 2 is 50 percent silicon content; "other" producers are ***.

Source: Compiled from data submitted in response to Commission questionnaires.

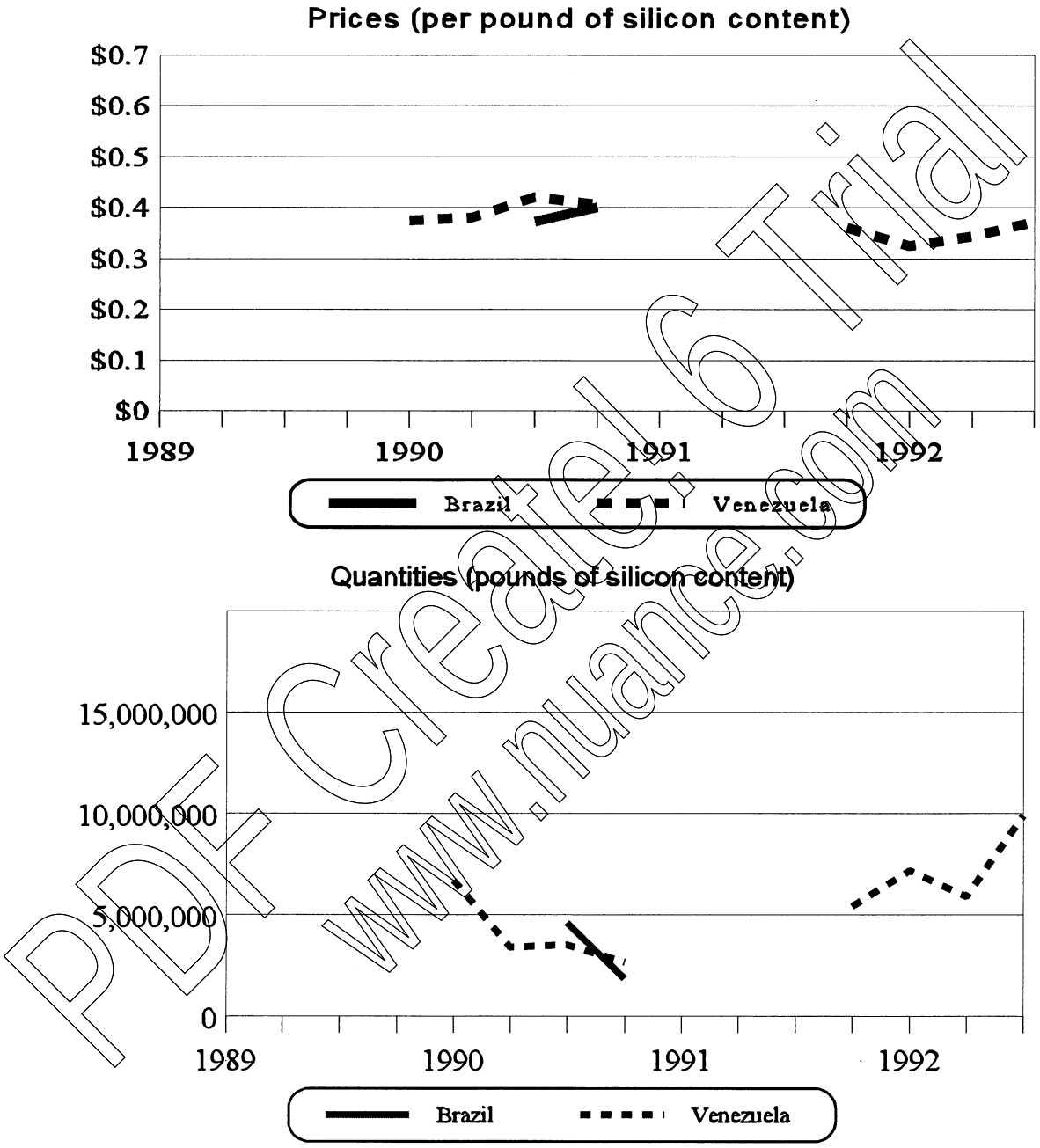
Figure III-1d
Ferrosilicon: U.S. producers' weighted-average net f.o.b. selling prices of product 2 to U.S. iron foundries, by producer groups and by quarters, January 1989-September 1992



Note.–Product 2 is 50 percent silicon content; "other" producers are ***.

Source: Compiled from data submitted in response to Commission questionnaires.

Figure III-2
Ferrosilicon: U.S. weighted-average net f.o.b. selling prices and quantities of subject imported ferrosilicon product 1 (75 percent silicon content) sold to U.S. steel producers, by subject countries and by quarters, January 1989-September 1992



Source: Compiled from data submitted in response to Commission questionnaires.

Figure III-3
Ferrosilicon: U.S. weighted-average net f.o.b. selling prices and quantities of subject imported ferrosilicon product 2 (50 percent silicon content) sold to U.S. steel producers, by subject countries and by quarters, January 1989-September 1992

* * * * * * *

United States

Price trends for U.S. ferrosilicon producers' quarterly net f.o.b. selling prices are discussed separately for each product-customer category by each of the applicable U.S.-producer categories.

Product 1 (ferrosilicon 75) sold to U.S. steel producers (table III-1).–The three conspirators (American Alloys, Elkem, and SKW) accounted for *** percent of the total reported quantity of U.S.-producer shipments in this sales category and about 28 percent of their sales involved SPC-documented ferrosilicon; no other U.S. producer reporting shipments in this sales category reported selling SPC-documented ferrosilicon. *** accounted for *** percent of total shipments and *** accounted for the remaining *** percent.

Based on the total sales of all reporting U.S. ferrosilicon producers, the quarterly weighted-average net f.o.b. price of product 1 sold to U.S. steel producers fell from a period high of $0.5927 per pound of contained silicon during January-March 1989 to a period low of $*** per pound during January-March 1992, or by *** percent. Prices of product 1 then rose somewhat to end the period at $*** per pound during July-September 1992, or 9.4 percent higher than the period low.

Based on sales reported by the three conspirators, the quarterly weighted-average net f.o.b. price of product 1 sold to U.S. steel producers fell from a period high of $*** per pound of contained silicon during January-March 1989 to a period low of $*** per pound during January-March 1992, or by 43.0 percent. Prices of product 1 then rose somewhat to end the period at $*** per pound during July-September 1992, or 9.4 percent higher than the period low.

Based on sales reported by ***, the quarterly weighted-average net f.o.b. price of product 1 sold to U.S. steel producers fell from a period high of $*** per pound of contained silicon during January-March 1989 to a period low of $*** per pound during January-March 1992, or by *** percent. Prices of product 1 then rose somewhat to end the period at $*** per pound during July-September 1992, or *** percent higher than the period low.

Limited selling price data reported by *** did not allow meaningful price trend data to be developed during January 1989-September 1992.

Product 2 (ferrosilicon 50) sold to U.S. steel producers (table III-2).–The three conspirators accounted for 38.3 percent of the total reported quantity of U.S.-producer shipments with almost 9 percent of their sales involving SPC-documented ferrosilicon. *** accounted for *** percent of total reported shipments, *** SPC-documented ferrosilicon. *** accounted for the remaining *** percent of total reported shipments *** SPC-documented ferrosilicon. The remaining U.S. producers (mostly ***) accounted for *** percent of total reported U.S.-producer shipments in this sales category and almost *** percent of such sales involved SPC-documented ferrosilicon.

Based on the total sales of all reporting U.S. ferrosilicon producers, the quarterly weighted-average net f.o.b. price of product 2 sold to U.S. steel producers fell from a period high of $0.4906 per pound of contained silicon during April-June 1989 to a period low of $0.3415 per pound during

January-March 1992, or by 30.4 percent. Prices of product 2 then rose somewhat to end the period at $0.3635 per pound during July-September 1992, or 6.4 percent higher than the period low.

Based on sales reported by the three conspirators (American Alloys, Elkem, and SKW), the quarterly weighted-average net f.o.b. price of product 2 sold to U.S. steel producers fell from a period high of $*** per pound of contained silicon during April-June 1989 to a period low of $0.3430 per pound during April-June 1992, or by *** percent. Prices of product 2 then rose somewhat to end the period at $0.3708 per pound during July-September 1992, or 8.1 percent higher than the period low.

Based on sales reported by ***, the quarterly weighted-average net f.o.b. price of product 2 sold to U.S. steel producers fell from a period high of $*** per pound of contained silicon during April-June 1989 to a period low of $*** per pound during January-March 1992, or by *** percent. Prices of product 2 then rose somewhat to end the period at $*** per pound during July-September 1992, or *** percent higher than the period low.

Limited selling price data reported by *** did not allow meaningful price trend data to be developed during January 1989-September 1992.

Based on sales reported by the remaining U.S. producers (mostly ***), the quarterly weighted-average net f.o.b. price of product 2 sold to U.S. steel producers fell from a period high of $*** per pound of contained silicon during July-September 1989 to a period low of $*** per pound during January-March 1992, or by *** percent. Prices of product 2 then rose somewhat to end the period at $*** per pound during July-September 1992, or *** percent higher than the period low.

Product 2 (ferrosilicon 50) sold to U.S. iron foundries (table III-3).–The three conspirators accounted for 67.0 percent of the total reported U.S.-producer shipments with almost 34 percent of their sales involving SPC-documented ferrosilicon; *** reported sales of SPC-documented ferrosilicon. *** accounted for *** percent of total reported shipments, *** accounted for *** percent, and the remaining U.S. producers (mostly ***) accounted for the remaining *** percent of total reported U.S.-producer shipments in this sales category.

Based on the total sales of all reporting U.S. ferrosilicon producers, the quarterly weighted-average net f.o.b. price of product 2 sold to U.S. iron foundries first rose from $0.5197 per pound of contained silicon during January-March 1989 to a period high of $0.5205 per pound during April-June 1989, and then fell to a period low of $0.3781 per pound by July-September 1992, or by 27.4 percent from the period high.

Based on sales reported by the three conspirators (American Alloys, Elkem, and SKW), the quarterly weighted-average net f.o.b. price of product 2 sold to U.S. iron foundries first rose from *** per pound of contained silicon during January-March 1989 to a period high of $*** per pound during April-June 1989, and then fell to a period low of $0.3769 per pound by July-September 1992, or by *** percent.

Based on sales reported by ***, the quarterly weighted-average net f.o.b. price of product 2 sold to U.S. iron foundries first rose from $*** per pound of contained silicon during January-March 1989 to a period high of $*** per pound of contained silicon during April-June 1989, and then fell to a period low of $*** per pound during April-June 1992, or by *** percent. Prices of product 2 then rose somewhat to end the period at $*** per pound during July-September 1992, or *** percent higher than the period low.

Limited selling price data reported by *** did not allow meaningful price trend data to be developed during January 1989-September 1992.

Based on sales reported by the remaining U.S. producers (mostly ***), the quarterly weighted-average net f.o.b. price of product 2 sold to U.S. iron foundries fell from a period high of $*** per pound of contained silicon during January-March 1989 to a period low of $*** per pound during April-June

1992, or by *** percent. Prices of product 2 then rose somewhat to end the period at $*** per pound during July-September 1992, or *** percent higher than the period low.

Subject Imported Ferrosilicon

Price trends for U.S. importers' quarterly net f.o.b. selling prices are discussed separately for each product-customer category by each of the applicable subject importing countries. The reporting U.S. importers did not report any sales of subject imported SPC-documented ferrosilicon.

Product 1 (ferrosilicon 75) sold to U.S. steel producers (table III-4).–Brazilian ferrosilicon accounted for *** percent of the total quantity of reported subject importer shipments in this sales category, Chinese ferrosilicon accounted for *** percent, and Venezuelan ferrosilicon accounted for the remaining *** percent.

Based on the total sales of all reporting U.S. importers of ferrosilicon from Brazil, the quarterly weighted-average net f.o.b. price of Brazilian product 1 sold to U.S. steel producers fell from a period high of $*** per pound of contained silicon during January-March 1989 to a period low of $*** per pound during January-March 1992, or by 49.5 percent. Prices of Brazilian product 1 then rose somewhat to end the period at $0.3712 per pound during July-September 1992, or *** percent higher than the period low.

Limited U.S. selling price data reported by importers of Chinese ferrosilicon did not allow meaningful price trend data to be developed during January 1989-September 1992.

Based on total sales of all reporting U.S. importers of ferrosilicon from Venezuela, the quarterly weighted-average net f.o.b. price of Venezuelan product 1 sold to U.S. steel producers fell from a period high of $*** per pound of contained silicon during January-March 1989 to a period low of $0.3258 per pound during January-March 1992, or by *** percent. Prices of Venezuelan product 1 then rose somewhat to end the period at $0.3733 per pound during July-September 1992, or 14.6 percent higher than the period low.

Product 2 (ferrosilicon 50) sold to U.S. steel producers (table III-5).–Kazakh ferrosilicon accounted for *** percent of the total reported quantity of subject importer shipments in this sales category, Russian ferrosilicon accounted for *** percent, and Ukrainian ferrosilicon accounted for the remaining *** percent.

Based on the total sales of all reporting U.S. importers of ferrosilicon from Kazakhstan, the quarterly weighted-average net f.o.b. price of Kazakh product 2 sold to U.S. steel producers first rose from $*** per pound of contained silicon during January-March 1989 to a period high of $*** per pound during April-June 1989, and then fell to a period low of $*** per pound during July-September 1992, or by *** percent from the period high.

Limited U.S. selling price data reported by importers of Russian ferrosilicon did not allow meaningful price trend data to be developed during January 1989-September 1992.

Based on total sales of all reporting U.S. importers of ferrosilicon from Ukraine, the quarterly weighted-average net f.o.b. price of Ukrainian product 2 sold to U.S. steel producers fell from a period high of $*** per pound of contained silicon during July-September 1989 (the first period price data were reported) to a period low of $*** per pound during April-June 1992, or by *** percent. Prices of Ukrainian product 2 then rose somewhat to end the period at $*** per pound during July-September 1992, or *** percent higher than the period low.

Product 2 (ferrosilicon 50) sold to U.S. iron foundries (table III-6).–Very limited price data were reported for sales of the subject imported ferrosilicon in this sales category. Kazakh ferrosilicon accounted for *** percent of the total reported quantity of subject importer shipments in this sales category, and Ukrainian ferrosilicon accounted for the remaining *** percent. The limited U.S. selling

price data reported by importers of Kazakh and Ukrainian ferrosilicon did not allow meaningful price trend data to be developed during January 1989-September 1992.

Price Comparisons

Quarterly delivered price comparisons between the domestic and subject imported ferrosilicon are shown by sales category, subject country of origin, and by the applicable U.S. producer categories in tables III-7a through III-7c for sales of product 1 (ferrosilicon 75) to U.S. steel producers involving U.S.-produced and subject imported Brazilian, Chinese, and Venezuelan ferrosilicon; in tables III-8a through III-8c for sales of product 2 (ferrosilicon 50) to U.S. steel producers involving U.S.-produced and subject imported Kazakh, Russian, and Ukrainian ferrosilicon; and in tables III-9a and III-9b for sales of product 2 (ferrosilicon 50) to U.S. iron foundries involving U.S.-produced and subject imported Kazakh and Ukrainian ferrosilicon. The tabulation below summarizes the number of delivered price comparisons and the margins of underselling/(overselling) for all sales categories of these six subject countries combined, for each of the five categories of U.S. producers. Following this tabulation and a short discussion is a detailed discussion of price comparisons by subject country of origin, sales category, and category of U.S. producer. The cautions mentioned earlier concerning comparisons among U.S. producers' prices apply here as well.

U.S. producer categories	Underselling by imports		Overselling by imports	
	No. of comparisons	Range of margins (percent)	No. of comparisons	Range of margins (percent)
All responding producers	45	0.1 to 28.4	19	0.4 to 13.3
The three conspirators[1]	45	1.5 to 28.4	19	0.4 to 13.4
AIMCOR[2]	40	0.1 to 28.4	20	0.03 to 14.1
Globe	13	0.6 to 15.8	6	1.1 to 10.0
Remaining producers[3]	19	0.4 to 8.2	11	1.1 to 24.3

[1] The three conspiring U.S. ferrosilicon producers were American Alloys, Elkem, and SKW.
[2] One other price comparison involving *** showed, for product 2 sold to U.S. steel producers, that the firm's price *** during January-March 1989.
[3] The remaining U.S. ferrosilicon producers were ***.

Source: Compiled from data submitted in response to Commission questionnaires.

A total of 64 quarterly delivered price comparisons were possible between the ferrosilicon produced by all reporting U.S. producers and the ferrosilicon imported from all subject countries, and including product 1 (ferrosilicon 75) sold to U.S. steel producers and product 2 (ferrosilicon 50) sold to U.S. steel producers and iron foundries. Forty-five of the 64 price comparisons showed that the subject imported ferrosilicon was priced less than the domestic ferrosilicon by margins ranging from 0.1 to 28.4 percent. The remaining 19 price comparisons showed that the subject imported ferrosilicon was priced higher than the domestic ferrosilicon by margins ranging from 0.4 to 13.3 percent.

Table III-7a
Ferrosilicon: U.S. weighted-average net delivered selling prices of U.S.-produced and imported *Brazilian* product 1 (75 percent silicon content) sold to U.S. steel producers and margins of underselling/(overselling),[1] by categories of U.S. ferrosilicon producers and by quarters, January 1989-September 1992[2]

Period	Brazil	United States							
		All reporting U.S. producers		The three conspirators[3]		AIMCOR		Globe	
	Price (*per lb. silicon content*)	Price (*per lb. silicon content*)	Mar-gins (%)	Price (*per lb. silicon content*)	Mar-gins (%)	Price (*per lb. silicon content*)	Mar-gins (%)	Price (*per lb. silicon content*)	Mar-gins (%)
1989:									
Jan.-Mar.	***	$0.6172	***	***	***	***	***	***	***
Apr.-June	***	.5957	***	***	***	***	***	***	***
July-Sept.	***	.4995	***	***	***	***	***	***	***
Oct.-Dec.	***	.4114	***	***	***	***	***	***	***
1990:									
Jan.-Mar.	***	.4120	***	***	***	***	***	***	***
Apr.-June	***	.4176	***	***	***	***	***	***	***
July-Sept.	$0.3784	***	***	***	***	***	***	***	***
Oct.-Dec.	.4130	***	***	***	***	***	***	***	***
1991:									
Jan.-Mar.	***	.3903	***	***	***	***	***	***	***
Apr.-June	.4094	.3997	(2.4)	***	***	***	***	***	***
July-Sept.	***	.3976	***	***	***	***	***	***	***
Oct.-Dec.	***	.3800	***	***	***	***	***	***	***
1992:									
Jan.-Mar.	***	***	***	***	***	***	***	***	***
Apr.-June	***	***	***	***	***	***	***	***	***
July-Sept.	.3783	***	***	***	***	***	***	***	***

[1] The percentage price differences (margins) were calculated as differences from the U.S. producers' prices. Figures in parentheses indicate that the price of the imported product was higher than the price of the domestic product during that quarter.
[2] The ferrosilicon prices shown are averages of the net U.S. delivered quarterly/semi-annual requirements sales prices reported by U.S. producers and importers for the product and type of customer shown above; the averages were calculated by weighting reporting producers'/importers' prices by the quantities reported.
[3] The three conspiring U.S. ferrosilicon producers were American Alloys, Elkem, and SKW.

Source: Compiled from data submitted in response to Commission questionnaires.

Table III-7b
Ferrosilicon: U.S. weighted-average net delivered selling prices of U.S.-produced and imported *Chinese* product 1 (75 percent silicon content) sold to U.S. steel producers and margins of underselling/(overselling),[1] by categories of U.S. ferrosilicon producers and by quarters, July 1991-September 1992[2]

Period	China	United States							
		All reporting U.S. producers		The three conspirators[3]		AIMCOR		Globe	
	Price (*per lb. silicon content*)	Price (*per lb. silicon content*)	Mar-gins (%)	Price (*per lb. silicon content*)	Mar-gins (%)	Price (*per lb. silicon content*)	Mar-gins (%)	Price (*per lb. silicon content*)	Mar-gins (%)
1991:									
July-Sept.	***	$0.3976	***	***	***	***	***	***	***
Oct.-Dec.	***	.3800	***	***	***	***	***	***	***
1992:									
Apr.-June	***	***	***	***	***	***	***	***	***
July-Sept.	***	***	***	***	***	***	***	***	***

[1] The percentage price differences (margins) were calculated as differences from the U.S. producers' prices. Figures in parentheses indicate that the price of the imported product was higher than the price of the domestic product during that quarter.

[2] The prices shown are averages of the net U.S. delivered quarterly/semi-annual requirements sales prices reported by U.S. producers and importers for the product and type of customer shown above; the averages were calculated by weighting reporting producers'/importers' prices by the quantities reported.

[3] The three conspiring U.S. ferrosilicon producers were American Alloys, Elkem, and SKW.

Source: Compiled from data submitted in response to Commission questionnaires.

Table III-7c

Ferrosilicon: U.S. weighted-average net delivered selling prices of U.S.-produced and imported *Venezuelan* product 1 (75 percent silicon content) sold to U.S. steel producers and margins of underselling/(overselling),[1] by categories of U.S. ferrosilicon producers and by quarters, January 1989-September 1992[2]

Period	Venezuela	United States							
		All reporting U.S. producers		The three conspirators[3]		AIMCOR		Globe	
	Price (*per lb. silicon content*)	Price (*per lb. silicon content*)	Margins (%)	Price (*per lb. silicon content*)	Margins (%)	Price (*per lb. silicon content*)	Margins (%)	Price (*per lb. silicon content*)	Margins (%)
1989:									
Jan.-Mar.	***	$0.6172	***	***	***	***	***	***	***
Apr.-June	$0.6102	.5957	(2.4)	***	***	***	***	***	***
July-Sept.	***	.4995	***	***	***	***	***	***	***
Oct.-Dec.	***	.4114	***	***	***	***	***	***	***
1990:									
Jan.-Mar.	.3756	.4120	8.8	***	***	***	***	***	***
Apr.-June	.3956	.4176	5.3	***	***	***	***	***	***
July-Sept.	.4369	***	***	***	***	***	***	***	***
Oct.-Dec.	.4128	***	***	***	***	***	***	***	***
1991:									
Jan.-Mar.	***	.3903	***	***	***	***	***	***	***
Apr.-June	***	.3997	***	***	***	***	***	***	***
July-Sept.	***	.3976	***	***	***	***	***	***	***
Oct.-Dec.	.3676	.3800	3.3	***	***	***	***	***	***
1992:									
Jan.-Mar.	.3299	***	***	***	***	***	***	***	***
Apr.-June	.3547	***	***	***	***	***	***	***	***
July-Sept.	.3779	***	***	***	***	***	***	***	***

[1] The percentage price differences (margins) were calculated as differences from the U.S. producers' prices. Figures in parentheses indicate that the price of the imported product was higher than the price of the domestic product during that quarter.

[2] The ferrosilicon prices shown are averages of the net U.S. delivered quarterly/semi-annual requirements sales prices reported by U.S. producers and importers for the product and type of customer shown above; the averages were calculated by weighting reporting producers'/importers' prices by the quantities reported.

[3] The three conspiring U.S. ferrosilicon producers were American Alloys, Elkem, and SKW.

Source: Compiled from data submitted in response to Commission questionnaires.

Table III-8a
Ferrosilicon: U.S. weighted-average net delivered selling prices of U.S.-produced and imported *Kazakh* product 2 (50 percent silicon content) sold to U.S. steel producers and margins of underselling/(overselling),[1] by categories of U.S. ferrosilicon producers and by quarters, January 1989-September 1992[2]

Period	Kazakhstan	United States									
		All reporting U.S. producers		The three conspirators[3]		AIMCOR		Globe		Remaining U.S. producers[4]	
	Price (*per lb. silicon content*)	Price (*per lb. silicon content*)	Mar-gins (%)	Price (*per lb. silicon content*)	Mar-gins (%)	Price (*per lb. silicon content*)	Mar-gins (%)	Price (*per lb. silicon content*)	Mar-gins (%)	Price (*per lb. silicon content*)	Mar-gins (%)
1989:											
Jan.-Mar.	***	$0.5039	***	***	***	***	***	***	***	***	***
Apr.-June	***	.5114	***	***	***	***	***	***	***	***	***
July-Sept.	***	.4837	***	***	***	***	***	***	***	***	***
Oct.-Dec.	***	.4279	***	***	***	***	***	***	***	***	***
1990:											
Jan.-Mar.	***	.4194	***	$0.4168	***	***	***	***	***	***	***
Apr.-June	***	.4234	***	.4275	***	***	***	***	***	***	***
July-Sept.	***	.4292	***	.4375	***	***	***	***	***	***	***
Oct.-Dec.	***	.4240	***	.4297	***	***	***	***	***	***	***
1991:											
Jan.-Mar.	***	.3939	***	.4023	***	***	***	***	***	***	***
Apr.-June	***	.3994	***	.4057	***	***	***	***	***	***	***
July-Sept.	***	.4023	***	.4200	***	***	***	***	***	***	***
Oct.-Dec.	***	.3841	***	.3886	***	***	***	***	***	***	***

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Table III-8a–Continued
Ferrosilicon: U.S. weighted-average net delivered selling prices of U.S.-produced and imported *Kazakh* product 2 (50 percent silicon content) sold to U.S. steel producers and margins of underselling/(overselling),[1] by categories of U.S. ferrosilicon producers and by quarters, January 1989-September 1992[2]

Period	Kazakhstan	United States									
		All reporting U.S. producers		The three conspirators[3]		AIMCOR		Globe		Remaining U.S. producers[4]	
	Price (*per lb. silicon content*)	Price (*per lb. silicon content*)	Mar-gins (%)	Price (*per lb. silicon content*)	Mar-gins (%)	Price (*per lb. silicon content*)	Mar-gins (%)	Price (*per lb. silicon content*)	Mar-gins (%)	Price (*per lb. silicon content*)	Mar-gins (%)
1992:											
Jan.-Mar.	***	$0.3609	***	$0.3686	***	***	***	***	***	***	***
Apr.-June	***	.3627	***	.3630	***	***	***	***	***	***	***
July-Sept.	***	.3823	***	.3912	***	***	***	***	***	***	***

[1] The percentage price differences (margins) were calculated as differences from the U.S. producers' prices. Figures in parentheses indicate that the price of the imported product was higher than the price of the domestic product during that quarter.

[2] The ferrosilicon prices shown are averages of the net U.S. delivered quarterly/semi-annual requirements sales prices reported by U.S. producers and the importer for the product and type of customer shown above; the averages were calculated by weighting reporting producers'/importer's prices by the quantities reported.

[3] The three conspiring U.S. ferrosilicon producers were American Alloys, Elkem, and SKW.

[4] The remaining responding U.S. ferrosilicon producers were ***. *** accounted for *** percent of the reported total quantity by these two remaining U.S. ferrosilicon producers for product 2 sold to U.S. steel companies.

Source: Compiled from data submitted in response to Commission questionnaires.

Table III-8b
Ferrosilicon: U.S. weighted-average net delivered selling prices of U.S.-produced and imported *Russian* product 2 (50 percent silicon content) sold to U.S. steel producers and margins of underselling/(overselling),[1] by categories of U.S. ferrosilicon producers and by quarters, January 1990-June 1991[2]

Period	Russia	United States									
		All reporting U.S. producers		The three conspirators[3]		AIMCOR		Globe		Remaining U.S. producers[4]	
	Price (*per lb. silicon content*)	Price (*per lb. silicon content*)	Margins (%)	Price (*per lb. silicon content*)	Margins (%)	Price (*per lb. silicon content*)	Margins (%)	Price (*per lb. silicon content*)	Margins (%)	Price (*per lb. silicon content*)	Margins (%)
1990:											
Jan.-Mar.	***	$0.4194	***	$0.4168	***	***	***	***	***	***	***
Apr.-June	***	.4234	***	.4275	***	***	***	***	***	***	***
1991:											
Jan.-Mar.	***	.3939	***	.4023	***	***	***	***	***	***	***
Apr.-June	***	.3994	***	.4057	***	***	***	***	***	***	***

[1] The percentage price differences (margins) were calculated as differences from the U.S. producers' prices. Figures in parentheses indicate that the price of the imported product was higher than the price of the domestic product during that quarter.

[2] The ferrosilicon prices shown are averages of the net U.S. delivered quarterly/semi-annual requirements sales prices reported by U.S. producers and the importer for the product and type of customer shown above; the averages were calculated by weighting reporting producers'/importer's prices by the quantities reported.

[3] The three conspiring U.S. ferrosilicon producers were American Alloys, Elkem, and SKW.

[4] The remaining responding U.S. ferrosilicon producers were ***. *** accounted for *** percent of the reported total quantity by these two remaining U.S. ferrosilicon producers for product 2 sold to U.S. steel companies.

Source: Compiled from data submitted in response to Commission questionnaires.

Table III-8c
Ferrosilicon: U.S. weighted-average net delivered selling prices of U.S.-produced and imported *Ukrainian* product 2 (50 percent silicon content) sold to U.S. steel producers and margins of underselling/(overselling),[1] by categories of U.S. ferrosilicon producers and by quarters, July 1989-September 1992[2]

Period	Ukraine	United States									
		All reporting U.S. producers		The three conspirators[3]		AIMCOR		Globe		Remaining U.S. producers[4]	
	Price (*per lb. silicon content*)	Price (*per lb. silicon content*)	Mar-gins (%)	Price (*per lb. silicon content*)	Mar-gins (%)	Price (*per lb. silicon content*)	Mar-gins (%)	Price (*per lb. silicon content*)	Mar-gins (%)	Price (*per lb. silicon content*)	Mar-gins (%)
1989:											
July-Sept.	***	$0.4837	***	***	***	***	***	***	***	***	***
Oct.-Dec.	***	.4279	***	***	***	***	***	***	***	***	***
1990:											
Jan.-Mar.	***	.4194	***	$0.4168	***	***	***	***	***	***	***
Apr.-June	***	.4234	***	.4275	***	***	***	***	***	***	***
1991:											
Oct.-Dec.	***	.3841	***	.3886	***	***	***	***	***	***	***
1992:											
Jan.-Mar.	***	.3609	***	.3686	***	***	***	***	***	***	***
Apr.-June	***	.3627	***	.3630	***	***	***	***	***	***	***
July-Sept.	***	.3823	***	.3912	***	***	***	***	***	***	***

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Table III-8c–Continued
Ferrosilicon: U.S. weighted-average net delivered selling prices of U.S.-produced and imported *Ukrainian* product 2 (50 percent silicon content) sold to U.S. steel producers and margins of underselling/(overselling),[1] by categories of U.S. ferrosilicon producers and by quarters, July 1989-September 1992[2]

Period	Ukraine	United States									
		All reporting U.S. producers		The three conspirators[3]		AIMCOR		Globe		Remaining U.S. producers[4]	
	Price (*per lb. silicon content*)	Price (*per lb. silicon content*)	Margins (%)	Price (*per lb. silicon content*)	Margins (%)	Price (*per lb. silicon content*)	Margins (%)	Price (*per lb. silicon content*)	Margins (%)	Price (*per lb. silicon content*)	Margins (%)

[1] The percentage price differences (margins) were calculated as differences from the U.S. producers' prices. Figures in parentheses indicate that the price of the imported product was higher than the price of the domestic product during that quarter.

[2] The ferrosilicon prices shown are averages of the net U.S. delivered quarterly/semi-annual requirements sales prices reported by U.S. producers and the importer for the product and type of customer shown above; the averages were calculated by weighting reporting producers'/importer's prices by the quantities reported.

[3] The three conspiring U.S. ferrosilicon producers were American Alloys, Elkem, and SKW.

[4] The remaining responding U.S. ferrosilicon producers were ***. *** accounted for *** percent of the reported total quantity by these two remaining U.S. ferrosilicon producers for product 2 sold to U.S. steel companies.

Source: Compiled from data submitted in response to Commission questionnaires.

Table III-9a
Ferrosilicon: U.S. weighted-average net delivered selling prices of U.S.-produced and imported *Kazakh* product 2 (50 percent silicon content) sold to U.S. iron foundries and margins of underselling/(overselling),[1] by categories of U.S. ferrosilicon producers and by quarters, July-December 1989[2]

Period	Kazakhstan	United States									
		All reporting U.S. producers		The three conspirators[3]		AIMCOR		Globe		Remaining U.S. producers[4]	
	Price (*per lb. silicon content*)	Price (*per lb. silicon content*)	Margins (%)	Price (*per lb. silicon content*)	Margins (%)	Price (*per lb. silicon content*)	Margins (%)	Price (*per lb. silicon content*)	Margins (%)	Price (*per lb. silicon content*)	Margins (%)
1989:											
July-Sept.	***	$0.5004	***	***	***	***	***	***	***	***	***
Oct.-Dec.	***	.4438	***	$0.4550	***	***	***	***	***	***	***

[1] The percentage price differences (margins) were calculated as differences from the U.S. producers' prices. Figures in parentheses indicate that the price of the imported product was higher than the price of the domestic product during that quarter.

[2] The ferrosilicon prices shown are averages of the net U.S. delivered quarterly/semi-annual requirements sales prices reported by U.S. producers and the importer for the product and type of customer shown above; the averages were calculated by weighting reporting producers'/importer's prices by the quantities reported.

[3] The three conspiring U.S. ferrosilicon producers were American Alloys, Elkem, and SKW.

[4] The remaining responding U.S. ferrosilicon producers were ***. *** accounted for *** percent of the reported total quantity by these two remaining U.S. ferrosilicon producers for product 2 sold to U.S. steel companies.

Source: Compiled from data submitted in response to Commission questionnaires.

Table III-9b

Ferrosilicon: U.S. weighted-average net delivered selling prices of U.S.-produced and imported *Ukrainian* product 2 (50 percent silicon content) sold to U.S. iron foundries and margins of underselling/(overselling),[1] by categories of U.S. ferrosilicon producers and by quarters, October-December 1989[2]

Period	Ukraine	United States									
		All reporting U.S. producers		The three conspirators[3]		AIMCOR		Globe		Remaining U.S. producers[4]	
	Price (*per lb. silicon content*)	Price (*per lb. silicon content*)	Mar-gins (%)	Price (*per lb. silicon content*)	Mar-gins (%)	Price (*per lb. silicon content*)	Mar-gins (%)	Price (*per lb. silicon content*)	Mar-gins (%)	Price (*per lb. silicon content*)	Mar-gins (%)
1989:											
Oct.-Dec.	***	$0.4438	***	$0.4550	***	***	***	***	***	***	***

[1] The percentage price differences (margins) were calculated as differences from the U.S. producers' prices. Figures in parentheses indicate that the price of the imported product was higher than the price of the domestic product during that quarter.

[2] The ferrosilicon prices shown are averages of the net U.S. delivered quarterly/semi-annual requirements sales prices reported by U.S. producers and the importer for the product and type of customer shown above; the averages were calculated by weighting reporting producers'/importer's prices by the quantities reported.

[3] The three conspiring U.S. ferrosilicon producers were American Alloys, Elkem, and SKW.

[4] The remaining responding U.S. ferrosilicon producers were ***. *** accounted for *** percent of the reported total quantity by these two remaining U.S. ferrosilicon producers for product 2 sold to U.S. steel companies.

Source: Compiled from data submitted in response to Commission questionnaires.

Brazil

Quarterly delivered price comparisons between the U.S.-produced and imported Brazilian ferrosilicon are discussed for sales of product 1 (ferrosilicon 75) to U.S. steel producers (the only sales category for which the Brazilian ferrosilicon was reported) by each applicable category of U.S. producer (table III-7a). Based on sales of all reporting U.S. producers and by importers, a total of 15 quarterly delivered price comparisons were possible between the domestic and imported Brazilian ferrosilicon. Nine of the 15 price comparisons showed the imported product to be priced less than the domestic product by margins ranging from 2.3 to 28.4 percent. The six remaining price comparisons showed the imported product to be priced higher than the domestic product by margins ranging from 2.4 to 13.1 percent.

Based on sales reported by the three conspiring U.S. ferrosilicon producers and by importers, a total of 15 quarterly delivered price comparisons were possible between the domestic and imported Brazilian ferrosilicon. Nine of the 15 price comparisons showed the imported product to be priced less than the domestic product by margins ranging from 2.2 to 28.4 percent. The six remaining price comparisons showed the imported product to be priced higher than the domestic product by margins ranging from 2.5 to 13.4 percent.

Based on sales reported by AIMCOR and by importers, a total of 13 quarterly delivered price comparisons were possible between the domestic and imported Brazilian ferrosilicon. Eight of the 13 price comparisons showed the imported product to be priced less than the domestic product by margins ranging from 0.6 to 28.4 percent. The five remaining price comparisons showed the imported product to be priced higher than the domestic product by margins ranging from 0.4 to 10.5 percent.

Based on sales reported by Globe and by importers, a total of two quarterly delivered price comparisons were possible between the domestic and imported Brazilian ferrosilicon. Both price comparisons showed the imported product to be priced less than the domestic product by margins ranging from 0.6 to 15.8 percent.

China

Quarterly delivered price comparisons between the U.S.-produced and imported Chinese ferrosilicon are discussed for sales of product 1 (ferrosilicon 75) to U.S. steel producers (the only sales category for which the Chinese ferrosilicon was reported) by each applicable category of U.S. producer (table III-7b). Based on sales of all reporting U.S. producers and by importers, a total of four quarterly delivered price comparisons were possible between the domestic and imported Chinese ferrosilicon. All four price comparisons showed the imported product to be priced less than the domestic product by margins ranging from 3.4 to 4.7 percent.

Based on sales reported by the three conspiring U.S. ferrosilicon producers and by importers, a total of four quarterly delivered price comparisons were possible between the domestic and imported Chinese ferrosilicon. All four price comparisons showed the imported product to be priced less than the domestic product by margins ranging from 3.3 to 4.7 percent.

Based on sales reported by AIMCOR and by importers, a total of four quarterly delivered price comparisons were possible between the domestic and imported Chinese ferrosilicon. All four price comparisons showed the imported product to be priced less than the domestic product by margins ranging from *** to *** percent.

Based on sales reported by *** and by importers, no quarterly delivered price comparisons were possible between the domestic and imported Chinese ferrosilicon.

Venezuela

Quarterly delivered price comparisons between the U.S.-produced and imported Venezuelan ferrosilicon are discussed for sales of product 1 (ferrosilicon 75) to U.S. steel producers (the only sales category for which the Venezuelan ferrosilicon was reported) by each applicable category of U.S. producer (table III-7c). Based on sales of all reporting U.S. producers and by importers, a total of 15 quarterly delivered price comparisons were possible between the domestic and imported Venezuelan ferrosilicon. Eight of the 15 price comparisons showed the imported product to be priced less than the domestic product by margins ranging from 2.5 to 8.8 percent. The seven remaining price comparisons showed the imported product to be priced higher than the domestic product by margins ranging from 0.4 to 10.7 percent.

Based on sales reported by the three conspiring U.S. ferrosilicon producers and by importers, a total of 15 quarterly delivered price comparisons were possible between the domestic and imported Venezuelan ferrosilicon. Eight of the 15 price comparisons showed the imported product to be priced less than the domestic product by margins ranging from 2.4 to 8.9 percent. The seven remaining price comparisons showed the imported product to be priced higher than the domestic product by margins ranging from 0.4 to 10.9 percent.

Based on sales reported by AIMCOR and by importers, a total of 13 quarterly delivered price comparisons were possible between the domestic and imported Venezuelan ferrosilicon. Eight of the 13 price comparisons showed the imported product to be priced less than the domestic product by margins ranging from 0.5 to 10.1 percent. The five remaining price comparisons showed the imported product to be priced higher than the domestic product by margins ranging from 0.03 to 9.3 percent.

Based on sales reported by *** and by importers, a total of two quarterly delivered price comparisons were possible between the domestic and imported Venezuelan ferrosilicon. Both price comparisons showed the imported product to be priced less than the domestic product by margins ranging from *** to *** percent.

Kazakhstan

Quarterly delivered price comparisons between the U.S.-produced and imported Kazakh ferrosilicon are discussed for sales of product 2 (ferrosilicon 50) to U.S. steel producers and to iron foundries (the only sales categories for which the Kazakh ferrosilicon was reported) by each applicable category of U.S. producer (tables III-8a and III-9a).

Product 2 (ferrosilicon 50) sold to U.S. steel producers (table III-8a).--Based on sales of all reporting U.S. producers and by importers, a total of 15 quarterly delivered price comparisons were possible between the domestic and imported Kazakh ferrosilicon. Eleven of the 15 price comparisons showed the imported product to be priced less than the domestic product by margins ranging from 0.2 to 8.1 percent. The four remaining price comparisons showed the imported product to be priced higher than the domestic product by margins ranging from 2.9 to 13.3 percent.

Based on sales reported by the three conspiring U.S. ferrosilicon producers and by importers, a total of 15 quarterly delivered price comparisons were possible between the domestic and imported Kazakhstan ferrosilicon. Eleven of the 15 price comparisons showed the imported product to be priced less than the domestic product by margins ranging from 1.8 to 9.5 percent. The four remaining price comparisons showed the imported product to be priced higher than the domestic product by margins ranging from 2.3 to 8.1 percent.

Based on sales reported by AIMCOR and by importers, a total of 15 quarterly delivered price comparisons were possible between the domestic and imported Kazakh ferrosilicon. Ten of the 15 price

comparisons showed the imported product to be priced less than the domestic product by margins ranging from 0.1 to 8.1 percent. Four price comparisons showed the imported product to be priced higher than the domestic product by margins ranging from 0.5 to 7.1 percent. The one remaining price comparison showed the domestic and imported product to be priced the same.

Based on sales reported by Globe and by importers, a total of seven quarterly delivered price comparisons were possible between the domestic and imported Kazakh ferrosilicon. Five of the seven price comparisons showed the imported product to be priced less than the domestic product by margins ranging from 1.3 to 9.5 percent. The two remaining price comparisons showed the imported product to be priced higher than the domestic product by margins ranging from 1.1 to 1.5 percent.

Based on sales reported by the remaining U.S. producers and by importers, a total of 15 quarterly delivered price comparisons were possible between the domestic and imported Kazakh ferrosilicon. Nine of the 15 price comparisons showed the imported product to be priced less than the domestic product by margins ranging from 0.4 to 6.6 percent. The six remaining price comparisons showed the imported product to be priced higher than the domestic product by margins ranging from 1.1 to 24.3 percent.

Product 2 (ferrosilicon 50) sold to U.S. iron foundries (table III-9a).--Based on sales of all reporting U.S. producers and by importers, a total of two quarterly delivered price comparisons were possible between the domestic and imported Kazakh ferrosilicon. Both price comparisons showed the imported product to be priced less than the domestic product by margins ranging from *** to *** percent.

Based on sales reported by the three conspiring U.S. ferrosilicon producers and by importers, a total of two quarterly delivered price comparisons were possible between the domestic and imported Kazakh ferrosilicon. Both price comparisons showed the imported product to be priced less than the domestic product by margins ranging from *** to *** percent.

Based on sales reported by AIMCOR and by importers, a total of two quarterly delivered price comparisons were possible between the domestic and imported Kazakh ferrosilicon. One of the two price comparisons showed the imported product to be priced less than the domestic product by a margin of *** percent. The remaining price comparison showed the imported product to be priced higher than the domestic product by a margin of *** percent.

Based on sales reported by Globe and by importers, a total of one quarterly delivered price comparison was possible between the domestic and imported Kazakh ferrosilicon. This price comparison showed the imported product to be priced higher than the domestic product by a margin of *** percent.

Based on sales reported by the remaining U.S. producers and by importers, a total of 2 quarterly delivered price comparisons were possible between the domestic and imported Kazakh ferrosilicon. One of the two price comparisons showed the imported product to be priced less than the domestic product by a margin of *** percent. The remaining price comparison showed the imported product to be priced higher than the domestic product by a margin of *** percent.

Russia

Quarterly delivered price comparisons between the U.S.-produced and imported Russian ferrosilicon are discussed for sales of product 2 (ferrosilicon 50) to U.S. steel producers (the only sales category for which the Russian ferrosilicon was reported) by each applicable category of U.S. producer (table III-8b). Based on sales of all reporting U.S. producers and by importers, a total of four quarterly delivered price comparisons were possible between the domestic and imported Russian ferrosilicon. All

four price comparisons showed the imported product to be priced less than the domestic product by margins ranging from 2.0 to 6.1 percent.

Based on sales reported by the three conspiring U.S. ferrosilicon producers and by importers, a total of four quarterly delivered price comparisons were possible between the domestic and imported Russian ferrosilicon. All four price comparisons showed the imported product to be priced less than the domestic product by margins ranging from 2.9 to 6.5 percent.

Based on sales reported by AIMCOR and by importers, a total of four quarterly delivered price comparisons were possible between the domestic and imported Russian ferrosilicon. All four price comparisons showed the imported product to be priced less than the domestic product by margins ranging from 1.6 to 4.3 percent.

Based on sales reported by Globe and by importers, a total of two quarterly delivered price comparisons were possible between the domestic and imported Russian ferrosilicon. One price comparison showed the imported product to be priced less than the domestic product by a margin of *** percent. The remaining price comparison showed the imported product to be priced higher than the domestic product by a margin of *** percent.

Based on sales reported by the remaining U.S. producers and by importers, a total of four quarterly delivered price comparisons were possible between the domestic and imported Russian ferrosilicon. All four price comparisons showed the imported product to be priced less than the domestic product by margins ranging from 1.4 to 7.9 percent.

Ukraine

Quarterly delivered price comparisons between the U.S.-produced and imported Ukrainian ferrosilicon are discussed for sales of product 2 (ferrosilicon 50) to U.S. steel producers and to iron foundries (the only sales categories for which the Ukrainian ferrosilicon was reported) by each applicable category of U.S. producer (tables III-8c and III-9b).

Product 2 (ferrosilicon 50) sold to U.S. steel producers (table III-8c).--Based on sales of all reporting U.S. producers and by importers, a total of eight quarterly delivered price comparisons were possible between the domestic and imported Ukrainian ferrosilicon. Six of the eight price comparisons showed the imported product to be priced less than the domestic product by margins ranging from 0.1 to 5.5 percent. The remaining two comparisons showed the imported product to be priced higher than the domestic product by margins ranging from 2.8 to 12.2 percent.

Based on sales reported by the three conspiring U.S. ferrosilicon producers and by importers, a total of eight quarterly delivered price comparisons were possible between the domestic and imported Ukrainian ferrosilicon. Six of the eight price comparisons showed the imported product to be priced less than the domestic product by margins ranging from 1.5 to 6.9 percent. The two remaining price comparisons showed the imported product to be priced higher than the domestic product by margins ranging from 2.7 to 9.9 percent.

Based on sales reported by AIMCOR and by importers, a total of eight quarterly delivered price comparisons were possible between the domestic and imported Ukrainian ferrosilicon. Four of the eight price comparisons showed the imported product to be priced less than the domestic product by margins ranging from 0.5 to 5.6 percent. The four remaining price comparisons showed the imported product to be priced higher than the domestic product by margins ranging from 0.5 to 14.1 percent.

Based on sales reported by Globe and by importers, a total of four quarterly delivered price comparisons were possible between the domestic and imported Ukrainian ferrosilicon. Three of the four price comparisons showed the imported product to be priced less than the domestic product by margins

ranging from 1.7 to 9.3 percent. The remaining price comparison showed the imported product to be priced higher than the domestic product by a margin of 1.1 percent.

Based on sales reported by the remaining U.S. producers and by importers, a total of eight quarterly delivered price comparisons were possible between the domestic and imported Ukrainian ferrosilicon. Five of the eight price comparisons showed the imported product to be priced less than the domestic product by margins ranging from 0.5 to 6.9 percent. The three remaining price comparisons showed the imported product to be priced higher than the domestic product by margins ranging from 1.4 to 14.2 percent.

Product 2 (ferrosilicon 50) sold to U.S. iron foundries (table III-9b).--Based on sales of all reporting U.S. producers and by importers, a total of one quarterly delivered price comparison was possible between the domestic and imported Ukrainian ferrosilicon. This price comparison showed the imported product to be priced less than the domestic product by a margin of *** percent.

Based on sales reported by the three conspiring U.S. ferrosilicon producers and by importers, a total of one quarterly delivered price comparison was possible between the domestic and imported Ukrainian ferrosilicon. This price comparison showed the imported product to be priced less than the domestic product by a margin of *** percent.

Based on sales reported by AIMCOR and by importers, a total of one quarterly delivered price comparison was possible between the domestic and imported Ukrainian ferrosilicon. This price comparison showed the imported product to be priced higher than the domestic product by a margin of *** percent.

Based on sales reported by Globe and by importers, a total of one quarterly delivered price comparison was possible between the domestic and imported Ukrainian ferrosilicon. This price comparison showed the imported product to be priced higher than the domestic product by a margin of *** percent.

Based on sales reported by the remaining U.S. producers and by importers, a total of one quarterly delivered price comparison was possible between the domestic and imported Ukrainian ferrosilicon. This price comparison showed the imported product to be priced higher than the domestic product by a margin of *** percent.

APPENDIX A

FEDERAL REGISTER NOTICES

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 303–TA–23, 731–TA–566–570, and 731–TA–641 (Final) (Reconsideration) (Remand)]

Ferrosilicon From Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela

AGENCY: United States International Trade Commission.

ACTION: Notice and scheduling of remand proceedings.

SUMMARY: The United States International Trade Commission (Commission) hereby gives notice of the court-ordered remand of its reconsideration proceedings pertaining to countervailing duty investigation no. 303–TA–23 (Final) concerning ferrosilicon from Venezuela, and antidumping investigation nos. 731–TA–566–570 and 731–TA–641 (Final) concerning ferrosilicon from Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela.

EFFECTIVE DATE: April 11, 2002.

FOR FURTHER INFORMATION CONTACT: Lynn Featherstone, Office of Investigations, telephone 202–205–3160, or Marc A. Bernstein, Office of General Counsel, telephone 202–205–3087, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*).

SUPPLEMENTARY INFORMATION:

Background

In August 1999 the Commission made a negative determination upon reconsideration in its antidumping and countervailing duty investigations concerning ferrosilicon from Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela. Ferrosilicon from Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela, Inv. Nos. 303–TA–23, 731–TA–566–570, 731–TA–641 (Final) (Reconsideration), USITC Pub. 3218 (Aug. 1999). The Commission's determinations were appealed to the U.S. Court of International Trade (CIT). On February 21, 2002, the CIT issued an opinion finding the Commission's proceedings on reconsideration defective because they did not accord the parties an opportunity to participate in a hearing specifically concerning the reconsideration proceeding. The CIT accordingly remanded the matter to the Commission for further proceedings. *Elkem Metals Co.* v. *United States*, slip op. 02–18 (Ct. Int'l Trade Feb. 21, 2002). On March 18, 2002, the CIT issued an Order providing the Commission within 180 days of service of the Order to complete the remand proceedings. The Commission received notice of this Order on April 1, 2002.

Reopening the Record

The Commission is reopening the record in these reconsideration proceedings to enable it to conduct the remand proceedings required by the CIT's opinion. The scope of the proceedings was not addressed in the CIT's opinion or Order, and consequently will remain unchanged from the 1999 reconsideration proceeding. See Ferrosilicon from Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela, 64 Fed. Reg. 28212 (May 25, 1999). Consequently, any new information submitted in this remand proceeding must be limited to the issues of (a) the price-fixing conspiracy in which certain domestic ferrosilicon producers participated during the periods of the Commission's original investigations, or other anticompetitive conduct relating to the original periods of investigation, and (b) any possible material misrepresentations or material omissions, by any entity that provided information or argument in the original investigations, concerning: (1) The conspiracy or other anticompetitive conduct or (2) any other matter.The record in these proceedings will encompass the material from the record of the original investigations, the 1998–99 changed circumstances investigations involving ferrosilicon from Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela, and the 1999 reconsideration proceedings, as well as any information submitted during the remand proceedings, to include the Staff Reports and Economic Reports prepared during the original investigations and the Staff Report prepared during the changed circumstances investigation.

Participation in the Proceedings

Only those persons who were parties to the previous reconsideration proceedings (i.e., persons listed on the Commission Secretary's service list) may participate as parties in these remand proceedings. Nonparties may file written submissions and submit hearing testimony as described below.

Nature of the Remand Proceedings

The Commission will conduct the following additional proceedings in this remand: *Prehearing Brief.* Each party to the investigation shall submit to the Commission a prehearing brief no later than May 23, 2002. The brief shall only address those matters within the scope of the reconsideration proceeding. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules. Any person who is not a party to this investigation may submit a brief written statement of information pertinent to the reconsideration proceeding within the time specified for the filing of prehearing briefs.

Hearing. The Commission will hold a hearing in connection with this reconsideration proceeding beginning at 9:30 a.m. on June 6, 2002, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before May 29, 2002. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement

at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on June 3, 2002, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony in camera no later than 7 days prior to the date of the hearing. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules. Written witness testimony must be filed no later than three days before the hearing. Hearing testimony and presentations shall address only those matters within the scope of the reconsideration proceeding.

Posthearing Brief. Parties to the investigation may file posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is June 13, 2002. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before June 13, 2002. Posthearing submissions shall address only those matters within the scope of the reconsideration proceeding.

Final Comments. On a date after the submission of prehearing briefs to be announced, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may subsequently submit final comments on this information on a date to be announced. Such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. General Information on Written Submissions. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain business proprietary information (BPI) must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service. Parties are also advised to consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subpart A (19 CFR part 207) for provisions of general applicability concerning written submissions to the Commission.

Limited Disclosure of BPI Under an Administrative Protective Order (APO) and BPI Service List

Information obtained during the remand proceedings will be released to parties under the Administrative Protective Order (APO) in effect during the previous reconsideration proceedings. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make business proprietary information gathered in the previous reconsideration proceedings and this remand proceeding available to additional authorized applicants, that are not covered under the original APO, provided that the application is made not later than seven (7) days after publication of the Commission's notice of reopening the record on remand in the **Federal Register**. Applications must be filed for persons on the Judicial Protective Order in the related CIT case, but not covered under the original APO. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under APO in these remand proceedings.

Authority: This action is taken under the authority of title VII of the Tariff Act of 1930 as amended.

Issued: April 11, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–9238 Filed 4–15–02; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 303–TA–23, 731–TA–566–570, and 731–TA–641 (Final) (Reconsideration) (Remand)]

Ferrosilicon From Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela

AGENCY: United States International Trade Commission.

ACTION: Notice of scheduling of additional procedures in remand proceedings.

SUMMARY: On April 11, 2002, the Commission issued a notice of scheduling of the court-ordered remand of its reconsideration proceedings pertaining to countervailing duty investigation No. 303–TA–23 (Final) concerning ferrosilicon from Venezuela, and antidumping investigations Nos. 731–TA–566–570 and 731–TA–641 (Final) concerning ferrosilicon from Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela (67 FR 18663 (April 16, 2002)). That notice specified the procedures the Commission would follow in the remand proceedings. The notice indicated the scheduling of some procedures would be announced at a later date. This notice provides a schedule of those remaining procedures.

EFFECTIVE DATE: July 2, 2002.

FOR FURTHER INFORMATION CONTACT: Christopher J. Cassise (202–708–5408), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION:

Background

In its previous notice, the Commission provided scheduling information through the filing of the posthearing brief. Additional scheduling information for the remand proceedings is provided below.

Staff Report

The staff report in the remand proceedings will be placed in the nonpublic record on July 22, 2002, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's Rules of Practice and Procedure.

Written Submissions

On July 25, 2002, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before July 30, 2002, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain business proprietary information (BPI) must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This action is taken under the authority of title VII of the Tariff Act of 1930 as amended.

By order of the Commission.
Issued: July 5, 2002.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–17340 Filed 7–9–02; 8:45 am]
BILLING CODE 7020–02–P

APPENDIX B

HEARING WITNESSES

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject:	Ferrosilicon from Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela
Invs. Nos.:	303-TA-23, 731-TA-566-570, and 731-TA-641(Final) (Reconsideration) (Remand)
Date and Time:	June 6, 2002 - 9:30 a.m.

Sessions were held in connection with these investigations in the Main Hearing Room, (room101), 500 E Street, SW, Washington, DC.

OPENING REMARKS:

Domestic Producers (**John W. Nields, Jr.**, Howrey Simon)
Respondents (**Julie C. Mendoza**, Kaye Scholer LLP)

In Support of the Imposition of Countervailing and Antidumping Duties:

Verner Liipfert Bernhard McPherson and Hand
Washington, DC
on behalf of

Elkem Metals Co.

Joseph P. Kalt, Professor of International Political Economy, John F. Kennedy School of Government, Harvard University

William D. Kramer,) – OF COUNSEL
Martin Schaefermeier)

-and-

Howrey Simon
Washington, DC
John W. Nields, Jr. – OF COUNSEL

In Support of the Imposition of Countervailing and Antidumping Duties:–Continued

Arent Fox Kintner Plotkin & Kahn, PLLC
Washington, DC
on behalf of

CC Metals and Alloys, Inc.

Joseph P. Kalt, Professor of International Political Economy, John F. Kennedy School of Government, Harvard University
Edward Bredniak, President, CC Metals & Alloys, Inc.

George R. Kucik)
Eugene J. Meigher) – OF COUNSEL
Stephen L. Gibson)
Stephanie Rigaux)

-and-

Thelen Reid & Priest LLP
Washington, DC

Gerald Zingone – OF COUNSEL

Dangel & Mattchen, LLP
Boston, Massachusetts
on behalf of

Globe Metallurgical, Inc.

Arden C. Sims, President, Globe Metallurgical, Inc.

Edward T. Dangel, III – OF COUNSEL

Altheimer & Gray
Chicago, Illinois
on behalf of

Applied Industrial Materials Corp. ("AIMCOR")

Lawrence Byrnes, President, Metals and Minerals Group, Applied Industrial Materials Corp.
Alfred Koestner, Director of Marketing, Metals and Minerals Group, Applied Industrial Materials Corp.

Theodore J. Low – OF COUNSEL

In Opposition to the Imposition of Countervailing and Antidumping Duties:

Dorsey & Whitney LLP
Washington, DC
on behalf of

Associacão Brasileira dos Productores de Ferroligas e de Silico Metalico
Companhia Brasileira Carbureto de Calcio-CBCC
Companhia de Ferroligas da Bahia-FERBASA
Nova Era Silicon S/A
Italmagnesio S/A-Industria e Comercio
Rima Industrial S/A
Companhia Ferroligas Minas Gerais-Minasligas

Philippe M. Bruno)
Kevin B. Bedell) – OF COUNSEL

Kaye Scholer LLP
Washington, DC
on behalf of

Ferroatlantica de Venezuela

Julie C. Mendoza)
R. Will Planert) – OF COUNSEL
Margaret Scicluna Rudin)

CLOSING REMARKS/REBUTTAL:

Domestic Producers (**George R. Kucik**, Arent Fox Kintner Plotkin & Kahn, PLLC, and **Theodore J. Low**, Altheimer & Gray)
Respondents (**Philippe Bruno**, Dorsey & Whitney LLP)