Silicomanganese From India, Kazakhstan, and Venezuela

Investigations Nos. 731-TA-929-931 (Preliminary)

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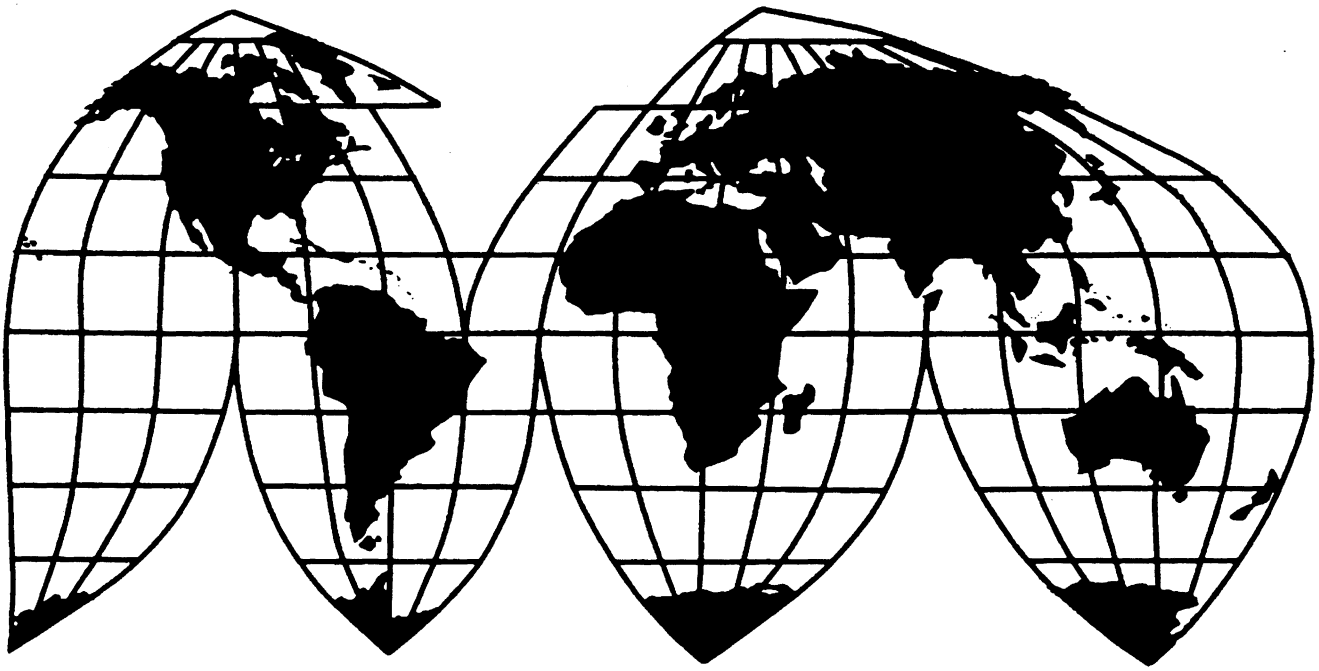
U.S. International Trade Commission



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UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 731-TA-929-931 (Preliminary)

SILICOMANGANESE FROM INDIA, KAZAKHSTAN, AND VENEZUELA

DETERMINATIONS

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission determines,[2] pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from India, Kazakhstan, and Venezuela of silicomanganese that are alleged to be sold in the United States at less than fair value (LTFV).

COMMENCEMENT OF FINAL PHASE INVESTIGATIONS

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the *Federal Register* as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce of affirmative preliminary determinations in the investigations under section 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in the investigations under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

BACKGROUND

On April 6, 2001, a petition was filed with the Commission and Commerce by Eramet Marietta Inc., Marietta, OH, and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5-0639 alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of silicomanganese from India, Kazakhstan, and Venezuela. Accordingly, effective April 6, 2001, the Commission instituted antidumping duty investigations Nos. 731-TA-929-931 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of April 18, 2001 (*66 FR 19981*). The conference was held in Washington, DC, on April 30, 2001, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

[2] Commissioner Dennis M. Devaney not participating.

VIEWS OF THE COMMISSION

Based on the record in these investigations, we find that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of silicomanganese from India, Kazakhstan, and Venezuela that are allegedly sold in the United States at less than fair value ("LTFV").[1]

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard for preliminary antidumping duty determinations requires the Commission to determine, based upon the information available at the time of the preliminary determination, whether there is a reasonable indication that a domestic industry is materially injured, threatened with material injury, or whether the establishment of an industry is materially retarded, by reason of the allegedly unfairly traded imports.[2] In applying this standard, the Commission weighs the evidence before it and determines whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation."[3]

II. DOMESTIC LIKE PRODUCT

A. In General

To determine whether there is a reasonable indication that an industry in the United States is materially injured, or threatened with material injury, by reason of imports of the subject merchandise, the Commission first defines the "domestic like product" and the "industry."[4] Section 771(4)(A) of the Tariff Act of 1930, as amended ("the Act"), defines the relevant industry as the "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[5] In turn, the Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation . . . ."[6]

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[7] No single factor is dispositive, and the Commission

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[1] Commissioner Dennis M. Devaney did not participate in these determinations.

[2] 19 U.S.C. § 1673b(a); see also American Lamb Co. v. United States, 785 F.2d 994, 1001-1004 (Fed. Cir. 1986); Ranchers-Cattlemen Action Legal Foundation v. United States, 74 F. Supp.2d 1353, 1368-69 (Ct. Int'l Trade 1999).

[3] American Lamb, 785 F.2d at 1001 (Fed. Cir. 1986); see also Texas Crushed Stone Co. v. United States, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

[4] 19 U.S.C. § 1677(4)(A).

[5] 19 U.S.C. § 1677(4)(A).

[6] 19 U.S.C. § 1677(10).

[7] See, e.g., NEC Corp. v. Dep't of Commerce and U.S. Int'l Trade Comm'n, 36 F. Supp. 2d 380 (Ct. Int'l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455 n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996).

may consider other factors it deems relevant based on the facts of a particular investigation.[8] The Commission looks for clear dividing lines among possible like products, and disregards minor variations.[9] Although the Commission must accept Commerce's determination as to the scope of the imported merchandise sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.[10]

B. Product Description

Commerce's notice of initiation defines the imported merchandise within the scope of these investigations as:

> all forms, sizes, and compositions of silicomanganese, including silicomanganese briquettes, fines and slag. Silicomanganese is a ferroalloy composed principally of manganese, silicon and iron, and normally contains much smaller proportions of minor elements, such as carbon, phosphorus and sulfur. Silicomanganese is sometimes referred to as ferrosilicon manganese. Silicomanganese is used primarily in steel production as a source of both silicon and manganese. Silicomanganese generally contains by weight not less than 4 percent iron, more than 30 percent manganese, more than 8 percent silicon and not more than 3 percent phosphorus. Silicomanganese is properly classifiable under subheading 7202.30.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Some silicomanganese may also be classified under HTSUS subheading 7202.99.5040. This petition covers all silicomanganese, regardless of its tariff classification. Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, our written description of the scope remains dispositive.[11]

C. Domestic Like Product

Indian respondent Indsil Electrosmelts, Ltd. ("Indsil") argued that low-carbon silicomanganese should be a separate like product.[12] Low-carbon silicomanganese, also known as ferromanganese-silicon, is not domestically produced.[13] Indsil has not suggested what domestically-produced product is most similar to low-carbon silicomanganese. In contrast, the domestic producer has argued that all other

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[8] See, e.g., S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

[9] Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991).

[10] Hosiden Corp. v. Advanced Display Manufacturers, 85 F.3d 1561 (Fed. Cir. 1996) (Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-52 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

[11] 66 Fed. Reg. 22,209 (May 3, 2001).

[12] Conference transcript (Tr.) at 65-69 (Mr. Kohn); Indsil Postconference Brief at 3-9. Indsil argued that low-carbon silicomanganese differed from silicomanganese in its physical characteristics and end uses, customer and producer perceptions, manufacturing facilities and production processes, and price. Indsil also argued that low-carbon silicomanganese was not interchangeable with silicomanganese. Id.

[13] Confidential Report (CR) at I-6, Public Report (PR) at I-5.

silicomanganese is the domestically-produced product most like low-carbon silicomanganese.[14] Upon review of the record in these preliminary investigations, therefore, we find one like product consisting of silicomanganese.[15]

III. DOMESTIC INDUSTRY

A. In General

Section 771(4) of the Act defines the relevant industry as the "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of that product."[16] In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the domestic like product, whether toll-produced, captively consumed, or sold in the domestic merchant market, provided that adequate production-related activity is conducted in the United States.[17] Based on our like product determination, we determine that there is a single domestic industry consisting of the sole domestic producer of silicomanganese, Eramet Marietta Inc. ("Eramet").

B. Related Parties

We must determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to 19 U.S.C. § 1677(4)(B). That provision of the statute allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are

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[14] Tr. at 108-111 (Mr. Leiman). This point may become moot because the domestic producer asked the Department of Commerce to remove low-carbon silicomanganese from the scope of the investigation on May 17, 2001. Eramet Letter of May 17, 2001. If low-carbon silicomanganese is not removed from the scope, we intend to revisit this issue in any final phase of these investigations.

[15] See, e.g., Certain Non-Frozen Concentrated Apple Juice from China, Inv. No. 731-TA-841 (Final), USITC Pub. 3303 (May 2000) at 25 (no separate domestic like product for vitamin-fortified non-frozen concentrated apple juice since no domestic production); Synthetic Indigo from China, Inv. No. 731-TA-851 (Preliminary), USITC Pub. 3222 at 7 (Aug. 1999) ("since indigo slurry is within the scope of the investigation, and there is no domestic production of indigo slurry for domestic sales, the 'domestic like product' is the product 'most similar in characteristics and uses with' the subject imports"), citing Extruded Rubber Thread from Malaysia, Inv. No. 753-TA-34 (Final), USITC Pub. 3112 at 5 (June 1998) (because, *inter alia,* "there has been no production of food-grade ERT for commercial sale," domestic production of food-grade ERT product "does not exist in any practical sense" and could not be considered a domestic like product); Nepheline Syenite From Canada, Inv. No. 731-TA-525 (Final), USITC Pub. 2502 at 7-11 (Apr. 1992) (since nepheline syenite was not produced in the United States, the Commission defined the domestic like product to include two similar products, feldspar and aplite), aff'd, Feldspar Corp. v. United States, 825 F. Supp. 1095 (Ct. Int'l. Trade 1993).

[16] 19 U.S.C. § 1677(4)(A).

[17] See, e.g., DRAMs From Taiwan, Inv. No. 731-TA-811 (Final), USITC Pub. 3256 at 6 (Dec. 1999); Stainless Steel Wire Rod from Germany, Italy, Japan, Korea, Spain, Sweden, and Taiwan, Inv. Nos. 701-TA-373, 731-TA-769-775 (Final), USITC Pub. 3126, at 7 (Sept. 1998); Manganese Sulfate from the People's Republic of China, Inv. No. 731-TA-725 (Final), USITC Pub. 2932, at 5 and n.10 (Nov. 1995) (the Commission stated it generally considered toll producers that engage in sufficient production-related activity to be part of the domestic industry); see, e.g., Oil Country Tubular Goods from Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain ("OCTG"), Invs. Nos. 701-TA-363-364 (Final) and Inv. Nos. 731-TA-711-717 (Final), USITC Pub. 2911, at I-11-I-15 (Aug. 1995) (not including threaders in the casing and tubing industry because of "limited levels of capital investment, lower levels of expertise, and lower levels of employment").

related to an exporter or importer of subject merchandise, or which are themselves importers.[18] The Commission has concluded that a domestic producer that does not itself import subject merchandise, or does not share a corporate affiliation with an importer, may nonetheless be deemed a related party if it controls large volumes of imports. The Commission has found such control to exist when the domestic producer was responsible for a predominant proportion of an importer's purchases and the importer's purchases were substantial.[19] Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each case.[20]

Elkem Metals Co. ("Elkem") sold its silicomanganese production facilities to Eramet in July, 1999.[21] ***.[22] ***.[23]

***. ***.[24] ***. Accordingly, we find that appropriate circumstances do not exist to exclude any party as a related party.

IV. CUMULATION

A. In General

For purposes of evaluating the volume and price effects for a determination of material injury by reason of the subject imports, Section 771(7)(G)(i) of the Act requires the Commission to cumulate subject imports from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and with the domestic like product

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[18] 19 U.S.C. § 1677(4)(B).

[19] See, e.g., Certain Cut-to-Length Steel Plate from the Czech Republic, France, India, Indonesia, Italy, Japan, Korea, and Macedonia, Inv. Nos. 701-TA-387-392 and 731-TA-815-822 (Preliminary), USITC Pub. 3181 at 12 (April 1999); Certain Brake Drums and Rotors from China, Inv. No. 731-TA-744 (Final), USITC Pub. 3035 at 10 n.50 (April 1997).

[20] Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), aff'd without opinion, 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude the related parties include: (1) the percentage of domestic production attributable to the importing producer; (2) the reason the U.S. producer has decided to import the product subject to investigation, i.e., whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market; and (3) the position of the related producers vis-a-vis the rest of the industry, i.e., whether inclusion or exclusion of the related party will skew the data for the rest of the industry. See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), aff'd without opinion, 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered the ratio of import shipments to U.S. production for related producers and whether the primary interests of the related producers lie in domestic production or in importation. See, e.g., Melamine Institutional Dinnerware from China, Indonesia, and Taiwan, Inv. Nos. 731-TA-741-743 (Final), USITC Pub. 3016 at 14 n.81 (Feb. 1997).

[21] CR at III-1, PR at III-1.

[22] CR at III-1 and Table III-2, PR at III-1 and Table III-2. ***. Id. at Table III-2. That same year, ***. Id. ***.

[23] CR at Table III-2, PR at Table III-2.

[24] CR at III-1, III-3, and Table III-2, PR at III-1 and Table III-2.

in the U.S. market.[25] In assessing whether subject imports compete with each other and with the domestic like product,[26] the Commission has generally considered four factors, including:

(1) the degree of fungibility between the subject imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;

(2) the presence of sales or offers to sell in the same geographical markets of subject imports from different countries and the domestic like product;

(3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and

(4) whether the subject imports are simultaneously present in the market.[27]

While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the subject imports compete with each other and with the domestic like product.[28] Only a "reasonable overlap" of competition is required.[29]

Because the petitions in the investigations concerning silicomanganese from India, Kazakhstan, and Venezuela were filed on the same day, the first statutory criterion for cumulation is satisfied. In addition, none of the four statutory exceptions to the general cumulation rule applies for purposes of these determinations.[30] Therefore, we are required to determine whether there is a reasonable overlap of competition both among the subject imports from India, Kazakhstan, and Venezuela and between the subject imports and the domestic like product.

B. Analysis

Fungibility. A significant degree of fungibility exists among subject imports and between subject imports and the domestic like product. There is widespread agreement that silicomanganese is a

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[25] 19 U.S.C. § 1677(7)(G)(i).

[26] The Uruguay Round Agreements Act ("URAA") Statement of Administrative Action ("SAA") expressly states that "the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition," SAA, H.R. Rep. 103-316, vol. I at 848 (1994), citing Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898, 902 (Ct. Int'l Trade 1988), aff'd, 859 F.2d 915 (Fed. Cir. 1988).

[27] See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Invs. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), aff'd, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int'l Trade), aff'd, 859 F.2d 915 (Fed. Cir. 1988).

[28] See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

[29] See Goss Graphic System, Inc. v. United States, 33 F. Supp. 2d 1082 (Ct. Int'l Trade 1998) ("cumulation does not require two products to be highly fungible"); Mukand Ltd. v. United States, 937 F. Supp. 910, 916 (Ct. Int'l Trade 1996); Wieland Werke, 718 F. Supp. at 52 ("Completely overlapping markets are not required.").

[30] These exceptions concern imports from Israel, countries as to which investigations have been terminated, countries as to which Commerce has made preliminary negative determinations, and countries designated as beneficiaries under the Caribbean Basin Economic Recovery Act. 19 U.S.C. § 1677(7)(G)(ii).

commodity product.[31] Most silicomanganese produced or sold in the United States, including subject imports, conforms to American Society for Testing and Materials ("ASTM") specifications for grade B.[32] The domestic producer reported that domestically-produced silicomanganese and subject imports are *** used interchangeably, although the domestic producer conceded that subject imports of low-carbon silicomanganese are not used interchangeably with domestically-produced silicomanganese.[33] *** of the *** importers who compared subject imports from India with the domestic like product reported that the products were always or frequently interchangeable, although *** reported that subject imports from India were unsuitable for use by some mills.[34] Similarly, virtually all importers who compared the other subject imports with the domestic like product, or subject imports with each other, reported the various products to be always or frequently interchangeable.[35]

Subject imports from India include high phosphorous ("high phos") silicomanganese and low-carbon silicomanganese.[36] However, subject imports from India remain significantly fungible with other subject imports and with the domestic like product. High phos silicomanganese has a phosphorus content up to 0.3 percent, compared to 0.2 percent phosphorus in other silicomanganese products.[37] According to Indian producers Universal, Ispat, and Nava Bharat, the high phos material is suitable for approximately 70 percent of domestic applications,[38] and *** reported that blending the subject silicomanganese from India with silicomanganese from other sources could make the subject imports from India more acceptable to some users.[39] Low-carbon silicomanganese accounted for only *** percent of exports of subject merchandise from India to the United States in 1998, *** percent in 1999, and *** percent in 2000, for an average of *** percent during 1998-2000.[40]

Geographic Overlap. Domestically-produced silicomanganese is sold throughout the United States.[41] Subject imports from all three countries typically enter the U.S. market through the Gulf region.[42] The record contains evidence that subject imports and the domestic product are, at the least, competitive in that region.[43] The Venezuelan respondent argued that the domestic like product is not

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[31] Petition at 1; Tr. at 70 (Mr. Reilly); Kazchrome and Aksu Ferroalloy Plant ("Kazchrome") Postconference Brief at 2; Universal Ferro & Allied Chemical Ltd. ("Universal") Postconference Submission at 11; Ispat Alloys ("Ispat") Postconference Submission at 11; Nava Bharat Ferro Alloys ("Nava Bharat") Postconference Submission at 11.

[32] CR at I-4, PR at I-3. This is true for subject imports from Venezuela, in contrast to the 1994 investigation of silicomanganese, wherein a not insignificant portion of subject silicomanganese imports from Venezuela appeared to be grade C. Silicomanganese from Brazil, the People's Republic of China, Ukraine and Venezuela, Inv. Nos. 731-TA-671-674 (Final), USITC Pub. 2836 (Dec. 1994) at II-30.

[33] CR at II-7 and Table II-1, PR at II-4 and Table II-1.

[34] CR at II-7 and Table II-1, PR at II-4 and Table II-1.

[35] CR at Table II-1, PR at Table II-1.

[36] CR at I-7, PR at I-5.

[37] Universal Postconference Submission at 4-5; Ispat Postconference Submission at 4-5; Nava Bharat Postconference Submission at 4-5.

[38] Universal Postconference Submission at 4-5; Ispat Postconference Submission at 4-5; Nava Bharat Postconference Submission at 4-5.

[39] CR at II-7, PR at II-4.

[40] CR at Tables VII-1 and C-2, PR at Tables VII-1 and C-2.

[41] CR at IV-4, PR at IV-3.

[42] CR at IV-4 and Table IV-2, PR at IV-4 and Table IV-2.

[43] CR at IV-4, PR at IV-3; Eramet Postconference Brief at 19-20.

competitive in the Texas region, where *** sales of subject imports from Venezuela are made.[44] However, the domestic producer offered evidence of sales activities, ***, indicating that the domestic product was present through sales or offers to sell in that same region.[45]

Channels of Distribution. The steel industry is the primary consumer of silicomanganese.[46] The majority of domestically-produced silicomanganese is sold directly to end users.[47] ***.[48] In 1999 and 2000, ***.[49] There is no evidence in the record indicating that subject imports sold by distributors are sold to different types of end users.

Simultaneous Presence. Domestically-produced silicomanganese was present in the U.S. market throughout the period of investigation ("POI").[50] Subject imports from Kazakhstan entered the U.S. market in only one month in 1998, but entered in nine months of 2000.[51] Subject imports from each of the three countries entered the U.S. market in at least eight of 12 months in 2000.[52]

Conclusion. Despite some differences in product mix, subject imports are significantly fungible with each other and with the domestic like product. Available evidence on the record indicates that subject imports and the domestic like product are competing with each other in at least the Gulf region. Most silicomanganese is sold, directly or indirectly, to the same type of end users, namely, steel makers. Finally, subject imports were widely available in the U.S. market throughout most of the period of investigation. The widespread presence of subject imports is reflected in the extensive quarterly sales data and by existing inventories of subject imports throughout the POI.[53] Based on the foregoing, we find that a reasonable overlap of competition exists among subject imports and between subject imports and the domestic like product.[54] Therefore, we have cumulated the volume and effect of subject imports from India, Kazakhstan, and Venezuela for purposes of our material injury analysis.

V. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF ALLEGEDLY LTFV IMPORTS

In the preliminary phase of antidumping duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured by

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[44] Hornos Electricos de Venezuela, S.A. ("HEVENSA") Postconference Brief at 8. HEVENSA does not argue that other subject imports do not compete in the Texas region.

[45] Eramet Postconference Brief at 19-20; CR at Table V-4, PR at Table V-4. Eramet sold as much as *** short tons in the Gulf region in 1999. Eramet Postconference Brief at 19 n.62. Eramet also ***. Id. at 19.

[46] CR at I-4, PR at I-3.

[47] CR at I-8, PR at I-6.

[48] CR at I-8, PR at I-6.

[49] CR at I-8 and n.26, PR at I-6 and n.26. See also Kazchrome Postconference Brief at Exh. 5 ***.

[50] CR at IV-5, PR at IV-4.

[51] CR at Table IV-3, PR at Table IV-3.

[52] CR at Table IV-3, PR at Table IV-3.

[53] CR at Tables V-1, V-2, V-3, and VII-4; PR at Tables V-1, V-2, V-3, and VII-4.

[54] We intend to pursue additional information regarding the extent of geographic overlap, particularly in Texas, in any final phase of these investigations. We also intend to pursue additional information regarding channels of distribution in any final phase of these investigations.

reason of the imports under investigation.[55] In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[56] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[57] In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[58] No single factor is dispositive, and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[59]

For the reasons discussed below, we determine that there is a reasonable indication that the domestic industry is materially injured by reason of subject imports from India, Kazakhstan, and Venezuela that are allegedly sold in the United States at less than fair value.

A. Conditions of Competition

Silicomanganese is used in the making of steel.[60] While it can be used by either basic oxygen furnace or electric arc furnace ("EAF") mills, EAF mills are the primary consumers.[61] EAF furnaces tend to use silicomanganese in production of long products, such as bars and structural shapes.[62] There is no single product that can substitute for silicomanganese.[63]

Demand for silicomanganese is closely tied to demand for steel.[64] Overall domestic carbon and alloy steel production fell in 1999, and then rose above 1998 levels in 2000.[65] Total apparent U.S. consumption of silicomanganese followed a similar path, falling from *** short tons in 1998 to *** short tons in 1999, then rising to *** short tons in 2000.[66] However, silicomanganese represents a relatively small share of the total cost of steelmaking, and the absolute price level of silicomanganese has little effect on the level of demand for silicomanganese.[67]

Silicomanganese is a commodity product, sold largely on the basis of price.[68] Price was named as one of the top three most important factors in a purchasing decision more often than any other factor,

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[55] 19 U.S.C. §§ 1671b(a) and 1673b(a).

[56] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each [such] factor . . . [a]nd explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B). See also Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

[57] 19 U.S.C. § 1677(7)(A).

[58] 19 U.S.C. § 1677(7)(C)(iii).

[59] 19 U.S.C. § 1677(7)(C)(iii).

[60] CR at I-4, PR at I-3.

[61] CR at I-5, PR at I-4.

[62] CR at I-5, PR at I-4.

[63] Petition at 5.

[64] CR at II-5, PR at II-3.

[65] Eramet Postconference Brief at App., p.1.

[66] CR at Table IV-4, PR at Table IV-4.

[67] CR at II-6, PR at II-4; Petition at 33.

[68] Petition at 1; Tr. at 70 (Mr. Reilly); Kazchrome Postconference Brief at 2; Universal Postconference Submission at 11; Ispat Postconference Submission at 11; Nava Bharat Postconference Submission at 11.

including quality.[69] Most silicomanganese used by domestic purchasers conforms to ASTM grade B.[70] Most end users have certification requirements, but once those are met end users rarely make purchasing decisions based on the origin of the silicomanganese.[71] Many producers in fact are not aware of the source of the silicomanganese they purchase.[72]

Pricing data on silicomanganese are widely and rapidly available through published sources such as Ryan's Notes and Metals Week.[73] Given the widespread availability of pricing data and the commodity nature of the product, producers must react quickly to price changes in order to remain competitive. Contract sales may not provide much protection from market price fluctuations. Most contract sales of the domestic like product are ***.[74]

Eramet is the only domestic producer of silicomanganese.[75] This producer is able to supply *** portion of domestic demand. As a result, imports have a steady presence in the domestic market for silicomanganese. Historically, South Africa, Australia, and Mexico were the three leading sources of imports.[76] In 2000, South Africa was still the leading source for imports, but Kazakhstan and India replaced Australia and Mexico as the second and third largest foreign suppliers to the U.S. market.[77]

Eramet purchased Elkem's silicomanganese production facility in July 1999.[78] Eramet is affiliated with other silicomanganese producers in Norway, France, and Italy.[79] According to the domestic producer, it is relatively simple to shift a facility from the production of one ferroalloy to another.[80] However, Eramet's silicomanganese production facility in Marietta, OH, has been dedicated to silicomanganese production since the early 1990s.[81] Silicomanganese production is capital intensive, requiring a producer to operate at high levels of capacity utilization in order to be profitable.[82]

B. Volume of the Subject Imports

Section 771(7)(C)(i) of the Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[83]

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[69] CR at Table II-3, PR at Table II-3. In the recent five-year review on silicomanganese, 21 purchasers ranked price as one of the top three factors, followed by 16 purchasers who ranked quality as one of the top three factors. Silicomanganese from Brazil, China, and Ukraine, Inv. Nos. 731-TA-671-673 (Review), USITC Pub. 3386 (Jan. 2001) at II-8-9.

[70] CR at I-4, PR at I-3

[71] Petition at 27-28.

[72] CR at V-9, PR at V-4; Petition at 39.

[73] CR at V-3, PR at V-3

[74] CR at V-3, PR at V-3.

[75] CR at III-1, PR at III-1.

[76] Official Commerce Statistics.

[77] Official Commerce Statistics.

[78] CR at III-1, PR at III-1.

[79] CR at III-1, PR at III-1.

[80] CR at I-6, PR at I-5.

[81] CR at I-7, PR at I-5.

[82] Eramet Postconference Brief at 12.

[83] 19 U.S.C. § 1677(7)(C)(i).

Total apparent U.S. consumption of silicomanganese fell by *** percent in 1999, then rose *** percent in 2000.[84] Subject imports followed a similar pattern. The volume of subject imports fell by 10.9 percent between 1998 and 1999, from 68,616 short tons in 1998 to 61,170 short tons in 1999.[85] Subject imports then increased sharply between 1999 and 2000, rising 172.1 percent to 166,439 short tons.[86] Because subject import volume growth exceeded the growth in apparent U.S. consumption by a substantial margin, subject import market share grew markedly. In 1998 and 1999, subject imports accounted for *** and *** percent, respectively, of apparent U.S. consumption.[87] In 2000, that share rose to *** percent.[88]

Shipments of domestically-produced silicomanganese followed a different pattern. U.S. shipments of domestically-produced silicomanganese rose from *** short tons in 1998 to *** short tons in 1999 before falling to *** short tons in 2000, despite the increase in overall carbon and alloy steel production and a concomitant increase in silicomanganese consumption.[89] Domestically-produced silicomanganese accounted for *** percent of apparent U.S. domestic consumption in 2000, down from *** percent in 1999.[90]

The volume of nonsubject imports dropped throughout the POI, falling from 313,270 short tons in 1998 to 270,178 short tons in 1999, and then to 250,371 short tons in 2000.[91] Nonsubject imports accounted for *** percent of domestic consumption in 1998, *** percent in 1999, and *** percent in 2000.[92]

As noted above, the increase in subject imports between 1999 and 2000 was significantly larger than the increase in apparent U.S. consumption. The additional market share of apparent U.S. consumption gained by subject imports came largely at the expense of nonsubject imports, but the share of the market accounted for by domestically-produced silicomanganese also fell, from *** percent in 1999 to *** percent in 2000.

The domestic producer is not capable of supplying all domestic demand, and imports are essential to the market. However, the rapid and substantial increase in subject imports displaced domestically-produced silicomanganese as well as nonsubject imports. We find, for purposes of these preliminary investigations, that both the absolute and relative subject import volume, and the increases in subject import volume, are significant.

C. Price Effects of the Subject Imports

Section 771(C)(ii) of the Act provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether –

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[84] CR at Table C-1, PR at Table C-1. Total domestic carbon steel production fell by 1.7 percent between 1998 and 1999, then rose by 5.0 percent in 2000. Eramet Postconference Brief at App., p.1. EAF steel production was essentially unchanged between 1998 and 1999, then rose by 7.1 percent in 2000. Eramet Postconference Brief at App., p.1.

[85] CR at Table IV-4, PR at Table IV-4.

[86] CR at Table IV-4, PR at Table IV-4.

[87] CR at Table C-1, PR at Table C-1.

[88] CR at Table C-1, PR at Table C-1.

[89] CR at Table IV-4, PR at Table IV-4.

[90] CR at Table C-1, PR at Table C-1.

[91] CR at Table IV-4, PR at Table IV-4.

[92] CR at Table C-1, PR at Table C-1.

(I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and

(II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.[93]

The quarterly pricing data gathered in the course of these investigations presents a mixed picture. No consistent pattern of underselling or overselling is apparent.[94] Evaluation of any pricing data, especially average unit values ("AUVs"), is complicated by the fact that *** subject imports from Kazakhstan are sold to distributors rather than to end users, meaning that *** available price comparisons with subject imports from Kazakhstan are not at the same level of trade.

Nonetheless, the conditions of competition prevailing in this market indicate that the adverse price effects of subject imports are significant. Pricing information is widely disseminated and exerts rapid influence on the market.[95] The effect of price changes is further amplified by ***. In a market such as this, underselling would likely be persistent but transitory, as producers and sellers quickly adjust to price changes.[96]

We recognize the limitations of AUV data in these investigations. Nonetheless, while direct comparisons of specific AUVs may be limited by differences in the levels of trade, relative changes in AUVs indicate that subject imports led prices downward in 2000. Moreover, the gap between subject import AUVs and AUVs for the domestic like product widened between 1998 and 2000.[97] In 1998, the AUV for all subject imports was $*** per short ton below the AUV for the domestic like product.[98] In 2000, that gap widened to $*** per short ton.[99]

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[93] 19 U.S.C. § 1677(7)(C)(ii).

[94] CR at Tables V-1, V-2, and V-3, PR at Tables V-1, V-2, and V-3. With respect to underselling, the record indicates that silicomanganese from India was priced *** than the domestic like product in only *** of *** contract comparisons and *** of *** spot comparisons, although price levels were generally *** from the second half of 1999 on, the fourth quarter of 2000 excepted. Silicomanganese from Kazakhstan was priced *** than the domestic like product in *** of *** contract sales comparisons and in *** of *** spot comparisons. Kazakh underselling was concentrated in late 1998 and early 1999, as it was breaking into the U.S. market, and in 2000, when its contract volumes *** those of the domestic like product. Silicomanganese from Venezuela was priced *** than the domestic like product in only *** of *** contract comparisons, ***, corresponding to the *** volume of Venezuelan contract shipments. Overall, subject imports were priced *** than the domestic like product in *** of *** and *** of *** contract comparisons in 1998 and 1999, respectively, and in *** of *** contract comparisons in 2000. CR at V-6-V-8 and Tables V-1-V-3, PR at V-3-V-4 and Tables V-1-V-3. Spot price comparisons, which are sporadic and reflect far smaller volumes, resulted in *** of *** instances of underselling in 1998; *** of *** in 1999; and *** of *** in 2000. Id.

[95] CR at V-3, PR at V-3

[96] USITC Pub. 3386 at 19.

[97] CR at Tables III-1 and IV-1, PR at Tables III-1 and IV-1. Similarly, the gap between subject import AUVs and nonsubject AUVs also widened. In 1998, the gap was $1.82 per short ton; by 2000 it was $36.52. CR at Table IV-1, PR at Table IV-1. In contrast, the gap between nonsubject AUVs and domestic like product AUVs actually narrowed between 1998 and 2000. In 1998, the gap was $*** per short ton; in 2000 it was $*** per short ton. CR at Tables III-1 and IV-1, PR at Tables III-1 and IV-1.

[98] CR at Tables III-1 and IV-1, PR at Tables III-1 and IV-1.

[99] CR at Tables III-1 and IV-1, PR at Tables III-1 and IV-1.

Furthermore, as noted above, silicomanganese is a commodity product, sold largely on the basis of price. The record contains substantial evidence that subject imports and the domestic like product are fungible. In a commodity market based on price competition, we would expect the significant and rapid growth in market share to be based largely on underselling, which, as noted previously, is likely to be transitory. Indeed, while consumption of silicomanganese was higher in 2000 than in 1998, the AUVs of subject imports declined. Furthermore, *** lost sales and lost revenue allegations, indicating that direct competition between the domestic like product and subject imports occurred, and that the domestic industry lost sales on the basis of price.[100]

Finally, we note that the ratio of cost of goods sold to net sales rose *** during the POI.[101] Thus, both the financial data and the pricing data on the record suggest that the domestic industry has not been fully able to recoup costs through sales revenue, despite an increase in apparent U.S. consumption and generally flat costs during the POI. Accordingly, we find that the increasing volume of subject imports, sold at low and declining prices, played a significant role in preventing price increases.

Based on the foregoing, we find, for purposes of these preliminary investigations, that subject imports have suppressed and depressed prices to a significant degree and have had an adverse effect on U.S. prices.

D. Impact of the Subject Imports

Section 771(7)(C)(iii) provides that the Commission, in examining the impact of the subject imports on the domestic industry, "shall evaluate all relevant economic factors which have a bearing on the state of the industry."[102] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the industry."[103] [104] [105]

We find that subject imports have had a significant adverse impact on the domestic industry. The combination of declining shipments and adverse price effects of subject imports resulted in declines in several key financial performance indicators.

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[100] CR at V-9 and Tables V-4 and V-5, PR at V-4 and Tables V-4 and V-5. *** confirmed lost sales or lost revenue allegations. Id.

[101] CR at Table VI-1, PR at Table VI-1.

[102] 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851 and 885 ("In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." Id. at 885).

[103] 19 U.S.C. § 1677(7)(C)(iii).

[104] The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii) (V). In its notice of initiation, Commerce estimated dumping margins as follows: India, 5.89 to 86.98 percent; Kazakhstan, 164.29 percent; and Venezuela, 20.38 to 47.14 percent. 66 Fed. Reg. 22,209, 22,210 (May 3, 2001).

[105] Commissioner Bragg notes that she does not ordinarily consider the magnitude of the margin of dumping to be of particular significance in evaluating the effects of subject imports on the domestic producers. See Separate and Dissenting Views of Commissioner Lynn M. Bragg in Bicycles from China, Inv. No. 731-TA-731 (Final), USITC Pub. 2968 (June 1996); Anhydrous Sodium Sulfate from Canada, Inv. No. 731-TA-884 (Preliminary), USITC Pub. 3345 (Sept. 2000) at 11 n.63.

Total apparent U.S. consumption of silicomanganese declined by *** percent in 1999.[106] While shipments of the domestic like product rose by *** percent in 1999, the AUV of those shipments dropped by *** percent.[107] In 2000, demand for silicomanganese recovered, with apparent U.S. consumption rising by *** percent in 2000 relative to 1999.[108] Despite this increase, domestic production declined by *** percent and shipments of the domestic like product declined by *** percent.[109] By the end of the year 2000, the price of the domestic like product also declined *** from its second-quarter peak.[110] The domestic industry's market share peaked at *** percent in 1999 before declining to *** percent in 2000.[111] The domestic industry's capacity utilization rates, which must remain high given the capital-intensive nature of production, were well below 1998 levels in 2000.[112] Notwithstanding the drop in production, inventories of the domestic like product increased towards the end of the POI. Inventories dropped from *** short tons in 1998 to *** short tons in 1999, but rose to *** short tons in 2000.[113]

The overall reduction in both prices and sales has had significant negative effects on the state of the domestic industry. Despite increased production in 1999, declining prices resulted in an operating *** percent and a net *** percent.[114] Improved prices in the first half of 2000 were followed by price declines in the second half, and the result was another ***.[115] Variance analysis confirms that changes in operating income between 1998 and 2000 were attributable primarily to price variations rather than production or cost variations.[116] Data available for the first quarter of 2001 indicate that, although prices made a modest recovery, they remained well below the levels seen in the first half of 2000, and the domestic industry ***.[117]

Capital expenditures by the domestic industry *** percent in 1999.[118] Capital expenditures recovered somewhat in 2000, but remained below 1998 levels.[119] Research and development expenditures in 2000 were *** percent below 1998 levels.[120] Employment levels were ***.[121]

The record indicates that the significant increase in the volume of subject imports suppressed or depressed prices to a significant degree, while the domestic industry suffered declines in all indicators.

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[106] CR at Table C-1, PR at Table C-1.

[107] CR at Table C-1, PR at Table C-1.

[108] CR at Table C-1, PR at Table C-1.

[109] CR at Table C-1, PR at Table C-1.

[110] CR at Table V-1, PR at Table V-1.

[111] CR at Table C-1, PR at Table C-1.

[112] CR at Table C-1, PR at Table C-1.

[113] CR at Table III-1, PR at Table III-1.

[114] CR at Table VI-1, PR at Table VI-1.

[115] CR at Table VI-1, PR at Table VI-1.

[116] CR at VI-4-VI-5 and Table VI-3, PR at VI-2 and Table VI-3. We are aware that respondents have raised questions regarding the domestic producer's allocation of costs. We will seek more information on this issue, as well as other cost-related questions such as energy costs, in any final phase of these investigations.

[117] Petition at Exhibit 27; Eramet Postconference Brief at 15.

[118] CR at Table VI-4, PR at Table VI-4.

[119] CR at Table VI-4, PR at Table VI-4.

[120] CR at Table VI-4, PR at Table VI-4.

[121] CR at Table III-1, PR at Table III-1.

We thus find that the cumulated subject imports have had a significant adverse impact on the domestic silicomanganese industry.

CONCLUSION

For the foregoing reasons, we determine there is a reasonable indication that an industry in the United States is materially injured by reason of imports of silicomanganese from India, Kazakhstan, and Venezuela that are allegedly sold in the United States at less than fair value.

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PART I: INTRODUCTION

BACKGROUND

These investigations result from a petition filed by Eramet Marietta Inc. (Eramet) and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5-0639, on April 6, 2001, alleging that an industry in the United States is materially injured and threatened with material injury by reason of less-than-fair-value (LTFV) imports of silicomanganese from India, Kazakhstan, and Venezuela. Information relating to the background of the investigations is provided below.[1]

Date	*Action*
April 6, 2001	Petition filed with Commerce and the Commission;[2] institution of Commission investigations (66 FR 19981, April 18, 2001)
April 26, 2001	Commerce's notice of initiation (66 FR 22209, May 3, 2001)
April 30, 2001	Commission's conference[3]
May 18, 2001	Commission's vote
May 21, 2001	Commission's determinations transmitted to Commerce
May 29, 2001	Commission's views transmitted to Commerce

SUMMARY DATA

A summary of data collected in the investigations is presented in appendix C, table C-1. U.S. industry data are based on the questionnaire response of one firm that accounted for all U.S. production of silicomanganese throughout the period of investigation. U.S. import data are based on official Commerce statistics.

RELATED INVESTIGATIONS

On November 12, 1993, Elkem Metals Co. (Elkem) of Pittsburgh, PA, and the Oil, Chemical and Atomic Workers, Local 3-639, Belpre, OH, filed a petition alleging that an industry in the United States was materially injured by reason of dumped imports of silicomanganese from Brazil, China, Ukraine, and Venezuela. Commerce suspended the investigation regarding silicomanganese imports from Ukraine effective October 31, 1994, based on an agreement by the Government of Ukraine to restrict the volume of direct or indirect exports to the U.S. market and to sell such exports at or above a "reference price."[4] On December 14, 1994, the Commission made final affirmative injury determinations with

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[1] *Federal Register* notices cited in the tabulation are presented in app. A.

[2] The petition alleged LTFV margins to be as follows: India - 86.98 percent, Kazakhstan - 164.29 percent, and Venezuela - 47.14 percent.

[3] A list of witnesses appearing at the conference is presented in app. B.

[4] On December 2, 1994, Commerce notified the Commission that it had continued the investigation on silicomanganese from Ukraine. Accordingly, the Commission continued its investigation on silicomanganese from Ukraine and determined on December 16, 1994, that an industry in the United States was materially injured or threatened with material injury by reason of imports from Ukraine (59 FR 65788, December 21, 1994). *Silicomanganese from Brazil, China, and Ukraine*, Investigations Nos. 731-TA-671-673 (Review), USITC Pub.

(continued...)

regard to Brazil and China and a final negative determination with regard to Venezuela (59 FR 65788, December 21, 1994).

On November 2, 1999, the Commission instituted five-year reviews of the antidumping duty orders on imports of silicomanganese from Brazil, China, and Ukraine (64 FR 59209, November 2, 1999) and decided on February 3, 2000, to conduct full reviews of these orders (65 FR 7891, February 16, 2000). On January 25, 2001, the Commission transmitted to Commerce its determinations that revocation of the antidumping duty orders on silicomanganese from Brazil and China and termination of the suspension agreement on silicomanganese from Ukraine would be likely to lead to continuation or recurrence of material injury in the United States within a reasonably foreseeable time (66 FR 8981, February 5, 2001).

THE SUBJECT PRODUCT

This and the following sections present information on both imported and domestically produced silicomanganese, as well as information related to the Commission's "domestic like product" determination. The imported product subject to these investigations is defined by Commerce as:

> "[A]ll forms, sizes and compositions of silicomanganese, including silicomanganese briquettes, fines and slag. Silicomanganese is a ferroalloy composed principally of manganese, silicon and iron, and normally contains much smaller proportions of minor elements, such as carbon, phosphorous and sulfur. Silicomanganese is sometimes referred to as ferrosilicon manganese. Silicomanganese is used primarily in steel production as a source of both silicon and manganese. Silicomanganese generally contains by weight not less than 4 percent iron, more than 30 percent manganese, more than 8 percent silicon and not more than 3 percent phosphorous. Silicomanganese is properly classifiable under subheading 7202.30.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Some silicomanganese may also be classified under HTSUS subheading 7202.99.5040."[5] [6]

On May 17, 2001, petitioners submitted a letter to Commerce and the Commission requesting that the scope be amended to exclude low-carbon silicomanganese.

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[4] (...continued)
3386, January 2001, pp. I-1, I-2.

[5] Silicomanganese entering the United States under HTSUS number 7202.30.0000 has a normal trade relations tariff rate of 3.9 percent *ad valorem*. However, such imports from India, Kazakhstan, and Venezuela are eligible to enter the United States free of duty under the Generalized System of Preferences. The normal trade relations tariff rate for HTSUS number 7202.99.5040 is 5.0 percent *ad valorem* and applies to imports from India, Kazakhstan, and Venezuela. This HTS subheading, with its higher duty rate, covers imports of ferromanganese silicon, a high-silicon, low-carbon variation of the subject product. See Customs ruling letters HQ 958783 (May 9, 1996) and HQ 089130 (August 14, 1991).

[6] 66 FR 22209, May 3, 2001. Commerce further stated that the petition covers all silicomanganese, regardless of its tariff classification and although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, its written description of the scope remains dispositive. Ibid.

DOMESTIC LIKE PRODUCT ISSUES

The Commission's decision regarding the appropriate domestic products that are "like" the subject imported products is based on a number of factors, including (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and, where appropriate, (6) price. In the original and review investigations concerning silicomanganese from Brazil, China, Ukraine, and Venezuela, the Commission determined that there was a single like product consisting of all silicomanganese.[7] For these investigations, the petitioner stated that in previous investigations the Commission had found that there is a single domestic like product, which is silicomanganese.[8] Counsel for Indsil Electromselts Ltd. ("Indsil") [9] argues that there are two like products, low-carbon silicomanganese and silicomanganese.

THE PRODUCT

Physical Characteristics and Uses

Silicomanganese is a ferroalloy[10] containing both manganese and silicon in addition to iron. It is produced in a number of grades and sizes. Most, but not all, silicomanganese is manufactured and sold to American Society for Testing and Materials (ASTM) specification A 483, grades A, B, and C; these grades differ in their contents of silicon and carbon.[11] Most silicomanganese produced and sold in the United States conforms to the specification for grade B. Silicomanganese is crushed into small pieces and screened to fairly uniform sizes. A typical size of silicomanganese is 3 inches by 1/4 inch.[12]

Silicomanganese is used primarily by the steel industry as a source of both silicon and manganese, and some silicomanganese is used as an alloying agent in the production of iron castings. Manganese, intentionally present in nearly all steels, is a steel desulfurizer and deoxidizer. By removing sulfur from steel, manganese improves its hot workability by preventing embrittlement. In addition,

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[7] *Silicomanganese from Brazil, the People's Republic of China, Ukraine, and Venezuela*, Invs. Nos. 731-TA-671-674 (Final), USITC Pub. 2836, December 1994, pp. I-7 and I-22, and *Silicomanganese from Brazil, China, and Ukraine*, Invs. Nos. 731-TA-671-673 (Review), USITC Pub. 3386, January 2001, p. 5.

[8] Petition, pp. 9-10, citing the final investigations and reviews concerning Brazil, China, and Ukraine.

[9] Indsil is a producer of silicomanganese in India, producing low-carbon silicomanganese subject to these investigations.

[10] A ferroalloy is an alloy of iron containing one or more other elements. It is used to add these other elements to molten metal, usually in the manufacture of steel or cast iron.

[11] According to ASTM specification A 483, all three grades contain 65 to 68 percent manganese, a maximum of 0.20 percent phosphorus, and a maximum of 0.04 percent sulfur, by weight. Grade A contains 18.5 to 21.0 percent silicon and a maximum of 1.5 percent carbon. Grade B contains 16.0 to 18.5 percent silicon and a maximum of 2.0 percent carbon. Grade C contains 12.5 to 16.0 percent silicon and a maximum of 3.0 percent carbon. Additionally, the content of certain minor elements such as arsenic, tin, lead, chromium, nickel, and molybdenum, is limited.

[12] Petition, exhibit 11, affidavit of Donald Kozak. The dimensions refer to the size of the openings used in the standard screens or sieves that are used to size silicomanganese. The first number refers to the screen through which the material must pass, and the second number refers to the screen on which the material is retained, with smaller particles passing through to be recycled or sold as a smaller size. Silicomanganese is a friable product, susceptible to appreciable reduction in size by repeated handling. The Venezuelan producer, Hornos Electricos de Venezuela SA ("Hevensa"), produces 5-inch by 2-inch lumps for export and states that is what the majority of the consumers in Texas use. See conference transcript, p. 82.

manganese increases steel's strength and hardness. Silicon is used as a deoxidizer, aiding in making steels of uniform chemistry and mechanical properties. As such, it is not retained in the steel, but forms silicon oxide, which separates from the steel as a component of the slag. As an alloying agent, silicon increases the hardness and strength of hot-rolled steel mill products, and enhances the toughness, corrosion resistance, and magnetic and electrical properties of certain steel mill products.[13]

Use depends upon the practice of a given steelmaker. Silicomanganese may be introduced directly into the steelmaking furnace or used as a chemical addition/deoxidizer to molten steel at the ladle metallurgy station. As a furnace addition, it is typically used in large lump sizes and melted along with other steelmaking raw materials; as a ladle addition, silicomanganese is used in smaller sizes. Silicomanganese is mostly consumed by electric furnace steelmakers, who tend to make long products, including bars and structural shapes. This may be due to less restrictive specifications for silicon for these products than for flat-rolled steel mill products.[14]

Silicomanganese is also produced in a low-carbon, high-silicon grade known as low-carbon silicomanganese.[15] This product is used for steel products for which conventional silicomanganese cannot be used because of its higher content of carbon. According to Indsil, low-carbon silicomanganese is sold for the production of stainless steel or low-carbon motor lamination steel, applications for which conventional silicomanganese cannot be used.[16]

Common Manufacturing Facilities and Production Employees

Silicomanganese is produced by smelting together in a submerged arc furnace sources of silicon, manganese, and iron, with a carbonaceous reducing agent, usually coke.[17] The reducing agent and the other items are combined in a "charge" (which may include wood chips and a fluxing agent such as dolomite) and electrically heated. Impurities from the ore or other manganese sources are released and form slag, which rises to the top of the furnace and floats on top of the molten silicomanganese. Following smelting, molten metal and slag are removed from the furnace (called "tapping the furnace"). The molten silicomanganese is poured into large molds (called "chills"), where it cools and hardens. Once the alloy is hard, the chills are emptied and the alloy is crushed and sized for sale.

In the production of silicomanganese, high-manganese slag from the production of ferromanganese is one of the sources of manganese used. Use of ferromanganese slag is called integrated production of ferromanganese and silicomanganese and results in a much more complete recovery of the manganese content of the ores than is possible using a practice of discarding the

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[13] Other elements are carbon, which is the principal hardening element in steel, and phosphorus and sulfur, which are impurities in steel that cause brittleness and cracking.

[14] Producers of flat-rolled steel mill products reportedly tend to use a combination of ferromanganese and ferrosilicon.

[15] This grade contains 0.1 percent or less of carbon and 28 percent of silicon. The grade is also known as "ferromanganese-silicon." See ASTM specification A 701.

[16] Conference transcript, p. 67. Petitioners concur that the bulk of consumption of low-carbon silicomanganese is in the stainless steel industry. Conference transcript, p. 61.

[17] For a discussion of inputs, see *Silicomanganese from Brazil, the People's Republic of China, Ukraine, and Venezuela*, p. II-9.

ferromanganese slag.[18] According to Eramet, a ferromanganese producer that does not produce silicomanganese must sell the ferromanganese slag in order to remain economically viable.[19]

Low-carbon silicomanganese is produced by resmelting regular silicomanganese along with additional silicon source material in a further electric furnace operation.[20]

The sole U.S. producer, Eramet, produces silicomanganese in an integrated operation at a plant in Marietta, OH, that it purchased from Elkem in July 1999. Eramet produces other manganese ferroalloys as well as other alloying agents at that plant. Although Eramet claims that it has the capability to produce low-carbon silicomanganese, it has not done so since the 1980s.[21] Silicomanganese is manufactured in the same or similar facilities as those used to produce standard ferromanganese, although switching from one grade or type of manganese ferroalloy to another involves costs in terms of lost production, reduced productivity, or possible contamination of the higher grade product. Eramet produces ferromanganese in two furnaces and silicomanganese in one and does not change from one product to another in the furnaces.[22] In general, little difference appears to exist between the production processes in the domestic industry and those used abroad to produce silicomanganese. This reflects the maturity of the industry, and may be attributed to the diffusion of process technology, techniques, and equipment on a world-wide basis; the similarity of steelmaking techniques; and the commonality of steel recipes.

According to Indsil, low-carbon silicomanganese is produced in furnaces that are specifically configured for, and dedicated to, the production of the low-carbon silicomanganese. Smaller furnaces operating at higher tapping temperatures and containing closer-spaced electrodes that have higher current densities are used to produce low-carbon silicomanganese. Additional refining steps, not required to produce regular silicomanganese, are required to produce the low-carbon variety.[23]

Interchangeability and Customer and Producer Perceptions

Regular silicomanganese from India is reported to have a higher content of phosphorus than does U.S.-produced silicomanganese; as a consequence, the application of Indian silicomanganese is limited to the production of products that can accommodate the higher phosphorus content. For applications that are suitable, however, the Indian regular silicomanganese appears to be fully substitutable for U.S.-produced and other subject silicomanganese. Imported regular silicomanganese from all subject sources may be considered to be interchangeable with domestic silicomanganese in most applications.

Low-carbon silicomanganese, however, is not generally interchangeable with regular silicomanganese. Reportedly, customers that use regular silicomanganese (e.g., those that produce carbon steel) would not accept the low-carbon product and specifically ask for regular silicomanganese,

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[18] Louis R. Matricardi and James Downing, "Manganese and Manganese Alloys," in *Kirk-Othmer Encyclopedia of Chemical Technology, 4th ed.* (New York: Wiley, 1995), vol. 15, pp. 972-973.

[19] Petition, app. 11.

[20] Matricardi and Downing, op. cit., p. 980.

[21] Conference transcript, p. 62. Testimony of Russell D. Craig, CEO, Eramet: "It's not being made currently. It certainly hasn't been made in the 1990s." Ibid.

[22] Craig, conference transcript, p. 60. The one furnace at Eramet's Marietta facility that is currently producing silicomanganese has been used to produce high-carbon ferromanganese in the past, but that has not been done since the early 1990s. Two other furnaces are at the Marietta facility. These furnaces produce ferromanganese and have never been used to produce silicomanganese. Ibid.

[23] Indsil's post-conference brief, pp. 7-9. See also conference transcript, p. 68.

whereas customers requiring low-carbon silicomanganese (e.g., producers of stainless steel and specialty grade alloy steels) cannot use regular silicomanganese.[24]

Channels of Distribution

The great majority of Eramet's production and imported silicomanganese is sold directly to steel mills in the United States.[25] ***.[26]

While regular silicomanganese is sold to producers of carbon steel, low-carbon silicomanganese is sold to producers of stainless and specialty grade steel. Russ Craig, CEO of Eramet, stated that this was the case in the past, but that now all steel producers, including carbon steel producers, can use low-carbon silicomanganese.[27]

Price

Based on pricing data provided in response to Commission questionnaires, low-carbon silicomanganese sells for a price *** percent higher than regular Indian silicomanganese. At the Commission's conference, the importer of low-carbon silicomanganese stated that "Low-carbon silicomanganese pricing is currently and has traditionally been on average approximately 50 percent higher than that of silicomanganese."[28]

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[24] Conference transcript, pp. 67-68.

[25] Based on responses to Commission questionnaires and the petition, pp. 7-8.

[26] ***.

[27] Conference transcript, pp. 14-15.

[28] Conference transcript, pp. 68-69.

PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Supply

Based on available information, U.S. producers of silicomanganese are likely to respond to changes in price with relatively small changes in the quantity shipped to the U.S. market. Supply responsiveness is constrained by the *** share of shipments that are exported, the *** capacity utilization rates, and the *** inventories. Eramet reported that production capabilities are ***.

Industry capacity

Eramet's capacity to produce silicomanganese declined from *** short tons in 1998 to *** short tons in 1999 and *** short tons in 2000. Eramet's production of silicomanganese declined from *** short tons in 1998 to *** short tons in 1999 and *** short tons in 2000. Eramet's capacity utilization declined from *** percent in 1998 to *** percent in 1999, and increased *** to *** percent in 2000.

Export markets

Eramet reported export shipments of silicomanganese to ***. Export shipments were *** compared with total domestic shipments. The percentage of Eramet's export shipments of silicomanganese relative to total shipments (on a value basis) was *** percent in 1998, *** percent in 1999, and *** percent in 2000.

Inventories

Eramet's inventories of silicomanganese were *** during the period of investigation. The ratio of such inventories to total shipments declined from *** percent in 1998 to *** percent in 1999, and subsequently increased to *** percent in 2000.

Production alternatives

Eramet reported that it does not produce other products on the same equipment and machinery used in the production of silicomanganese. At the public conference, Eramet stated that it operates three furnaces at Marietta, OH—one producing silicomanganese and two producing high carbon ferromanganese.[1] The furnace currently producing silicomanganese reportedly produced high carbon ferromanganese in the early 1990s. The two furnaces currently producing high carbon ferromanganese in the past produced other types of alloys, including ferrosilicon and ferrochrome, but have not produced silicomanganese since their existence.[2] Changing a furnace from the production of one ferroalloy to

[1] Conference transcript, pp. 60-61.

[2] Ibid.

another ferroalloy takes from 16 hours to 1-2 days.[3] Eramet further reported that its Marietta plant is an integrated manganese alloy plant. The ferromanganese production process, using manganese ore, generates ferromanganese slag as a by-product; the ferromanganese slag is recovered and used in silicomanganese production.[4]

Subject Imports

Based on available information, suppliers of subject imported silicomanganese are likely to respond to changes in price with moderate changes in the quantity shipped to the U.S. market.

India

Four Indian companies exported silicomanganese during the period of investigation, including one company that produced low-carbon silicomanganese. Indsil Electrosmelts,[5] Ispat Alloys, Nava Bharat Ferro Alloys, and Universal Ferro and Allied Chemicals reported that their combined production *** from *** short tons in 1998 to *** short tons in 1999 and *** short tons in 2000. ***. Their average capacity utilization rate was *** percent in 1998, *** percent in 1999, and *** percent in 2000.

Exports to the United States *** from *** short tons in 1998 to *** short tons in 1999, and *** to *** short tons in 2000. Exports to the United States as a share of total shipments *** from *** percent in 1998 to *** percent in 1999, and *** to *** percent in 2000. Exports to the United States as a share of total exports *** from *** percent in 1998 to *** percent in 1999, and *** to *** percent in 2000.

Indsil produces only low-carbon silicomanganese; there is no U.S. industry producing low-carbon silicomanganese. Indsil's production of low-carbon silicomanganese *** from *** short tons in 1998 to *** short tons in 1999 and *** short tons in 2000. Exports of low-carbon silicomanganese to the United States *** from *** short tons in 1998 to *** short tons in 1999, and *** to *** short tons in 2000. Exports to the United States as a share of total shipments *** from *** percent in 1998 to *** percent in 1999 and *** percent in 2000. Exports to the United States as a share of total exports *** from *** percent in 1998 to *** percent in 1999 and 2000.

Kazakhstan

One Kazakh company, Transnational Company Kazchrome and Aksu Ferroalloy Plant (Kazchrome), reported that it accounted for *** percent of silicomanganese produced in Kazakhstan in 2000.[6] Kazchrome reported that production increased from *** short tons in 1998 to *** short tons in 1999 and *** short tons in 2000. The capacity utilization rate was *** percent in 1998, *** percent in 1999, and *** percent in 2000. Kazchrome reported that it ***.[7]

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[3] Ibid., p. 57.

[4] Ibid., p. 15.

[5] Indsil, which produces only low-carbon silicomanganese, is discussed separately below and in appendix table D-1.

[6] According to counsel for Eramet, a second Kazakh producer may have begun operations in the second half of 2000. Petition, p. 11.

[7] Kazchrome's questionnaire response.

Exports to the United States increased from *** short tons in 1998 to *** short tons in 1999 and *** short tons in 2000. Exports to the United States as a share of total shipments increased from *** percent in 1998 to *** percent in 1999 and *** percent in 2000.

Venezuela

One Venezuelan company, Hornos Electricos de Venezuela, S.A. (Hevensa), produced silicomanganese during the period of investigation. Venezuelan reported production decreased from *** short tons in 1998 to *** short tons in 1999, and increased to *** short tons in 2000. The capacity utilization rate was *** percent in 1998, *** percent in 1999, and *** percent in 2000. Hevensa reported that a major high voltage transformer breakdown in December 2000 reduced its operations to only two furnaces of silicomanganese,[8] reducing production capacity to 40 percent of installed capacity during January-March 2001. As of April 15, 2001, production capacity has increased to 60 percent of installed capacity as a result of the use of a temporary transformer while the original transformer is undergoing repairs.[9] Hevensa further reported that its capacity will be less than 48,501 short tons in 2002 as a result of the transformer breakdown.[10]

Exports to the United States increased from *** short tons in 1998 to *** short tons in 1999 and *** short tons in 2000. Exports to the United States as a share of total shipments increased from *** percent in 1998 to *** percent in 1999 and *** percent in 2000. Exports to the United States as a share of total exports increased from *** percent in 1998 to *** percent in 1999, and declined to *** percent in 2000. Hevensa reported that its primary market is Texas,[11] and that *** of its U.S. sales have been to Texas.[12]

U.S. Demand

Demand Characteristics

The level of U.S. aggregate demand for silicomanganese depends in large part upon the demand by steelmakers and producers of ferrous castings. At the public conference, Eramet reported that U.S. steel production generally declined during 1998, increased during 1999, rose again during the first half of 2000, and declined beginning in the third quarter of 2000.[13] Eramet reported that ***.[14]

Six importers reported that demand generally increased during 1998-2000. One importer reported that demand was constant, and one importer reported that demand varied. Those importers that reported increased demand cited increased U.S. steel production as the primary contributing factor. Two importers that reported increased demand during 1998-2000 also reported that demand decreased during the second half of 2000 as a result of lower U.S. steel production during that period.

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[8] Conference transcript, p. 85.

[9] ***. See also Hevensa's post-conference brief, pp. 4-5, and conference transcript, pp. 85-88.

[10] Hevensa's post-conference brief, p. 5, and conference transcript, p. 87.

[11] Conference transcript, p. 82.

[12] Hevensa's post-conference brief, p. 8.

[13] Conference transcript, pp. 46 and 48.

[14] Eramet's questionnaire response.

Based on Commission questionnaire responses and official statistics, the value of apparent U.S. consumption of silicomanganese declined by *** percent from *** in 1998 to *** in 1999. Apparent U.S. consumption increased by *** percent from *** in 1999 to *** in 2000.

Substitute Products

Eramet reported that a combination of high-carbon ferromanganese and ferrosilicon could be substituted for silicomanganese. At the public conference, Eramet reported that not all steelmakers can make this substitution of two ferroalloys for one. In particular, Eramet reported that most minimills are designed to handle one alloy rather than two, and do not have storage and handling facilities that would allow them to change to a two-alloy production method.[15] All of the responding importers reported that a combination of ferromanganese and ferrosilicon could be substituted for silicomanganese. One importer reported that the combination of high-carbon ferromanganese and ferrosilicon could be substituted for silicomanganese only with great difficulty and at higher cost.

Cost Share

Silicomanganese is used primarily in steel production as a source of both silicon and manganese (some silicomanganese is used as an alloying agent in iron production). Silicomanganese accounts for only a small share of the cost of steel production.

SUBSTITUTABILITY ISSUES

Eramet reported that U.S.-produced and imported silicomanganese are almost always used interchangeably (table II-1). However, Eramet conceded that imported low-carbon silicomanganese was not used interchangeably with domestic (non-low-carbon) silicomanganese.[16]

Eramet reported that there are *** differences in product characteristics or sales conditions between domestic and imported subject and nonsubject silicomanganese (table II-2).

*** reported that the low manganese content and high phosphorus content of Indian silicomanganese make it unsuitable for use by some mills, although *** reported that a blend of this and other product may make it more acceptable to some mills and end users.

*** reported that freight cost and timing affect price negotiation. *** reported that *** resulting in lower transportation costs for shipments from Venezuela as opposed to inland transportation from the U.S. producer.

[15] Conference transcript, p. 13.

[16] Conference transcript, pp. 61-62.

Table II-1
Silicomanganese: Interchangeability between country pair products, as reported by the U.S. producer and importers

Comparisons	Firms reporting always		Firms reporting frequently		Firms reporting sometimes		Firms reporting never	
	U.S. producer	Importers	U.S. producer	Importers	U.S. producer	Importers	U.S. producer	Importers
U.S. vs. India	1	4	-	5	-	1	-	-
U.S. vs. Kazakhstan	1	6	-	2	-	-	-	-
U.S. vs. Venezuela	1	6	-	2	-	-	-	-
U.S. vs. other countries	***	4	***	1	***	-	***	1
India vs. Kazakhstan	***	3	***	4	***	-	***	-
India vs. Venezuela	***	4	***	2	***	-	***	-
India vs. other countries	***	3	***	1	***	1	***	-
Kazakhstan vs. Venezuela	***	4	***	3	***	-	***	-
Kazakhstan vs. other countries	***	3	***	1	***	-	***	1
Venezuela vs. other countries	***	3	***	1	***	-	***	1

Source: Compiled from data submitted in response to Commission questionnaires and conference transcript, pp. 24 and 32.

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Table II-2
Silicomanganese: Differences in product characteristics or sales conditions between country pair products, as reported by the U.S. producer and importers

Comparisons	Firms reporting always		Firms reporting frequently		Firms reporting sometimes		Firms reporting never	
	U.S. producer	Importers	U.S. producer	Importers	U.S. producer	Importers	U.S. producer	Importers
U.S. vs. India	***	3	***	-	***	3	***	3
U.S. vs. Kazakhstan	***	-	***	-	***	4	***	2
U.S. vs. Venezuela	***	1	***	-	***	3	***	2
U.S. vs. other countries	***	2	***	-	***	1	***	2
India vs. Kazakhstan	***	-	***	-	***	3	***	1
India vs. Venezuela	***	1	***	-	***	3	***	1
India vs. other countries	***	2	***	1	***	1	***	1
Kazakhstan vs. Venezuela	***	1	***	-	***	3	***	1
Kazakhstan vs. other countries	***	3	***	-	***	1	***	1
Venezuela vs. other countries	***	3	***	-	***	1	***	1

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

Factors Affecting Purchasing Decisions[17]

Available data indicate that there are several factors that influence purchasing decisions for silicomanganese. Purchasers were asked to list the top three factors that they consider when choosing a supplier of silicomanganese. Table II-3 summarizes responses to this question. The results depicted in table II-3 are further supported by purchasers' responses to the question on how often their firm's purchasing decisions for silicomanganese are based on price and product quality.

Most responding purchasers (15 of 20) reported that they require suppliers to be certified for 100 percent of purchases. The time required for qualification ranged from 1 month to 9 months. Purchasers were also asked to rate the importance of 18 factors in their purchasing decisions (table II-4). Fifteen purchasers responded at least in part to this question.

[17] Information on purchasers was obtained from *Silicomanganese from Brazil, China, and Ukraine*, Invs. Nos. 731-TA-671-673 (Review), USITC Pub. 3386, January 2001, pp. II-8-9.

II-6

Table II-3
Silicomanganese: Ranking of factors used in purchasing decisions, as reported by U.S. purchasers

Factor	Number one	Number two	Number three	Other factors[1]
	Number of firms responding			
Quality	9	6	1	0
Price	8	7	6	0
Current availability	1	2	5	1
Chemistry	1	1	0	0
Payment terms, extension of credit	1	0	3	3
Specifications/size	1	3	2	0
Delivery reliability	0	0	3	3

[1] Other (fourth, fifth, and sixth) factors include reputation of firm, past performance of supplier, and prearranged contract.

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

Table II-4
Silicomanganese: Ranking of factor importance, as reported by U.S. purchasers

Factor	Very important	Somewhat important	Not important
	Number of firms responding		
Availability	15	-	-
Availability on contract	6	9	-
Delivery terms	10	5	
Delivery time	15	-	-
Discounts offered	10	5	-
Lowest price	12	3	-
Minimum quantity requirements	3	5	6
Packaging	6	6	2
Product consistency	15	-	-
Product quality	15	-	-
Percentage fines	13	2	-
Size of lumps	13	1	-
Consistency of lump size	13	2	-
Product range	3	7	3
Reliability of supply	15	-	-
Technical support/service	3	12	-
Transportation network	9	6	-
U.S. transportation costs	6	8	1
Other[1]	2	-	-

[1] Other factors included ISO Certification and payment terms (reported as very important by one firm each).

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

II-7

Purchasers were asked how many suppliers they contact before making a purchase. The 21 responding purchasers reported that they contact between 1 and 15 suppliers, with 5.5 suppliers contacted being the average. When asked whether purchasers specifically order silicomanganese from one country in particular, 16 responding purchasers reported that they do not order based on country of origin. In other words, once the quality of any particular supplier is approved or certified, the product is easily substituted for the product of any other certified supplier.[18]

Comparisons of Domestic Product and Subject Imports

Questionnaire respondents were asked to discuss the interchangeability between U.S.-produced silicomanganese and subject product. *** most subject and nonsubject importers reported that the U.S. product and the subject product could be used interchangeably. Most purchasers that compared U.S. and subject imported silicomanganese also reported that they could be used interchangeably in the same applications. None of the 21 purchasers specifically compared U.S. and subject imported silicomanganese on the same 18 factors discussed previously.

[18] One of these reporting purchasers reported having a "Buy American" policy. The two other purchasers that reported having a "Buy American" policy did not answer this question.

II-8

PART III: U.S. PRODUCER'S PRODUCTION, SHIPMENTS, INVENTORIES, AND EMPLOYMENT

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the alleged margins of dumping was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the other factors specified is presented in this section and/or Part VI and (except as noted) is based on the questionnaire response of Eramet Marietta Inc., the sole U.S. producer of silicomanganese during the period investigated.

U.S. PRODUCER

Eramet Marietta Inc., located in Marietta, OH, is wholly-owned by Eramet Manganese Alliages of France and is affiliated with other silicomanganese producers in Norway, France, and Italy. Eramet SA purchased the Marietta facility from Elkem A/S, a Norwegian company, on July 1, 1999, and formed Eramet Marietta Inc. (Eramet). Eramet has not experienced any significant changes in its production capacity throughout the period investigated. The production and related workers and equipment used to produce silicomanganese are not used to make any other products.

Table III-1 presents Eramet's capacity, production, capacity utilization, shipments, inventories, and employment data for 1998, 1999, and 2000.

Table III-1
Silicomanganese: U.S. production capacity, production, capacity utilization, shipments, end-of-period inventories, and employment-related indicators, 1998-2000

* * * * * * *

U.S. PRODUCER'S ***

***. Table III-2 presents ***.[1] ***.

Table III-2
Silicomanganese: U.S. producer's *, 1998-2000**

* * * * * * *

[1] Eramet's producer questionnaire, ***.

PART IV: U.S. IMPORTS, APPARENT CONSUMPTION, AND MARKET SHARES

U.S. IMPORTERS

The Commission sent importer questionnaires to 33 firms believed to have imported silicomanganese between January 1998 and December 2000, and received usable data from 10 of the firms.[1] Based on Commerce data for the period investigated, firms responding to the Commission's questionnaire accounted for 78.4 percent of total subject imports and 76.0 percent of nonsubject imports. Reporting firms accounted for a low of *** percent of official imports from Venezuela to a high of *** percent of official imports from Kazakhstan. Regarding imports in 2000, reporting firms accounted for 88.2 percent of imports from subject countries and 62.3 percent of imports from nonsubject countries. Reporting firms accounted for the following percentages of 2000 imports from the individual countries, based on official statistics: India - ***, Kazakhstan - ***, and Venezuela - ***.

*** of the reporting firms imported silicomanganese from all three of the countries being investigated during the period for which data were collected. *** reported imports from Kazakhstan and *** and Minerais U.S., were identified in the Customs Net Import File as importing from Venezuela. Three firms reported importing from India: *** and Minerais U.S. Of the firms reporting imports from India, Kazakhstan, and Venezuela, only *** reported importing from nonsubject countries as well.

***.

U.S. IMPORTS

Subject silicomanganese imports from India, Kazakhstan, Venezuela, and from all nonsubject countries for the period for which data were collected appear in table IV-1. Imports of silicomanganese from countries not subject to these investigations (primarily from South Africa, Australia, and Mexico) were present in the U.S. market in 2000. The import data presented are official Commerce statistics for subheading 7202.30.00 of the HTSUS. Although it is possible for some silicomanganese to enter the United States under HTSUS statistical reporting number 7202.99.5040, all of the importers identified by the Customs Net Import File as importing product only under 7202.99.5040 responded that they had not imported silicomanganese between January 1998 and December 2000. As previously discussed, low-carbon silicomanganese should be entered under HTSUS 7202.99.5040, ***.

CUMULATION CONSIDERATIONS

In assessing whether imports compete with each other and with the domestic like product, the Commission has generally considered four factors: fungibility; presence of sales or offers to sell in the same geographical markets; common or similar channels of distribution; and simultaneous presence in the market. Issues concerning fungibility are addressed in Parts I and II of this report and channels of distribution are discussed in Part I; geographical markets and simultaneous presence in the market are discussed below.

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[1] Eleven firms reported that they did not import silicomanganese from any country during the period for which data were collected and 12 firms did not respond to the Commission's questionnaires. One firm, ***, reported that ***. Telephone conversation with ***, April 24, 2001.

Table IV-1
Silicomanganese: U.S. imports, by sources, 1998-2000

Source	1998	1999	2000
		Quantity (*short tons*)	
India[1]	46,179	11,982	66,685
Kazakhstan	2,927	30,585	73,189
Venezuela	19,511	18,604	26,565
Subtotal	68,616	61,170	166,439
Other sources	313,270	270,178	250,371
Total	381,886	331,348	416,810
		Value (*1,000 dollars*)[2]	
India[1]	20,952	4,778	28,274
Kazakhstan	1,237	11,444	29,633
Venezuela	8,608	6,994	11,315
Subtotal	30,797	23,217	69,223
Other sources	141,178	108,910	113,273
Total	171,976	132,126	182,496
		Unit value (*per short ton*)	
India[1]	$453.72	$398.76	$423.99
Kazakhstan	422.56	374.18	404.89
Venezuela	441.22	375.97	425.94
Average	448.84	379.54	415.90
Other sources	450.66	403.10	452.42
Average	450.33	398.75	437.84
		Share of quantity (*percent*)	
India	12.1	3.6	16.0
Kazakhstan	0.8	9.2	17.6
Venezuela	5.1	5.6	6.4
Subtotal	18.0	18.5	39.9
Other sources	82.0	81.5	60.1
Total	100.0	100.0	100.0

Table continued on next page.

IV-2

Table IV-1--*Continued*
Silicomanganese: U.S. imports, by sources, 1998-2000

Source	1998	1999	2000
	Share of value (*percent*)		
India	12.2	3.6	15.5
Kazakhstan	0.7	8.7	16.2
Venezuela	5.0	5.3	6.2
Subtotal	17.9	17.6	37.9
Other sources	82.1	82.4	62.1
Total	100.0	100.0	100.0

[1] The figures in the table include the quantities and values of low-carbon silicomanganese imported from India. ***.

[2] Landed, duty-paid.

Note.–Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from official Commerce statistics.

Geographical Markets

Silicomanganese produced in the United States is shipped nationwide. During the conference, the Venezuelan respondents claimed that their product is sold essentially only to customers in Texas and that Eramet does not make many sales to Texan customers.[2] Eramet refutes this claim, stating that it regularly makes sales and offers to sell in the Texas/Gulf and Southwest regions.[3] No other respondents claimed to have a limited regional presence in the U.S. market. Table IV-2 presents U.S. imports of silicomanganese, by country, according to regions through which they entered (in percent).

Table IV-2
Silicomanganese: U.S. imports, by regions and by sources, 1998-2000

Source	East region	Gulf region	Great Lakes region	West region	Total
India	0.3	99.3	0.3	0.0	100.0
Kazakhstan	6.2	93.8	0.0	0.0	100.0
Venezuela	4.8	95.2	0.0	0.0	100.0
All subject	3.4	96.5	0.1	0.0	100.0

Source: Compiled from official Commerce statistics.

[2] Conference transcript, pp. 82-83.

[3] Petitioners' post-conference brief, pp. 19-20. Eramet did not provide data on its sales specifically to Texas, although it did provide data on its sales to ***, which amounted to *** in 1998, *** in 1999, and *** in 2000. Ibid.

IV-3

Presence in the Market

Silicomanganese produced in the United States was present throughout the period for which data were collected. Based on official Commerce statistics, imports of silicomanganese from India, Kazakhstan, or Venezuela entered the United States in all but 2 of the 36 months from January 1998 through December 2000. Although imports from all 3 countries were present in only 6 of the 36 months, imports from at least 2 of the countries were present in 22 of the 36 months. Imports from Kazakhstan increased their presence in the U.S. market from 1 month in 1998 to 9 months in 2000. Table IV-3 presents the number of months in each year that subject imports from the three countries entered the United States.

Table IV-3
Silicomanganese: U.S. imports, monthly entries into the United States, by sources, 1998-2000

Source	1998	1999	2000	Total
India	10	4	8	22
Kazakhstan	1	7	9	17
Venezuela	7	8	8	23

Source: Compiled from official Commerce statistics.

APPARENT U.S. CONSUMPTION

Data on apparent consumption of silicomanganese are based on the sole U.S. producer's shipments as reported in the Commission questionnaire and imports based on official Commerce statistics. Consumption of silicomanganese decreased from 1998 to 1999 and then increased in 2000 to the highest level during the period examined. Data on apparent U.S. consumption are presented in table IV-4.

Table IV-4
Silicomanganese: Eramet's U.S. shipments, U.S. imports, by sources, and apparent U.S. consumption, 1998-2000

Item	1998	1999	2000
	Quantity (*short tons*)		
U.S. producers' U.S. shipments	***	***	***
U.S. imports from--			
India	46,179	11,982	66,685
Kazakhstan	2,927	30,585	73,189
Venezuela	19,511	18,604	26,565
All subject countries	68,616	61,170	166,439
Nonsubject countries	313,270	270,178	250,371
All countries	381,886	331,348	416,810
Apparent U.S. consumption	***	***	***

Table continued on next page.

Table IV-4--*Continued*
Silicomanganese: Eramet's U.S. shipments, U.S. imports, by sources, and apparent U.S. consumption, 1998-2000

Item	1998	1999	2000
	Value (*1,000 dollars*)		
U.S. producers' U.S. shipments	***	***	***
U.S. imports from--			
India	20,952	4,778	28,274
Kazakhstan	1,237	11,444	29,633
Venezuela	8,608	6,994	11,315
All subject countries	30,797	23,217	69,223
Nonsubject countries	141,178	108,910	113,273
All countries	171,976	132,126	182,496
Apparent U.S. consumption	***	***	***

Note.–Because of rounding, figures may not add to the totals shown.

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

U.S. MARKET SHARES

The market shares of U.S. producers, as well as imports from the subject countries and all other sources, based on apparent consumption of silicomanganese, are presented in table IV-5.

Table IV-5
Silicomanganese: U.S. consumption and market shares, 1998-2000

* * * * * * *

NEGLIGIBILITY

The statutory provision defining "negligibility" provides that imports from a subject country that are less than 3 percent of the volume of all such merchandise imported into the United States, in the most recent 12-month period for which data are available that precedes the filing of the petition shall be deemed negligible. Since official Commerce import data for March 2001 were not available in time for the staff report, the data provided in the following tabulation are for the 12-month period March 2000-February 2001:

IV-5

Source	Quantity *(short tons)*	Share *(percent)*
India	58,945	16.7
Kazakhstan	67,045	18.9
Venezuela	23,920	6.8
Total subject	149,910	42.3
Other sources	204,172	57.7
All sources	354,082	100.0

IV-6

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

Eramet reported that raw material costs to produce silicomanganese accounted for *** percent of cost of goods sold in 1998, *** percent in 1999, and *** percent in 2000.

Transportation Costs to the U.S. Market

Transportation costs for the subject silicomanganese from India, Kazakhstan, and Venezuela (excluding U.S. inland costs) are estimated to be approximately 8.0 percent, 4.2 percent, and 7.3 percent, respectively, of the total cost of silicomanganese. This estimate is derived from January-December 2000 official import data, for HTSUS subheading 7202.30, and represent the transportation and other charges on imports on a c.i.f. basis, as compared with customs value.

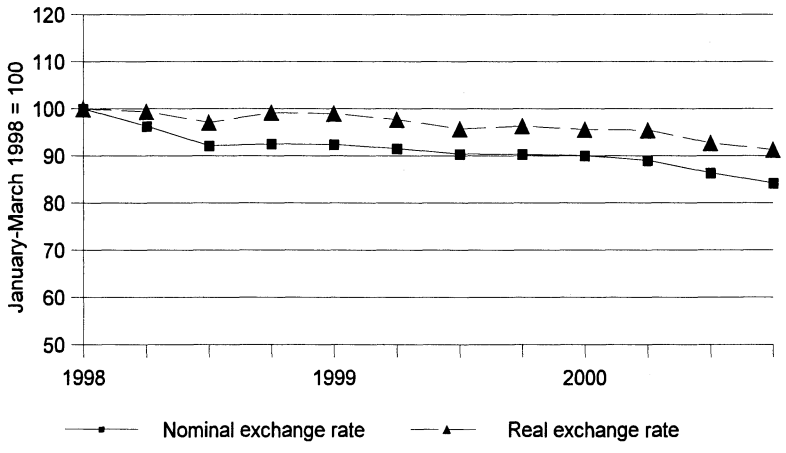
U.S. Inland Transportation Costs

Eramet reported that U.S. inland transportation costs accounted for approximately *** percent of the total delivered price of silicomanganese. All importers of nonsubject product reported transportation costs, which accounted for between 3 percent and 7 percent of the silicomanganese delivered price.

EXCHANGE RATES

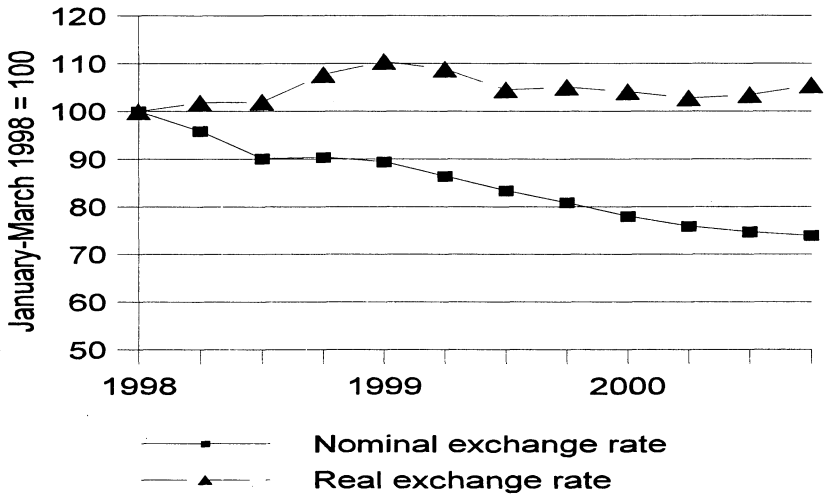
Annual exchange rates relative to the U.S. dollar reported by the International Monetary Fund for India, Kazakhstan, and Venezuela for the period examined are shown in figures V-1, V-2, and V-3.

Figure V-1
Exchange rates: Indexes of the nominal and real exchange rates of the Indian rupee relative to the U.S. dollar, by quarter, January 1998-December 2000



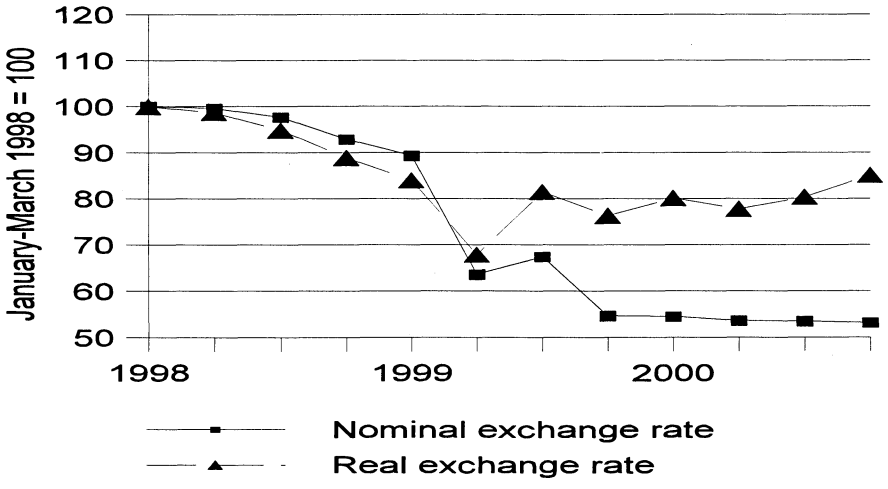
Source: International Monetary Fund, *International Financial Statistics*, April 2001.

Figure V-2
Exchange rates: Indexes of the nominal and real exchange rates of the Kazakh tengee relative to the U.S. dollar, by quarter, January 1998-December 2000



Source: International Monetary Fund, *International Financial Statistics*, April 2001.

Figure V-3
Exchange rate: Indexes of the nominal and real exchange rates of the Venezuelan bolivar relative to the U.S. dollar, by quarter, January 1998-December 2000



Source: International Monetary Fund, *International Financial Statistics*, April 2001.

V-2

PRICING PRACTICES

Silicomanganese is sold by weight and grade. Prices differ by the type of silicomanganese, chiefly determined by manganese and silicon content. In some sales, there are deductions determined by the levels of impurities. Price data for silicomanganese are publicly available in the publications *Metals Week* and *Ryan's Notes*.

Eramet negotiates prices on a transaction-by-transaction basis and by contract for multiple shipments. Approximately *** percent of Eramet's sales are on a contract basis and *** percent are on a spot basis.[1] ***.[2]

PRICE DATA

The Commission requested U.S. producers and importers to provide quantity and f.o.b. value data for sales of silicomanganese that were shipped to unrelated customers in the U.S. market. Data were requested for the period January 1998–December 2000. The products for which pricing data were requested are as follows:

Product 1–ATSM grade B bulk silicomanganese sold to steel producers under contracts (of at least 3 months in duration)

Product 2–ATSM grade B bulk silicomanganese sold to steel producers as spot sales.

Eramet and importers of subject product provided limited usable pricing data for sales of the requested products. Eramet provided pricing for both products for all quarters.[3] Four importers reported pricing data for at least one product for at least one quarter (three had imports from India, one from Kazakhstan, and one from Venezuela).[4]

Price Trends

U.S. f.o.b. prices of silicomanganese declined from the first quarter of 1998 through the first half of 1999. U.S. prices recovered from the second half of 1999 through the first half of 2000, and began declining in the second half of 2000.

Price Comparisons

Table V-1 shows f.o.b. price comparisons between U.S. and Indian product 1 and product 2. Two instances of underselling (*** and *** percent) were reported for product 1 (in the fourth quarter of 1999 and in the first quarter of 2000), and one instance of underselling (*** percent) was reported for product 2 (in the third quarter of 2000). There were 10 quarterly comparisons of overselling for product 1 (between *** and *** percent), and 1 quarter of overselling for product 2 (*** percent).

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[1] Eramet's questionnaire.

[2] Ibid.

[3] Pricing data account for *** percent of Eramet's U.S. shipments during 1998-2000.

[4] Pricing data account for the following shares of official imports during 1998-2000: *** percent (India), *** percent (Kazakhstan), and *** percent (Venezuela).

Table V-1
Silicomanganese: Weighted-average f.o.b. prices and quantities of domestic and imported Indian products 1 and 2 and margins of underselling/(overselling), by quarters, January 1998-December 2000

* * * * * * *

Table V-2 shows f.o.b. price comparisons between U.S. and Kazakh product 1 and product 2. Six instances of underselling (between *** and *** percent) were reported for product 1 (in the fourth quarter of 1998, the first quarter of 1999, and in all of 2000), and 2 instances of underselling (*** and *** percent) were reported for product 2 (in the fourth quarter of 1998 and in the third quarter of 2000). There were 3 quarterly comparisons of overselling for product 1 (*** to *** percent), and 6 quarters of overselling for product 2 (between *** and *** percent).

Table V-2
Silicomanganese: Weighted-average f.o.b. prices and quantities of domestic and imported Kazakh products 1 and 2 and margins of underselling/(overselling), by quarters, January 1998-December 2000

* * * * * * *

Table V-3 shows f.o.b. price comparisons between U.S. and Venezuelan product 1. Only one instance of underselling (in the second quarter of 2000) was reported (*** percent). In the remaining 8 quarters for which pricing comparisons were possible, the Venezuelan product oversold the domestic product by between *** and *** percent.

Table V-3
Silicomanganese: Weighted-average f.o.b. prices and quantities of domestic and imported Venezuelan product 1 and margins of underselling/(overselling), by quarters, January 1998-December 2000

* * * * * * *

LOST SALES AND LOST REVENUES

The Commission requested U.S. producers of silicomanganese to report any instances of lost sales and lost revenues they experienced due to competition from imports from India, Kazakhstan, and Venezuela during January 1998 through December 2000. The *** lost sales allegations totaled *** and involved *** short tons of silicomanganese. The *** lost revenue allegations totaled *** and involved *** short tons of silicomanganese. Staff contacted all *** cited purchasers and a summary of the information obtained is presented in table V-4 (lost sales allegations) and V-5 (lost revenues allegations).

* * * * * * *

Table V-4
Silicomanganese: U.S. producer's lost sales allegations

* * * * * * *

Table V-5
Silicomanganese: U.S. producers' lost revenue allegations

* * * * * * *

V-4

PART VI: FINANCIAL EXPERIENCE AND CONDITION OF ERAMET

BACKGROUND

The sole U.S. producer of silicomanganese, Eramet, provided usable financial data.[1] Eramet SA (Eramet's parent company) purchased the silicomanganese production facility at Marietta, OH, from Elkem's parent company on July 1, 1999.[2] Besides the subject product, silicomanganese, Eramet manufactures several grades of ferromanganese and other manganese products, aluminum hardeners, and several other nonsubject products. Silicomanganese operations accounted for approximately *** percent and *** percent of the Marietta plant's net sales by quantity and value, respectively, and *** percent of its production in 2000, according to Eramet's questionnaire response.

OPERATIONS ON SILICOMANGANESE

Eramet reported *** of silicomanganese. Because the volume and value of Eramet's ***,[3] ***. The results of Eramet's silicomanganese operations during 1998-2000 are presented in table VI-1. Quarterly data were not requested in the Commission's questionnaire, but Eramet provided such data for the most recent five quarters. These data are presented in appendix E.

Table VI-1
Results of operations of Eramet in the production of silicomanganese, fiscal years 1998-2000

* * * * * * *

Total sales quantities increased from 1998 to 1999 and then decreased between 1999 and 2000, whereas sales values decreased from 1998 to 1999 and then increased between 1999 and 2000. Both quantity and value of sales were lower in 2000 than in 1998. The unit sales value decreased by about $*** per short ton between 1998 and 1999, then increased by about $*** per short ton between 1999 and 2000. The decrease in unit sales value was greater than the decline in unit cost of goods sold (COGS) between 1998 and 1999, leading to reduced profitability and *** in 1999. The subsequent increase in unit sales value between 1999 and 2000 was greater than that of unit COGS and ameliorated the effect of the decrease in the sales quantity on sales and income between those years, leading to improved

---

[1] Eramet's fiscal year ends on ***. Eramet reported for its own silicomanganese operations at Marietta, OH, from the purchase date of July 1, 1999, and for the silicomanganese operations of Elkem, the previous owner of the Marietta site, from 1998 to June 30, 1999. Eramet provided a product line income statement for 1999 and 2000 for the Marietta plant with its questionnaire response. The company's questionnaire response reconciled to those product line income statements. Eramet also provided the Commission with a copy of its audited financial statements for the period July 1 - December 31, 1999.

[2] Eramet SA entered into a purchase and sale agreement in January 1999 with Elkem to acquire certain assets and liabilities relating to the manufacturing plant at Marietta, OH, for approximately $***. On July 1, 1999, the closing date, Eramet SA transferred the assets and liabilities to a newly formed corporation, Eramet Marietta Inc., in exchange for that company's stock, which it transferred to Eramet Manganese Alliages (the "intermediate parent") in exchange for equity of $*** and a loan of $***. See Eramet Marietta Inc., Notes to Financial Statements (number 1, "Purchase of Business").

[3] ***.

VI-1

operating performance in 2000 (from *** to ***). Reported changes in sales also are supported by the pricing data that Eramet provided the Commission.[4]

During the recent reviews, Eramet stated that its per-unit cost of goods sold ***.[5] A "metal spread" may be defined as the difference in total dollars or in dollars per ton of silicomanganese between the sales price and the cost of a firm's raw material inputs, primarily manganese ore.[6] The "metal ratio" is the term for the metal spread as a percentage of the silicomanganese price. An increasing metal spread indicates a widening between a firm's sales value and its cost of raw materials, for example when a firm's sales price is rising faster than is the cost of its raw materials, or that the raw materials' costs are declining faster than a firm's sales price, whereas a decreasing metal spread indicates the opposite. Changes in the metal ratio indicate similar aspects of changes in the underlying factors.

Pursuant to the Commission's request, Eramet provided detailed cost data which are used in calculating the data shown in table VI-2; these data are comparable with those in table VI-1.

Table VI-2
Raw materials, energy costs, and metal spread of Eramet in the production of silicomanganese, 1998-2000

* * * * * * *

Changes in Eramet's operating income are further evidenced by a variance analysis that shows the effects of prices and volume on net sales and of costs and volume on its total costs (table VI-3). This analysis shows that the decrease in operating income between 1998 and 1999 of $*** was attributable primarily to an unfavorable variance on price that was only partially offset by favorable variances on net cost/expense and volume, whereas the increase in operating income between 1999 and 2000 of $*** was attributable to a $*** favorable price variance and a $*** favorable volume variance that were only partially offset by the unfavorable variance on net cost/expense.

Table VI-3
Variance analysis for the silicomanganese operations of Eramet, fiscal years 1998-2000

* * * * * * *

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[4] Pricing data products accounted for *** of Eramet's sales on an f.o.b. basis in 2000 (calculated by deducting freight costs from net sales reported in the financial section of the Commission's questionnaire). Generally, trends in unit sales values followed the pattern that was described earlier, decreasing between 1998 and 1999 and increasing between 1999 and 2000. Unit sales values *** fell between the third and fourth quarters of 2000.

[5] Eramet's posthearing brief in the review investigations, p. 10, *Silicomanganese from Brazil, China, and Ukraine*, Investigations Nos. 731-TA-671-673 (Review), USITC Pub. 3386, January 2001.

[6] Eramet provided data for the quantity, value, and sources of its manganese ore during 1998-2000. The average unit value declined from about $*** per ton to about $*** per ton of manganese ore between 1999 and 2000; the quantity consumed also fell between the two years, reflecting the lower sales of silicomanganese in 2000 compared with 1999. The costs of all other raw materials used in the production of silicomanganese (listed as ***) also declined between 1999 and 2000, reflecting the lower level of sales of the finished product.

CAPITAL EXPENDITURES, RESEARCH AND DEVELOPMENT EXPENSES, AND INVESTMENT IN PRODUCTIVE FACILITIES

Capital expenditures, research and development expenses, and the original cost and book value of property, plant, and equipment used in the production of silicomanganese are shown in table VI-4. Cost and book value in 1999 and 2000 reflect the purchase by Eramet of the Marietta, OH, plant; the increase in book value between 1998 and 1999 resulted from the markup of assets to fair value and resulted in higher annual charges for depreciation. Eramet stated that its capital expenditures have been to ***.

Table VI-4
Capital expenditures, research and development expenses, and the value of assets of Eramet with respect to silicomanganese, fiscal years 1998-2000

* * * * * * *

ALLEGED EFFECTS OF SUBJECT IMPORTS

Eramet's response to the question of whether it had experienced any actual negative effects on its return on investment, or its growth, investment, ability to raise capital, existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or the scale of capital investments as a result of imports of silicomanganese from India, Kazakhstan, and/or Venezuela (question III-9) is as follows:

* * * * * * *

Eramet's response to the question of whether it anticipates any negative impact of imports of silicomanganese from India, Kazakhstan, and/or Venezuela (question III-10) is as follows:

* * * * * * *

VI-3

PART VII: THREAT CONSIDERATIONS

The Commission analyzes a number of factors in making threat determinations (see 19 U.S.C. § 1677(7)(F)(i)). Information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in Part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows.

THE INDUSTRY IN INDIA

The petition stated that published sources indicated that "at least 21 Indian companies can produce silicomanganese" and listed 4 companies that it believed had exported the subject product to the United States: Indsil Electrosmelts Ltd. ("Indsil"), Ispat Alloys Ltd. ("Ispat"), Nava Bharat Ferro Alloys Ltd. ("Nava Bharat"), and Universal Ferro and Allied Chemicals Ltd. ("Universal").[1] The Commission requested and received complete data from these four firms. The data presented in table VII-1 are for Indsil, Ispat, Nava Bharat, and Universal, which reported that they believe that they accounted for *** percent of total silicomanganese production in India in 2000 and *** U.S. imports of silicomanganese from India.[2]

Table VII-1
Silicomanganese: Indian production capacity, production, shipments, and inventories, 1998-2000 and projected 2001-02

* * * * * * *

Silicomanganese accounted for *** percent of total sales of Indsil, Ispat, Nava Bharat, and Universal, respectively, in their most recent fiscal years. *** reported producing no other merchandise on the same equipment used to produce silicomanganese. *** Indian producers reported producing *** on the same equipment used to produce silicomanganese.

*** reported no changes or plans to change capacity. ***[3] ***. ***.

* * * * * * *

Other principal export markets for Indian silicomanganese include ***. No trade restrictions on Indian silicomanganese were reported. Data for Indsil, which produces only low-carbon silicomanganese, are presented in appendix table C-2 and data for the remaining three Indian producers, which produce no low-carbon silicomanganese, are presented in appendix table C-3.

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[1] Petition, vol. I, p. 12.

[2] Indsil reported that it accounted for *** percent of total Indian production of low-carbon silicomanganese and *** percent of low-carbon silicomanganese exports from India to the United States.

[3] Million volt-amperes: electric power consumption.

THE INDUSTRY IN KAZAKHSTAN

The petition listed JSC Yermak Ferro-Alloys ("Yermak") as the firm believed to be the primary manufacturer and exporter to the United States of the silicomanganese in Kazakhstan.[4] The petition also listed Temirtau Chemical and Steel Works ("Temirtau") as a firm believed to have started production of silicomanganese in Kazakhstan in the second half of 2000.[5] The Commission requested information and data from counsel for OJSC Transnational Company and Aksu Ferroalloy Plant, collectively known as "Kazchrome." The data presented in table VII-2 are for Kazchrome, which reported that it is *** of silicomanganese in Kazakhstan and that it accounts for *** subject exports from Kazakhstan to the United States.

Table VII-2
Silicomanganese: Kazakh production capacity, production, shipments, and inventories, 1998-2000 and projected 2001-02

* * * * * * *

Silicomanganese accounted for *** percent of Kazchrome's total sales in its most recent fiscal year. Kazchrome reported that it produces *** on the same equipment used to produce silicomanganese. Kazchrome reported that it ***. ***.

Other export markets for Kazakh silicomanganese include ***. Kazchrome reported that no other WTO member imposes trade restrictions on Kazakh silicomanganese.

THE INDUSTRY IN VENEZUELA

The petition listed Hornos Electricos de Venezuela SA ("Hevensa") as the only firm in Venezuela to manufacture and export to the United States the subject merchandise.[6] The Commission requested and received complete information and data from Hevensa, the only producer and exporter of silicomanganese in Venezuela.[7] The data presented in table VII-3 are for Hevensa.

Table VII-3
Silicomanganese: Venezuelan production capacity, production, shipments, and inventories, 1998-2000 and projected 2001-02

* * * * * * *

Silicomanganese accounted for *** percent of Hevensa's total sales in its most recent fiscal year. Hevensa reported producing *** on the same equipment used to produce silicomanganese. In addition to the United States, export markets for Venezuelan silicomanganese include Colombia, Peru, Trinidad and Tobago, ***, and Mexico.[8] Hevensa reported that no other WTO member maintains trade restrictions on Venezuelan silicomanganese.

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[4] Petition, p. 10.

[5] Petition, pp. 10-11.

[6] Petition, p. 13.

[7] Conference transcript, p. 81.

[8] Conference transcript, p. 86, ***.

VII-2

Hevensa stated at the conference that its high-voltage transformer broke down on December 29, 2000. Without the high-voltage transformer its capacity was reduced to 40 percent from January 1 to April 15, 2001, when it rented a transformer to increase its capacity to 60 percent of installed equipment. Hevensa predicts that since it will not be able to repair or replace the transformer until early 2002, it cannot export more than 9,000 short tons to the U.S. market in 2001 and 2002.[9]

U.S. IMPORTERS' INVENTORIES

Data on U.S. importers' inventories are presented in table VII-4.

Table VII-4
Silicomanganese: U.S. importers' end-of-period inventories of imports, by sources, 1998-2000

Item	1998	1999	2000
* * * * * * *			
Imports from all sources:			
Inventories *(short tons)*	63,942	87,964	98,500
Ratio to imports *(percent)*	34.8	29.0	26.0
Ratio to U.S. shipments of imports *(percent)*	42.2	31.9	27.0

Note.–Because of rounding, figures may not add to the totals shown.

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

U.S. IMPORTERS' RECENT ARRIVALS/CURRENT ORDERS

In its questionnaire, the Commission asked firms to report arrivals of and orders for imported subject merchandise from India, Kazakhstan, and Venezuela since December 31, 2000. Data on U.S. importers' recent arrivals and current orders, in short tons, are presented below.

* * * * * * *

[9] Conference transcript, pp. 80-87.

APPENDIX A

FEDERAL REGISTER NOTICES

A-1

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–929–931 (Preliminary)]

Silicomanganese From India, Kazakhstan, and Venezuela

AGENCY: United States International Trade Commission.

ACTION: Institution of antidumping investigations and scheduling of preliminary phase investigations.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping investigations Nos. 731–TA–929–931 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from India, Kazakhstan, and Venezuela of silicomanganese (also known as ferrosilicon manganese), provided for in subheadings 7202.30.00 and 7202.99.50 (statistical reporting numbers 7202.30.0000 and 7202.99.5040) of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping investigations in 45 days, or in this case by May 21, 2001. The Commission's views are due at the Department of Commerce within five business days thereafter, or by May 29, 2001.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: April 6, 2001.

FOR FURTHER INFORMATION CONTACT: Jeff Clark (202–205–3195), 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.—These investigations are being instituted in response to a petition filed on April 6, 2001, by Eramet Marietta Inc., Marietta, OH, and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5–0639, Belpre, OH.

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the Federal Register. Industrial users

and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on April 30, 2001, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Jeff Clark (202–205–3195) not later than April 26, 2001, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before May 3, 2001, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must 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 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: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: April 11, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–9515 Filed 4–17–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–307–820, A–533–823, and A–834–807]

Notice of Initiation of Antidumping Duty Investigations: Silicomanganese From Kazakhstan, India and Venezuela

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

ACTION: Initiation of antidumping duty investigations.

EFFECTIVE DATE: May 3, 2001.

FOR FURTHER INFORMATION CONTACT: Sally Gannon (India), Robert James (Venezuela), and Jean Kemp (Kazakhstan) at (202) 482–0162, (202) 482–0649, and (202) 482–4037, respectively; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Initiation of Investigations

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR Part 351 (2000).

The Petition

On April 6, 2001, the Department of Commerce (the Department) received a petition filed in proper form by the following parties: Eramet Marietta Inc. (Eramet) and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5–0639 (collectively, the petitioners). The Department received from the petitioners information supplementing the petition throughout the 20-day initiation period.

In accordance with section 732(b) of the Act, the petitioners allege that imports of silicomanganese from Kazakhstan, India, and Venezuela are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring an industry in the United States.

The Department finds that the petitioners filed this petition on behalf of the domestic industry because they are interested parties as defined in sections 771(9)(C) and 771(9)(D) of the Act and have demonstrated sufficient industry support with respect to each of the antidumping investigations that they are requesting the Department to initiate (*see* the *Determination of Industry Support for the Petitions* section below).

Scope of Investigations

For purposes of these investigations, the products covered are all forms, sizes and compositions of silicomanganese, including silicomanganese briquettes, fines and slag. Silicomanganese is a ferroalloy composed principally of manganese, silicon and iron, and normally contains much smaller proportions of minor elements, such as carbon, phosphorous and sulfur. Silicomanganese is sometimes referred to as ferrosilicon manganese. Silicomanganese is used primarily in steel production as a source of both silicon and manganese. Silicomanganese generally contains by weight not less than 4 percent iron, more than 30 percent manganese, more than 8 percent silicon and not more than 3 percent phosphorous. Silicomanganese is properly classifiable under subheading 7202.30.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Some silicomanganese may also be classified under HTSUS subheading 7202.99.5040. This petition covers all silicomanganese, regardless of its tariff classification. Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, our written description of the scope remains dispositive.

During our review of the petition, we discussed the scope with the petitioners to ensure that it accurately reflects the product for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations (62 FR 27323), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments by May 17, 2001. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determinations.

Determination of Industry Support for the Petition

Section 771(4)(A) of the Act defines the "industry" as the producers of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to the law.[1]

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition. Moreover, the petitioners do not offer a definition of domestic like product distinct from the scope of the investigation.

In this case, "the article subject to investigation" also is substantially similar to the scope of the Department's antidumping duty order involving silicomanganese published in 1994. *See Notice of Antidumping Duty Order: Silicomanganese From the People's Republic of China (PRC)*, 59 FR 66003 (December 22, 1994). Thus, based on our analysis of the information

[1] *See Algoma Steel Corp. Ltd., v. United States*, 688 F. Supp. 639, 642–44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass Therefore from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 FR 32376, 32380–81 (July 16, 1991).

presented to the Department above and the information obtained and reviewed independently by the Department, we have determined that there is a single domestic like product which is defined in the *Scope of Investigations* section above, and have analyzed industry support in terms of this domestic like product.

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) At least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. The sole U.S. producer of the domestic like product, and the trade union which represents its workers, are petitioners in this case. Furthermore, the Department received no opposition to the petition. Therefore, we conclude that the domestic producers or workers who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petition. Thus, the requirements of section 732(c)(4)(A)(ii) are also met.

Accordingly, the Department determines that the petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. *See* the *Import Administration AD Investigation Checklist*, April 26, 2001 (*Initiation Checklist*) (public version on file in the Central Records Unit of the Department of Commerce, Room B–099).

Export Price and Normal Value

The following are descriptions of the allegations of sales at less than fair value upon which the Department has based its decision to initiate these investigations. The sources of data for the deductions and adjustments relating to home market price, U.S. price, constructed value (CV) and factors of production (FOP) are detailed in the *Initiation Checklist*. Where the petitioners obtained data from foreign market research, we contacted the researcher to establish its credentials and to confirm the validity of the information being provided. *See* Memorandum to the File, *Contacts with Source of Market Research for Antidumping Petition Regarding Imports of Silicomanganese from India and Kazakhstan*, April 23, 2001 (*Market Research for India and Kazakhstan*), and *see also* Memorandum to the File, *Contacts with Source of Market Research for Antidumping Petition Regarding Imports of Silicomanganese from Venezuela*, April 23, 2001 (*Market Research for Venezuela*). Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determinations, we may re-examine the information and revise the margin calculations, if appropriate. The anticipated period of investigation (POI) for the market economy countries is April 1, 2000, through March 31, 2001, while the anticipated POI for Kazakhstan, the non-market economy (NME) country, is October 1, 2000, through March 31, 2001.

Regarding the investigation involving the NME, the Department presumes, based on the extent of central government control in an NME, that a single dumping margin, should there be one, is appropriate for all NME exporters in the given country. *See, e.g., Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the PRC*, 59 FR 22585 (May 2, 1994). In the course of these investigations, all parties will have the opportunity to provide relevant information related to the issues of Kazakhstan's NME status and the granting of separate rates to individual exporters.

Lastly, export price (EP) was based on the data published by the U.S. International Trade Commission's dataweb, at *http://dataweb.usitc.gov/scripts/REPORT.asp (dataweb)*. This data, as presented, is FOB customs value. Specifically, the petitioners calculated the average unit values (AUVs) of silicomanganese entering the United States from India, Kazakhstan, and Venezuela during the respective POIs, excluding February and March 2001, and made the applicable adjustments to the AUVs. The margins calculated using this methodology are as follows: India, 5.89 to 86.98 percent; Kazakhstan, 164.29 percent; and Venezuela, 20.38 to 47.14 percent.

Because the Department considers the country-wide import statistics to calculate estimated margins to be sufficient for purposes of initiation, we have initiated these investigations based on the country-wide import statistics for the POI, excluding February and March 2001, for which data was not available, for each country, respectively.

India

Export Price

The petitioners based EP on the AUV of silicomanganese imported from India under the applicable HTSUS subheading, for the POI, excluding February and March 2001, based on the data published by the U.S. International Trade Commission's *dataweb*. This data, as presented, is FOB customs value. Net U.S. price was calculated by deducting foreign inland freight and brokerage and handling charges, which were based on foreign market research and inflated appropriately.

Normal Value

With respect to normal value (NV), the petitioners provided a home market price that was obtained from foreign market research for a grade, *i.e.*, silicon and carbon content, that is comparable or identical to that of the products exported to the United States which serve as the basis for EP. The petitioners state that the home market price quotation was ex-factory, and, therefore, they did not make any deductions for movement expenses from this price.

Although the petitioners provided information on home market prices, they also provided information demonstrating reasonable grounds to believe or suspect that sales of silicomanganese in the home market were made at prices below the fully absorbed cost of production (COP), within the meaning of section 773(b) of the Tariff Act, and requested that the Department conduct a country-wide sales-below-cost investigation.

Pursuant to section 773(b)(3) of the Tariff Act, COP refers to the total cost of producing the foreign-like product which includes the cost of manufacturing (COM), selling, general and administrative expenses (SG&A), and packing expenses. The petitioners calculated COM based on their own production experience, adjusted for known differences between costs incurred to produce silicomanganese in the United States and India, using publicly available data, foreign market research, and price quotes from suppliers. To calculate SG&A, petitioners relied upon the aggregate financial and cost data for the metals and chemicals sector in India published by the Reserve Bank of India (RBI). Based upon the comparison of the prices of the foreign like product in the home market to the calculated COP of the product, we find reasonable grounds to believe or suspect that sales of the foreign like product were made at prices below the COP, within the meaning of section 773(b)(2)(A)(i) of the Tariff Act. Accordingly, the Department is initiating a country-wide cost investigation. *See Initiation of Cost Investigations* section below.

Pursuant to sections 773(a)(4), 773(b) and 773(e) of the Tariff Act, petitioners

based NV for sales in India on CV. The petitioners calculated CV using the same COM and SG&A used to compute Indian home market costs. Consistent with section 773(e)(2) of the Tariff Act, petitioners included in CV an amount for profit. The petitioners calculated a profit amount using the data published by the RBI for the metals and chemicals processing and manufacturing sector.

The estimated dumping margin for India based on a comparison between EP and home market price is 5.89 percent. Based upon the comparison of EP to CV, the petitioners calculated an estimated dumping margin of 86.98 percent.

Kazakhstan

Export Price

The petitioners identified Joint Stock Corporation Yermak Ferro-Alloys (Yermak) and Temirtau Chemical and Metal Works (Temirtau) as the only producers of subject merchandise in Kazakhstan. The petitioners were unable to obtain specific sales or offers for sale of subject merchandise in the United States. Therefore, petitioners based EP on the AUVs for one ten-digit category of the HTSUS (7202.30.0000) on imports from Kazakhstan for the POI (excluding February and March 2001 because data were not available at the time of the petition filing). For the HTSUS category under examination, the petitioners calculated the import AUVs using the reported quantity and Customs value for imports as recorded in the U.S. Census Bureau's official IM–145 import statistics. We note that Customs import value as defined by Technical Documentation for US Exports and Imports of Merchandise on CD–ROM excludes U.S. import duties, freight, insurance and other charges incurred in bringing the merchandise to the United States. The petitioners calculated a net U.S. price by deducting from EP foreign inland freight to the port of exportation and brokerage and handling charges at the port of exportation. In order to calculate foreign inland freight, the petitioners determined that the distance by rail between each of the factories and the port exceeds 1,525 kilometers, and then applied an Indian rail rate as a surrogate. We note that the distance from both factories to the port of exportation appears to exceed 1,525 kilometers. For brokerage and handling charges at the port of exportation, petitioners used an Indian brokerage and handling rate as a surrogate. Both of these surrogate value rates, which were adjusted for inflation, were used in the Department's most recent final results of review in the Silicomanganese from the People's Republic of China antidumping case. *See Silicomanganese From the People's Republic of China: Notice of Final Results of Antidumping Administrative Review*, 65 FR 31514 (May 18, 2000) (Silicomanganese from the PRC).

Normal Value

The petitioners allege that Kazakhstan is an NME country, and in all previous investigations, the Department has determined that Kazakhstan is an NME. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Beryllium Metal and High Beryllium Alloys from the Republic of Kazakhstan*, 62 FR 2648, 2649 (January 17, 1997). Kazakhstan will be treated as an NME unless and until its NME status is revoked. Pursuant to section 771(18)(C)(i) of the Tariff Act, because Kazakhstan's status as an NME remains in effect, the petitioners determined the dumping margin using a factors of production (FOP) analysis.

For NV, the petitioners based the FOP, as defined by section 773(c)(3) of the Tariff Act, on the consumption rates of Eramet's silicomanganese plant in the United States, adjusted for known differences in electricity and electrode consumption. The petitioners assert that information regarding either Kazakhstan producers' consumption rates is not available, and have therefore assumed, for purposes of the petition, that producers in Kazakhstan use the same inputs in the same quantities as the petitioners use, except where a variance from the petitioners' cost model can be justified on the basis of available information. The petitioners argue that the use of the petitioners' FOP is conservative for the following reasons: (1) They have not made adjustments to Eramet's FOP for the increases in certain FOP by the Kazakh producers; and (2) they have used a certain surrogate value. Because this information is proprietary, *see* the *Initiation Checklist* (proprietary version) for details. Based on the information provided by the petitioners, we believe the petitioners' FOP methodology represents information reasonably available to the petitioners and is appropriate for purposes of initiating this investigation.

The petitioners assert that India is the most appropriate surrogate country for Kazakhstan because, pursuant to section 773(c), the Department calculates normal value in an NME antidumping investigation by valuing the FOP using values in a surrogate, market-economy country that (1) is at a comparable level of economic development to the NME and (2) is a significant producer of comparable merchandise. Also, petitioners state that Indian data are available for nearly all FOP used to manufacture silicomanganese. Based on the information provided by the petitioners, we believe that the petitioners' use of India as a surrogate country is appropriate for purposes of initiating this investigation.

In accordance with section 773(c)(4) of the Tariff Act, the petitioners valued FOP, where possible, on reasonably available, public surrogate data from India. Raw and process materials were primarily valued based on price quotes from an Indian supplier, foreign research conducted in India (including using Eramet's cost methodology for valuing silicomanganese fines), and Indian import statistics from the Monthly Statistics of the Foreign Trade of India, Volume II: Imports. (We note that petitioners did not directly value electrode paste but instead treated electrode paste as part of factory overhead, citing *Silicomanganese from the PRC*, in which the Department concluded that electrode paste may have been already included in the "stores and spares" overhead category. *See Issues and Decision Memorandum for the Antidumping Duty Administrative Review of Silicomanganese from the People's Republic of China—December 1, 1997 through November 30, 1998* (May 8, 2000). Also, we note that petitioners believe the correct approach is to directly value electrode paste because it is a direct input and to include "stores and spares" expenses in the numerator in the calculation of the factory overhead rate.) Labor was valued using the regression-based wage rate for Kazakhstan provided by the Department, in accordance with 19 CFR 351.408(c)(3). Electricity was valued using the rate for India published in a quarterly report of the OECD's International Energy Agency. For overhead, SG&A and profit, the petitioners, at the request of the Department, applied rates derived from the RBI for the Indian metals and chemicals sector. All surrogate values which fell outside the POI were adjusted for inflation based on the currency in which the source data were reported. The Indian wholesale price index, as published by the International Monetary Fund's International Financial Statistics, was used for these adjustments. Based on the information provided by the petitioners, we believe their surrogate values represent information reasonably available to the petitioners and are acceptable for

purposes of initiation of this investigation.

Based upon the comparison of EP to CV, the petitioners calculated an estimated dumping margin of 164.29 percent.

Venezuela

Export Price

The petitioners based EP on the AUV of silicomanganese imported from Venezuela under the applicable HTSUS subheading, for the POI, excluding February and March 2001, based on the data published by the U.S. International Trade Commission's *dataweb*. This data, as presented, is FOB customs value. Net U.S. price was calculated by deducting foreign inland, which was based on foreign market research.

Normal Value

Petitioners used data obtained from a foreign market researcher to determine the price charged in the home market. The price quote obtained by the researcher represents a selling price (exclusive of taxes) in U.S. dollars during the last half of 2000 and January and February 2001. Terms of sale were delivered. Petitioners then deducted an amount for inland freight. Information regarding inland freight charges in Venezuela was also obtained from the foreign market researcher. *See Initiation Checklist.*

Petitioners provided information demonstrating reasonable grounds to believe or suspect that sales of silicomanganese in the home market were made at prices below COP, within the meaning of section 773(b) of the Tariff Act, and requested that the Department conduct a sales-below-cost investigation for Venezuela.

As indicated above, pursuant to section 773(b)(3) of the Tariff Act, COP consists of the COM, SG&A, and packing. Petitioners calculated COM based on their own production experience, adjusted for known differences between cost incurred to produce silicon manganese in the United States and Venezuela using publicly available data and foreign market research. To calculate SG&A, petitioners relied on data obtained from the financial statement of HEVENSA, a Venezuelan steel producer. Based upon the comparison of the prices of the foreign like product in the home market to the calculated COP of the product, we find reasonable grounds to believe or suspect that sales of the foreign like product were made at prices below the COP, within the meaning of section 773(b)(2)(A)(i) of the Tariff Act. Accordingly, the Department is initiating a cost investigation for Venezuela. *See Initiation of Cost Investigations* section below.

Given the evidence of below-cost sales, petitioners also based NV on CV pursuant to sections 773(a)(4), 773(b) and 773(e) of the Tariff Act. The petitioners calculated CV using the same COM and SG&A used to compute Venezuelan home market costs. The petitioners did not include in CV an amount for profit. However, petitioners point out that, consistent with section 773(e)(2) of the Tariff Act, the Department has to include an amount for profit in its NV and CV calculations during the investigation.

The estimated dumping margin for Venezuela, based on a comparison between EP and home market price, is 20.38 percent. The estimated dumping margin for price-to-CV comparisons is 47.14 percent.

Initiation of Cost Investigations

As noted above, pursuant to section 773(b) of the Act, the petitioners provided information demonstrating reasonable grounds to believe or suspect that sales in the home markets of India and Venezuela were made at prices below the fully absorbed COP and, accordingly, requested that the Department conduct country-wide sales-below-COP investigations in connection with the requested antidumping investigations for these countries. The Statement of Administrative Action (SAA), submitted to the U.S. Congress in connection with the interpretation and application of the URAA, states that an allegation of sales below COP need not be specific to individual exporters or producers. SAA, H. Doc. 103–316, at 833(1994); *see also* 19 CFR 351.301(d)(2). The SAA, at 833, states that "Commerce will consider allegations of below-cost sales in the aggregate for a foreign country, just as Commerce currently considers allegations of sales at less than fair value on a country-wide basis for purposes of initiating an antidumping investigation."

Further, the SAA provides that "new section 773(b)(2)(A) retains the current requirement that Commerce have 'reasonable grounds to believe or suspect' that below cost sales have occurred before initiating such an investigation. 'Reasonable grounds' * * * exist when an interested party provides specific factual information on costs and prices, observed or constructed, indicating that sales in the foreign market in question are at below-cost prices." *Id.* Based upon the comparison of the adjusted prices from the petition for the representative foreign like products to their COPs, we find the existence of "reasonable grounds to believe or suspect" that sales of these foreign like products in the markets of India and Venezuela were made at prices below their respective COPs within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, the Department is initiating the requested country-wide cost investigations.

Fair Value Comparisons

Based on the data provided by the petitioners, there is reason to believe that imports of silicomanganese from India, Kazakhstan, and Venezuela are being, or are likely to be, sold at less than fair value.

Allegations and Evidence of Material Injury and Causation

The petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the individual and cumulated imports of the subject merchandise sold at less than NV. The petitioners contend that the industry's injured condition is evident in the declining trends in net operating profits, net sales volumes, profit-to-sales ratios, and capacity utilization. The allegations of injury and causation are supported by relevant evidence including U.S. Customs import data, lost sales, and pricing information. We have assessed the allegations and supporting evidence regarding material injury and causation, and have determined that these allegations are properly supported by accurate and adequate evidence and meet the statutory requirements for initiation (*see Initiation Checklist*).

Initiation of Antidumping Investigations

Based upon our examination of the petitions on silicomanganese, and the petitioners' responses to our supplemental questionnaire clarifying the petitions, as well as our conversations with the foreign market researcher who provided information concerning various aspects of the petition, we have found that it meets the requirements of section 732 of the Act. *See Initiation Checklist, Market Research for India and Kazakhstan*, and *Market Research for Venezuela.* Therefore, we are initiating antidumping duty investigations to determine whether imports of silicomanganese from India, Kazakhstan, and Venezuela are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is extended, we will make our preliminary determinations no later

than 140 days after the date of this initiation.

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representatives of the governments of India, Kazakhstan, and Venezuela. We will attempt to provide a copy of the public version of the petition to each exporter named in the petition, as appropriate.

International Trade Commission Notification

We have notified the ITC of our initiations, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will determine, no later than May 21, 2001, whether there is a reasonable indication that imports of silicomanganese from India, Kazakhstan, and Venezuela are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination for any country will result in the investigation being terminated with respect to that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act. Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistant Secretary for Import Administration.

Dated: April 26, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 01–11149 Filed 5–2–01; 8:45 am]

BILLING CODE 3510–DS–P

APPENDIX B

CONFERENCE WITNESSES

B-1

CALENDAR OF THE PUBLIC CONFERENCE

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

Subject: Silicomanganese from India, Kazakhstan, and Venezuela

Invs. Nos.: 731-TA-929-931 (Preliminary)

Date and Time: April 30, 2001 - 9:30 a.m.

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

In support of the petitions:

Verner, Liipfert, Bernhard, McPherson and Hand, Chartered
Washington, DC

Davis & Leiman P.C.
Washington, DC
on behalf of

Eramet Marietta Inc. and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5-0639

Russell D. Craig, CEO, Eramet Marietta Inc.
Thomas T. Pompili, Manager of Bulk Alloys, Eramet North America
Kenneth R. Button, Economic Consultant, Economic Consulting Services Inc.
Jennifer Lutz, Economic Consultant, Economic Consulting Services Inc.

William D. Kramer)
Clifford E. Stevens, Jr.)–OF COUNSEL
Karmi Leiman)

B-3

In opposition to the petitions:

Dorsey & Whitney LLP
Washington, DC

O'Melveny & Myers LLP
Washington, DC

Aitken Irvin Berlin & Vrooman, LLP
Washington, DC
on behalf of

Indian, Kazakh, and Venezuelan respondents

Hal Kohn, Vice President, Minerais U.S. LLC
Daniel Marx, Considar, Inc.
John Reilly, Nathan & Associates

Peggy Clarke)
Philippe M. Bruno)–OF COUNSEL
Rosa Jeong)
Bruce Aitken)

APPENDIX C

SUMMARY AND STATISTICAL DATA

C-1

Table C-1
Silicomanganese: Summary data concerning the U.S. market, 1998-2000

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

Item	Reported data			Period changes		
	1998	1999	2000	1998-2000	1998-99	1999-2000
* * *	*	*	*	*		
U.S. imports from--						
India:						
Quantity	46,179	11,982	66,685	44.4	-74.1	456.6
Value	20,952	4,778	28,274	34.9	-77.2	491.8
Unit value	$453.72	$398.76	$423.99	-6.6	-12.1	6.3
Ending inventory quantity	***	***	***	***	***	***
Kazakhstan:						
Quantity	2,927	30,585	73,189	2400.9	945.1	139.3
Value	1,237	11,444	29,633	2296.3	825.4	158.9
Unit value	$422.56	$374.18	$404.89	-4.2	-11.4	8.2
Ending inventory quantity	***	***	***	***	***	***
Venezuela:						
Quantity	19,511	18,604	26,565	36.2	-4.6	42.8
Value	8,608	6,994	11,315	31.4	-18.8	61.8
Unit value	$441.22	$375.97	$425.94	-3.5	-14.8	13.3
Ending inventory quantity	***	***	***	***	***	***
Subtotal:						
Quantity	68,616	61,170	166,439	142.6	-10.9	172.1
Value	30,797	23,217	69,223	124.8	-24.6	198.2
Unit value	$448.84	$379.54	$415.90	-7.3	-15.4	9.6
Ending inventory quantity	***	***	***	***	***	***
Other sources:						
Quantity	313,270	270,178	250,371	-20.1	-13.8	-7.3
Value	141,178	108,910	113,273	-19.8	-22.9	4.0
Unit value	$450.66	$403.10	$452.42	0.4	-10.6	12.2
Ending inventory quantity	***	***	***	***	***	***
All sources:						
Quantity	381,886	331,348	416,810	9.1	-13.2	25.8
Value	171,976	132,126	182,496	6.1	-23.2	38.1
Unit value	$450.33	$398.75	$437.84	-2.8	-11.5	9.8
Ending inventory quantity	63,942	87,964	98,500	54.0	37.6	12.0
* * *	*	*	*	*		

Note.–Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from unrounded figures.

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

Table C-2
Silicomanganese: Indsil's Indian production capacity, production, shipments, and inventories, 1998-2000 and projected 2001-02

* * * * * * *

C-3

Table C-3
Silicomanganese: The production capacity, production, shipments, and inventories of Indian producers, excluding Indsil, 1998-2000 and projected 2001-02

* * * * * * *

C-4

APPENDIX D

LOW-CARBON SILICOMANGANESE PRICING DATA

D-1

Table D-1
Low-carbon silicomanganese: Average f.o.b. prices and quantities of product imported from Indsil, by quarters, January 1998-December 2000

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D-3

APPENDIX E

ERAMET'S RESULTS OF OPERATIONS IN THE PRODUCTION OF SILICOMANGANESE, BY QUARTERS, JANUARY 2000 - MARCH 2001

E-1

Table E-1
Eramet's results of operations in the production of silicomanganese, by quarters, January 2000-March 2001

* * * * * * *

E-3