

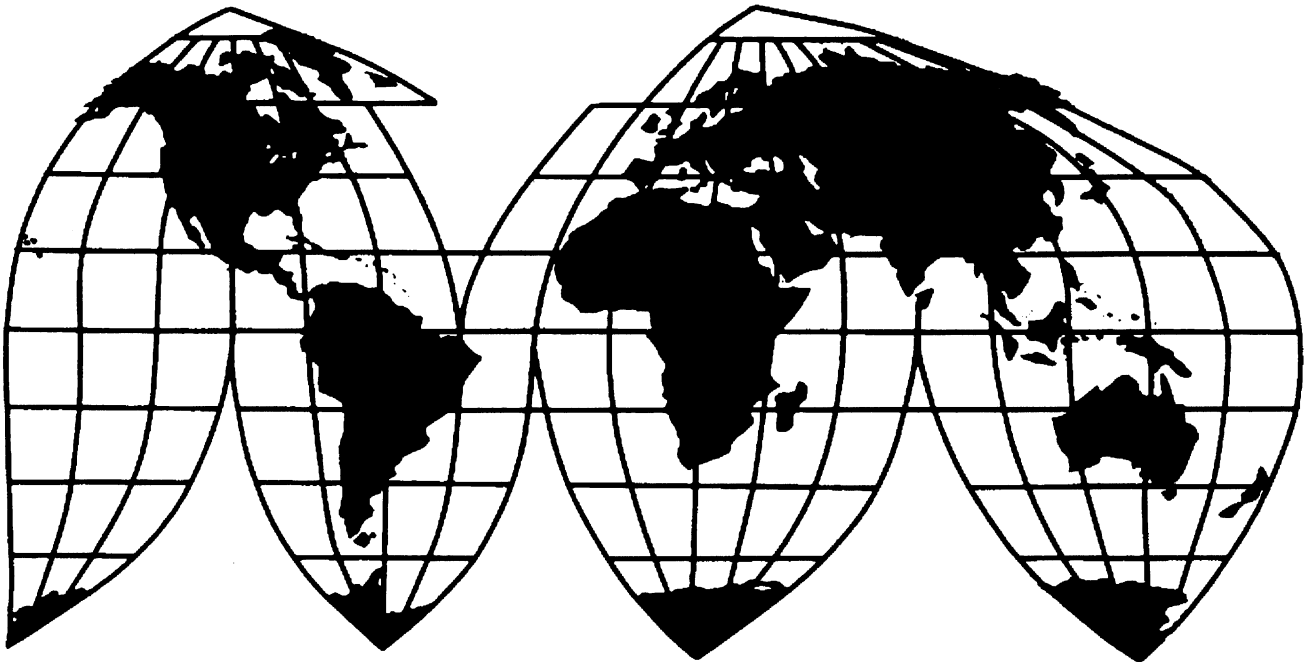
Silicomanganese From India, Kazakhstan, and Venezuela

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

Publication 3505

May 2002

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION

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

SILICOMANGANESE FROM INDIA, KAZAKHSTAN, AND VENEZUELA

DETERMINATIONS

On the basis of the record¹ developed in the subject investigations, the United States International Trade Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from India, Kazakhstan, and Venezuela of silicomanganese, provided for in subheading 7202.30.00 or statistical reporting number 7202.99.5040 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

BACKGROUND

The Commission instituted these investigations effective April 6, 2001, following receipt of a petition 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. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of silicomanganese from India, Kazakhstan, and Venezuela were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing 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 November 29, 2001 (66 FR 59596).² The hearing was held in Washington, DC, on April 2, 2002, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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 On January 14, 2002, the Commission published in the *Federal Register* a notice of revised schedule (67 FR 1783).

VIEWS OF THE COMMISSION

Based on the record in these investigations, we determine that an industry in the United States is materially injured by reason of imports of silicomanganese from India, Kazakhstan, and Venezuela that are sold in the United States at less than fair value (“LTFV”).

I. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. In General

In determining whether 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.”¹ Section 771(4)(A) of the Tariff Act of 1930, as amended (“the Act”), defines the relevant domestic 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.”² 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”³

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.⁴ No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.⁵ The Commission looks for clear dividing lines among possible like products and disregards minor variations.⁶ Although the Commission must accept the determination of the Department of Commerce (“Commerce”) as to the scope of the imported merchandise that has been found to be sold at less than fair value, the Commission determines what domestic product is like the imported articles Commerce has identified.⁷

¹ 19 U.S.C. § 1677(4)(A).

² 19 U.S.C. § 1677(4)(A).

³ 19 U.S.C. § 1677(10).

⁴ See, e.g., NEC Corp. v. Department of Commerce, 36 F. Supp.2d 380, 383 (Ct. Int’l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991) (“every like product determination ‘must be made on the particular record at issue’ and the ‘unique facts of each case’”). 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).

⁵ See, e.g., S. Rep. No. 96-249 at 90-91 (1979).

⁶ Nippon, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49; see also S. Rep. No. 96-249 at 90-91 (1979) (Congress has indicated that the like product standard should not be interpreted in “such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not ‘like’ each other, nor should the definition of ‘like product’ be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.”).

⁷ Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find single domestic like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-52 (affirming Commission determination of six domestic like products in investigations where Commerce found five classes or kinds).

B. Product Description

Commerce's final determination defines the imported merchandise within the scope of these investigations as:

the products covered are all forms, sizes and compositions of silicomanganese, except low-carbon 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 . . .

The low-carbon silicomanganese excluded from this scope is a ferroalloy with the following chemical specifications: minimum 55 percent manganese, minimum 27 percent silicon, minimum 4 percent iron, maximum 0.10 percent phosphorous, maximum 0.10 percent carbon and maximum 0.05 percent sulfur. Low-carbon silicomanganese is used in the manufacture of stainless steel and special carbon steel grades, such as motor lamination grade steel, requiring a very low carbon content. It is sometimes referred to as ferromanganese-silicon. Low-carbon silicomanganese is classifiable under HTSUS subheading 7202.99.5040.⁸

Silicomanganese is used primarily by the steel industry as a source of both silicon and manganese. Manganese is a steel desulfurizer and deoxidizer, and silicon is a deoxidizer.⁹

C. Domestic Like Product

In the preliminary phase of these investigations, the Commission found one like product consisting of silicomanganese.¹⁰ The only like product issue concerned the treatment of low-carbon silicomanganese, a product not produced domestically.¹¹

Commerce subsequently excluded low-carbon silicomanganese from the scope.¹² None of the parties in the final phase of these investigations opposed a like product definition coextensive with the scope of the investigations and no new evidence has been obtained in this final phase that would call into

⁸ See 67 Fed. Reg. 15531 (India), 15535 (Kazakhstan), and 15533 (Venezuela) (Apr. 2, 2002).

⁹ Confidential Report ("CR") at I-5; Public Report ("PR") at I-4.

¹⁰ Silicomanganese from India, Kazakhstan, and Venezuela, Inv. Nos. 731-TA-929-931 (Preliminary), USITC Pub. 3427 at 4-5 (May 2001) ("Preliminary Opinion"). Commerce's notice of initiation had not contained the language excluding low-carbon silicomanganese. 66 Fed. Reg. 22209 (May 3, 2001).

¹¹ Indian respondent Indsil Electrosmelts, Ltd. ("Indsil") argued that low-carbon silicomanganese should be a separate like product from other silicomanganese, but did not propose what domestically-produced product would be most similar to low-carbon silicomanganese.

¹² 67 Fed. Reg. 15531 (India), 15535 (Kazakhstan), and 15533 (Venezuela) (Apr. 2, 2002) see also Commerce's preliminary determinations at 66 Fed. Reg. 56644 (India), 56639 (Kazakhstan), and 56635 (Venezuela) (Nov. 9, 2001).

question such a like product definition. Consequently, we find a single domestic like product consisting of all forms, sizes, and compositions of silicomanganese, except low-carbon silicomanganese.

D. Domestic Industry

Section 771(4)(A) of the Act defines the relevant industry as the “domestic producers as a [w]hole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product”¹³ In defining the domestic industry, the Commission’s general practice has been to include producers of all domestic production of the 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.¹⁴

Based on our like product determination, we determine that there is a single domestic industry consisting of all domestic producers of silicomanganese, excluding low-carbon silicomanganese.^{15 16}

II. 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 in the U.S. market.¹⁷ In assessing whether subject imports compete with each other and with the

¹³ 19 U.S.C. § 1677(4)(A).

¹⁴ 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 & 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 generally, e.g., Oil Country Tubular Goods from Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain, Inv. Nos. 701-TA-363-364 (Final) and Inv. Nos. 731-TA-711-717 (Final), USITC Pub. 2911 (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”).

¹⁵ Eramet Marietta Inc. (“Eramet”) or its predecessor in interest, Elkem, was the sole domestic producer of silicomanganese during the period for which data were collected. CR at III-1, PR at III-1. We note, however, that in February 2002, Highlanders Alloys, LLC began production of silicomanganese in its recently acquired ferroalloy facility in New Haven, WV. CR at III-1, PR at III-1. Highlanders Alloys did not respond in writing to any of the Commission’s requests for information on its operations. In a telephone conversation, Highlanders Alloys told Commission staff that its three furnaces are each capable of producing approximately *** short tons per year, while other sources claim that Highlanders Alloys’ annual capacity is approximately 200,000 short tons. CR at III-1, n.1, PR at III-1, n.1. Therefore, even though Highlanders Alloys is included in the domestic industry, it is not included in the data set given that it began production after the end of the period for which the Commission gathered data.

¹⁶ There are no related parties issues in the final phase of these investigations. In the preliminary determination, the Commission found that *** but concluded that appropriate circumstances did not exist to exclude Eramet. Preliminary Determination at 5-6. Because *** Eramet is not a related party.

¹⁷ 19 U.S.C. § 1677(7)(G)(i).

domestic like product,¹⁸ 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.¹⁹

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.²⁰ Only a “reasonable overlap” of competition is required.²¹

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.²² For the reasons stated below, we find that 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 commodity product.²³ Most silicomanganese produced or sold in the United States, including subject imports from Kazakhstan and Venezuela, conforms to American Society for Testing and Materials

¹⁸ 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).

¹⁹ 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).

²⁰ See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int’l Trade 1989).

²¹ 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.”).

²² 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).

²³ Hearing Tr. at 13 (Flygar), at 22 (Pompili), at 29, 33 (Button), at 90 (Reilly), at 200 (Kramer), at 204 (Mowry) 6

(“ASTM”) specifications for grade B.²⁴ Imports of Silicomanganese from India have a slightly higher phosphorous content (0.3 percent instead of the 0.2 percent in ASTM grade B).²⁵ However, of the 11 importers who compared subject imports from India to the domestic like product, 10 found the products always or frequently interchangeable.²⁶ Generally, importers who compared the domestic like product to subject imports from Kazakhstan or Venezuela, or who compared subject imports to each other, found that the products were always or frequently interchangeable.²⁷

Purchasers view silicomanganese from Eramet and the subject suppliers as comparable for all purchasing factors,²⁸ and the vast majority (16 out of 18) reported that imported and domestic silicomanganese are used in the same applications.²⁹ Although purchasers typically did not view high-phosphorus silicomanganese as interchangeable with silicomanganese with lower phosphorus content, high-phosphorus silicomanganese may be used in up to 85 percent of applications and may be blended with other silicomanganese.³⁰ Among the purchasers with the ability to use high-phosphorus silicomanganese is the largest purchaser, Nucor-Yamato, which can and does utilize Indian silicomanganese unblended.³¹

Geographic Overlap. Domestically-produced silicomanganese is sold throughout the United States.³² The record indicates that subject imports from all three countries entered primarily in the Gulf region, but were sold in a number of states throughout the country.³³ Venezuelan respondents argued that virtually all subject imports from Venezuela are sold in the Gulf region where the U.S. industry does not compete. However, the record indicates that in 2000 Eramet sold silicomanganese in *** states (including Texas), India in ***, Venezuela in ***, and Kazakhstan in **. About ** percent of silicomanganese from Venezuela was sold in states with minimal (less than 1 percent of sales) Eramet presence (notably **), as were ** percent of silicomanganese from India and ** percent of silicomanganese from Kazakhstan. However, some ** percent of silicomanganese from Venezuela was sold into Eramet’s top three markets (**), as were ** percent of silicomanganese from India and ** percent of silicomanganese from Kazakhstan. Less than ** percent of silicomanganese from Venezuela

²⁴ CR at I-4, PR at I-3. The majority of subject imports from Venezuela in this investigation are Grade B, in contrast to the 1994 investigation of silicomanganese, wherein a substantial 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.

²⁵ CR at I-7 and n.16; PR at I-6 and n.16.

²⁶ See importers questionnaires at III-14.

²⁷ CR at II-12, PR II-8.

²⁸ CR at II-6, PR at II-4.

²⁹ CR at II-16, PR at II-11.

³⁰ CR at II-12-13 and ns.29-30, PR at II-8 and ns.29-30. A large portion of product imported from India is “high phos” silicomanganese. Such silicomanganese has a phosphorus content up to 0.3 percent, compared to 0.2 percent phosphorus in grade B silicomanganese. CR at I-7, n.16, II-1, II-12, PR at I-6, n.16, II-1, II-8. According to importer ***, high phos material is interchangeable with grade B silicomanganese in approximately 85 percent of domestic applications, 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. CR at II-12, PR at II-8. We therefore find a sufficient degree of fungibility between the Indian product and other subject imports as well as the domestic like product, despite the Indian product’s high phosphorous content.

³¹ Indian Respondents’ Posthearing Brief at 3 and Hearing Tr. At 58 (Pompili). See also, questionnaire response of Nucor-Yamato at 3 (indicating that silicomanganese from India accounted for **).

³² CR at II-1, PR at II-1.

³³ CR and PR Table IV-4.

was sold in the same states as silicomanganese from Kazakhstan, while the overlap between the other subject countries is substantially higher.³⁴ The record suggests, however, that the geographic overlap in sales between silicomanganese from Venezuela and Kazakhstan was higher in 1999.³⁵ Thus, we find that imports from all three subject countries and the domestic like product were present to a significant degree in the same geographic markets during the period examined.

Simultaneous Presence. Silicomanganese produced in the United States was present throughout the period for which data were collected.³⁶ Since at least the second half of 1999, silicomanganese from Eramet and from each of the subject suppliers has been sold in each quarter.³⁷ Silicomanganese from each of the subject sources was directly imported in approximately one-half of the 45 months for which data were collected,³⁸ and U.S. importers tended to hold substantial levels of inventory.³⁹ Although silicomanganese from all three countries was imported in only 6 of the 45 months observed, silicomanganese from at least two subject countries was imported in 25 of the 45 months.⁴⁰ Thus, we find that subject imports from all three subject countries and the domestic like product were simultaneously present in the U.S. market.

Channels of Distribution. The majority of the domestic like product is sold directly to end users, namely steel mills in the United States.⁴¹ Nearly all imports from *** are also sold directly to end users.⁴² In 1999, U.S. importer Consider shipped *** percent of silicomanganese from Kazakhstan to distributors, but in 2000 and interim 2001, the share of shipments declined to *** percent and *** percent respectively.⁴³ Consequently, we find that there is a reasonable overlap in channels of distribution among the subject imports from each country and the domestic like product.

Conclusion. Subject imports are fungible with each other and with the domestic like product. Imports from all three subject countries and the domestic like product were present to a significant degree in the same geographical markets during the period examined. Subject imports were widely available in the U.S. market throughout most of the period examined. In addition, the widespread presence of subject imports is reflected in the extensive quarterly sales data and in the presence of inventories of subject imports throughout the period examined.⁴⁴ Finally, most silicomanganese is sold, directly or indirectly, to the same type of end users, namely, steel makers. 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. Therefore, we have cumulated subject imports from India, Kazakhstan, and Venezuela for purposes of our material injury analysis.

³⁴ CR and PR Table IV-4.

³⁵ For example, in 1999, *** purchased *** short tons of silicomanganese from Kazakhstan and *** short tons of silicomanganese from Venezuela. Questionnaire response of *** at 3.

³⁶ CR and PR Table IV-8.

³⁷ CR and PR Tables V-1 and V-2.

³⁸ CR and PR Table IV-5.

³⁹ CR and PR Table VII-4 (subject inventory holdings typically exceeded *** percent of annual U.S. shipment volumes during the period examined). Thus it is likely that subject merchandise from all three countries was simultaneously present in the U.S. market throughout the period of investigation.

⁴⁰ CR at IV-8, PR at IV-6.

⁴¹ CR at I-8, PR at I-6.

⁴² CR at I-8, PR at I-6. See also Hearing Tr. at 115 (Reilly).

⁴³ CR at I-8, n.19, PR at I-6, n.19.

⁴⁴ CR and PR Tables V-1 and V-2 (quarterly sales); CR and PR Table VII-4 (inventories); CR and PR Tables D-1 and D-2 (quarterly purchases).

III. MATERIAL INJURY BY REASON OF SUBJECT IMPORTS

In the final phase of an antidumping duty investigation, the Commission determines whether an industry in the United States is materially injured by reason of the subject imports under investigation.⁴⁵ In making this determination, the Commission must consider the volume of the 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.⁴⁶ The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”⁴⁷ In assessing whether 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.⁴⁸ 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.”⁴⁹

For the reasons discussed below, we determine that the domestic industry is materially injured by reason of subject imports from India, Kazakhstan, and Venezuela that are sold in the United States at LTFV.

A. Conditions of Competition

Silicomanganese is used in the making of steel.⁵⁰ Demand for silicomanganese is closely tied to demand for steel.⁵¹ While it can be used by either basic oxygen furnace or electric arc furnace (“EAF”) mills, EAF mills are the primary consumers.⁵² EAF furnaces tend to use silicomanganese in production of long products, such as bars and structural shapes.⁵³ However, silicomanganese represents a relatively small share of the total cost of steelmaking, and the absolute price level of silicomanganese has little effect on steel makers’ demand for silicomanganese.⁵⁴

Overall domestic carbon and alloy steel production fell during 1998, increased during 1999, and then rose above 1998 levels in the first half of 2000 before declining in 2001.⁵⁵ 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 2000.⁵⁶ Apparent U.S. consumption was *** short tons in interim 2001 (January-September), substantially lower than interim 2000 when it was *** short tons.⁵⁷

⁴⁵ 19 U.S.C. § 1673d(b).

⁴⁶ 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).

⁴⁷ 19 U.S.C. § 1677(7)(A).

⁴⁸ 19 U.S.C. § 1677(7)(C)(iii).

⁴⁹ 19 U.S.C. § 1677(7)(C)(iii).

⁵⁰ CR at I-5, PR at I-4.

⁵¹ CR at II-5, PR at II-3.

⁵² CR at I-5, PR at I-4.

⁵³ CR at I-5, PR at I-4.

⁵⁴ CR at II-7, PR at II-4.

⁵⁵ See CR at II-5, PR at II-3; see also Conference Tr. at 46 and 48.

⁵⁶ CR and PR Table IV-7.

⁵⁷ CR and PR Table IV-7.

Eramet purchased Elkem's silicomanganese production facility in July 1999.⁵⁸ While silicomanganese is manufactured in the same facilities used to produce ferromanganese, switching between grades or types of manganese involves significant costs in terms of lost production, reduced productivity, or possible contamination of the high grade product.⁵⁹ Eramet's silicomanganese production furnace in Marietta, OH, has been dedicated to silicomanganese production since the early 1990s.⁶⁰ Because silicomanganese production is capital intensive, it requires high levels of capacity utilization for profitable operations.⁶¹ Even at full capacity, however, Eramet has been able to supply only a portion of domestic demand.⁶²

In February 2002, Highlanders Alloys, LLC re-opened the New Haven, WV, ferroalloy plant previously owned and operated by American Alloys.⁶³ A representative of Highlanders Alloys indicated that the company has three furnaces each capable of producing approximately *** short tons of silicomanganese per year, while other sources claim that Highlanders Alloys' annual capacity is approximately 200,000 short tons.⁶⁴

Silicomanganese is a commodity product, sold largely on the basis of price.⁶⁵ Purchasers named price as one of the top three most important factors in purchasing decisions more often than any other factor, including quality.⁶⁶ Most silicomanganese used by domestic purchasers conforms to ASTM grade B.⁶⁷ Most end users have certification requirements, but once those are met, end users rarely make purchasing decisions based on the origin of the silicomanganese.⁶⁸ Many steel producers in fact are not aware of the source of the silicomanganese they purchase.⁶⁹

Pricing data on silicomanganese are widely and rapidly available through published sources such as Ryan's Notes and Metals Week.⁷⁰ 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 generally do not provide much protection from market price fluctuations. Most contract sales of the domestic like product are ***.⁷¹

Historically, South Africa, Australia, and Mexico were the three leading sources of U.S. imports of silicomanganese.⁷² 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.

⁵⁸ CR at III-1; PR at III-1. Eramet is affiliated with other silicomanganese producers in Norway, France, and Italy. CR at III-2; PR at III-1.

⁵⁹ CR at I-7, PR at I-5.

⁶⁰ CR at I-7, n.15, PR at I-5, n.15.

⁶¹ Hearing Tr. at 62 (Button).

⁶² CR and PR Table C-1. See also Hearing Tr. at 30 (Button).

⁶³ CR at III-1 n.1, PR at III-1, n.1.

⁶⁴ CR at III-1 n.1, PR at III-1, n.1.

⁶⁵ Hearing Tr. at 13 (Flygar), at 22 (Pompili), at 29, 33 (Button), at 90 (Reilly), at 200 (Kramer), at 204 (Mowry).

⁶⁶ CR and PR Table II-3.

⁶⁷ CR at I-4, PR I-4.

⁶⁸ Petition at 27-28.

⁶⁹ Hearing Tr. at 13 (Flygar).

⁷⁰ CR at V-3, PR at V-3.

⁷¹ CR at V-3 - V-4, PR at V-3 - V-4.

⁷² Hearing Tr. at 96 (Reilly); CR and PR Table IV-3; Petitioner Prehearing Brief at exhibit 9.

market.⁷³ During interim 2001, Kazakhstan and India were comparable to Australia, and far surpassed Mexico in volume.⁷⁴

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.”⁷⁵

The volume of subject imports increased overall during the period examined from *** short tons in 1998 to *** short tons in 2000. Subject import volume and market share both declined from 1998 to 1999, at the same time apparent U.S. consumption declined,⁷⁶ but increased sharply between 1999 and 2000, rising *** percent.⁷⁷ Because subject import volume growth from 1999 to 2000 exceeded the *** percent growth in apparent U.S. consumption during that year 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.⁷⁸ In 2000, subject imports’ share rose to *** percent. In interim 2001, both apparent U.S. consumption and subject import volume declined relative to interim 2000.⁷⁹ However, the subject imports continued to hold *** percent of the U.S. market during interim 2001, despite a decline in subject import volume following the filing of the petition.⁸⁰

By contrast, the domestic industry could increase neither its U.S. shipments nor its market share when demand rose in 2000. U.S. shipments of domestically-produced silicomanganese rose from *** short tons in 1998 to *** short tons in 1999, but then decreased markedly to *** short tons in 2000.⁸¹ Domestic shipments increased from *** short tons in interim 2000 to *** short tons in interim 2001.⁸² Domestically-produced silicomanganese accounted for *** percent of apparent U.S. consumption in 2000, down from *** percent in 1999, and from *** percent in 1998.⁸³

The volume of nonsubject imports declined throughout the period examined, falling from *** short tons in 1998 to *** short tons in 1999, and then to *** short tons in 2000.⁸⁴ Nonsubject imports accounted for *** percent of domestic consumption in 1998, *** percent in 1999, and *** percent in

⁷³ CR and PR Table IV-3; Petitioner Prehearing Brief at exhibit 9.

⁷⁴ CR and PR Table IV-3; Petitioner Prehearing Brief at exhibit 9.

⁷⁵ 19 U.S.C. § 1677(7)(C)(i).

⁷⁶ CR and PR Tables IV-3 and C-1.

⁷⁷ CR and PR Table IV-3.

⁷⁸ CR and PR Table IV-7. Monthly subject import volume data, based on official Commerce statistics, show particularly high volumes from the second quarter of 2000 through the first quarter of 2001. See Petitioner Posthearing Brief at Exhibit 10.

⁷⁹ CR and PR Tables IV-3 and C-1. Subject imports decreased from *** short tons in interim 2000 to *** short tons in interim 2001. CR and PR Table IV-3.

⁸⁰ CR and PR Table IV-7; Petitioner Posthearing Brief at Exhibit 10 (monthly import data).

⁸¹ CR and PR Table IV-6.

⁸² CR and PR Table IV-6. Domestically-produced silicomanganese accounted for *** percent of apparent U.S. domestic consumption in interim 2000 and *** percent in interim 2001. CR and PR Table IV-7.

⁸³ CR and PR Table IV-7.

⁸⁴ CR and PR Table IV-3.

2000.⁸⁵ Nonsubject imports' share of apparent U.S. consumption was lower in interim 2001 than in interim 2000.⁸⁶

As stated above, the increase in subject imports during the period examined, particularly 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 in 2000 came at the expense of both nonsubject imports and the domestic industry.⁸⁷ The subject imports retained most of this market share increase in interim 2001 even as quantities declined. In addition, although the volume of subject imports began to decline in 2001, after the petition was filed, substantial quantities of inventories remained in the U.S. market. Inventories of subject imports increased by 294.6 percent between 1998 and 2000, and remained at 49,855 short tons in interim 2001 as compared to 49,900 short tons for full-year 2000.⁸⁸

We find that both the absolute and relative volume of cumulated subject imports, 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 –

(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.⁸⁹

As stated above, silicomanganese is a commodity product and is sold largely on the basis of price.⁹⁰ Pricing information is widely disseminated and exerts rapid influence on the market.⁹¹ Indeed,

⁸⁵ CR and PR Table C-1.

⁸⁶ CR and PR Table C-1.

⁸⁷ We have considered the arguments by respondents that Eramet's total sales of silicomanganese *** and that subject import growth did not come at the expense of Eramet. See, e.g., Kazakh Respondents Posthearing Brief at 5-7 and exhibits 5-7; Venezuelan Respondent Posthearing Brief at 3. We find, however, that this argument does not explain the fluctuations in Eramet's production and loss of market share, particularly during 2000. First, the large majority of imports required by Eramet ***. Compare CR and PR at III-1 with CR and PR at Table III-2. Second, in 2000, Eramet sourced *** short tons of imported silicomanganese, primarily in the ***. CR and PR at Table III-2. In that same year, Eramet's capacity exceeded its actual production by *** short tons. Moreover, Eramet's production levels reflect *** short tons of silicomanganese exported, largely in the ***, at the ***, as well as an increase in inventory held by *** short tons. In short, Eramet had the ability to supply substantially more domestically-produced silicomanganese to the U.S. market than it did in 2000, notwithstanding its outside sourcing of the product.

⁸⁸ CR and PR Table VII-4.

⁸⁹ 19 U.S.C. § 1677(7)(C)(ii).

⁹⁰ Hearing Tr. at 13 (Flygar), at 22 (Pompili), at 29, 33 (Button), at 90 (Reilly), at 200 (Kramer) at 204 (Mowry).

⁹¹ CR at V-3, PR at V-3.

while a large percentage of sales of both imported and domestic product are by contract, ***. Moreover, purchasers and producers alike indicated that although the prices obtained by Nucor Yamato are not a benchmark by which other prices in the market are set, they are a general indication of price trends and are closely followed by market participants.⁹² Under these market conditions, underselling is likely to be transitory as producers and sellers quickly adjust to price changes.⁹³

The pricing data collected from questionnaires indicated that prices for domestically-produced silicomanganese generally declined in the second half of 1998 and into 1999, remaining at very low levels through the third quarter of 1999. Prices then increased rapidly in the fourth quarter of 1999 and the first quarter of 2000, edged up in the second quarter of 2000, and then declined sharply through the first quarter of 2001.⁹⁴ Prices for the domestic like product thus stabilized and then declined sharply at the same time that subject import volume and market penetration of the subject imports increased sharply. Because the subject imports are good substitutes for the domestic like product, the import surge during 2000 caused the prices for the domestic like product to fall, even during a period of strong demand.⁹⁵

There was also a much greater frequency of underselling by the subject imports in 2000 and interim 2001, during and after the subject import surge, than during earlier portions of the period examined.⁹⁶ The cumulated subject imports undersold the domestic like product in 14 of 30 quarterly comparisons during 2000 and interim 2001, as compared to 4 of 25 quarterly comparisons during 1998 and 1999.⁹⁷ Given the commodity nature of silicomanganese and the wide and rapid dissemination of pricing information, we find the marked increase in underselling, combined with a substantial increase in subject import volume and market share, to be particularly meaningful.^{98 99 100}

⁹² Hearing Tr. at 58-59 (Pompili).

⁹³ Hearing Tr. at 62-63 (Button).

⁹⁴ CR and PR Tables V-1 - V-2.

⁹⁵ We have considered alternative explanations for observed price trends. Kazakh respondents contend that a “positive correlation” between subject import volume and U.S. prices indicates that prices were responding to economic forces other than imports. Kazakh Respondents Posthearing Brief at 4 and exhibit 4. This argument, however, overlooks the significant share of the U.S. market accounted for by subject imports during the year-long period when U.S. prices declined sharply and remained at low levels (i.e., from the third quarter of 2000 through the second quarter of 2001). Compare CR and PR at Tables IV-3 and IV-7 (subject imports accounted for *** percent of all imports and *** percent of the U.S. market in 2000 and January -September 2001) with CR and PR at Table V-1. Eramet’s contract prices, accounting for ***, fell from the third quarter of 2000 through the first quarter of 2001, and were still only *** per short ton in the second quarter of 2001, but recovered in the third quarter of 2001 (despite depressed demand). We have also considered the suggestion by Indian respondents that conditions in the steel market contributed to observed price trends. Indian Respondents Posthearing Brief at 7-8. We find, however, that reported silicomanganese prices began weakening as early as February 2000, and fell markedly in August and September 2000, while EAF mill production did not noticeably decline until November and December of 2000. See Petitioner Posthearing Brief at exhibit 10.

⁹⁶ CR and PR Tables V-1 - V-2.

⁹⁷ CR and PR Tables V-1 - V-2.

⁹⁸ For quarters in which subject sources sold 6 barges (8,400 tons) or more, all but two of which occurred between January 2000 and September 2001, subject import underselling occurred in 7 of 14 comparisons (7 of 12 comparisons during the period January 2000 - September 2001). CR and PR at Table V-1.

⁹⁹ We note further that the occurrence of overselling may have been affected by the fact that certain import prices are f.o.b. warehouse and therefore may have included transportation costs from the dock to the warehouse, whereas Eramet’s prices were f.o.b. plant. CR V-7, n.14; PR V-7, n.14. Indeed, at least one importer *** confirmed that its

In addition, purchasers have confirmed several 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.¹⁰¹

Finally, we note that Eramet's unit costs (cost of goods sold (COGS) and selling general and administrative expenses (SG&A)) *** during the period for which data were collected.¹⁰² Both the financial data and the pricing data on the record suggest, however, that the domestic industry has not been fully able to recoup costs through sales revenue, despite a rebound in apparent U.S. consumption and generally *** during the period examined. 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 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."¹⁰³ 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."^{104 105 106}

price data was f.o.b. warehouse. Staff Conversation with *** April 5, 2002. It is possible, then, that the disparity in the way prices were quoted may explain certain instances of overselling, particularly where overselling margins were relatively small, i.e., three percent or less. Furthermore, the confirmed lost sales and lost revenue allegations are consistent with underselling by subject imports.

¹⁰⁰ Given the commodity nature of the product, Commissioner Bragg also examined the average unit value ("AUV") data as a probative price indicator (even recognizing the limitations of AUV data), which corroborates the significant price effects of the subject imports over the period examined. In particular, the data show that subject import AUVs were consistently well below domestic AUVs during the period examined. Commissioner Bragg further notes this is less true for Kazakhstan because those imports first were sold to distributors, unlike the other imports, which were sold directly to end-users. Nonetheless, both subject import and domestic AUV's trended downward over the period of investigation (U.S. AUVs declined *** percent and subject import AUVs declined *** percent).

¹⁰¹ CR and PR Table V-4. We give particular weight to the confirmed lost sales allegations reported by Eramet regarding purchasers ***. Id.

¹⁰² CR and PR at Table VI-1. Eramet's unit costs fell from *** in 1998 to *** in 1999-2000, and were *** in interim 2001. Id.

¹⁰³ 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).

¹⁰⁴ 19 U.S.C. § 1677(7)(C)(iii).

¹⁰⁵ 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 final determination, Commerce reported final weighted-average dumping margins for India to be 15.32 percent for Nava Bharat, 20.42 percent for Universal, and 17.69 percent for all other exporters/manufacturers in India. 67 Fed.

The sharp increase in subject imports during the period examined, and in particular in 2000, caused domestic production to decline during that year notwithstanding increasing apparent U.S. consumption for silicomanganese. The domestic industry's production and U.S. shipment quantities were lower in 2000 than in either 1998 or 1999.¹⁰⁷ These indicators, however, began to rise again in interim 2001, as compared to interim 2000, coinciding with the filing of the petition in April 2001.¹⁰⁸ During 1998-2000, reported capacity fluctuated in a narrow range; capacity utilization followed trends similar to production.¹⁰⁹ Notwithstanding the drop in production, inventories of the domestic like product increased towards the end of the period examined.¹¹⁰

The number of production workers and hours worked showed *** fluctuations over the period examined.¹¹¹ Hourly wages generally rose.¹¹² Productivity declined from 1998 to 1999, increased from 1999 to 2000, and was higher in interim 2001 than in interim 2000.¹¹³

The domestic industry generated a *** operating profit in 1998. In 1999, when apparent U.S. consumption of silicomanganese declined from the levels of the previous year, the industry sustained an operating loss of ***.¹¹⁴ In 2000, apparent U.S. consumption of silicomanganese was above the level of 1998. Nevertheless, as previously discussed, the surge in subject imports in 2000 caused the industry's shipments to decline and depressed prices. Variance analysis confirms that changes in operating income between 1998 and 2000 were attributable primarily to price variations rather than production or cost

Reg. 15531 (April 2, 2002). Final weighted-average dumping margin for Kazakhstan was 247.88 percent for Alloy 2000 S.A. and for all other exporters/manufacturers in Kazakhstan. 67 Fed. Reg. 15535 (April 2, 2002). For Venezuela, Commerce determined the final weighted-average dumping margin to be 24.62 for Hornos Electricos de Venezuela and for all other exporters/manufacturers in Venezuela. 67 Fed. Reg. 15533 (April 2, 2002).

¹⁰⁶ 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.

¹⁰⁷ While U.S. shipments of the domestic like product rose by *** percent in 1999, the AUVs of those shipments dropped by *** percent. In 2000, demand for silicomanganese recovered, with apparent U.S. consumption rising by *** percent in 2000 relative to 1999. Despite this increase, domestic production declined by *** percent and U.S. shipments of the domestic like product declined by *** percent. By the end of the year 2000, the price of the domestic like product also declined *** from its second-quarter peak. The domestic industry's market share peaked at *** percent in 1999 before declining to *** percent in 2000. The domestic industry's capacity utilization rates, which must remain high given the capital-intensive nature of production, were below 1998 levels in 2000. CR and PR Tables C-1 and V-1; see also, CR and PR Table V-2.

¹⁰⁸ CR and PR Tables C-1, V-1, and V-2.

¹⁰⁹ Capacity utilization was *** percent in 1998, *** percent in 1999, and *** percent in 2000. CR and PR Table III-1.

¹¹⁰ CR and PR Table III-1. Inventories dropped from *** short tons in 1998 to *** short tons in 1999, but rose to *** short tons in 2000. Inventories *** between interim 2000 and interim 2001 from *** short tons to *** short tons (but remained above the year end 2000 level). Id.

¹¹¹ CR and PR Table III-1. Petitioner Prehearing Br. Exhibit 2.

¹¹² CR and PR Table III-1.

¹¹³ CR and PR Table III-1.

¹¹⁴ Hearing Tr. at 15 (Flygar), at 200-201 (Kramer); CR and PR Table VI-1; see also, Conference Tr. at 37 (Button).

variations.¹¹⁵ In addition, while subject import volume began to decline in 2001, coinciding with the filing of the petition, inventories remained at high levels.¹¹⁶ As a result, the domestic industry continued to suffer poor financial performance. The industry reported an operating loss of *** in 2000, and an operating margin of negative *** percent. Data available for interim 2001 indicate that prices remained at low levels through the first half of the year, resulting in continued operating losses despite improvement in price levels in the third quarter.

In addition, capital expenditures by the domestic industry dropped by more than *** percent in 1999.¹¹⁷ Capital expenditures recovered somewhat in 2000, but remained below 1998 levels.¹¹⁸ They were lower in interim 2001 than in interim 2000.¹¹⁹

The record indicates that because of significant subject import volume and adverse price effects the domestic industry showed poor financial performance and declines in several production related indicators. 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 that an industry in the United States is materially injured by reason of imports of silicomanganese from India, Kazakhstan, and Venezuela that are sold in the United States at less than fair value.

¹¹⁵ CR and PR Table VI-3. Respondents raised questions regarding the domestic producer's allocation of costs. We note that at the closed session of the Commission's hearing petitioner refuted respondents' arguments stating: "***." Closed Session Hearing Tr. at 173-174 (Button).

¹¹⁶ Subject import inventories were at 49,855 short tons in interim 2001, as compared to 51,628 short tons in interim 2000, and 49,900 short tons in full year 2000. CR and PR Table VII-4.

¹¹⁷ CR and PR Table VI-4. As previously explained, the Commission did not receive a questionnaire response from Highlanders Alloys; hence, industry capital expenditures reported in questionnaires may be understated.

¹¹⁸ CR and PR Table VI-4.

¹¹⁹ CR and PR Table VI-4.

PART I: INTRODUCTION

BACKGROUND

These investigations result from a petition filed by Eramet Marietta Inc. 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.^{1 2} Information relating to the background of the investigations is provided below.

Effective date	Action	Federal Register citation
April 6, 2001	Petitions filed with Commerce and the Commission; institution of Commission investigations	66 FR 19981, April 18, 2001
April 26, 2001	Commerce's notice of initiation	66 FR 22209, May 3, 2001
May 21, 2001	Commission's affirmative preliminary determinations	66 FR 31258, June 11, 2001
October 19, 2001	Commerce's affirmative preliminary determination of critical circumstances with respect to India	66 FR 53207, October 19, 2001
November 9, 2001	Commerce's affirmative preliminary determinations; scheduling of final phase of Commission investigations	66 FR 56635, 56639, and 56644, November 9, 2001; 66 FR 59596, November 29, 2001 ¹
December 7, 2001	Commerce's notice of postponement of final determinations (Kazakhstan and India)	66 FR 63522, December 7, 2001
December 28, 2001	Commerce's notice of postponement of final determination (Venezuela)	66 FR 67185, December 28, 2001
January 7, 2002	Commission's notice of revised schedule	67 FR 1783, January 14, 2002 ¹
April 2, 2002	Commerce's final determinations ²	67 FR 15531, 15533, and 15535, April 2, 2002 ¹

¹ The product covered by these investigations is silicomanganese of all forms, sizes, and compositions, except low-carbon silicomanganese, including silicomanganese briquettes, fines, and slags. 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, sometimes referred to as ferrosilicon manganese, is classifiable under subheading 7202.30.00 of the Harmonized Tariff Schedule of the United States (HTS). Some silicomanganese may also be imported under HTS statistical reporting number 7202.99.5040. A complete description of the imported product subject to investigation is presented in the section of the report entitled *The Product*.

² On June 28, 2001, Commerce received a request to revoke Kazakhstan's non-market economy (NME) status under section 771(18)(A) of the Tariff Act of 1930, as amended.

Effective date	Action	<i>Federal Register</i> citation
April 2, 2002	Commission's hearing ³	Not applicable
April 29, 2002	Commission's vote	Not applicable
May 16, 2002	Commission's final determinations sent to Commerce	Not applicable
<p>¹ The specified <i>Federal Register</i> notices are presented in app. A.</p> <p>² Final weighted-average dumping margins for India were determined to be 15.32 percent for Nava Bharat Ferro Alloys Ltd., 20.42 percent for Universal Ferro and Allied Chemicals, Ltd., and 17.69 percent for all other exporters/manufacturers in India. Additionally, Commerce found that critical circumstances do not exist for imports from India. The final weighted-average dumping margin for Kazakhstan was determined to be 247.88 percent for Alloy 2000 S.A. and for all other exporters/manufacturers in Kazakhstan. As previously mentioned, on June 28, 2001, Commerce received a request to revoke Kazakhstan's NME status. In its final determination, Commerce determined to revoke Kazakhstan's NME status, effective October 1, 2001. However, inasmuch as the period of investigation for the investigation concerning Kazakhstan was October 1, 2000, through March 31, 2001, Kazakhstan was treated as an NME country with Egypt as a surrogate country. For Venezuela, Commerce determined the final weighted-average dumping margin to be 24.62 percent for Hornos Electricos de Venezuela, S.A. and for all other exporters/manufacturers in Venezuela.</p> <p>³ A list of witnesses appearing at the hearing is presented in app. B. A portion of the hearing was conducted <i>in camera</i> (see 67 FR 16118, April 4, 2002, presented in app. A).</p>		

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 known U.S. production of silicomanganese throughout the period for which information was requested. U.S. import data are based on official Commerce statistics and Commission questionnaire responses.

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."³ On December 14, 1994, the Commission made final affirmative injury determinations with 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 concerning the antidumping duty orders on imports of silicomanganese from Brazil and China and the suspension agreement on imports of silicomanganese from Ukraine (64 FR 59209, November 2, 1999) and decided on February 3, 2000, to conduct full reviews (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

³ On December 2, 1994, Commerce notified the Commission that it had continued the investigation on silicomanganese from Ukraine. Accordingly, the Commission likewise continued its investigation and determined, on December 14, 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 and China and termination of the suspension agreement on silicomanganese from Ukraine would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (66 FR 8981, February 5, 2001).⁴

THE SUBJECT PRODUCT

This section presents 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:

"all forms, sizes and compositions of silicomanganese, except low-carbon 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. . . .

The low-carbon silicomanganese excluded from this scope is a ferroalloy with the following chemical specifications: minimum 55 percent manganese, minimum 27 percent silicon, minimum 4 percent iron, maximum 0.10 per percent phosphorus, maximum 0.10 percent carbon and maximum 0.05 percent sulfur. Low-carbon silicomanganese is used in the manufacture of stainless steel and special carbon steel grades, such as motor lamination grade steel, requiring a very low carbon content. It is sometimes referred to as ferromanganese-silicon. Low-carbon silicomanganese is classifiable under HTSUS subheading 7202.99.5040"⁵ ⁶

The original scope of the product subject to these investigations included all silicomanganese. On May 17, 2001, petitioners submitted a letter to Commerce and the Commission requesting that the scope be amended to exclude low-carbon silicomanganese. In its preliminary determinations, Commerce amended the scope to exclude low-carbon silicomanganese.

⁴ *Silicomanganese from Brazil, China, and Ukraine*, Investigations Nos. 731-TA-671-673 (Review), USITC Pub. 3386, January 2001.

⁵ Silicomanganese entering the United States under HTS subheading 7202.30.00 has a 2002 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 when that program is in effect. The 2002 normal trade relations tariff rate for subheading 7202.99.50 is 5.0 percent *ad valorem* and applies to imports from India, Kazakhstan, and Venezuela.

⁶ See Commerce's final determinations for India, Kazakhstan, and Venezuela, 67 FR 15531, 67 FR 15535, and 67 FR 15533, respectively, all dated April 2, 2002. Commerce further stated that the scope 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.*

Physical Characteristics and Uses

Silicomanganese is a ferroalloy⁷ 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.⁸ Most silicomanganese produced and sold in the United States conforms to the specification for grade B. Silicomanganese is sold in small pieces of fairly uniform sizes. A typical size of silicomanganese is 3 inches by 1/4 inch.⁹

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 prevents the steel from becoming brittle during hot rolling. In addition, 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.¹⁰

Use depends upon the practice of a given steelmaker. Silicomanganese may be introduced directly into the steelmaking furnace or used as a chemistry 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, which 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.¹¹

⁷ 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.

⁸ 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.

⁹ Petition, exh. 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 larger size (6 inch) lumps for export and states that is what certain customers in the Gulf States region use. See hearing transcript, pp. 104-105.

¹⁰ 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.

¹¹ Producers of flat-rolled steel mill products reportedly tend to use a combination of ferromanganese and ferrosilicon, which allows them greater control of each individual element.

Production Processes

Silicomanganese is produced by smelting together in a submerged arc furnace sources of silicon, manganese, and iron, with a carbonaceous reducing agent, usually coke.¹² 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 into small pieces and screened to fairly uniform sizes.

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 ferromanganese slag.¹³ According to Eramet, a ferromanganese producer that does not produce silicomanganese must sell the ferromanganese slag in order to remain economically viable.¹⁴

The sole U.S. producer of silicomanganese during the January 1999-September 2001 period examined, Eramet, produces silicomanganese in an integrated operation at a plant in Marietta, OH, that it purchased from Elkem in July 1999. Eramet also produces other manganese ferroalloys as well as other alloying agents at that plant. 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.¹⁵ In general, little difference appears to exist between the production processes in the domestic industry and those used abroad to produce silicomanganese. This fact 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.

Interchangeability and Customer and Producer Perceptions

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. Although phosphorus makes steel harder, it is usually considered an undesirable element because it tends to make steel brittle. For applications that are suitable, such as static structural steel products, the Indian silicomanganese

¹² For a discussion of inputs, see *Silicomanganese from Brazil, the People's Republic of China, Ukraine, and Venezuela*, Investigations Nos. 731-TA-671-674 (Final), USITC Pub. 2836, December 1994, p. II-9.

¹³ 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.

¹⁴ Petition, app. 11.

¹⁵ 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. The other two furnaces have never been used to produce silicomanganese. *Ibid.* In its questionnaire response, Eramet reported that it *** the same production and related workers that produce silicomanganese to produce other products.

appears to be fully substitutable for U.S.-produced and other subject silicomanganese applications.¹⁶ High-phosphorus silicomanganese can be blended, by either the producer or the purchaser, with standard grade silicomanganese to produce a silicomanganese with an acceptable phosphorus content.¹⁷ Imported silicomanganese from all other subject sources may be considered to be interchangeable with domestic silicomanganese in most applications.

Channels of Distribution

The great majority of Eramet's production and imported silicomanganese is sold directly to steel mills in the United States.¹⁸ *** imports are sold directly to end users. *** imports was sold to distributors.¹⁹

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.²⁰ For the current investigations, the petitioner stated that in previous investigations the Commission had found that there is a single domestic like product, which is silicomanganese.²¹ During the preliminary phase of the current investigations, counsel for Indsil Electromseltis Ltd. ("Indsil"), a

¹⁶ "For example, some imports from India have a slightly higher phosphorus content, 0.3 percent, compared to the ASTM specification of 0.2 percent maximum. Product with such slightly higher amounts of phosphorous is interchangeable with the ASTM grade material in the vast majority of applications." Hearing transcript, p. 13, testimony of Bob Flygar, Manager of Commercial and Site Services, Eramet Marietta.

¹⁷ "When we first got into the business of importing substantially from India in 2000, we had to find a way to make the Indian product marketable. We, therefore, blended the Indian product with non-subject merchandise that we had in inventory from Macedonia, Bulgaria and Russia. The blended material made the product saleable. In 2001, we ran out of non-subject inventory, and most of our sales were of straight, unblended Indian product. Some purchasers may have blended this product with domestic or non-subject material." Hearing transcript, pp. 100-101, testimony of Joel Filner, Vice-President, Huxley Barter.

¹⁸ Based on responses to Commission questionnaires and the petition, pp. 7-8.

¹⁹ ***.

²⁰ *Silicomanganese from Brazil, the People's Republic of China, Ukraine, and Venezuela*, Investigations Nos. 731-TA-671-674 (Final), USITC Pub. 2836, December 1994, pp. I-7 and I-22 and *Silicomanganese from Brazil, China, and Ukraine*, Investigations Nos. 731-TA-671-673 (Review), USITC Pub. 3386, January 2001, p. 5. During those final investigations, the Ukrainian respondents argued that off-specification silicomanganese was a separate like product. The Commission found that minor differences in chemistry could be found in many kinds of silicomanganese, but in spite of this all silicomanganese performed the same functions, was used for the same purpose, was sold in the same channels of distribution, and was perceived by both producers and end users as a source of silicon and manganese for steelmaking. There were no objections during the review investigations to the like-product definition of all silicomanganese.

²¹ Petition, pp. 9-10, citing the final investigations and reviews concerning Brazil, China, and Ukraine.

producer of low-carbon silicomanganese in India,²² argued that there are two like products, low-carbon silicomanganese and all other silicomanganese.²³ However, there is no domestic production of low-carbon silicomanganese²⁴ and low-carbon silicomanganese was subsequently excluded from the scope of the investigations.

²² With the removal of low-carbon silicomanganese from the scope of the current investigations, Indsil does not produce subject product.

²³ Low-carbon silicomanganese, which typically sells at a price 50-percent or higher than regular silicomanganese, is used to produce stainless steel and certain specialty steels, e.g., low-carbon motor lamination steel; it is not generally interchangeable with regular silicomanganese (which is used to produce carbon and alloy steels). At a minimum, low-carbon silicomanganese requires additional manufacturing steps and, according to Indsil, requires separate facilities from the production of regular silicomanganese. *Silicomanganese from India, Kazakhstan, and Venezuela*, Investigations Nos. 731-TA-929-931 (Preliminary), USITC Pub. 3427, May 2001, pp. I-3 through I-6.

²⁴ Although Eramet claims that it has the capability to produce low-carbon silicomanganese, it has not done so since at least the 1980s. Conference transcript, p. 62 (testimony of Russell D. Craig, CEO, Eramet). Indsil did not suggest what domestic product would be most similar to low-carbon silicomanganese and Eramet argued that all other silicomanganese is the domestic product most like low-carbon silicomanganese. *Silicomanganese from India, Kazakhstan, and Venezuela*, Investigations Nos. 731-TA-929-931 (Preliminary), USITC Pub. 3427, May 2001, pp. 4-5. In the preliminary phase of these investigations, the Commission determined that there was one like product consisting of all silicomanganese. *Ibid.*, p. 5.

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

U.S. MARKET SEGMENTS, MARKET STRUCTURE, AND CHANNELS OF DISTRIBUTION

Silicomanganese is usually sold directly from the U.S. producer and importers to end users, both integrated steel mills and mini-mills.¹ Silicomanganese is used most frequently in steel long products, though, which favors its use in mini-mills over integrated steel mills.² Some minerals distributors and trading companies (***) are also involved in distributing silicomanganese. Most silicomanganese (including all U.S.-produced silicomanganese) meets ASTM grade B; however, there are at least two types of silicomanganese that do not meet this specification. One, low-carbon silicomanganese, is a more expensive type of silicomanganese used in smaller quantities for higher grade steel products such as stainless steel. As previously mentioned, low-carbon silicomanganese has been excluded from the scope of these investigations. Another, high-phosphorous silicomanganese, is a form of silicomanganese with more phosphorous than ASTM grade B silicomanganese. The high level of phosphorous makes it less desirable than ASTM grade B silicomanganese, but parties disagree as to the interchangeability of ASTM grade B silicomanganese and high-phosphorous silicomanganese.

Eramet's sales in 2000 were concentrated in ***. Individual importers had different areas of emphasis for their sales of silicomanganese. ***. Nonsubject imports from Australia, South Africa, Mexico, Norway, Romania, and other countries are also present in the U.S. market.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Supply

Eramet reported that production capabilities are ***. Eramet's capacity utilization remained above *** percent from January 1998 through September 2001, although capacity utilization did show a *** decline. Its U.S. production is primarily for the U.S. market, with exports to *** making up a *** portion of its total shipments. Inventories, as a ratio to total shipments, have remained in a *** range of *** to *** percent from January 1998 through September 2001.

Eramet reported that it does not produce other products on the same equipment and machinery used in the production of silicomanganese. Eramet stated that it operates three furnaces at Marietta, OH—one producing silicomanganese and two producing high-carbon ferromanganese.³ 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

¹ The great majority of Eramet's production and imported silicomanganese is sold directly to steel mills in the United States (based on responses to Commission questionnaires and the petition, pp. 7-8). *** imports are sold directly to end users. However, Considar, the *** importer of Kazakh silicomanganese, reported shipments to distributors amounted to the following shares of the U.S. shipments: ***. See hearing transcript, p. 115.

² Silicomanganese is preferred for long products. In the United States, almost all long products are made in facilities using electric arc furnaces. Most electric arc facilities in the United States are in mini-mills, although two integrated producers use electric arc furnaces to produce long products.

³ Conference transcript, pp. 60-61.

types of alloys, including ferrosilicon and ferrochrome, but have not produced silicomanganese since their existence.⁴ Changing a furnace from the production of one ferroalloy to another ferroalloy takes from 16 hours to 1-2 days.⁵ 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.⁶

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.

Subject Imports

Subject imports show *** shifts in the percent of production shipped to the United States and in capacity utilization. These shifts suggest that import supply is elastic and likely to respond to changes in price with significant changes in quantity shipped to the U.S. market.

India

Three Indian companies exported silicomanganese during the period examined.⁷ Their average capacity utilization rate showed *** swings up and down, as did exports to the United States both as a share of their total shipments and as a share of total exports.

Kazakhstan

One Kazakh company, Transnational Company Kazchrome and Aksu Ferroalloy Plant (Kazchrome), reported it accounted for *** percent of silicomanganese produced in Kazakhstan in 2000.⁸ Kazchrome reported that it ***.⁹ Kazakh production showed *** increases from January 1998 to September 2001, as did its capacity utilization rate and exports to the United States as a share of total shipments.

Venezuela

One Venezuelan company, Hornos Electricos de Venezuela, S.A. (Hevensa), produced silicomanganese during the period examined. Venezuela's reported production fluctuated up and down by approximately *** percent during January 1998-September 2001, and its exports to the United States as a percentage of total exports increased from *** percent in 1998 to *** in both 1999 and 2000. Hevensa reported that a major high voltage transformer breakdown in December 2000 reduced its

⁴ Ibid.

⁵ Ibid., p. 57.

⁶ Ibid., p. 15.

⁷ ***.

⁸ According to counsel for Eramet, a second Kazakh producer may have begun operations in the second half of 2000. Petition, p. 11. Counsel for Kazakh producer Kazchrome said he was not aware of any other producer in Kazakhstan. Hearing transcript, pp. 144-145.

⁹ Kazchrome's questionnaire response.

operations to only two furnaces of silicomanganese,¹⁰ reducing production capacity to 40 percent of installed capacity during January-March 2001. As of April 15, 2001, production capacity had increased to 60 percent of installed capacity as a result of the use of a temporary transformer while the original transformer was undergoing repairs.¹¹ Hevensa further reported that its capacity will be less than 48,501 short tons through the end of 2002 as a result of the transformer breakdown.¹² Hevensa reported that its primary U.S. market is Texas.¹³

Nonsubject

Nonsubject imports supplied the majority of U.S. silicomanganese consumption from January 1998 through September 2001. When subject imports expanded their U.S. market share by *** from 1999 to 2000 (and remained above the 1998-1999 level through the first three quarters of 2001), U.S. producers lost *** of market share and nonsubject imports lost ***.¹⁴

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. In particular, demand comes from mini-mills producing long products, but there are two integrated producers that use electric arc furnaces to produce long products. 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 2000.¹⁵ Eramet said that ***.¹⁶

Two importers reported that demand generally increased during 1998-2000. One importer reported that demand was constant and three importers reported that demand varied, with two of those citing an increase in demand until 2000, followed by a decrease through 2001. Those importers that reported increased demand cited increased U.S. steel production, electric melting, and U.S. mini-mills as causes, while those who reported periods of decreased demand cited increased steel imports as a cause.¹⁷

¹⁰ Conference transcript, p. 85.

¹¹ ***. See also Hevensa's postconference brief, pp. 4-5, and conference transcript, pp. 85-88.

¹² Hevensa's postconference brief, p. 5, and conference transcript, p. 87.

¹³ Conference transcript, p. 82. Texas accounted for *** percent of the U.S. shipments, by state, of Venezuelan imports.

¹⁴ One importer reported South Africa and Australia entering as a combined market force and Eramet expanding its market share with nonsubject imports. However, this observation does not seem to be confirmed by the official import data; although Australia and South Africa are the two largest sources of imported silicomanganese, their quantities imported have not shown a sustained upward trend over 1998-2001.

¹⁵ Conference transcript, pp. 46 and 48.

¹⁶ Eramet's questionnaire response.

¹⁷ Respondents also described reduced demand coming from the bankruptcies and closures of mini-mills and integrated mills with electric arc furnaces. Hearing transcript, p. 131.

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.^{18 19}

Substitute Products

Eramet reported that a combination of high-carbon ferromanganese and ferrosilicon could be substituted for silicomanganese. Eramet said that not all steelmakers can make this substitution of two ferroalloys for one. In particular, Eramet reported that most mini-mills 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.²⁰ Ten of the responding importers reported that a combination of ferromanganese and ferrosilicon could be substituted for silicomanganese.²¹ Eleven purchasers agreed, although four said they could only use silicomanganese. One of these 11 added that it realizes a 2 percent higher recovery of manganese using silicomanganese when compared to using ferromanganese alloys; this gives the company an 11 to 41 percent cost savings. Only two purchasers said that higher silicomanganese prices or lower ferrosilicon and ferromanganese prices had caused them to switch to ferrosilicon and ferromanganese. However, another purchaser had switched to ferrosilicon and ferromanganese, though not for reasons of price.²² Yet another purchaser explained that while the relative prices of silicomanganese and its substitutes have varied slightly, it has stayed with its strict specifications.²³

End Uses and Cost Shares

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). Eramet said that ***. However, silicomanganese accounts for only a small share of the cost of steel production. Eramet estimated that silicomanganese accounted for approximately *** percent of the total cost of production of steel. No importers had a specific estimate of silicomanganese cost as a percent of end-use cost, but one estimated less than 5 percent for structural steel, rebar, and wire rod. Purchasers' reported estimates of end-use cost share for silicomanganese are reported in table II-1.

¹⁸ Nine purchasers reported no change in demand for their end-use products. Four reported lower demand due to a worsening economy and high steel imports. Two reported that they had increased their production of steel and another reported that demand for its end use products had increased slightly.

¹⁹ In addition, *American Metals Market* reported that the news of the impending antidumping investigation in mid 2001 as well as a purchaser perception that prices were at a cycle low encouraged purchasers to purchase larger volumes to lock in lower prices. "January Ferro-Alloys Outlook," *Metal Bulletin Research*, February 5, 2002, "Sun is not shining in ferroalloys market," *American Metals Market*, July 11, 2001, and "Commerce probes silicomanganese to U.S.," *American Metals Market*, July 2, 2001.

²⁰ Conference transcript, p. 13.

²¹ In particular, Joel Filner of Huxley Barter stated that purchasers would start to threaten switches away from silicomanganese when silicomanganese prices rose toward 25 cents per pound (500 dollars per ton). Hearing transcript, pp. 133-134.

²² ***.

²³ In addition, *American Metal Market* reported that the decline in carbon steel production in late 2001 led to steelmakers using more silicomanganese rather than high grade ferromanganese, which is more expensive than silicomanganese. "Low nickel prices hurt Eramet earnings," *American Metal Market*, September 17, 2001.

Table II-1**Silicomanganese: End uses and cost shares reported by U.S. purchasers for 2000**

End use	Percent of cost accounted for by
Alloy steel	0.02
Angles, rounds, billets, and flats	2.70
Hot band sheet	0.09
Merchant shapes	1.90 to 2.70
Rail, rod, and bar	1.00 to 2.70
Rebar	1.00 to 2.70
Seamless pipe	2.10
Special bar quality	2.60
Structural steel	2.00 to 2.50

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

SUBSTITUTABILITY ISSUES**U.S. Purchasers**

The Commission received responses from 19 purchasers. One was a distributor and the rest were producers of various steel products (rebar, merchant shapes, structural steel, alloy steel, hot band, bearing quality steel bar, rail, rod, and pipe). ***.

Table II-2 shows the source of the silicomanganese bought by each of the responding purchasers between January 1999 and September 2001. When asked if they knew whether they were purchasing domestic or imported silicomanganese, seven purchasers said "always," nine said "usually," and three said "sometimes." Nine purchasers reported that they sometimes knew who was the manufacturer of the silicomanganese they purchased and 10 said they were always or usually aware. *** said it was always interested in the country of origin for the silicomanganese it purchased.

Factors Affecting Purchasing Decisions

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 of how often their firms' purchasing decisions for silicomanganese are based on product consistency and quality, as summarized in table II-4.²⁴ Price was an important factor for every purchaser, but sometimes came after quality, availability, and other factors in importance.²⁵

²⁴ In defining the quality of silicomanganese, 11 purchasers cited size and 14 cited chemistry, meaning manganese, silicon, phosphorous, carbon, and sulfur content. Five purchasers defined quality as meeting their company or International Organization for Standardization (ISO) specifications. Shipping and service were also mentioned as part of quality.

²⁵ However, other purchaser responses imply that most domestic and imported silicomanganese meets minimum quality requirements and thus frequently competes on price.

Table II-2
Silicomanganese: Sources of silicomanganese reported by U.S. purchasers, January 1999-September 2001

* * * * *

Table II-3
Silicomanganese: Ranking of purchasing factors by purchasers

Factor	Number of firms reporting		
	Number 1 factor	Number 2 factor	Number 3 factor
Price/cost	8	6	5
Quality	6	4	2
Availability	4	3	2
Customer specifications ¹	0	4	2
Delivery	0	1	6

¹ Customer specifications include chemical specifications, sizing, and ISO approval (ISO, the International Organization for Standardization, is an international federation of national standardization bodies that issues international standards to promote trade in goods and services).

Note.--Other factors mentioned include history, on-time delivery, reputation, shipping, and terms.

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

Table II-4
Silicomanganese: Importance of purchasing factors

Factor	Average importance score ¹	Factor	Average importance score ¹
Availability	3.0	Product consistency	2.9
Delivery terms	2.9	Product quality	3.0
Delivery time	2.9	Product range	2.0
Discounts offered	2.6	Reliability of supply	2.9
Lowest price	2.7	Technical support	2.1
Minimum quantity requirements	1.9	Transportation network	2.3
Packaging	2.4	U.S. transportation costs	2.3

¹ 3 = very important, 2 = somewhat important, 1 = not important.

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

When asked how frequently they make purchases, eight purchasers reported quarterly, five reported making semi-annual purchases, three reported weekly, one reported annually, and one reported multi-year contracts. ***.²⁶ When asked how often they purchase the lowest priced silicomanganese available, five purchasers said always, 12 purchasers said usually, and two said sometimes. The purchasers who stated that they did not always purchase the lowest priced silicomanganese available cited quality (chemistry and sizing), reliability, and delivery (lead time) as other important factors.

Seventeen purchasers said that their purchasing patterns had not changed in the last three years. However, *** said it had reduced purchases due to reduced steel demand, and ***. Purchasers contacted between one and 15 suppliers before purchasing, with most contacting at least three suppliers. Purchasers varied greatly in describing how frequently they changed suppliers. Eight said not often or infrequently, one purchaser said that it stayed with *** because it was always low-priced, one purchaser said every year, two others said every six months, and five others said when price and quality dictate. Ten purchasers reported changing suppliers over the last three years, with seven citing price as one reason while three cited other factors such as availability, quality, and service. No purchasers were aware of any new suppliers, except for Highlanders Alloys, entering the market in the last three years.

Five purchasers reported no changes in their relative purchases from different countries. Nine purchasers did report changing their relative purchases from different countries, as summarized in table II-5.²⁷

**Table II-5
Silicomanganese: Purchaser explanations for changes in relative shares of purchases by country**

Change	Number of purchasers reporting	Reasons cited (alphabetical order)
Increase in U.S. silicomanganese	3	Demand, price, and quality
Decrease in U.S. silicomanganese	3	Availability, demand, and price
Increase in Indian silicomanganese	1	Availability and price
Decrease in Indian silicomanganese	2	Availability, price, and quality
Increase in Kazakh silicomanganese	4	Availability, expanding supply base, price, and quality
Decrease in Venezuelan silicomanganese	2 ¹	Availability
Increase in nonsubject silicomanganese	4	Availability, price, and quality
Decrease in nonsubject silicomanganese	5	Availability, price, and supplier decision.
¹ One of the two also reported an increase first. Source: Responses to Commission questionnaires.		

²⁶ Staff conversation with ***.

²⁷ In addition to table II-5, *** said that all its changes in relative share were the result of price, availability, and government regulations. In reporting its purchases, it reported a fall in the share of purchases from nonsubject countries and a large rise in the share of purchases from India.

Fifteen end-user purchasers said that certification is required for 100 percent of purchases, while the other end-user purchaser said that suppliers must prequalify. Prequalification or certification is based on availability, chemistry, ISO status, price, reliability, reputation, and sizing, and can take between 4 and 12 weeks. Three purchasers reported that a supplier had failed to certify, with *** reporting that *** had substandard quality, *** reporting that *** had substandard quality, and *** rejecting *** silicomanganese.

Comparisons of Domestic Product and Subject Imports

Questionnaire respondents were asked to discuss the interchangeability between U.S.-produced silicomanganese and the subject product. Eramet stated that U.S., all subject, and all nonsubject silicomanganese were always interchangeable with each other, and that differences other than price between silicomanganese from the United States and other countries were rarely a significant factor in their sales. In general, importers stated that U.S., subject, and nonsubject silicomanganese were “always” or “frequently” interchangeable. However, *** stated that Indian silicomanganese has a phosphorous content of 0.3 percent maximum (higher than the U.S. maximum of 0.2 percent) and thus could not be used in the production of pipe and special bar quality steel. *** stated that many mills will not accept high-phosphorous silicomanganese from India. *** elaborated that the lower manganese, higher phosphorous silicomanganese from *** will require blends with other silicomanganese or mill approval, factors which limit sales or make price adjustments necessary.²⁸

When asked if high- and low-phosphorous silicomanganese are interchangeable, Eramet said that in the “vast majority” of steelmaking applications, silicomanganese containing higher amounts of phosphorous is interchangeable with ASTM grades A, B, and C silicomanganese. Four importers stated that high- and low-phosphorous silicomanganese were interchangeable, one did not know, two said that interchangeability was possible in most cases but not always, and two stated that high- and low-phosphorous silicomanganese were not interchangeable, saying that not all users can use low-phosphorous silicomanganese, and those that do, do so at a discount.²⁹ Eramet described its 2000 shipments as 100 percent ASTM grade B silicomanganese in lump or briquette form. While importers also tended to ship in 95-100 percent lump or briquette form, four importers reported that large portions of their sales were high-phosphorous (63 percent, 80 percent, and two at 100 percent) with the rest of their sales in grade B form. Six importers, ***, reported ASTM grade B silicomanganese accounted for 100 percent of their sales of imported silicomanganese.³⁰

Eramet and three to five (depending on the comparison) importers described differences between U.S., subject, and nonsubject silicomanganese as “sometimes,” “rarely,” or “never” involving differences other than price. On the other hand, one to three other importers described some competition between U.S. and imported silicomanganese (subject and nonsubject) as “always” involving such differences.

²⁸ Joel Filner of Huxley Barter stated that Indian silicomanganese is not used interchangeably with domestic silicomanganese because Indian silicomanganese has a higher phosphorous content and a lower manganese content. Hearing transcript, p. 100.

²⁹ *** stated that high-phosphorous silicomanganese is interchangeable with ASTM grade B silicomanganese in about 85 percent of carbon steel production, but not in some end uses such as special bar quality steel. Staff conversation with ***, March 1, 2002. *** said that in general, chemical composition can vary when price is a consideration, with acceptable variations of 3 to 5 percent for silicon and manganese and 10 to 20 percent for residuals (i.e., carbon, phosphorous, and sulfur).

³⁰ One purchaser reported purchasing all high-phosphorous silicomanganese. While none of the others reported purchasing any high-phosphorous silicomanganese, 14 said that high-phosphorous silicomanganese was not interchangeable with low-phosphorous silicomanganese.

These differences included geographic location and lead times. As previously stated, *** said that its sales of *** are concentrated in ***, and its sales of *** are concentrated in ***, meaning that U.S. transportation costs are lower than for U.S. production.³¹ *** stated that ocean freight rates, lead times (as much as 6 months for India), and financing can affect price.

Purchasers generally described U.S., subject, and nonsubject silicomanganese as comparable in most purchasing factors.³² *** stated that it makes a separate comparison for each spot purchase of silicomanganese, and that all its vendors offer comparable product or they would not be allowed to bid. In comparing U.S. and nonsubject silicomanganese, five purchasers found the products generally comparable, though nonsubject silicomanganese was sometimes lower priced, and one of those purchasers reported nonsubject silicomanganese was lower quality and less reliably supplied than U.S. silicomanganese. In comparing subject and nonsubject silicomanganese, purchasers generally described the products as comparable in most factors.

Summaries of purchaser comparisons of domestic, subject, and nonsubject silicomanganese are presented in tables II-6 through II-8.

Table II-6
Silicomanganese: Number of purchasers' comparisons of U.S. and subject imports

Factor	U.S. vs. India ¹			U.S. vs. Kazakhstan ¹			U.S. vs. Venezuela ¹		
	S	C	I	S	C	I	S	C	I
Availability	0	2	0	0	3	1	1	1	0
Delivery terms	0	2	0	0	4	0	0	2	0
Delivery time	0	2	0	0	3	1	0	2	0
Discounts offered	0	2	0	0	4	0	0	2	0
Lowest price	0	1	1	0	1	3	0	1	1
Minimum quantity requirements	0	2	0	0	4	0	0	2	0
Packaging	0	2	0	0	4	0	0	2	0
Product consistency	0	2	0	0	4	0	0	2	0
Product quality	1	1	0	0	3	1	0	2	0
Product range	0	2	0	0	4	0	0	2	0
Reliability of supply	1	1	0	0	4	0	0	2	0
Technical support	1	1	0	0	4	0	0	2	0
Transportation network	0	2	0	0	4	0	0	2	0
U.S. transportation costs	0	2	0	0	4	0	0	2	0

¹ S = U.S. superior, C = products comparable, I = U.S. inferior.

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

³¹ In addition, the Venezuelan respondent stated that Hevensa sells larger size silicomanganese, which it said certain purchasers in the Gulf of Mexico region of the United States prefer. Hearing transcript, p. 105.

³² These purchasing factors are the standard Commission factors listed in table II-4.

Table II-7

Silicomanganese: Number of purchasers' comparisons of subject imports

Factor	India vs. Kazakhstan ¹			India vs. Venezuela ¹			Kazakhstan vs Venezuela ¹		
	S	C	I	S	C	I	S	C	I
Availability	0	4	0	0	4	0	1	2	0
Delivery terms	0	5	0	0	4	0	0	3	0
Delivery time	0	5	0	0	4	0	1	2	0
Discounts offered	0	5	0	0	4	0	0	3	0
Lowest price	0	5	0	1	3	0	0	3	0
Minimum quantity requirements	0	5	0	0	4	0	0	3	0
Packaging	0	5	0	0	4	0	0	3	0
Product consistency	0	5	0	0	4	0	0	3	0
Product quality	0	4	1	0	3	1	0	3	0
Product range	0	4	1	0	3	1	0	3	0
Reliability of supply	0	5	0	0	4	0	0	3	0
Technical support	0	4	1	0	3	1	0	3	0
Transportation network	0	5	0	0	4	0	0	3	0
U.S. transportation costs	0	5	0	0	4	0	0	3	0

¹ S = First named source superior, C = products comparable, I = First named source inferior.

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

Table II-8

Silicomanganese: Number of purchasers' comparisons of U.S. and subject imports with nonsubject¹ imports

Factor	U.S. vs. nonsubject ²			India vs. nonsubject ²			Kazakhstan vs. nonsubject ²			Venezuela vs. nonsubject ²		
	S	C	I	S	C	I	S	C	I	S	C	I
Availability	3	4	0	1	5	1	0	6	0	1	5	0
Delivery terms	2	5	0	0	7	0	0	6	0	0	6	0
Delivery time	3	4	0	0	6	1	0	6	0	0	6	0
Discounts offered	3	4	0	0	7	0	0	6	0	0	6	0
Lowest price	1	3	3	1	5	1	1	5	0	1	3	2
Minimum quantity requirements	2	5	0	0	7	0	0	6	0	0	6	0
Packaging	0	6	1	0	7	0	0	6	0	0	6	0
Product consistency	2	4	1	1	6	0	0	6	0	1	5	0
Product quality	3	3	1	0	7	0	1	5	0	1	5	0
Product range	2	5	0	0	7	0	0	6	0	0	6	0
Reliability of supply	3	3	1	1	6	0	0	6	0	1	5	0
Technical support	2	5	0	0	7	0	1	5	0	0	6	0
Transportation network	2	4	1	0	7	0	0	6	0	0	6	0
U.S. transportation costs	2	5	0	0	7	0	0	6	0	0	6	0

¹ Nonsubject includes Norway, Macedonia, Mexico, Romania, and South Africa.
² S = First named source superior, C = products comparable, I = First named source inferior.

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

Sixteen of the 18 end-user purchasers stated that imported and domestic silicomanganese are used in the same applications. The other end-user purchasers had only purchased domestic recently and did not know. One of 19 purchasers stated that it sometimes expressly purchases from one country. When asked if certain grades were available only from a single source, 15 purchasers said no, one did not know, and three others that now only purchase from *** said yes.

ELASTICITY ESTIMATES

This section discusses elasticity estimates. Parties were encouraged to comment on these estimates in their prehearing briefs. None did so.

U.S. Supply Elasticity

The domestic supply elasticity for silicomanganese measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of silicomanganese. The elasticity of domestic supply depends on several factors, including the level of excess capacity, the ease with which

producers can alter capacity, producers' ability to shift production to other products, the existence of inventories, and the availability of alternate markets for U.S.-produced silicomanganese. Eramet could only switch production to other products with some difficulty, and has *** inventories. Analysis of these factors earlier indicates that the U.S. industry is likely to be able to increase or decrease shipments to the U.S. market only mildly; an estimate in the range of 1 to 3 is suggested.

U.S. Demand Elasticity

The U.S. demand elasticity for silicomanganese measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of silicomanganese. This estimate depends on factors discussed earlier such as the existence of substitute products and the component share of silicomanganese in the production of downstream products. There are viable substitutes for silicomanganese in general, but silicomanganese is a small part of the cost of overall steel production. Based on available information, the aggregate demand for silicomanganese is likely to be inelastic; a range of -0.5 to -1.0 is suggested.

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.³³ Product differentiation, in turn, depends upon such factors as quality and conditions of sale. A majority of purchasers indicated that for most applications, U.S. and imported products are broadly substitutable. Based on available information, the elasticity of substitution between U.S.-produced and imported silicomanganese is likely to be in the range of 5 to 8.

³³ The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and U.S. like products to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject products (or vice versa) when prices change.

PART III: U.S. PRODUCER'S PRODUCTION, SHIPMENTS, 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 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 petitioner and only known U.S. producer of silicomanganese during the period for which the Commission requested information.¹

THE U.S. PRODUCER

Eramet Marietta Inc., is located in Marietta, OH, and is wholly-owned by Eramet Manganese Alliances of France. Prior to July 1999, the Marietta, OH, facility was operated by Elkem Metals. On July 1, 1999, the French firm Eramet SA acquired the manganese business, including operations in Norway and Marietta, OH, of Norway's Elkem ASA. This acquisition resulted in the transfer of ownership of the Marietta, OH, facility from Elkem Metals to the newly created firm of Eramet Marietta Inc. (Eramet). Eramet SA has ownership in firms in France, Italy, and Norway that are engaged in the production of silicomanganese.²

Silicomanganese is just one of several products produced by Eramet. The full range of products included in the firm's product mix and the shares of production and net sales accounted for by each product are shown in the following tabulation:

* * * * *

Eramet produces silicomanganese in a location that is physically separate from the production of all other products the firm produces. Production-and-related workers (PRWs) that are used to produce silicomanganese, as well as the machinery and equipment that the firm uses to produce silicomanganese, typically are not used in the production of any other products. Aside from the change in ownership that occurred on July 1, 1999, Eramet reported no changes in the character of its operations or organization relating to the production of silicomanganese during the period for which the Commission requested information. The only constraint noted by the firm on its production capabilities is that "****."

¹ In December 2001, Highlanders Alloys, LLC (Highlanders), a company formed by a group of Israeli investors, re-opened the New Haven, WV, silicomanganese plant previously owned and operated by American Alloys. In a March 6, 2002, telephone conversation with Commission staff, *** stated that the company began production of silicomanganese in mid-February 2002 utilizing one of three furnaces, and, by mid-April 2002, the company hoped to have all three furnaces up and running. As of mid April 2002, two of the three were on line the third one was expected to be up and running in a few days. *** indicated that each furnace has annual capacity of about *** short tons, or *** short tons in total. (Press reports put Highlanders annual capacity at close to 200,000 tons per year.) In a March 13, 2002, telephone conversation with ***, staff was told that ***. The company's current production is focused solely on silicomanganese. American Alloys employed 270 workers during its operation of the New Haven facility. Highlanders reportedly has rehired 60 of those workers and plans to eventually bring back another 90. (See "Israeli group to launch US silicon manganese facility," *American Metal Market*, www.amm.com, February 5, 2002.) On April 4, 2002, the Commission sent a letter to Highlanders requesting certain information on its silicomanganese operations. The letter requested that a response be received by no later than April 9, 2002. Highlanders did not respond to the Commission's written request for information.

² The related Italian firm, Comilog Italia, reportedly ceased operations in June 2001.

**THE U.S. PRODUCER'S PRODUCTION, CAPACITY, SHIPMENTS,
INVENTORIES, AND EMPLOYMENT**

Data showing trends related to Eramet's silicomanganese operations are shown in table III-1 and figure III-1. The data show that, between 1998 and 2000, Eramet experienced a decline in the volume of its silicomanganese production capacity and production, as well as an irregular decrease in both the quantity and value of its shipments, a decrease in the number of PRWs employed in the production of silicomanganese, and an irregular reduction in the number of hours worked by such PRWs. Wages paid to the firm's PRWs, however, did rise continually over the period, increasing by *** percent between 1998 and 2000. The firm's end-of-period inventories fell by *** between 1998 and 1999 and then increased by *** percent from 1999 to 2000. Most of these same indicators improved between the interim periods, as capacity and production increased by *** percent, and total shipments increased by *** percent on the basis of quantity and by *** percent in terms of value.

Table III-1
Silicomanganese: Eramet's U.S. production capacity, production, capacity utilization, shipments, end-of-period inventories, and employment, 1998-2000, January-September 2000, and January-September 2001

* * * * * * *

Figure III-1
Silicomanganese: U.S. producer's capacity, production, U.S. shipments, and end-of-period inventories, 1998-2000

* * * * * * *

THE U.S. PRODUCER'S PURCHASES

Eramet conducted all import operations ***. *** during the period investigated, but it did import nonsubject material from *** France.³ Eramet also ***. Table III-2 presents the quantities of Eramet's *** imports of foreign product and their ratios to production. Eramet stated in its questionnaire response that it acquired the foreign-produced material "****."⁴ Eramet's volume of imports and ratio of imports to production declined by *** each year.⁵

Table III-2
Silicomanganese: U.S. producer's purchases and ratios of purchases to production, 1998-2000, January-September 2000, and January-September 2001

* * * * * * *

³ See conference transcript, p. 23.

⁴ Eramet's importer's questionnaire response, p. 4.

⁵ See conference transcript, p. 23.

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

U.S. IMPORTERS

The Commission sent importer questionnaires to 46 firms believed to have imported silicomanganese during the period for which the Commission requested information, January 1, 1998, through September 30, 2001. Twelve firms supplied the Commission with usable questionnaire information.¹ The identity of those firms and the reported sources of their U.S. imports are shown in table IV-1.

**Table IV-1
Silicomanganese (including low-carbon silicomanganese): U.S. importers and their reported sources of U.S. imports**

Firm	Source of imports	Firm	Source of imports
Considar, Inc.	Kazakhstan	Huxley Barter Corp.	India, ***
Eramet Marietta, Inc. ¹	France ²	Minerais U.S. LLC	Venezuela, *** ³
***	***	***	***
***	***	***	***
***	***	***	***
***	***	***	*** ⁴
¹ Petitioner. ² ***. ³ ***. ⁴ ***. Source: Compiled from data submitted in response to Commission questionnaires.			

U.S. IMPORTS²

U.S. imports of silicomanganese enter the United States under 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, information developed in the preliminary phase investigations shows that it is not likely that any such imports occurred during the period for which information in these investigations was requested.

¹ Another 20 firms responded to the questionnaire by indicating that they did not import silicomanganese from any country during the period for which information was requested, and the remaining firms did not respond to the questionnaire. One firm, ***, reported in the preliminary phase investigations that ***. Telephone conversation with ***, April 24, 2001.

² Negligibility is not an issue in these investigations. During the 12-month period preceding the filing of the petition, imports from none of the subject countries were less than 3 percent of the volume of total U.S. imports of subject product. In fact, Venezuela, the subject source with the lowest import volume, had an over 6-percent import share.

While the import data supplied by firms completing the Commission's questionnaire closely approximate official data on U.S. imports as compiled by the U.S. Department of Commerce in most periods, such questionnaire data accounted for only 54.5 percent of official statistics for total U.S. imports and 50.1 percent of official statistics for subject U.S. imports in 1998 (table IV-2). Furthermore, individual country data show that questionnaire data for Venezuela are significantly understated in 1998 and 1999 and coverage for India is less than 80 percent during 1998-2000 when compared with official Commerce statistics. Therefore, U.S. imports of silicomanganese presented in this section of the report rely on official Commerce statistics, adjusted to exclude U.S. importers' reported imports of low-carbon silicomanganese, a product that Commerce has excluded from the scope of these investigations.

Table IV-2
Silicomanganese (including low-carbon silicomanganese): U.S. imports based on official Commerce statistics, by sources, and shares of imports accounted for by Commission questionnaire data, by sources, 1998-2000

Source	1998	1999	2000
	Quantity of U.S. imports based on official Commerce statistics (<i>short tons</i>)		
India ¹	46,179	11,982	66,685
Kazakhstan	2,927	30,585	73,189
Venezuela	19,511	18,604	26,565
Subtotal ¹	68,616	61,170	166,439
All other sources ¹	313,270	270,178	250,371
Total ¹	381,886	331,348	416,810
	Share of official Commerce statistics accounted for by Commission questionnaire data (<i>percent</i>)		
India ¹	***	***	***
Kazakhstan	***	***	***
Venezuela	***	***	***
Subtotal ¹	50.1	78.6	91.1
All other sources ¹	55.4	98.3	92.4
Total ¹	54.5	94.6	91.9

¹ Includes imports of low-carbon silicomanganese.

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

Data on U.S. imports of silicomanganese are shown in table IV-3. Combined U.S. imports from India, Kazakhstan, and Venezuela increased, ***, on the basis of both quantity and value between 1998 and 2000 and decreased by *** percent on the basis of quantity and by *** percent on the basis of value between the interim periods. The quantity of U.S. imports from Kazakhstan increased at a considerably higher rate than did U.S. imports from either India or Venezuela during 1998-2000. The quantity of U.S. imports from Kazakhstan increased by 945.1 percent between 1998 and 1999 and rose by 139.3 percent between 1999 and 2000. The quantity of U.S. imports from India and Venezuela, on the other hand, fell by *** percent and by 4.6 percent, respectively, between 1998 and 1999 and increased by *** percent and by 42.8 percent, respectively, between 1999 and 2000. The quantity of U.S. imports from all subject sources declined between the interim periods, falling by *** percent in the case of India, by 40.0 percent in the case of Kazakhstan, and by 92.5 percent in the case of Venezuela. The volume of nonsubject U.S. imports fell over the same period by *** percent, while the decrease in total U.S. imports was *** percent.

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 II; geographical markets and simultaneous presence in the market are discussed below.

Geographical Markets

In its response to the Commission's producer questionnaire, Eramet indicated that the geographic market area served by silicomanganese that it produces is ***. As an attachment to its questionnaire, Eramet listed its volume of shipments of silicomanganese by state in 2000, as well as shipments by state as a share of total sales. Importers provided staff with similar information on their U.S. shipments, by state. As shown in table IV-4, there were geographical overlaps of imports from all three subject countries with domestic silicomanganese in Illinois and Ohio. The share of Eramet's U.S. shipments to these two states was *** percent; for Indian product the share was *** percent, for Kazakah product the share was *** percent, and for Venezuelan product the share was *** percent.

Table IV-3
Silicomanganese: U.S. imports, by sources, 1998-2000, January-September 2000, and January-September 2001¹

Source	1998	1999	2000	January-September--	
				2000	2001
Quantity (short tons)					
India	***	***	***	***	***
Kazakhstan	2,927	30,585	73,189	59,379	35,636
Venezuela	19,511	18,604	26,565	22,156	1,653
Subtotal	***	***	***	***	***
All other sources	***	***	***	***	***
Total	***	***	***	***	***
Value (1,000 dollars)					
India	***	***	***	***	***
Kazakhstan	1,237	11,444	29,633	24,933	14,383
Venezuela	8,608	6,994	11,315	9,708	658
Subtotal	***	***	***	***	***
All other sources	***	***	***	***	***
Total	***	***	***	***	***
Unit value (per short ton)					
India	\$***	\$***	\$***	\$***	\$***
Kazakhstan	423	374	405	420	404
Venezuela	441	376	426	438	398
Average	***	***	***	***	***
All other sources	***	***	***	***	***
Average	***	***	***	***	***

See footnote at end of table.

Table IV-3--Continued

Silicomanganese: U.S. imports, by sources, 1998-2000, January-September 2000, and January-September 2001¹

Source	1998	1999	2000	January-September--	
				2000	2001
Share of quantity (percent)					
India	***	***	***	***	***
Kazakhstan	***	***	***	***	***
Venezuela	***	***	***	***	***
Subtotal	***	***	***	***	***
All other sources	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0
Share of value (percent)					
India	***	***	***	***	***
Kazakhstan	***	***	***	***	***
Venezuela	***	***	***	***	***
Subtotal	***	***	***	***	***
All other sources	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0

¹ Data were adjusted to exclude U.S. imports of low-carbon silicomanganese as reported by U.S. importers in Commission questionnaires. No U.S. importers reported that they imported low-carbon silicomanganese from either Kazakhstan or Venezuela during the period for which information was requested. *** reported imports of low-carbon silicomanganese from India that amounted to *** short tons, valued at \$***, in 1998; *** short tons, valued at \$***, in 1999; *** short tons, valued at \$***, in 2000; *** short tons, valued at \$***, in January-September 2000, and *** short tons, valued at \$*** in January-September 2001. Three firms (***) reported that they imported nonsubject low-carbon silicomanganese during the period for which data were requested. Such U.S. imports totaled *** short tons, valued at \$***, in 1998; *** short tons, valued at \$***, in 1999; *** short tons, valued at \$***, in 2000, *** short tons, valued at \$***, in January-September 2000; and *** short tons valued at \$***, in January-September 2001.

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

Source: Compiled from official Commerce statistics, except as noted.

Table IV-4
Silicomanganese: Shares of sales of domestic and subject imported product, by states, 2000

* * * * *

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 3 of the 45 months from January 1998 through September 2001. Although imports from all three countries entered in only 6 of the 45 months, imports from at least two of the countries entered in 25 of the 45 months. Imports from Kazakhstan increased their presence in the U.S. market from being imported in only one month in 1998 to being imported in nine months in 2000. Table IV-5 presents the number of months in each period that subject imports from the three countries entered the United States.

Table IV-5
Silicomanganese: U.S. imports, monthly entries into the United States, by sources, January 1998-September 2001

Source	1998	1999	2000	January-September 2001	Total
India	10	4	8	5	27
Kazakhstan	1	7	9	5	22
Venezuela	7	8	8	1	24

Source: Compiled from official Commerce statistics.

APPARENT U.S. CONSUMPTION

Data on apparent U.S. consumption of silicomanganese are shown in table IV-6. To calculate apparent consumption, official import statistics, revised to remove low-carbon silicomanganese, were used for all sources except Kazakhstan. For Kazakhstan, questionnaire coverage was excellent in all periods (see table IV-2) and inventories of imported product fluctuated ***. Therefore it is more appropriate to use U.S. shipments of imports from Kazakhstan instead of imports per se.³ On the basis of quantity, apparent consumption fluctuated upward by *** percent between 1998 and 2000 and decreased by *** percent between the interim periods. Apparent consumption value increased and decreased similarly, rising by *** percent between 1998 and 2000 and declining by *** percent between interim 2000 and interim 2001.

³ It is not possible to use questionnaire data for any other source because coverage was low in one or more periods for each of the other subject sources (see table IV-2).

Table IV-6

Silicomanganese: Eramet's U.S. shipments, U.S. imports, by sources, and apparent U.S. consumption, 1998-2000, January-September 2000, and January-September 2001

Item	1998	1999	2000	January-September--	
				2000	2001
	Quantity (short tons)				
U.S. producer's U.S. shipments	***	***	***	***	***
U.S. imports from--					
India	***	***	***	***	***
Kazakhstan ¹	***	***	***	***	***
Venezuela	19,511	18,604	26,565	22,156	1,653
Subtotal	***	***	***	***	***
All other sources	***	***	***	***	***
Total	***	***	***	***	***
Apparent consumption	***	***	***	***	***
	Value (1,000 dollars)				
U.S. producer's U.S. shipments	***	***	***	***	***
U.S. imports from--					
India	***	***	***	***	***
Kazakhstan ¹	***	***	***	***	***
Venezuela	8,608	6,994	11,315	9,708	658
Subtotal	***	***	***	***	***
All other sources	***	***	***	***	***
Total	***	***	***	***	***
Apparent consumption	***	***	***	***	***
<p>¹ Data shown are for U.S. importers' U.S. shipments of imports.</p> <p>Note.--Because of rounding, figures may not add to the totals shown.</p> <p>Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics (adjusted to remove low-carbon silicomanganese).</p>					

U.S. MARKET SHARES

U.S. market share data are shown in table IV-7. Eramet's share of the U.S. silicomanganese market, on the basis of volume, rose from *** percent in 1998 to *** percent in 1999, declined to *** percent in 2000, and rose from *** percent in interim 2000 to *** percent in interim 2001. Also on the basis of volume, combined market shares for India, Kazakhstan, and Venezuela rose unevenly from *** percent in 1998 to *** percent in 2000 and declined from *** percent in interim 2000 to *** percent in interim 2001. Individually, India's market share declined from *** percent in 1998 to *** percent in 1999, increased to *** percent in 2000, and increased *** percent in interim 2001. Kazakhstan's market share increased from *** percent in 1998 to *** percent in 2000, and rose from *** percent in interim 2000 to *** percent in interim 2001. Venezuela's market share increased from *** percent in 1998 to *** percent in 2000 and fell from *** percent in interim 2000 to just *** percent in interim 2001.

Table IV-7

Silicomanganese: U.S. consumption and market shares, 1998-2000, January-September 2000, and January-September 2001

* * * * *

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

The major raw materials used in producing silicomanganese are manganese ore and silicon. Eramet stated that raw material costs are not a “given” for silicomanganese manufacturers, and that it has reduced its raw material and energy costs through investments in more efficient manufacturing processes.¹

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 4.9 percent, 4.5 percent, and 6.6 percent, respectively, of the export value of silicomanganese.²

U.S. Inland Transportation Costs

Eramet and the importers reported that they arrange transportation to their customers. Eramet and most importers reported that the majority of their sales were within 1,000 miles of their production facility or shipment point. Eramet reported that U.S. inland transportation costs accounted for approximately *** percent of the total delivered price of silicomanganese. Nine importers reported transportation costs between 3 percent and 10 percent of the silicomanganese delivered price, although two reported costs of 15-18 percent.³

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.

Since January 1998, all subject countries showed significant nominal depreciation in their currencies relative to the U.S. dollar. In addition to these currency depreciations, the currencies of major nonsubject importing countries Australia and South Africa have also depreciated significantly relative to the U.S. dollar since January 1998.

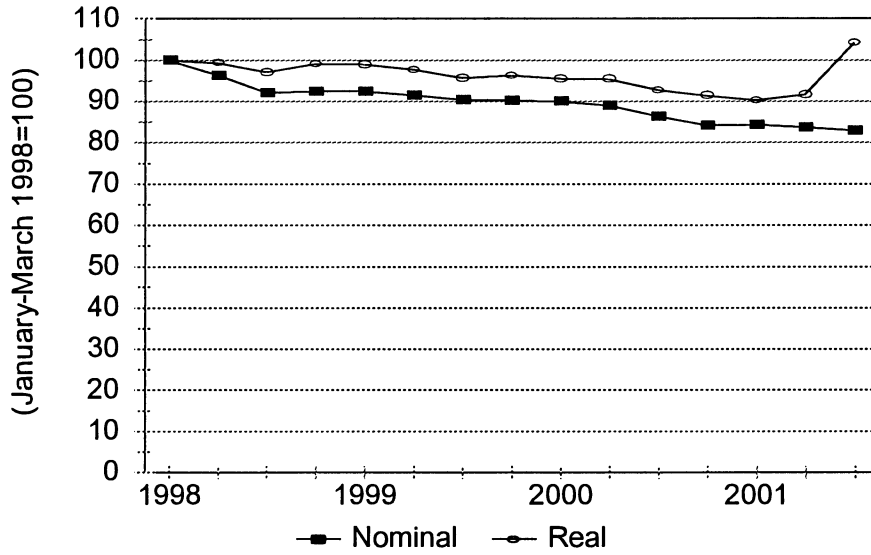
¹ Hearing transcript, pp. 14-16 and 21.

² These estimates are derived from 2001 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.

³ Purchasers reported varying transportation costs of between 1 and 10 percent, but several stated that they did not know transportation costs as prices were usually quoted delivered.

Figure V-1

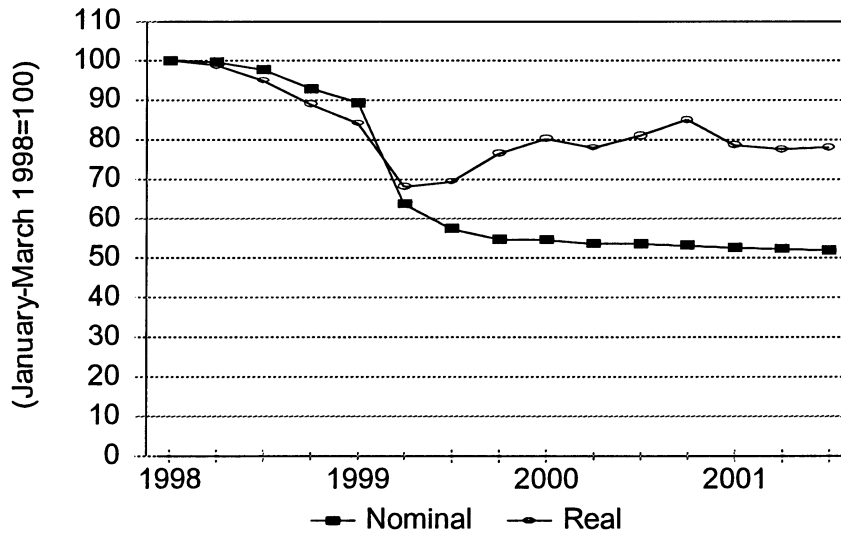
Exchange rates: Indexes of the nominal and real exchange rates of the Indian rupee relative to the U.S. dollar, by quarters, January 1998-September 2001



Source: International Monetary Fund, *International Financial Statistics*, February 2002.

Figure V-2

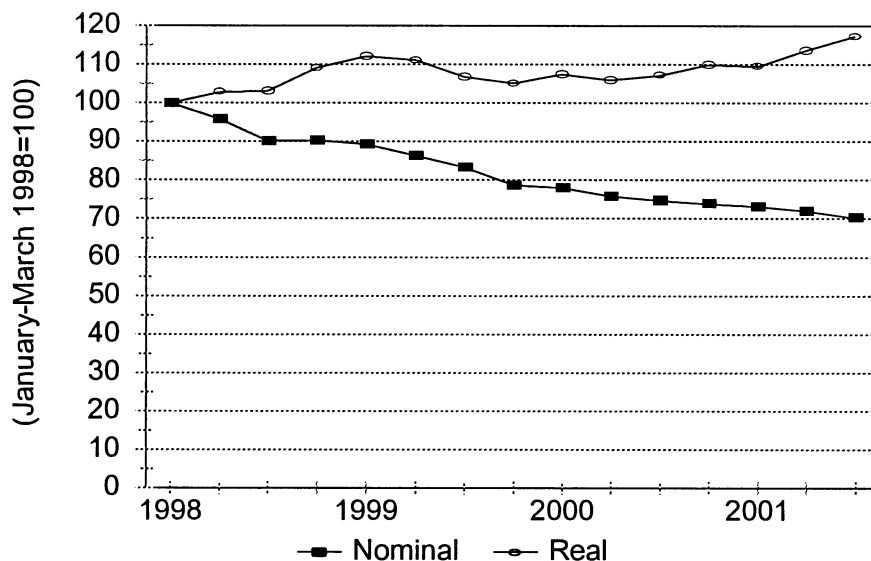
Exchange rates: Indexes of the nominal and real exchange rates of the Kazakh tengee relative to the U.S. dollar, by quarters, January 1998-September 2001



Source: International Monetary Fund, *International Financial Statistics*, February 2002.

Figure V-3

Exchange rate: Indexes of the nominal and real exchange rates of the Venezuelan bolivar relative to the U.S. dollar, by quarters, January 1998-September 2001



Source: International Monetary Fund, *International Financial Statistics*, February 2002.

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*. Five purchasers said that silicomanganese prices change every six months, six others said time periods closer to quarterly, three said monthly, and two others said that each transaction was different.⁴

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.⁵ ***.⁶

⁴ ***. Eighteen purchasers said that they did not purchase silicomanganese over the internet. One importer said it had recently participated in an on-line auction for a small sale, and one purchaser stated it had bought 1,000 tons over the internet in 2001 only.

⁵ Eramet's questionnaire.

⁶ Ibid., and questionnaire of ***. ***. Respondents also acknowledged some contracts tied to indexes, although Joel Filner of Huxley Barter indicated a preference for fixed price contracts. See hearing transcript, pp. 63-64, 70, 80-81, 117, and 120.

Importers also reported transaction by transaction pricing, with three also reporting some contracts.⁷ Three importers cited *Metals Week* or *Ryan's Notes* pricing as playing a role in negotiation, and one stated that some contracts have formula pricing based on indexes such as the ones in *Metals Week*. Ten importers reported no discount policy, while two importers *** reported that on larger or long-term contracts there are some volume discounts. Four importers had sales under contract for 80-100 percent of their sales, while two others reported all spot sales.

Among purchasers, 18 reported that terms were negotiable while one said that the supplier sets terms. Seven purchasers listed Eramet as a price leader, five listed Billiton-Stratcor,⁸ four listed Glencore,⁹ four listed Minerais, two listed CC Metals, two listed Consider, two listed Larson Sales, and one listed *** Hickman Williams. One of the purchasers who cited Eramet said it tended to quote high, and another said it provided quality product at the lowest quoted price. Another said that Eramet had led prices up in 2001 and a final one said that Eramet led price changes both up and down. Purchasers who cited importers as price leaders explained that the importers showed price leadership by having the lowest or "best" prices offered, or by offering information on market conditions. *** said that CC Metals and Glencore led prices down in 1998 and then led prices back up in 1999-2000.¹⁰

When purchasers of imported silicomanganese were asked how much more expensive the imported silicomanganese they bought would have had to be to have convinced them to buy domestic silicomanganese instead, purchasers answered that they would have purchased domestic had imported been 1 to 10 percent more expensive.

When asked to compare U.S. and imported prices, seven purchasers said that imported silicomanganese was less expensive than domestic silicomanganese, citing imports from numerous sources including the subject countries, Mexico, and South Africa. One of these purchasers stated that quotes on U.S. material are about 4 percent higher than quotes on material from India, Venezuela, Macedonia, Mexico, and South Africa. One purchaser only noted that silicomanganese from Romania, India, and Kazakhstan was priced the same, and two others noted that Mexican silicomanganese was more expensive than U.S. silicomanganese. One purchaser stated that domestic and imported silicomanganese are usually

⁷ Staff took importers' responses as to the percentage of their shipments sold under contract versus spot, and weighted those percentages by 2000 quantity shipments. Using this methodology, Indian imports are *** percent contract, Kazakh imports are *** percent contract, and Venezuelan imports are *** percent contract. All subject imports combined are *** percent contract.

⁸ ***.

⁹ Glencore is a minerals trader that ***.

¹⁰ In addition, *American Metal Market* described a first quarter 2002 purchase by Nucor-Yamato Steel (Arkansas) as a market-moving event. It stated that Nucor-Yamato's 30,000 ton purchase, probably of South African silicomanganese, forced prices down from approximately \$480 per ton to \$450 per ton. It added that prices would likely stay depressed as other large buyers continue to "drive hard bargains." "Silicomanganese prices decline on deal," *American Metal Market*, February 14, 2002.

Eramet and respondents described Nucor-Yamato as the largest purchaser of silicomanganese in the United States, and said that its buying decisions do affect U.S. prices for silicomanganese. They described Nucor-Yamato's purchases as desirable not only for volume but also because sales go directly to Nucor-Yamato's dock, reducing transportation costs. In addition, they stated that few suppliers could supply all of Nucor-Yamato's purchases. Respondents added that while there are no other purchasers of Nucor-Yamato's size, there are other market moving purchasers who purchase approximately half of what Nucor-Yamato does annually. Respondents also said that Nucor-Yamato is a purchaser who will purchase high phosphorous silicomanganese. Hearing transcript, pp. 58-61, 107, 116-118, 120-121, and 137.

The Commission received a purchaser questionnaire response from Nucor-Yamato, ***. ***.

priced about the same. Another stated that U.S., Australian, and South African silicomanganese are priced the same, but one said that U.S. silicomanganese was lower priced than South African silicomanganese. Two purchasers felt there was no consistent price advantage to any source.

Six purchasers reported that U.S. prices remained the same relative to imported prices, but often cited nonsubject countries such as Australia, Mexico, and South Africa as the import source. *** said that U.S. prices increased relative to Kazakh, Venezuelan, Indian, and South African prices. *** said that U.S. prices decreased relative to Kazakh and Venezuelan prices. *** stated that prices increased from 1998 to 2000 for imports from ***, Mexico, South Africa, and Kazakhstan relative to U.S. prices, and then decreased relative to U.S. prices after April 2001. *** said that U.S. and South African prices decreased. *** said that U.S. prices decreased relative to Mexican and South African prices. *** said that U.S. prices decreased relative to Indian prices and increased relative to South African prices.

PRICE DATA

The Commission requested U.S. producers and importers to provide quantity and f.o.b. value data for sales of silicomanganese that was shipped to unrelated customers in the U.S. market. Data were requested for the period January 1998–September 2001. The products for which pricing data were requested were as follows:

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

Product 2.—ASTM grade B bulk silicomanganese sold to steel producers as spot sales.

Eramet provided pricing for both products for all quarters.¹¹ Five importers reported pricing data for at least one product for at least one quarter (four had imports from India, one from Kazakhstan, and one from Venezuela).¹²

Price Trends

U.S. f.o.b. prices of silicomanganese product 1, whether imported or domestic, followed the same overall pattern of declining from the first quarter of 1998 through the first half of 1999, then recovering from the second half of 1999 through the first half of 2000, declining again in the second half of 2000, and showing a final uptick in recent quarters.¹³ Although product 2 generally followed the same pattern, there was considerably more deviation from the trend, particularly for the imported product.

Price Comparisons

Tables V-1 and V-2 show comparisons between U.S. f.o.b. plant prices and subject imports' f.o.b. point of shipment prices for products 1 and 2. Figures V-4 and V-5 show the weighted-average prices and volumes of domestic and imported product 1, and figures V-6 and V-7 show these data for product 2.

¹¹ Pricing data account for *** percent of Eramet's U.S. shipments during January 1998-September 2001.

¹² Pricing data account for the following shares of official imports (adjusted to exclude low-carbon silicomanganese) during January 1998-September 2001: *** percent (India), *** percent (Kazakhstan), and *** percent (Venezuela).

¹³ *** reported that prices were falling as of the first quarter of 2002, with *** quoting low prices. Staff conversation with ***, March 1, 2002.

Table V-1

Silicomanganese: Weighted-average selling price and quantity data for U.S.-produced and imported product 1 from India, Kazakhstan, and Venezuela and margins of underselling/(overselling), by sources and by quarters, January 1998-September 2001

* * * * *

Table V-2

Silicomanganese: Weighted-average selling price and quantity data for U.S.-produced and imported product 2 from India, Kazakhstan, and Venezuela and margins of underselling/(overselling), by sources and by quarters, January 1998-September 2001

* * * * *

Figure V-4

Silicomanganese: Weighted-average f.o.b. selling prices of domestic and imported product 1, by sources and by quarters, January 1998-September 2001

* * * * *

Figure V-5

Silicomanganese: Volumes of U.S. sales of domestic and imported product 1, by sources and by quarters, January 1998-September 2001

* * * * *

Figure V-6

Silicomanganese: Weighted-average f.o.b. selling prices of domestic and imported product 2, by sources and by quarters, January 1998-September 2001

* * * * *

Figure V-7

Silicomanganese: Volumes of U.S. sales of domestic and imported product 2, by sources and by quarters, January 1998-September 2001

* * * * *

For U.S. versus Indian products, three instances of underselling were reported for product 1 (ranging from 3.0 to 7.3 percent) and no instances of underselling were reported for product 2. There were 12 quarterly comparisons of overselling for product 1 (ranging from 0.7 to 11.1 percent) and 5 quarters of overselling for product 2 (ranging from 1.0 to 30.1 percent).¹⁴

For U.S. versus Kazakh products, eight instances of underselling (of 1.3 to 7.7 percent) were reported for product 1 and five instances of underselling (of 4.9 to 14.9 percent) were reported for product 2. There were four quarterly comparisons of overselling for product 1 (ranging from 0.1 to 5.0 percent) and six quarters of overselling for product 2 (ranging from 3.6 to 31.4 percent).

For U.S. versus Venezuelan product 1, two instances of underselling were reported (2.9 and 7.1 percent). In the remaining 10 quarters for which pricing comparisons were possible, the Venezuelan product oversold the domestic product by margins ranging from 0.1 to 11.6 percent.

ADDITIONAL PRICING DATA

Purchaser data for Commission pricing products 1 and 2 were also solicited from purchasers, and their responses are summarized in appendix D. In general, purchaser data, which are for delivered prices, seem to agree with the more complete producer and importer data presented previously in terms of trends, though the price levels are, at least for product 1, generally higher for both U.S. product and subject imports.

In addition to the pricing data solicited by the Commission, purchasers *** and *** submitted the following time series data for their purchases of silicomanganese from domestic, subject import, and nonsubject import sources.

* * * * *

Ryan's Notes reports that recent U.S. silicomanganese prices have stayed low, but generally attributes weakness in pricing to lower U.S. demand, inventory overhang, and possibly nonsubject imports. *Ryan's Notes* quotes one silicomanganese analyst as saying that "if Eramet hadn't pursued the dumping charges...prices would definitely be lower. Material from [subject countries] has slowed to a trickle and other countries have been slow to increase their U.S. sales. The reason why prices are still under 25 cents is a function of lower demand." In addition, *American Metal Market* reports that Highlanders' entrance to the market has also caused prices to slip.¹⁵

As noted previously, a key part of the silicomanganese pricing process is market information from industry publications. Table V-3 and figure V-8 present *Ryan's Notes* pricing for silico-manganese. The basic trend of a trough in mid 1999, then a peak in mid 2000, followed by another trough in early 2001 and a rise through the end of 2001 is also reflected in the Commission's pricing data.

¹⁴ Petitioners stated that the reason for the appearance of persistent underselling by the domestic producer might be that producer data is f.o.b. plant while importer data is f.o.b. their respective warehouses, meaning that importer data has netted out less transportation costs. Eramet's prehearing brief, p. 36; see also closed hearing transcript, pp. 177-178. Eramet stated that a "major portion" (*** percent in 2000) of its sales were from warehouses. Eramet's prehearing brief, p. 36; Eramet's posthearing brief, pp. 5-6 and exh. 15. Staff invited Eramet to provide alternative pricing data based on f.o.b. shipping point rather than f.o.b. plant, but Eramet did not provide the information.

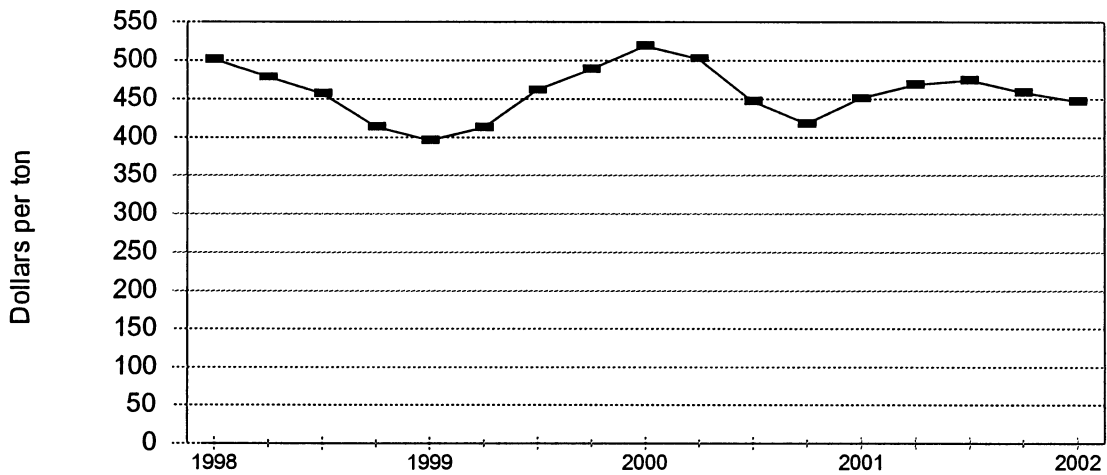
¹⁵ See *Ryan's Notes*, "What happened to U.S. silicomanganese prices?" and "SiMn prices begin to lose steam," and *American Metal Market*, "Silicomanganese prices slide as unit opens," March 28, 2002.

Table V-3**Silicomanganese: Prices derived from *Ryan's Notes*, by quarters, January 1998-March 2002**

Period	Price (per ton)
1998:	
January-March	\$502
April-June	479
July-September	457
October-December	414
1999:	
January-March	396
April-June	413
July-September	462
October-December	489
2000:	
January-March	519
April-June	503
July-September	447
October-December	418
2001:	
January-March	451
April-June	469
July-September	475
October-December	459
2002:	
January-March	448

Source: *Ryan's Notes* and staff calculations (quarterly averages of monthly averages of twice-weekly data).

Figure V-8
Silicomanganese: Quarterly silicomanganese prices derived from Ryan's Notes, January 1998-March 2002



Source: Table V-3.

LOST SALES AND LOST REVENUES

The Commission requested that U.S. producers of silicomanganese report any instances of lost sales and lost revenues they experienced due to competition from imports from India, Kazakhstan, and Venezuela since January 1998. All the lost sales allegations are presented in table V-4. Total lost sales allegations were \$*** and involved *** short tons of silicomanganese.

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

* * * * *

During the preliminary phase of these investigations, there were *** lost sales allegations totaling \$*** involving *** short tons of silicomanganese for January 1998 through December 2000. Of those *** original lost sales allegations, purchasers at least partially agreed with ***. ***.

The *** new lost sales allegations for January-September 2001 totaled \$*** and involved *** short tons of silicomanganese. *** of the allegations cited India or Venezuela as taking the sale, and the other *** allegations cited Kazakhstan. *** agreed with the allegations, while *** disagreed with the allegations and stated *** was the supplier.

Also in the preliminary phase of the investigations, there were *** lost revenue allegations that totaled \$*** and involved *** short tons of silicomanganese. These allegations are summarized in table V-5. In the final phase of the investigations, Eramet stated that it has lost revenues from ***. However, Eramet did not provide any specific lost revenue allegations for the final phase of the investigations.

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

* * * * *

PART VI: FINANCIAL EXPERIENCE OF ERAMET

BACKGROUND

The sole U.S. producer of silicomanganese, Eramet, provided usable financial data.¹ 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 of the Marietta plant's net sales by quantity and *** percent of its production in 2000, according to Eramet's questionnaire response.

OPERATIONS ON SILICOMANGANESE

Eramet reported *** sales of silicomanganese. Because the volume and value of Eramet's ***,² ***. The results of Eramet's silicomanganese operations during 1998-2000 and January-September 2000 and the same period in 2001 are presented in table VI-1.

Table VI-1

Results of operations of Eramet in the production of silicomanganese, fiscal years 1998-2000, January-September 2000, and January-September 2001

* * * * *

Total sales irregularly decreased between 1998 and 2000, but increased between January-September 2000 and the same period in 2001. Unit sales values irregularly decreased between 1998 and 2000, and fell between January-September 2000 and the same period in 2001. Reported changes in unit sales values also are supported by the pricing data that Eramet provided the Commission.³

¹ Eramet's questionnaire response was verified and changes to its data have been incorporated into the report. 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 January 1, 1998, to June 30, 1999. Eramet provided a fully-absorbed cost product line income statement for 2000 and for the nine months ended September 30, 2001, for the Marietta plant with its questionnaire response (it had previously provided such statements for 1999 and 2000). 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 ***. As noted in the preliminary phase report, Eramet SA (Eramet's parent company) purchased the silicomanganese production facility at Marietta, OH, from Elkem's parent company on July 1, 1999 (see Eramet Marietta, Inc., Notes to Financial Statements, "Purchase of Business").

² ***.

³ Pricing data products accounted for more than ***, by quantity and value, of Eramet's domestic commercial shipments during most of the periods investigated. Generally, trends in unit sales prices followed the pattern that was described earlier, decreasing between 1998 and 1999 and increasing between 1999 and 2000. Unit sales prices fell *** between the third and fourth quarters of 2000. The unit value of contract sales (product 1) remained at a relatively low level during the first six months of 2001, increasing by about \$*** per short ton during the third quarter of 2001. The unit value of spot sales (product 2) increased by approximately \$*** per short ton from the fourth quarter of 2000 to the first quarter of 2001, and by another \$*** per short ton between the second and third quarters of 2001.

Eramet stated that its per-unit cost of goods sold ***.^{4 5} This is supported by data that Eramet provided the Commission that allows the calculation of its “metal spread” and “metal ratio,”⁶ shown in table VI-2. These data are consistent with those in table VI-1.

**Table VI-2
Raw materials, energy costs, and metal spread of Eramet in the production of silicomanganese, fiscal years 1998-2000, January-September 2000, and January-September 2001**

* * * * *

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 2000 of \$*** was attributable primarily to an unfavorable variance in price; the decrease in operating income of \$*** between January-September 2000 and the same period in 2001 was attributable to unfavorable variances in price and net cost/expense that were only partially offset by a favorable variance in volume.

**Table VI-3
Variance analysis for the silicomanganese operations of Eramet, fiscal years 1998-2000, and January-September 2000-01**

* * * * *

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

Capital expenditures, research and development (R&D) 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

⁴ Eramet also noted that its raw materials costs are further reduced because of ***. Petitioner’s posthearing brief, attachment, p. 21 and Exh. 16.

⁵ Several elements of “other factory costs” increased, including ***. See, Eramet’s “Fully Absorbed Cost” statements attached to the company’s questionnaire response and the Verification Report, February 19, 2002. Also see petitioner’s posthearing brief, attachment, p. 21 and exhibit 16. SG&A expenses generally declined between 1999 and 2000, but increased between interim 2000 and interim 2001 because ***. Petitioner’s posthearing brief, attachment, p. 22.

⁶ 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. A “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. 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.

Table VI-4

Capital expenditures, research and development expenses, and the value of assets of Eramet with respect to silicomanganese, fiscal years 1998-2000, January-September 2000, and January-September 2001

* * * * *

resulted in higher annual charges for depreciation. Eramet stated that its capital expenditures have been to ***.

EFFECTS OF SUBJECT IMPORTS

Eramet's response to a 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 is that it has ***. It also provided a statement as follows:

* * * * *

Eramet's response to a question of whether it anticipates any negative impact of imports of silicomanganese from India, Kazakhstan, and/or Venezuela is as follows:

* * * * *

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

According to the petition, 21 firms in India are capable of producing silicomanganese and four firms are believed to have exported the product to the United States during the period for which the Commission requested information. The 1998 publication, *Ferro-Alloy Directory and Databook*, 5th ed., lists 21 Indian firms as being producers of ferroalloy products, which would include silicomanganese. The Commission attempted to send each of these firms, either by mail or by facsimile, a foreign producers' questionnaire for completion. Only four firms responded to the Commission's request for information: Ispat Alloys Ltd. (Ispat), Nava Bharat Ferro Alloys Ltd. (Nava Bharat), Universal Ferro & Allied Chemical Ltd. (Universal), and Indsil Electrosmelts Ltd. (Indsil). Indsil noted in its response that it produces only nonsubject low-carbon silicomanganese.¹

According to Ispat's questionnaire response, silicomanganese represented *** percent of its total sales in its most recent fiscal year. For Nava Bharat and Universal, the percentages reported were *** percent and *** percent, respectively. Ispat estimated that it accounted for *** percent of total Indian production in 2000. Nava Bharat and Universal estimated they accounted for *** percent and *** percent, respectively. The Commission's questionnaire asked producers if they produce other products on the same machinery and equipment that is used to produce silicomanganese. Nava Bharat responded that it produces ***; Ispat reported that it produces ***; while Universal reported that it produces ***. In response to the question of whether their firms had any plans to add, expand, curtail, or shut down production capacity and/or production of silicomanganese in India, *** responded in the affirmative while *** responded in the negative. ***'s responses were as follows:

* * * * *

Selected data on the silicomanganese operations of Ispat, Nava Bharat, and Universal are presented in table VII-1. While there was *** in the three firms' silicomanganese production capability over the period for which data was requested, the three firms experienced an increase in their silicomanganese production and shipments between 1998 and 2000 and incurred a decrease in both production and shipments between the interim periods. Although silicomanganese sales in the home market accounted for a *** share of Ispat's, Nava Bharat's, and Universal's combined silicomanganese shipments, exports accounted for *** of the three firms' total silicomanganese shipments ***. Projections for calendar year 2002 show that production, exports shipments, and total shipments are expected to be below 2001 levels.

¹ In response to the Commission's request for information in the preliminary phase investigations, 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.

Table VII-1

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

Item	1998	1999	2000	January-September--		Projected--	
				2000	2001	2001	2002
Quantity (short tons)							
Capacity	165,332	165,332	165,332	133,586	133,586	165,332	165,332
Production	***	***	143,006	114,430	70,194	94,385	90,494
End-of-period inventories	16,112	18,690	***	12,570	***	***	***
Shipments:							
Internal consumption	***	***	***	***	***	***	***
Home market	***	***	55,681	***	***	***	49,602
Exports to--							
The United States	***	***	74,003	67,351	33,377	35,875	***
All other markets	***	***	***	***	***	***	***
Total exports	***	***	***	***	***	***	***
Total shipments	***	***	146,284	120,548	77,092	102,118	90,384
Ratios and shares (percent)							
Capacity utilization	***	***	86.5	85.7	52.5	57.1	54.7
Inventories to production	***	***	***	8.2	***	***	***
Inventories to total shipments	***	***	***	7.8	***	***	***
Share of total shipments:							
Internal consumption	***	***	***	***	***	***	***
Home market	***	***	38.1	***	***	***	54.9
Exports to the United States	***	***	50.6	55.9	43.3	35.1	***
Exports to all other markets	***	***	***	***	***	***	***
Total exports	***	***	***	***	***	***	***

¹ Data are for Ispat Alloys Ltd., Nava Bharat Ferro Alloys Ltd., and Universal Ferro & Allied Chemical Ltd..

Note.--Because of rounding, figures may not add to the totals shown. Partial-year inventory ratios are annualized.

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

VII-2

*** are other principal export markets identified by Ispat, Nava Bharat, and Universal for their production of silicomanganese. According to their questionnaire responses, none of the silicomanganese exported by any of these three firms is subject to antidumping findings or remedies in any other WTO-member country.

THE INDUSTRY IN KAZAKHSTAN

The Commission requested and received information from counsel for OJSC Transnational Co. and Aksu Ferroalloy Plant, collectively known as “Kazchrome,” the only producer of silicomanganese in Kazakhstan. Kazchrome accounts for 100.0 percent of Kazakhstan’s exports of silicomanganese to the United States.² Silicomanganese reportedly accounted for *** percent of the firm’s total establishment sales in its fiscal year ended 2000. Kazchrome has a total of *** furnaces that are capable of producing silicomanganese.³ However, only *** of the *** are dedicated to that use.⁴ Each furnace has an annual capacity of *** short tons. ***. None of the silicomanganese that Kazchrome exports is subject to antidumping findings or remedies in any other WTO-member country.

Selected data on Kazchrome’s silicomanganese operations are presented in table VII-2. Kazchrome experienced increases in many of the indicators relating to its silicomanganese operations between 1998 and 2000 and between interim 2000 and interim 2001. Between 1998 and 2000, production capability increased by *** percent, production rose by *** percent, and total shipments increased by *** percent. Exports to the United States increased *** and, to a great extent, at the expense of exports to other export markets, which included ***.

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

* * * * *

THE INDUSTRY IN VENEZUELA

The petition identified Hornos Electricos de Venezuela SA (“Hevensa”) as the only firm in Venezuela to manufacture and export the subject merchandise to the United States.⁵ The Commission requested and received complete information from Hevensa on its silicomanganese operations in Venezuela. Based on information supplied in its response to the Commission’s foreign producer’s questionnaires, Hevensa indicated that it accounts for *** percent of the total production of silicomanganese in Venezuela and *** percent of the exports of that product from Venezuela to the United States. According to its questionnaire response, silicomanganese accounts for *** percent of Hevensa’s total establishment sales in its most recent fiscal year.

² Kazchrome’s posthearing brief, p. 1. Although petitioner stated it believed there might be a second Kazakh producer (see petition, p. 11), Kazchrome is unaware of any other Kazakh producer.

³ Kazchrome’s posthearing brief, exh. 12.

⁴ In its posthearing brief, Kazchrome states that ***. (See posthearing brief, exh. 12, p. 5.)

⁵ Petition, p. 13.

Hevensa has a total of *** furnaces dedicated to the production of silicomanganese. *** are currently operating. ***.⁶ Hevensa argues that its actual capacity continues to suffer from the consequences of the transformer meltdown which occurred in late 2000. Hevensa argues that the meltdown reduced its silicomanganese capacity by *** percent.⁷ Hevensa predicted that since it would not be able to repair or replace the transformer until early 2002, it could not export more than 9,000 short tons to the U.S. market in 2001 and 2002.⁸ In its response to the Commission's foreign producers' questionnaire, Hevensa indicated that it ***. Neither, it reported, is the silicomanganese that it exports subject to any antidumping findings or remedies in any WTO-member country.

Data pertaining to Hevensa's silicomanganese operations are shown in table VII-3. Between 1998 and 2000, the volume of Hevensa's silicomanganese production and total shipments increased by *** percent and *** percent, respectively. Shipments of all types increased over the period. Home market shipments (including internal consumption) rose by *** percent and export shipments increased by *** percent. Hevensa's exports to the United States increased steadily during 1998-2000 while at the same time its exports to all other markets fluctuated downward, decreasing overall by *** percent between 1998 and 2000. As a share of total shipments, Hevensa's exports to the United States increased by *** between 1998 and 2000 while exports to all other markets declined unevenly by ***. While Hevensa projects that its silicomanganese operations will improve somewhat in 2002 as compared with its projections for 2001, its 2002 production, capacity, and shipments will, if realized as projected, nevertheless be *** below their 2000 levels. In addition to the United States, export markets for Hevensa's silicomanganese include Colombia, ***, Mexico, Peru, and Trinidad and Tobago.⁹

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

* * * * *

U.S. IMPORTERS' INVENTORIES

Data on U.S. importers' inventories are presented in table VII-4. U.S. importers' inventories of silicomanganese from subject sources combined increased sharply from 1998 to 2000 and decreased somewhat between interim 2000 and interim 2001. The ratio of inventories to imports and the ratio of inventories to U.S. shipments fluctuated from lows of 29.5 percent and 31.3 percent, respectively, to highs of 36.8 percent and 47.7 percent, respectively.

U.S. IMPORTERS' CURRENT ORDERS

*** reported that they either imported or arranged for the importation of silicomanganese from India, Kazakhstan, and/or Venezuela for delivery after September 30, 2001.

⁶ Hevensa's response to the Commission's foreign producers' questionnaire, attachment. Also see Hevensa's posthearing brief, exh. 1.

⁷ Hevensa's posthearing brief, p. 5.

⁸ Conference transcript, pp. 80-87.

⁹ ***, see also conference transcript, p. 86.

Table VII-4

Silicomanganese: U.S. importers' end-of-period inventories of subject imports, by sources, 1998-2000, January-September 2000, and January-September 2001

Item	1998	1999	2000	January-September--	
				2000	2001
Imports from India:					
Inventories (<i>short tons</i>)	***	***	***	***	***
Ratio to imports (<i>percent</i>)	***	***	***	***	***
Ratio to U.S. shipments of imports (<i>percent</i>)	***	***	***	***	***
Imports from Kazakhstan:					
Inventories (<i>short tons</i>)	***	***	***	***	***
Ratio to imports (<i>percent</i>)	***	***	***	***	***
Ratio to U.S. shipments of imports (<i>percent</i>)	***	***	***	***	***
Imports from Venezuela:					
Inventories (<i>short tons</i>)	***	***	***	***	***
Ratio to imports (<i>percent</i>)	***	***	***	***	***
Ratio to U.S. shipments of imports (<i>percent</i>)	***	***	***	***	***
Imports from subject sources:					
Inventories (<i>short tons</i>)	12,645	14,493	49,900	51,628	49,855
Ratio to imports (<i>percent</i>)	36.8	30.1	29.6	29.5	36.8
Ratio to U.S. shipments of imports (<i>percent</i>)	47.7	31.3	37.5	40.2	36.8
¹ Not applicable.					
Note.—Partial-year inventory ratios are annualized.					
Source: Compiled from data submitted in response to Commission questionnaires.					

APPENDIX A
FEDERAL REGISTER NOTICES

For further information concerning the conduct of this phase of the investigations, hearing procedures, 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 C (19 CFR part 207).

EFFECTIVE DATE: November 9, 2001.

FOR FURTHER INFORMATION CONTACT:

Woodley Timberlake (202-205-3188), 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

The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that imports of silicomanganese from India, Kazakhstan, and Venezuela are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in 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.

merchandise as "all forms, sizes and compositions of silicomanganese, except low-carbon silicomanganese, including silicomanganese, including silicomanganese briquettes, fines and slag." 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. Low-carbon silicomanganese excluded from the scope of these investigations is a ferroalloy with the following chemical specifications: minimum 55 percent manganese, minimum 27 percent silicon, minimum 4 percent iron, maximum 0.10 percent phosphorus, maximum 0.10 percent carbon and maximum 0.05 percent sulfur.

² Some silicomanganese may also be entered under HTS statistical reporting number 7202.99.5040. The merchandise covered by the scope of these investigations includes all silicomanganese (excluding the aforementioned low-carbon silicomanganese), regardless of its tariff classification.

Participation in the Investigations and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

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

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on January 10, 2002, and a public version will be issued thereafter, pursuant to § 207.22 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on January 24, 2002, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before January 17, 2002. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-929-931 (Final)]

Silicomanganese From India, Kazakhstan, and Venezuela

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigations Nos. 731-TA-929-931 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether 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 less-than-fair-value imports from India, Kazakhstan, and Venezuela of silicomanganese, provided for in subheading 7202.30.00 of the Harmonized Tariff Schedule of the United States (HTS).^{1 2}

¹ For purposes of these investigations, the Department of Commerce has defined the subject

nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on January 22, 2002, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written Submissions

Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.23 of the Commission's rules; the deadline for filing is January 17, 2002. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.25 of the Commission's rules. The deadline for filing posthearing briefs is January 31, 2002; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before January 31, 2002. On February 21, 2002, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before February 25, 2002, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 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 §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

By order of the Commission.

Issued: November 26, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01-29676 Filed 11-28-01; 8:45 am]

BILLING CODE 7020-02-P

**INTERNATIONAL TRADE
COMMISSION**

**[Investigations Nos. 731-TA-929-931
(Final)]**

**Silicomanganese From India,
Kazakhstan, and Venezuela**

AGENCY: International Trade
Commission.

ACTION: Revised schedule for the subject
investigations.

EFFECTIVE DATE: January 7, 2002.

FOR FURTHER INFORMATION CONTACT:
Woodley Timberlake (202-205-3188),
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](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](http://dockets.usitc.gov/eol/public).

SUPPLEMENTARY INFORMATION: On
November 9, 2001, the Commission
established a schedule for the conduct
of the final phase of the subject
investigations (66 FR 59596, November
29, 2001). Subsequently, the Department
of Commerce extended the date for its
final determinations in the
investigations from January 22, 2002, to
March 25, 2002 (66 FR 63522, December
7, 2001, and 66 FR 67185, December 28,
2001). The Commission, therefore, is
revising its schedule to conform with
Commerce's new schedule.

The Commission's new schedule for
the investigations is as follows: requests
to appear at the hearing must be filed
with the Secretary to the Commission
not later than March 21, 2002; the
prehearing conference, if needed, will
be held at the U.S. International Trade
Commission Building at 9:30 a.m. on
March 25, 2002; the prehearing staff
report will be placed in the nonpublic
record on March 15, 2002; the deadline
for filing prehearing briefs is March 22,
2002; the hearing will be held at the
U.S. International Trade Commission
Building at 9:30 a.m. on April 2, 2002;
the deadline for filing posthearing briefs
is April 8, 2002; the Commission will
make its final release of information on

April 22, 2002; and final party comments are due on April 24, 2002.

For further information concerning these investigations see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: January 9, 2002.

By order of the Commission.

Marilyn R. Abbott,
Acting Secretary.

[FR Doc. 02-891 Filed 1-11-02; 8:45 am]

BILLING CODE 7020-02-P

Dated: March 26, 2002.

Joseph A. Spetrini,
Deputy Assistant Secretary for Import
Administration, Group III.

[FR Doc. 02-7851 Filed 4-1-02; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-823]

Silicomanganese from India: Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances Determination

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

EFFECTIVE DATE: April 2, 2002.

FOR FURTHER INFORMATION CONTACT:

Javier Barrientos for Nava Bharat Ferro Alloys Ltd. at (202) 482-2243 and Mark Hoadley or Brett Royce for Universal Ferro & Allied Chemicals, Ltd. at (202) 482-0666 or (202) 482-4106, respectively; Office of Antidumping and Countervailing Duty Enforcement VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230.

Final Determination

We determine that silicomanganese from India is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended. On November 9, 2001, the Department published its preliminary determination of sales at less than fair value of silicomanganese from India. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Silicomanganese from India*, 66 FR 56644 (November 9, 2001). Based on the results of verification and our analysis of the comments received, we have made changes to the margin calculations. The final weighted-average dumping margins of sales at LTFV are shown in the "Continuation of Suspension of Liquidation" section of this notice.

SUPPLEMENTARY INFORMATION:

Applicable Statute

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. In addition, unless otherwise indicated,

all citations to the Department of Commerce (Department) regulations are to the regulations at 19 CFR part 351 (April 2001).

Background

This investigation covers two producers/exporters: Nava Bharat Ferro Alloys, Ltd. (Nava Bharat) and Universal Ferro and Allied Chemicals, Ltd. (Universal). We published in the Federal Register the preliminary determination of critical circumstances in this investigation on October 19, 2001. See *Notice of Preliminary Determination of Critical Circumstances: Silicomanganese from India*, 66 FR 53207 (October 19, 2001) (Preliminary Determination of Critical Circumstances). We subsequently published in the Federal Register the preliminary determination in this investigation on November 9, 2001. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Silicomanganese from India*, 66 FR 56644 (November 9, 2001) (Preliminary Determination).

On November 20, 2001, Universal requested that the Department postpone its final determination until not later than 135 days after the date of the publication of the preliminary determination in the *Federal Register* and requested an extension of the provisional measures. On December 7, 2001, we extended the final determination until not later than 135 days after the publication of the preliminary determination in the *Federal Register*. See *Notice of Postponement of Final Antidumping Duty Determination: Silicomanganese from Kazakhstan and India*, 66 FR 63522 (December 7, 2001).

The Department verified sections A-D of Universal's questionnaire responses, from January 7, 2002 through January 16, 2002, at Universal's headquarters in Mumbai, India and at its production facility in Tumsar, India. See *Sales and Cost Verification Report for Universal Ferro & Allied Chemicals Ltd., in the Antidumping Duty Investigation of Silicomanganese from India*, from Abdelali Elouaradia and Brett Royce, Case Analysts, through Sally C. Gannon, Program Manager, to The File (February 14, 2002). The Department also verified sections A-D of the questionnaire responses of Nava Bharat in Hyderabad, India and at its production facility in Paloncha, India from January 11, 2002 through January 18, 2002. See *Verification of Sales in the Antidumping Investigation of Silicomanganese from India: Nava Bharat Ferro Alloys, Ltd. (Nava Bharat)*, from Elfi Blum and Javier Barrientos,

Case Analysts, through Sally Gannon, Program Manager, for The File (February 20, 2002); see also *Verification of Cost in the Antidumping Investigation of Silicomanganese from India: Nava Bharat Ferro Alloys, Ltd. (Nava Bharat)*, from Elfi Blum and Javier Barrientos, Case Analysts, through Sally Gannon, Program Manager, for The File (February 22, 2002). Public versions of these, and all other Department memoranda referred to herein, are on file in the Central Records Unit, Room B-099, of the main Commerce Building.

On December 11, 2001, the petitioners, Eramet Marietta Inc. ("Eramet"), and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5-0639, requested a public hearing. On February 25, 2002, we received Nava Bharat's case brief. On February 26, 2002, pursuant to an extension requested by petitioners and granted by the Department, we received case briefs from petitioners and Universal. We received rebuttal briefs from petitioners and Universal on March 4, 2002 and, pursuant to an extension requested by Nava Bharat and granted by the Department, from Nava Bharat on March 6, 2002. We held a public hearing in this investigation on March 7, 2002.

Period of Investigation

The period of investigation (POI) is April 1, 2000 through March 31, 2001.

Critical Circumstances

In the Department's *Preliminary Determination of Critical Circumstances*, we determined that critical circumstances exist for imports of silicomanganese from India produced by Universal and by "All Other" producers, except for Nava Bharat. For Nava Bharat, we preliminarily found that critical circumstances do not exist. For this final determination, we have found that critical circumstances do not exist for imports of silicomanganese from India produced by Universal, Nava Bharat or any other producer because one of the required criteria for finding critical circumstances has not been met. For a discussion of interested party comments, and the Department's position, on this issue, see the *Decision Memorandum*.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the *Issues and Decision Memorandum in the Final Affirmative Antidumping Duty A-7 Determination on Silicomanganese from India*, from Joseph A. Spetrini, Deputy

Assistant Secretary for AD/CVD Enforcement III, to Faryar Shirzad, Assistant Secretary for Import Administration, dated March 25, 2002 (*Decision Memorandum*), which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the *Decision Memorandum*, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in Room B-099 and accessible directly on the World Wide Web at www.ia.ita.doc.gov. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Scope of Investigation

For purposes of this investigation, the products covered are all forms, sizes and compositions of silicomanganese, except low-carbon silicomanganese, including silicomanganese briquettes, fines and slag. Silicomanganese is a ferro alloy 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 ferro silicon 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 scope 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.

The low-carbon silicomanganese excluded from this scope is a ferro alloy with the following chemical specifications: minimum 55 percent manganese, minimum 27 percent silicon, minimum 4 percent iron, maximum 0.10 percent phosphorus, maximum 0.10 percent carbon and maximum 0.05 percent sulfur. Low-carbon silicomanganese is used in the manufacture of stainless steel and special carbon steel grades, such as motor lamination grade steel, requiring

a very low carbon content. It is sometimes referred to as ferro manganese-silicon. Low-carbon silicomanganese is classifiable under HTSUS subheading 7202.99.5040.

Fair Value Comparisons

To determine whether sales of silicomanganese from India were made in the United States at less than fair value, we compared export price (EP) to normal value (NV), as described in the "Export Price and "Normal Value" sections of the *Preliminary Determination*. In accordance with section 777(A)(d)(1)(A)(i) of the Tariff Act, we calculated weighted-average EPs for comparison to weighted-average NVs.

Changes Since the Preliminary Determination

Based on our analysis of comments received and findings at verification, we have made certain changes in the margin calculations for the final determination. See *Decision Memorandum, Final Determination in the Antidumping Duty Investigation on Silicomanganese from India: Analysis of Universal Ferro & Allied Chemicals Ltd.*, from Mark Hoadley and Brett Royce, through Sally Gannon, for The File (March 25, 2002) (*Universal Analysis Memorandum*), and *Final Determination in the Antidumping Duty Investigation on Silicomanganese from India: Analysis of Nava Bharat Ferro Alloys Ltd.*, from Javier Barrientos, through Sally Gannon, for The File (March 25, 2002) (*Nava Bharat Analysis Memorandum*). In addition to the *Decision Memorandum*, public versions of the *Universal Analysis Memorandum* and *Nava Bharat Analysis Memorandum* are on file in the Central Records Unit, Room B-099, of the main Commerce Building. Specifically, we made the following changes.

Regarding Universal:

1. We used revised sales databases provided by Universal reflecting minor changes in sales dates, invoice dates, credit expenses, gross unit prices, and movement expenses based on verification.
2. We added bank charges discovered at verification to U.S. credit expenses.
3. We changed indirect selling expenses in both the U.S. and home markets to reflect information discovered at verification.
4. We added an amount to total raw materials cost for the value of slag used in production.
5. We removed the quantity of recycled fines from the production quantity used in the per unit cost calculation.

6. We reduced electricity costs by an amount found to have been forgiven by the electricity authority.
7. We removed refunded taxes from the cost of raw materials.
8. We offset interest expense by revenue earned on bank accounts (short-term interest revenue).

Regarding Nava Bharat:

1. We changed shipment date to reflect factory shipment instead of port shipment.
2. We recalculated U.S. imputed credit and inventory carrying costs using gross unit price.
3. We recalculated credit expense for one home market sale.
4. We removed the quantity of generated fines from the production quantity used in the per unit cost calculation.
5. We also changed the cost of electricity by using: a) using a weighted-average of the market prices of other electricity suppliers as representative of the market price of the power supplied by Nava Bharat's affiliated electricity supplier and b) the cost of production of Nava Bharat's self-produced power.
6. We subtracted short-term interest income from interest expense to arrive at the interest expense ratio.
7. We added Nava Bharat's reported interest revenue to home market gross unit price for the final determination.

Use of Partial Facts Available

Nava Bharat

In accordance with section 776 of the Act, we have determined that the use of partial facts available is appropriate for certain portions of our analysis for Nava Bharat. We used partial facts available where, despite the Department's repeated requests, essential company-specific information needed to make certain calculations for the final determination was unavailable. For a discussion of our determination with respect to these matters. See *Decision Memorandum*.

Universal

In accordance with section 776 of the Act, we have determined that the use of partial facts available is appropriate for certain portions of our analysis for Universal. We used partial facts available where, despite the Department's repeated requests, essential company-specific information needed to make certain calculations for the final determination was unavailable. For a discussion of our determination with respect to these matters. See *Decision Memorandum*.

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we will instruct the U.S. Customs Service (Customs) to continue to suspend liquidation of all entries of silicomanganese from India that are entered, or withdrawn from warehouse, for consumption on or after November 9, 2001 (the date of publication of the *Preliminary Determination* in the *Federal Register*). For Universal and "all others," we will instruct Customs to

terminate the retroactive suspension of liquidation, between August 11, 2001 (90 days prior to the date of publication of the *Preliminary Determination* in the *Federal Register*) and November 8, 2001, which was instituted upon publication of the *Preliminary Determination* in the *Federal Register* due to the preliminary affirmative critical circumstances finding. Customs shall also release any bond or other security, and refund any cash deposit required, under section 733(d)(1)(B) of the Act with respect to entries of the merchandise the

liquidation of which was suspended retroactively under section 733(e)(2). Customs shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. The suspension of liquidation instructions will remain in effect until further notice. We determine that the following weighted-average percentage dumping margins exist for the period April 1, 2000 through March 31, 2001:
Average Margin Percentage

Exporter/manufacturer	
Nava Bharat Ferro Alloys, Ltd.	15.32%
Universal Ferro and Allied Chemicals, Ltd.	20.42%
All Others	17.69%

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. The ITC will determine, within 45 days, whether these imports are materially injuring, or threatening material injury to, an industry in the United States. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports on the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: March 25, 2002
Faryar Shirzad,
Assistant Secretary for Import Administration.

Appendix I — Issues in Decision Memorandum

- Regarding Universal Ferro & Allied Chemicals Ltd. (Universal):
1. Critical Circumstances
 2. Clerical Errors in the Verification Report
 3. Use of Revised Home Market Sales
 4. Use of Revised Indirect Selling Expenses Found at Verification
 5. Cost of Slag
 6. Cost of Recycled Silicomanganese Fines
 7. Inclusion of Losses on Inventory in Raw Materials Costs
 8. Slag Handling Expenses
 9. Disputed Electricity Charges
 10. Refundable Tax Payments
 11. Excise Duties on Closing Stock
 12. Depreciation on Closed Furnaces and Furnaces Not Used to Produce Subject Merchandise
 13. Use of Revalued Depreciation Costs
 14. Calculation of General and Administrative Expenses
 15. Offsetting Interest Expense by Interest Revenue
 16. Severance Payments to Former Employees
- Regarding Nava Bharat Ferro Alloys Ltd. (Nava Bharat):
17. Duty Drawback
 18. Imputed Credit Expense (Home Market)
 19. Imputed Credit Expense (U.S. Sales)
 20. Tolling Raw Materials
 21. Cost of Recycled Silicomanganese Fines
 22. Cost of Power
 23. Fixed Plant Overhead
 24. Calculation of General & Administrative Expenses

25. Calculation of Net Interest Expense
 26. Interest Revenue
- [FR Doc. 02-7952 Filed 4-1-02; 8:45 am]
BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration
[A-307-820]

Notice of Final Determination of Sales at Less Than Fair Value; Silicomanganese from Venezuela.

AGENCY: Import Administration, International Trade Administration, Department of Commerce.
DATES: April 2, 2002.

FOR FURTHER INFORMATION CONTACT: FOR FURTHER INFORMATION CONTACT: Deborah Scott at (202) 482-2657 or Robert James at (202) 482-0649; AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.
SUPPLEMENTARY INFORMATION:

Final Determination

The Department of Commerce is conducting an antidumping duty investigation of silicomanganese from Venezuela. We determine that silicomanganese from Venezuela is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended. On November 9, 2001, the Department published its preliminary determination of sales at less than fair value of silicomanganese from Venezuela. See Notice of Preliminary Determination of Sales at Less Than Fair Value; Silicomanganese from Venezuela, 66 FR

56635 (November 9, 2001). Based on the results of verification and our analysis of the comments received, we have made changes to the margin calculations. The final weighted-average dumping margins of sales at LTFV are shown in the "Continuation of Suspension of Liquidation" section of this notice.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Rounds Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 351 (2001).

Case History

Since the publication of the preliminary determination in this investigation, the following events have occurred:

From November 28 through December 9, 2001, we conducted a verification of the sales and cost questionnaire responses and supplemental questionnaire responses submitted by Hornos Eléctricos de Venezuela, S.A. (Hevensa). We issued the cost verification report for Hevensa on January 29, 2002, and the sales verification report on January 31, 2002.

Although the deadline for this determination was originally January 23, 2002, on December 28, 2001 we published in the *Federal Register* our notice of the extension of time limits (see 66 FR 67185). This extension established the deadline for this final determination as March 25, 2002.

On February 14, 2002, we received case briefs from respondent and Eramet Marietta, Inc. and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5-0639 (collectively, the petitioners). On February 19, 2002, we received rebuttal briefs from respondent and petitioners. On March 12, 2002, we held a public hearing in response to a request from the petitioners.

Period of Investigation

The period of investigation (POI) is April 1, 2000 through March 31, 2001. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (i.e., April 2001), in accordance with section 19 CFR 351.204(b)(1) of our regulations.

Scope of Investigation

For purposes of this investigation, the products covered are all forms, sizes

and compositions of silicomanganese, except low-carbon 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 scope 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. The low-carbon silicomanganese excluded from this scope is a ferroalloy with the following chemical specifications: minimum 55 percent manganese, minimum 27 percent silicon, minimum 4 percent iron, maximum 0.10 percent phosphorus, maximum 0.10 percent carbon and maximum 0.05 percent sulfur. Low-carbon silicomanganese is used in the manufacture of stainless steel and special carbon steel grades, such as motor lamination grade steel, requiring a very low carbon content. It is sometimes referred to as ferromanganese-silicon. Low-carbon silicomanganese is classifiable under HTSUS subheading 7202.99.5040.

Facts Available

For the preliminary determination, we used partial facts available in accordance with section 776(a)(1) of the Tariff Act because we determined certain information was not available on the record. Specifically, in its original and supplemental questionnaire responses, Hevensa reported that it was owned by three holding companies who performed certain activities on its behalf during the POI, such as collection of payments from customers and payments to suppliers of inputs. Thus, we determined it was necessary to include a portion of the parents' financial and general and administrative (G&A) expenses in calculating HEVENSA's COP. However, despite repeated

requests, Hevensa did not provide any financial statements or other relevant documents allowing us to quantify the G&A and financial expenses incurred by the three holding companies in conducting these activities on HEVENSA's behalf. Since we did not have the information necessary to include a portion of the parents' financial and G&A expenses in HEVENSA's COP in making our preliminary determination, we found, pursuant to section 776(a) of the Tariff Act, it was appropriate to use the facts otherwise available in calculating COP. Section 776(a) of the Tariff Act provides that the Department will, subject to section 782(d), use the facts otherwise available in reaching a determination if "necessary information is not available on the record." As facts available for the preliminary determination, we used the G&A and financial expense ratios contained in the petition for Siderurgica Venezolana SIVENSA, S.A. (SIVENSA), a Venezuelan steel producer, to calculate HEVENSA's COP.

At verification, we determined none of the three holding companies engaged in any business activities on Hevensa's behalf during the POI. For information regarding the nature of the three holding companies, see "Verification of the Sales Information Submitted by Hornos Electricos de Venezuela (Hevensa) in the Investigation of Silicomanganese from Venezuela (A-307-820)," dated January 31, 2002, at 3 through 5 and "Silicomanganese from Venezuela-COP/CV Verification of Hornos Electricos de Venezuela," dated January 29, 2002, at 5 (Cost Verification Report). Both documents are on file in the Central Records Unit, room B-099, of the main Department building. Additionally, we found Hevensa's financial statements fully captured the financial and G&A expenses incurred by Hevensa. Therefore, we have not found it necessary to use partial facts available for financial and G&A expenses for the final determination. However, we have not used Hevensa's financial and G&A expense ratios as reported, but rather have revised these ratios as discussed in the "Issues and Decision Memorandum" from Joseph A. Spetrini, Deputy Assistant Secretary, Group III, Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated March 25, 2002 (Decision Memorandum), and the Department's Final Determination Analysis Memorandum, dated March 25, 2002.

Currency Conversion

A-10

We made currency conversions in accordance with section 773A of the

Tariff Act in the same manner as in the Preliminary Determination.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the Decision Memorandum, dated March 25, 2002, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B-099, of the main Department building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at <http://ia.ita.doc.gov>. The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of comments received, we have made certain changes in the margin calculations:

- We have revised the G&A expense ratio to include three expenses that were excluded from Hevensa's original calculation of G&A. Id. at Comment 2.
- We have revised the date of payment for certain of Hevensa's U.S. sales, and thus have recalculated imputed credit expenses for those sales. Id. at Comment 5.
- We have applied the corrections reported at the opening day of the Hevensa sales verification, and amended the indirect selling expense ratio (INDIRSH) and financial expense ratio (INTEX) pursuant to our findings at verification.

These changes are discussed in the relevant sections of the Decision Memorandum, accessible in room B-099 and on the Web at <http://ia.ita.doc.gov>.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Tariff Act, we are directing the Customs Service to continue to suspend all entries of silicomanganese from Venezuela that are entered, or withdrawn from warehouse, for consumption on or after November 9, 2001, the date of publication of the preliminary determination in the Federal Register. The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins for this LTFV proceeding are as follows:
Weighted-Average Margin Percentage

Exporter/Manufacturer	
Hornos Eléctricos de Venezuela, S.A.	24.62
All Others	24.62

ITC Notification

In accordance with section 735(d) of the Tariff Act, we have notified the International Trade Commission (ITC) of our final determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Tariff Act.

Dated: March 25, 2002
Faryar Shirzad,
Assistant Secretary for Import Administration.
Appendix Issues in Decision Memorandum
 Cost of Production
 Comment 1: Inflation
 Comment 2: G&A Expenses
 Comment 3: Interest Expenses on Shareholder Loans
 Comment 4: Transformer Failures Adjustments to United States Price
 Comment 5: Date of Payment Used to Calculate Credit Expenses
 Comment 6: Duty Drawback Adjustments to Normal Value
 Comment 7: Home Market Credit Expenses Miscellaneous Issues
 Comment 8: Level of Trade
 Comment 9: Date of Sale
 [FR Doc. 02-7953 Filed 4-1-02; 8:45 am]
 BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-834-807]

Notice of Final Determination of Sales at Less Than Fair Value: Silicomanganese From Kazakhstan

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

ACTION: Notice of final determination in the less than fair value investigation of silicomanganese from Kazakhstan.

SUMMARY: We determine that silicomanganese from Kazakhstan is being, or is likely to be, sold in the United States at less than fair value. On November 9, 2001, the Department of Commerce published a notice of preliminary determination of sales at less than fair value in the investigation of silicomanganese from Kazakhstan. See *Notice of Preliminary Determination of Sales at Not Less Than Fair Value: Silicomanganese from Kazakhstan*, 66 FR 56639, November 9, 2001 ("Preliminary Determination"). This investigation covers one manufacturer and one exporter of the subject merchandise. The period of A-11 investigation ("POL") is October 1, 2000 through March 31, 2001.

Based upon our verification of the data and analysis of the comments received, we have made changes in the margin calculations. Therefore, the final determination of this investigation differs from the preliminary determination. The final weighted-average dumping margin is listed below in the section titled "Continuation of Suspension of Liquidation."

EFFECTIVE DATE: April 2, 2002.

FOR FURTHER INFORMATION CONTACT: Jean Kemp, Brandon Farlander and Cheryl Werner, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4037, (202) 482-0182, and (202) 482-2667 respectively.

Applicable Statute and Regulations

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

Background

This investigation was initiated on April 26, 2001. See *Notice of Initiation of Antidumping Duty Investigations: Silicomanganese From Kazakhstan, India and Venezuela*, 66 FR 22209 (May 3, 2001) ("*Notice of Initiation*").

On May 17, 2001, Eramet Marietta Inc. and The Paper, Allied Industry, Chemical and Energy Workers International Union, Local 5-0639, ("petitioners") proposed an amendment to the scope. On July 13, 2001, we excluded low-carbon silicomanganese from the scope of these investigations. See *Decision Memorandum* from Barbara Tillman, Richard Weible, and Edward Yang to Joseph Spetrini, dated July 13, 2001.

On October 23, 2001, the Department requested further financial information and documentation regarding certain sales from Alloy 2000 through Considar to customers in the U.S. market in a supplemental questionnaire to Kazchrome, Alloy 2000, and Considar. On October 29, 2001, the Department modified its request for financial information and documentation regarding certain sales from Alloy 2000 through Considar to customers in the U.S. market in another supplemental questionnaire to Kazchrome, Alloy 2000, and Considar.

On November 9, 2001, the Department published a notice of preliminary

determination of sales at less than fair value ("LTFV") in the investigation of silicomanganese from Kazakhstan. See *Preliminary Determination*.

On November 16, 2001, Kazchrome, Alloy 2000, and Considar submitted a response to the Department's modified October 29, 2001, request of the October 23, 2001, supplemental questionnaire. On November 19, 2001, the Government of the Republic of Kazakhstan ("GOK") submitted a timely request for negotiation of a suspension agreement. On December 6, 2001, the Department requested a revised Section C database which reports all sales of subject merchandise during the POI based on the sale invoice date as the date of sale rather than the sale contract date and further information concerning Kazchrome, Alloy 2000, and Considar's November 16, 2001, response on reconciliation of Considar's expenses with Alloy 2000.

On December 7, 2001, the Department published a notice of postponement of the final determination in the investigation, as well as an extension of provisional measures from a four month period to a period not to exceed six months. See *Postponement of Final Determination for Antidumping Duty Investigation: Silicomanganese from Kazakhstan and India*, 66 FR 63522 (December 7, 2001).

We invited the public to comment on the GOK's request that Kazakhstan be treated as a market economy country. On December 10, 2001, the Department received comments on Kazakhstan's market economy request.

On December 11, 2001, petitioners submitted a request for a hearing and a request for an extension of the time period for requesting the hearing. On December 19, 2001, petitioners submitted additional surrogate country factor values pursuant to 19 CFR 351.301 (c)(3)(i). On December 20, 2001, Kazchrome, Alloy 2000, and Considar submitted an unsolicited Section B questionnaire response. On December 21, 2001, petitioners requested the Department return Kazchrome's, Alloy 2000's and Considar's December 20, 2001 unsolicited Section B questionnaire response. On December 21, 2001, Kazchrome, Alloy 2000, and Considar submitted a revised Section C database in response to the Department's December 6, 2001 supplemental questionnaire. On December 26, 2001, Kazchrome, Alloy 2000, and Considar submitted a response to the Department's December 6, 2001 supplemental questionnaire. On January 9, 2002, petitioners requested an extension of the deadline for alleging sales below cost if the Department

determines to accept Kazchrome's, Alloy 2000's, and Considar's December 20, 2001 unsolicited Section B questionnaire response.

On January 9, 2002, through January 11, 2002, the Department conducted a sales and factors of production verification of Kazchrome. See *Verification of Sales and Factors of Production for Transnational Co. Kazchrome and Aksu Ferroalloy Plant* (February 22, 2002) ("Kazchrome Verification Report"). On January 14, 2002, through January 15, 2002, the Department conducted a sales verification of Alloy 2000. See *Verification of Sales and Factors of Production for Alloy 2000 S.A.* (February 22, 2002) ("Alloy Verification Report").

On January 24, 2002, the Department received rebuttal comments concerning Kazakhstan's market economy request.

On February 13, 2002, through February 15, 2002, the Department conducted a sales verification of Considar. See *Verification of U.S. Sales for Considar Inc.* (February 22, 2002) ("Considar Verification Report").

On March 7, 2002, the Department requested that the petitioners support surrogate values they had submitted on December 19, 2001, for factory overhead, selling, general and administrative and financial ratios they had submitted for Sinai Manganese, an Egyptian ferroalloys producer. On March 11, petitioners submitted a copy of an original financial statement for updated surrogate value information, with some English translation. On March 12, respondents submitted comments rebutting this surrogate value information.

We invited parties to comment on our *Preliminary Determination*. On March 4, 2002, petitioners and Kazchrome, Alloy 2000, and Considar submitted case briefs with respect to the sales and factors of production verification and the Department's *Preliminary Determination*. Petitioners and Kazchrome, Alloy 2000, and Considar submitted their rebuttal briefs on March 11, 2002 with respect to the sales and factors of production verification and the Department's *Preliminary Determination*. On March 13, 2002, the Department held a public hearing in accordance with 19 CFR 351.310(d)(1). Representatives for petitioners and Kazchrome, Alloy 2000, and Considar were present. All parties present were allowed an opportunity to make affirmative presentations only on arguments included in that party's case briefs and were also allowed to make rebuttal presentations only on

arguments included in that party's rebuttal brief.

The Department has conducted and completed the investigation in accordance with section 735 of the Act.

Scope of Investigation

For purposes of this investigation, the products covered are all forms, sizes and compositions of silicomanganese, except low-carbon 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 scope 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.

The low-carbon silicomanganese excluded from this scope is a ferroalloy with the following chemical specifications: minimum 55 percent manganese, minimum 27 percent silicon, minimum 4 percent iron, maximum 0.10 percent phosphorus, maximum 0.10 percent carbon and maximum 0.05 percent sulfur. Low-carbon silicomanganese is used in the manufacture of stainless steel and special carbon steel grades, such as motor lamination grade steel, requiring a very low carbon content. It is sometimes referred to as ferromanganese-silicon. Low-carbon silicomanganese is classifiable under HTSUS subheading 7202.99.5040.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs to this investigation are addressed in the *Issues and Decision Memorandum from Joseph A. Spetrini, Deputy Assistant Secretary, to Faryar Shirzad, Assistant Secretary* (March 25, 2002) ("*Decision Memo*"), which is hereby adopted by this notice. A list of

the issues which parties have raised and to which we have responded, and other issues addressed, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in the *Decision Memo*, a public memorandum which is on file at the U.S. Department of Commerce, in the Central Records Unit, in room B-099. In addition, a complete version of the *Decision Memo* can be accessed directly on the Web at <http://ia.ita.doc.gov>. The paper copy and electronic version of the *Decision Memo* are identical in content.

Changes Since the Preliminary Determination

Based on our findings at verification, and analysis of comments received, we have made adjustments to the calculation methodology in calculating the final dumping margin in this proceeding. See *Analysis Memorandum for Kazchrome, Alloy 2000, and Considar* (March 25, 2002) ("*Analysis Memo*").

Verification

As provided in section 782(i) of the Act, we verified the information submitted by Kazchrome, Alloy 2000, and Considar for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the Kazchrome, Alloy 2000, and Considar. For changes from the *Preliminary Determination* as a result of verification, see *Analysis Memo*.

Use of Partial Facts Available

In accordance with section 776 of the Act, we have determined that the use of partial facts available is appropriate for certain portions of our analysis of Kazchrome, Alloy 2000, and Considar. For a discussion of our determination with respect to this matter, see *Analysis Memo*.

Nonmarket Economy Country

As of the date of initiation of this investigation, Kazakhstan was considered a non-market economy (NME) country. On June 28, 2001, the Department received a request from respondent requesting that the Department revoke Kazakhstan's NME status under section 771(18)(A) of the Act. On July 5, 2001, the Department received a letter from the GOK also requesting that the Department revoke Kazakhstan's NME status. Consistent with the factors described in section 771(18)(B), the Department considers

the extent to which resources are allocated by market or government, taking into account currency and labor markets, pricing, and production and investment decisions.

After a thorough examination of all relevant information available to the Department, we have revoked Kazakhstan's NME status under section 771(18)(A) of the Act, effective October 1, 2001. See Memorandum from George Smolik to Faryar Shirzad: Antidumping Duty Investigation of Silicomanganese from Kazakhstan—Request for Market Economy Status (March 25, 2002).

Kazakhstan today has a fully convertible currency for current account purposes, and exchange rates are market based. Legislation on wage reforms is well advanced in Kazakhstan, with workers able to unionize and engage in collective bargaining, negotiating wages and benefits; further, the mobile workforce is free to pursue new employment opportunities. Kazakhstan is open to foreign investment, and investors have responded, particularly into the oil, gas, and metals sectors. The allocation of resource decisions in Kazakhstan now rests with the private sector, with the GOK largely limiting price regulation to natural monopolies; the state's involvement in Kazakhstan's banking system is now limited to NBK supervision of commercial banks; further, recent increases in bank assets and deposits, and bank consolidation all indicate that Kazakhstan's banks are behaving as financial intermediaries. In addition, price liberalization is practically completed in Kazakhstan.

Kazakhstan has successfully privatized most of its economy, however, it has not advanced as far as other recently graduated market economies, and it appears to have stalled on additional privatization reforms. Nevertheless, Kazakhstan's lack of progress under this factor is only one of several price indicators in the economy, and does not reflect the country's other reforms.

Nevertheless, the totality of Kazakhstan's reforms in liberalizing its economy demonstrate that it has completed the transition to a market economy. Overall, deregulation and a new regulatory framework for the normal operation of a market economy has progressively replaced the old system of regulation. Based on economic reforms reached in Kazakhstan, as analyzed under section 771(18)(B) of the Act, the Department finds that Kazakhstan has operated as a market-economy country as of October 1, 2001, and that this finding be effective for all current and future administrative proceedings.

Therefore, because the POI for this investigation precedes the effective date of market economy status, this final determination is based on information contained in the non-market economy questionnaire responses submitted by respondents.

Market Oriented Industry

On July 12, 2001, Kazchrome requested that the Department make a determination that the silicomanganese industry in Kazakhstan operates as a market-oriented industry ("MOI"). For our preliminary determination, the Department found that we were not able to make a preliminary determination on the MOI claim because respondents had not yet responded to our supplemental questionnaire. On December 7, 2001, Kazchrome submitted a response to the Department's November 1, 2001, supplemental questionnaire.

For the final determination, we found Kazakhstan to be a market economy country effective October 1, 2001. Because Kazakhstan will now be treated as a market economy country for future proceedings, it is not necessary to address the issue of whether the silicomanganese industry operated as a MOI in this proceeding.

Separate Rates

For this final determination, the Department is continuing to regard Kazchrome as not eligible to receive a separate rate, as explained in the *Preliminary Determination*, because Kazchrome states that it has no knowledge of the destination of its merchandise prior to its sale to Alloy 2000 and we did not find information to show otherwise during the course of verification. See "Separate Rates" section of our *Preliminary Determination*.

Kazakhstan-Wide Rate

As discussed in our *Preliminary Determination*, the Kazakhstan-wide rate will be the calculated margin for Alloy 2000, the sole exporter. See "Kazakhstan-Wide Rate" section of our *Preliminary Determination*. There has been no other evidence submitted since the *Preliminary Determination* to change this determination. Accordingly, we have calculated a Kazakhstan-wide rate for this investigation based on the weighted-average margin determined for Alloy 2000. This Kazakhstan-wide rate applies to all entries of subject merchandise.

Suspension Agreement

On November 19, 2001, the GOK submitted a proposal for a suspension agreement in accordance with the

Department's regulations at 19 CFR 351.208. On February 22, 2001, the Department met with representatives of the GOK to discuss the GOK's proposed suspension agreement. No agreement was concluded.

Fair Value Comparisons

To determine whether sales of silicomanganese from Kazakhstan were made in the United States at LTFV, we compared constructed export price ("CEP") to NV, as described in the "Constructed Export Price" and "Normal Value" sections of the *Preliminary Determination*. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average CEPs.

Surrogate Country

For purposes of the final determination, we continue to find that Egypt remains the appropriate primary surrogate country for Kazakhstan. For further discussion and analysis regarding the surrogate country selection for Kazakhstan, see the "Surrogate Country" section of our *Preliminary Determination*.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the U.S. Customs Service ("Customs") to continue to suspend liquidation of all imports of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the *Preliminary Determination* in the **Federal Register**. We will instruct Customs to continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated below. These suspension of liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin (percent)
Alloy 2000, S.A.	247.88
Kazakhstan-Wide	247.88

Disclosure

The Department will disclose calculations performed, within five days of the date of publication of this notice, to the parties in this investigation, in accordance with section 351.224(b) of the Department's regulations.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our affirmative determination of sales at LTFV. As our final determination is affirmative, the ITC will determine within 45 days after our final determination whether imports of silicomanganese from Kazakhstan are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: March 25, 2002.

Faryar Shirzad,
Assistant Secretary for Import Administration.

APPENDIX I

- A. Market Economy
 - Comment 1: Market Economy
 - Comment 2: Normal Value
- B. General Issues:
 - Comment 3: Financials Surrogate Values
 - Comment 4: Manganese Ore Surrogate Value
 - Comment 5: Rail Freight Surrogate Value for Russian Portion
 - Comment 6: Indirect Selling Expenses
- C. Verification Issues:
 - Comment 7: Raw Material Losses in Usage Rates
 - Comment 8: Electricity Usage Rate
 - Comment 9: Raw Materials Transport Distances
 - Comment 10: Inland Freight Distance
 - Comment 11: Ocean Freight Charges
 - Comment 12: Inventory Carrying Costs
 - Comment 13: U.S. Insurance Charges
 - Comment 14: U.S. Sales Database errors

[FR Doc. 02-7954 Filed 4-1-02; 8:45 am]

BILLING CODE 3510-DS-P

By order of the Commission.

Marilyn R. Abbott,
Secretary.

[FR Doc. 02-8106 Filed 4-3-02; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731-TA-929 to 931
(Final)]

Silicomanganese From India, Kazakhstan and Venezuela; Notice of Commission Determination to Conduct a Portion of the Hearing in Camera

AGENCY: International Trade
Commission.

ACTION: Closure of a portion of a
Commission hearing to the public.

SUMMARY: Upon request of
Transnational Co. Kazchrome and Aksu
Ferroalloy Plant and Considar, Inc.
(collectively "K&C"), the Commission
has determined to conduct a portion of
its hearing in the above-captioned
investigation scheduled for April 2,
2002, in camera. See Commission rules
207.24(d), 201.13(m) and 201.36(b)(4)
(19 CFR 207.24(d), 201.13(m) and
201.36(b)(4)). The remainder of the
hearing will be open to the public. The
Commission has determined that seven-
day advance notice of the change to a
meeting was not possible. See
Commission rule 201.35(a), (c)(1) (19
CFR 201.35(a), (c)(1)).

FOR FURTHER INFORMATION CONTACT:
Laurent de Winter, Office of General
Counsel, U.S. International Trade
Commission, 500 E Street, SW.,
Washington, DC 20436, telephone 202-
708-5452, e-mail lwinter@usitc.gov.
Hearing-impaired individuals are
advised that information on this matter
may be obtained by contacting the
Commission's TDD terminal on 202-
205-1810.

SUPPLEMENTARY INFORMATION: The
Commission believes that K&C have
justified the need for a closed session.
They seek a closed session to allow
testimony concerning petitioner's
financial performance, capacity
utilization, and market share. Because
there is only one domestic producer of
silicomanganese, such discussions will
necessitate disclosure of business
proprietary information (BPI), and they
can only occur if a portion of the
hearing is held in camera. In making
this decision, the Commission
nevertheless reaffirms its belief that
whenever possible its business should
be conducted in public.

The hearing will include the usual
public presentations by petitioners and
by respondents, with questions from the
Commission. In addition, the hearing
will include an in camera session for a
confidential presentation by K&C and a
rebuttal presentation by petitioner.
Questions from the Commission relating
to the BPI will follow each of the in
camera presentations. During the in
camera session the room will be cleared
of all persons except those who have
been granted access to BPI under a
Commission administrative protective
order (APO) and are included on the
Commission's APO service list in this
investigation. See 19 CFR 201.35(b)(1),
(2). The time for the parties'
presentations and rebuttals in the in
camera session will be taken from their
respective overall allotments for the
hearing. All persons planning to attend
the in camera portions of the hearing
should be prepared to present proper
identification.

Authority: On behalf of the General
Counsel, the Deputy General Counsel has
certified, pursuant to Commission Rule
201.39 (19 CFR § 201.39) that, in his opinion,
a portion of the Commission's hearing in
Silicomanganese from India, Kazakhstan and
Venezuela, Invs. Nos. 731-TA-929 to 931
(Final) may be closed to the public to prevent
the disclosure of BPI.

Issued: April 1, 2002.

By order of the Commission.

Marilyn R. Abbott,
Secretary.

[FR Doc. 02-8136 Filed 4-3-02; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services; FY 2002 Community Policing Discretionary Grants

AGENCY: Office of Community Oriented
Policing Services, Department of Justice.
ACTION: Notice of availability.

APPENDIX B
CALENDAR OF THE PUBLIC HEARING

CALENDAR OF THE PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission’s hearing. Sessions were held in connection with the investigations in the Main Hearing Room, 500 E Street, SW, Washington, DC. A portion of the hearing was held *in camera*.

IN SUPPORT OF THE IMPOSITION OF ANTIDUMPING DUTIES

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

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

Robert L. Flygar, Manager, Commercial & Site Services, Eramet Marietta Inc.
Thomas T. Pompili, Manager, Bulk Alloys, Eramet Marietta Inc.
Kenneth R. Button, Senior Vice-President, Economic Consulting Services, Inc.
Karmi Leiman, Consultant, Davis & Leiman

William D. Kramer)
Clifford E. Stevens, Jr.)--OF COUNSEL

IN OPPOSITION TO THE IMPOSITION OF ANTIDUMPING DUTIES

O’Melveny & Myers LLP
Washington, DC
on behalf of

Transnational Company Kazchrome and Aksu Ferroalloy Plant
Considar, Inc.

Daniel Marx, Vice-President, Considar, Inc.
John Reilly, Economist, Nathan & Associates

Kristin H. Mowry)
Kermit W. Almstedt)--OF COUNSEL
Shana Stanton)

IN OPPOSITION TO THE IMPOSITION OF ANTIDUMPING DUTIES--Continued

Manatt, Phelps & Phillips, LLP
Washington, DC
on behalf of

Universal Ferro Allied Chemicals, Limited
Huxley Barter Corp.

Adam Novak, President, Huxley Barter Corp.
Joel Filner, Vice-President, Huxley Barter Corp.

Lizbeth R. Levinson)--OF COUNSEL

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

Hornos Electricos de Venezuela , C.A.

Ross Baker, President, Baker Alloy & Metal

Brien E. Kehoe)--OF COUNSEL

APPENDIX C
SUMMARY DATA

Table C-1
Silicomanganese: Summary data concerning the U.S. market, 1998-2000, January-September 2000, and January-September 2001

* * * * *

APPENDIX D
PURCHASERS' PRICING DATA

Table D-1

Silicomanganese: Weighted-average delivered price and quantity data for U.S.-produced and imported product 1 from India, Kazakhstan, and Venezuela and margins of underselling/(overselling), as reported by purchasers, by sources and by quarters, January 1999-September 2001

* * * * *

Table D-2

Silicomanganese: Weighted-average delivered price and quantity data for U.S.-produced and imported product 2 from India, Kazakhstan, and Venezuela and margins of underselling/(overselling), as reported by purchasers, by sources and by quarters, January 1999-September 2001

* * * * *

Figure D-1

Silicomanganese: Weighted-average delivered prices of domestic and imported product 1, as reported by purchasers, by sources and by quarters, January 1999-September 2001

* * * * *

Figure D-2

Silicomanganese: Volumes of domestic and imported product 1, as reported by purchasers, by sources and by quarters, January 1999-September 2001

* * * * *

Figure D-3

Silicomanganese: Weighted-average delivered prices of domestic and imported product 2, as reported by purchasers, by sources and by quarters, January 1999-September 2001

* * * * *

Figure D-4

Silicomanganese: Volumes of domestic and imported product 2, as reported by purchasers, by sources and by quarters, January 1999-September 2001

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