

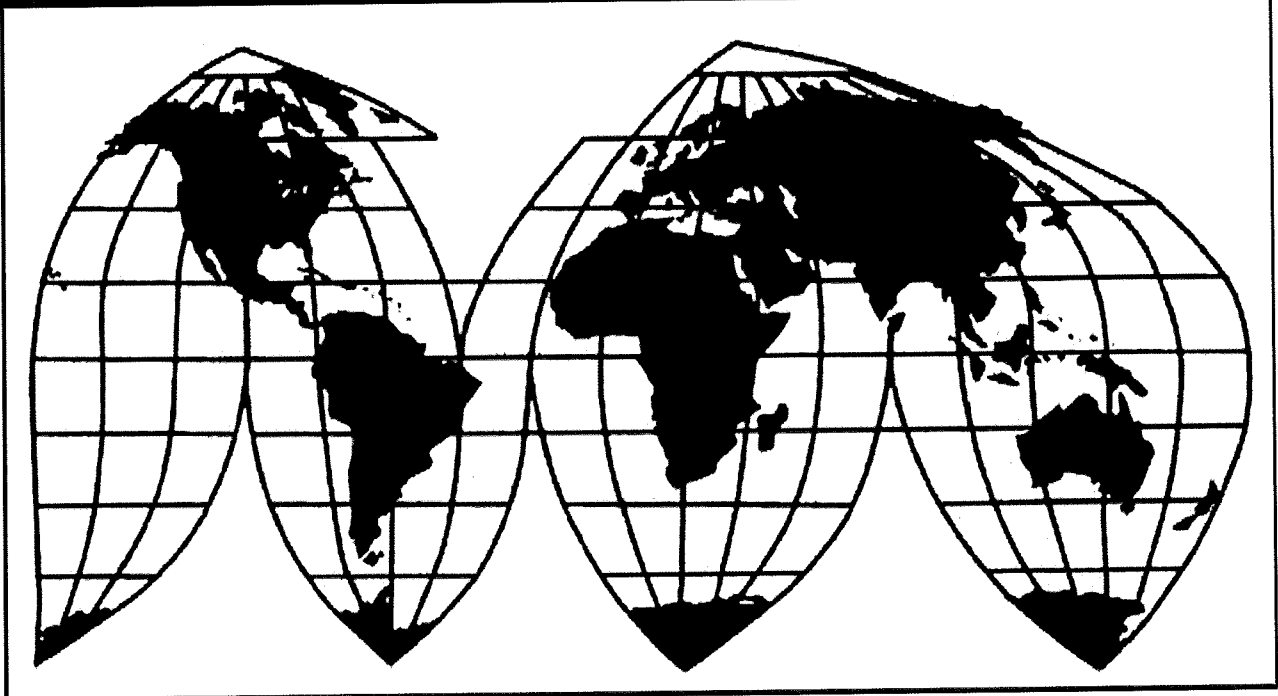
Silicon Metal from China

Investigation No. 731-TA-472 (Third Review)

Publication 4312

March 2012

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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
Investigation No. 731-TA-472 (Third Review)

SILICON METAL FROM CHINA

DETERMINATION

On the basis of the record¹ developed in the subject five-year review, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)), that revocation of the antidumping duty order on silicon metal from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.²

BACKGROUND

The Commission instituted this review on November 1, 2011 (76 F.R. 67476) and determined on February 6, 2012 that it would conduct an expedited review (77 F.R. 10774, February 23, 2012).

The Commission transmitted its determination in this review to the Secretary of Commerce on March 30, 2012. The views of the Commission are contained in USITC Publication 4312 (March 2012), entitled *Silicon Metal from China: Investigation No.731-TA-472 (Third Review)*.

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 Chairman Deanna Tanner Okun did not participate in this review.

VIEWS OF THE COMMISSION

Based on the record in this five-year review, we determine under section 751(c) of the Tariff Act of 1930, as amended (“the Act”), that revocation of the antidumping duty order on silicon metal from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.¹

I. BACKGROUND

A. Prior Proceedings

On June 3, 1991, the Commission determined that an industry in the United States was being materially injured by reason of less than fair value imports of silicon metal from China.² On June 10, 1991, the Department of Commerce (“Commerce”) issued an antidumping duty order on subject imports of silicon metal from China.³ The Commission also made affirmative final injury determinations with respect to silicon metal from Argentina on September 19, 1991, and silicon metal from Brazil on July 24, 1991.⁴ Commerce issued antidumping duty orders on those countries on September 26, 1991 and July 31, 1991, respectively.⁵

In January 2001, the Commission reached affirmative determinations in the full first reviews of the antidumping duty orders on Brazil and China.⁶ It also made a negative determination with respect to the antidumping duty order on silicon metal from Argentina.⁷ In December 2006, the Commission reached an affirmative determination in the full second review of the antidumping duty order on China.⁸ It also made a negative determination with respect to the antidumping duty order on silicon metal from Brazil.⁹

Commerce issued an antidumping duty order on silicon metal from Russia on March 26, 2003,¹⁰ and the Commission reached an affirmative determination in its expedited review of the order in June 2008.¹¹

¹ Chairman Deanna Tanner Okun did not participate in this review.

² Silicon Metal from the People’s Republic of China, Inv. No. 731-TA-472 (Final), USITC Pub. 2385 (June 1991) (“Original China Determination”).

³ 56 Fed. Reg. 26649 (June 10, 1991).

⁴ Silicon Metal from Argentina, Inv. No. 731-TA-470 (Final), USITC Pub. 2429 (Sept. 1991); Silicon Metal from Brazil, Inv. No. 731-TA-471 (Final), USITC Pub. 2404 (July 1991) (“Original Brazil Determination”).

⁵ 56 Fed. Reg. 48779 (Sept 26, 1991); 56 Fed. Reg. 36135 (July 31, 1991).

⁶ Silicon Metal from Argentina, Brazil and China, Inv. Nos. 731-TA-470-472 (Review), USITC Pub. 3385 (Jan. 2001) (“First Review Determination”).

⁷ First Review Determination.

⁸ Silicon Metal from Brazil and China, Inv. Nos. 731-TA-471-472 (Second Review), USITC Pub. 3892 (Dec. 2006) (“Second Review Determination”).

⁹ Second Review Determination.

¹⁰ 68 Fed. Reg. 14578 (March 26, 2003).

¹¹ See Silicon Metal from Russia, 731-TA-991(Review), USITC Pub. 4018 (June 2008).

B. The Current Review

On November 1, 2011, the Commission instituted this five-year review to determine whether revocation of the antidumping duty order on silicon metal from China would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.¹²

The Commission received only one submission in response to its notice of institution. That response was filed on behalf of Globe Metallurgical Inc. (“Globe”), a domestic producer of silicon metal.¹³ On February 6, 2012, the Commission found that the domestic interested party group response was adequate. Because no responses were received from any respondent interested party, the Commission determined that the respondent interested party group response to the notice of institution was inadequate. In addition, there were no other changes that warranted a full review.¹⁴ The Commission, therefore, determined to expedite the review.¹⁵

On March 6, 2012, Globe filed comments, pursuant to 19 C.F.R. § 207.62(d), arguing that revocation of the antidumping duty order on silicon metal from China would likely lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.¹⁶

II. DOMESTIC LIKE PRODUCT

In making its determination under section 751(c) of the Act, the Commission defines “the domestic like product” and the “industry.”¹⁷ 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 under this subtitle.”¹⁸ The Commission’s practice in five-year reviews is to look to the like product definition from the original determination and any completed reviews and consider whether the record indicates any reason to revisit the prior findings.¹⁹

A. Product Description

In its expedited sunset determination, Commerce defined the subject merchandise as follows: Silicon metal containing at least 96.00 but less than 99.99 percent of silicon by weight. Also covered by this review is silicon metal from the PRC containing between 89.00 and 96.00 percent silicon by weight but which contains a higher aluminum content than the

¹² 76 Fed. Reg. 67476 (Nov. 1, 2011).

¹³ See Globe’s Response to Notice of Institution (Dec. 1, 2011) (“Globe’s Response”).

¹⁴ 77 Fed. Reg. 10774 (Feb. 23, 2012).

¹⁵ 77 Fed. Reg. 10774 (Feb. 23, 2012).

¹⁶ See generally Globe’s Comments (March 6, 2012) (“Globe’s Comments”).

¹⁷ 19 U.S.C. § 1677(4)(A).

¹⁸ 19 U.S.C. § 1677(10); see, e.g., Cleo, Inc. v. United States, 501 F.3d 1291, 1299 (Fed. Cir. 2007); 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); Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996); Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991); see also S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

¹⁹ See, e.g., Internal Combustion Industrial Forklift Trucks From Japan, Inv. No. 731-TA-377 (Second Review), USITC Pub. 3831 at 8-9 (December 2005); Crawfish Tail Meat From China, Inv. No. 731-TA-752 (Review), USITC Pub. 3614 at 4 (July 2003); Steel Concrete Reinforcing Bar From Turkey, Inv. No. 731-TA-745 (Review), USITC Pub. 3577 at 4 (February 2003).

silicon metal containing at least 96.00 percent but less than 99.99 percent silicon by weight. Silicon metal is currently provided for under subheadings 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule (“HTS”) as a chemical product, but is commonly referred to as a metal. Semiconductor-grade silicon (silicon metal containing by weight not less than 99.99 percent of silicon and provided for in subheading 2804.61.00 of the HTS) is not subject to this review.²⁰

Silicon is an element, metallic in appearance, solid in mass, and steel gray in color, that is commonly found in nature either in combination with oxygen as silica or in combination with both oxygen and a metal in silicate minerals. Silicon metal is used in the chemical industry to produce silanes, which are then used to produce organic chemicals known as silicones. Silicones are used in a wide variety of applications including resins, lubricants, elastomers, anti-foaming agents, and water-repellent compounds which are employed in the chemical, pharmaceutical, automotive, and aerospace industries.²¹

There are four broadly defined categories, or grades, of silicon metal, which are ranked in descending order of purity as (1) semiconductor grade, (2) chemical grade, (3) a metallurgical grade used to produce primary aluminum (aluminum produced from ore), and (4) a metallurgical grade used to produce secondary aluminum (aluminum produced from scrap).²²

B. Original Investigations and Previous Five-year Reviews

In the original investigations, the Commission found the appropriate domestic like product to be “all silicon metal, regardless of grade, having a silicon content of at least 96.00 percent but less than 99.99 percent of silicon by weight, and excluding semiconductor grade silicon.”²³ In the first and second five-year reviews, the Commission found no basis for revisiting the issue of defining the domestic like product, and no party argued for a different domestic like product. The Commission, therefore, defined the domestic like product as all silicon metal, regardless of grade, corresponding to the scope of the order.²⁴

²⁰ See Silicon Metal From the People’s Republic of China: Final Results of the Expedited Third Sunset Review of the Antidumping Duty Order 77 Fed. Reg. 10477 (Feb. 22, 2012).

²¹ Confidential Staff Report, INV-KK-021 (March 1, 2012) (as revised by memorandum INV-KK-031) (“CR”) at I-8; Public Report (“PR”) at I-6.

²² CR at I-8 to I-9, PR at I-6.

²³ Original China Determination, USITC Pub. 2385 at 10.

²⁴ See First Review Determination, USITC Pub. 3385 at 5; Second Review Determination, USITC Pub. 3892 at 5.

C. The Current Review

The scope of the order remains unchanged from the previous two five-year reviews.²⁵ There is no new information obtained during this review that would suggest any reason to revisit the definition of the domestic like product, and Globe has indicated that it agrees with the definition that the Commission used in its prior proceedings.²⁶ Thus, we define the domestic like product as silicon metal corresponding to Commerce's scope.

III. DOMESTIC INDUSTRY

Section 771(4)(A) of the Act defines the relevant industry as the domestic "producers as a whole 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."²⁷ In defining the domestic industry, the Commission's general practice has been to include all domestic producers of the domestic like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.

In its original investigations and in the previous two five-year reviews, the Commission defined the domestic industry as all U.S. producers of silicon metal. No producer was excluded from the domestic industry.²⁸

As with the definition of the domestic like product, no party argues for a different definition of the domestic industry in this review,²⁹ nor is there any information on the record that would warrant a different definition.³⁰ Accordingly, we define the domestic industry to be all domestic producers of silicon metal.

IV. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY IF THE ANTIDUMPING DUTY ORDER IS REVOKED

A. Legal Standard

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping or countervailing duty order unless (1) it makes a determination that dumping or subsidization is likely to continue or recur and (2) the Commission makes a determination that revocation of the antidumping or countervailing duty order "would be likely to lead to continuation or recurrence of

²⁵ In 1993, in response to a request by domestic interested parties for clarification of the scope of the antidumping duty order concerning subject imports from China, Commerce determined that silicon metal containing between 89.00 percent and 99.00 percent silicon by weight, but which contains a higher aluminum content than the silicon metal containing at least 96.00 percent but less than 99.99 percent silicon by weight, is the same class or kind of merchandise as the silicon metal described in the original order concerning subject imports from China. 58 Fed. Reg. 27542 (May 10, 1993).

²⁶ Globe's Response at 36.

²⁷ 19 U.S.C. § 1677(4)(A). The definitions in 19 U.S.C. § 1677 are applicable to the entire subtitle containing the antidumping and countervailing duty laws, including 19 U.S.C. §§ 1675 and 1675a. See 19 U.S.C. § 1677.

²⁸ See Original China Determination, USITC Pub. 2385 at 10-12; First Review Determination, USITC Pub. 3385 at 5-6; Second Review Determination, USITC Pub. 3892 at 5.

²⁹ Globe's Response at 36.

³⁰ The record does not indicate that any domestic producer is a related party. See CR at I-15, PR at I-10.

material injury within a reasonably foreseeable time.”³¹ The Statement of Administrative Action to the Uruguay Round Agreements Act (“SAA”) states that “under the likelihood standard, the Commission will engage in a counterfactual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports.”³² Thus, the likelihood standard is prospective in nature.³³ The U.S. Court of International Trade has found that “likely,” as used in the five-year review provisions of the Act, means “probable,” and the Commission applies that standard in five-year reviews.³⁴

The Act states that “the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.”³⁵ According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ timeframe applicable in a threat of injury analysis in original investigations.”³⁶

Although the standard in a five-year review is not the same as the standard applied in an original antidumping duty investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to “consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated.”³⁷ It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if the orders are revoked or the suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).³⁸ The statute further provides that the presence or absence of any factor that the Commission

³¹ 19 U.S.C. § 1675a(a).

³² SAA, H.R. Rep. 103-316 at 883-84 (1994). The SAA states that “{t}he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed.” *Id.* at 883.

³³ While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued {sic} prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

³⁴ See NMB Singapore Ltd. v. United States, 288 F. Supp. 2d 1306, 1352 (Ct. Int’l Trade 2003) (“‘likely’ means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)”), aff’d mem., 140 Fed. Appx. 268 (Fed. Cir. 2005); Nippon Steel Corp. v. United States, 26 CIT 1416, 1419 (2002) (same); Usinor Industeel, S.A. v. United States, 26 CIT 1402, 1404 nn.3, 6 (2002) (“more likely than not” standard is “consistent with the court’s opinion”; “the court has not interpreted ‘likely’ to imply any particular degree of ‘certainty’”); Indorama Chemicals (Thailand) Ltd. v. United States, Slip Op. 02-105 at 20 (Ct. Int’l Trade Sept. 4, 2002) (“standard is based on a likelihood of continuation or recurrence of injury, not a certainty”); Usinor v. United States, 26 CIT 767, 794 (2002) (“‘likely’ is tantamount to ‘probable,’ not merely ‘possible’”).

³⁵ 19 U.S.C. § 1675a(a)(5).

³⁶ SAA at 887. Among the factors that the Commission should consider in this regard are “the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities.” *Id.*

³⁷ 19 U.S.C. § 1675a(a)(1).

³⁸ 19 U.S.C. § 1675a(a)(1). We note that Commerce has made no duty absorption findings.

is required to consider shall not necessarily give decisive guidance with respect to the Commission's determination.³⁹

No respondent interested parties participated in this expedited review. The record, therefore, contains limited new information with respect to the silicon metal industry in China, and there is limited information on the silicon metal market in the United States during the period of review. Accordingly, for our determination, we rely as appropriate on the facts available from the original investigations and prior reviews and the limited new information on the record in this review.⁴⁰

B. Conditions of Competition and Business Cycle

In evaluating the likely impact of the subject imports on the domestic industry, the statute directs the Commission to consider all relevant economic factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."⁴¹ We find the following conditions of competition relevant to our determination.

1. The Original Investigations

In the original investigations, the Commission did not note any specific conditions of competition distinctive to the silicon metal market. It found that the demand for metallurgical grade silicon metal tended to be cyclical because it follows consumption trends in markets of products using large amounts of aluminum, such as the automobile industry. Because of the many uses for silicon metal in the chemical market, the Commission found it difficult to relate trends in the overall demand for chemical grade silicon metal to trends in the demand for any one product or group of products.⁴²

2. The Prior Five-Year Reviews

In both the first and second five-year reviews, the Commission noted that the demand for silicon metal is derived from the demand for other products.⁴³ In the first five-year reviews, the Commission

³⁹ 19 U.S.C. § 1675a(a)(5). Although the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

⁴⁰ 19 U.S.C. § 1677e(a) authorizes the Commission to "use the facts otherwise available" in reaching a determination when (1) necessary information is not available on the record or (2) an interested party or other person withholds information requested by the agency, fails to provide such information in the time, form, or manner requested, significantly impedes a proceeding, or provides information that cannot be verified pursuant to section 782(I) of the Act. 19 U.S.C. § 1677e(a). The verification requirements in section 782(I) are applicable only to Commerce. 19 U.S.C. § 1677m(I). See Titanium Metals Corp. v. United States, 155 F. Supp. 2d 750, 765 (Ct. Int'l Trade 2001) ("[T]he ITC correctly responds that Congress has not required the Commission to conduct verification procedures for the evidence before it, or provided a minimum standard by which to measure the thoroughness of a Commission investigation.").

⁴¹ 19 U.S.C. § 1675a(a)(4).

⁴² Original China Determination, USITC Pub. 2385 at 14-15 n.51.

⁴³ First Review Determination, USITC Pub. 3385 at 14; Second Review Determination, USITC Pub. 3892 at 12. The Commission explained that silicon metal employed in the production of primary and secondary aluminum is used as an alloying agent (it is a required component in aluminum casting alloys) because the silicon increases fluidity and reduces shrinkage while it enhances strength, castability and weldability. Second Review Determination, USITC Pub. 3892 at 12. Primary aluminum applications include the manufacture of components that require higher purity aluminum, such as automobile wheels, while secondary aluminum applications apply primarily to the automotive castings industry.

found that demand for silicon metal had expanded significantly, and world demand for end products produced from silicon metal also was projected to grow at a strong rate.⁴⁴ In the second reviews, most U.S. producers reported that demand for silicon metal had generally increased from 2000 to 2005, but Commission data indicated that apparent consumption fluctuated over the period.⁴⁵

At the end of the first period of review, there were only three domestic producers: Elkem, Globe and Simcala. This was a decline from eight domestic producers during the original investigations.⁴⁶ By the end of the second period of review, there were only two remaining producers, as Elkem was sold to Globe in 2005.⁴⁷ In June 2003, Dow Corning Corporation purchased Simcala, which had previously shipped *** of its production to Dow.⁴⁸

In the first five-year reviews, the Commission found that nonsubject imports supplied a greater portion of apparent U.S. consumption than in the original investigations.⁴⁹ In the second five-year reviews, the Commission noted that nonsubject imports continued to gain market share, while the domestic industry's share of apparent U.S. consumption had declined over the period of review.⁵⁰

In the first reviews, the Commission noted that, just as in the original investigations, there were three grades of silicon metal subject to the reviews: chemical, primary aluminum, and secondary aluminum.⁵¹ Chemical and primary aluminum grade silicon metal typically required certification; once a producer was certified, price became an even more important factor in purchasing decisions.⁵²

During the original investigations and both five-year reviews, the record indicated that there was moderate substitutability among subject imports and the domestic product.⁵³ In the second reviews, there also was evidence of improvement in the quality of the Chinese product, suggesting greater substitutability.⁵⁴ In addition, price was determined to be an important factor in purchasing decisions in each prior segment of these proceedings.⁵⁵ Of the 15 responding purchasers in the second five-year reviews, seven usually purchased the lowest-priced material, seven sometimes purchased the lowest-priced material, and one reported always buying the lowest-priced silicon metal.⁵⁶

In the second reviews, the Commission noted that higher-grade silicon metal was frequently shipped to a purchaser with a lower specification requirement.⁵⁷ The silicon metal content for all four grades was typically at least 98.5 percent.⁵⁸

⁴⁴ First Review Determination, USITC Pub. 3385 at 14-15.

⁴⁵ Second Review Determination, USITC Pub. 3892 at 13.

⁴⁶ First Review Determination, USITC Pub. 3385 at 14-15.

⁴⁷ Second Review Determination, USITC Pub. 3892 at 13.

⁴⁸ Second Review Determination, USITC Pub. 3892 at 13, Table I-2.

⁴⁹ First Review Determination, USITC Pub. 3385 at 15.

⁵⁰ Second Review Determination, USITC Pub. 3892 at 13.

⁵¹ First Review Determination, USITC Pub. 3385 at 14.

⁵² First Review Determination, USITC Pub. 3385 at 14-15. Semiconductor-grade silicon, used in the electronics industry, was a higher purity product that was not covered by the scope of the antidumping duty order. Second Review Determination, USITC Pub. 3892 at 12 n.70.

⁵³ Second Review Determination, USITC Pub. 3892 at 14.

⁵⁴ Second Review Determination, USITC Pub. 3892 at 15 n.95.

⁵⁵ Second Review Determination, USITC Pub. 3892 at 14.

⁵⁶ Second Review Determination, USITC Pub. 3892 at 14.

⁵⁷ Second Review Determination, USITC Pub. 3892 at 12, I-12 n.13.

⁵⁸ Second Review Determination, USITC Pub. 3892 at 12.

3. The Current Review

The conditions of competition relied upon by the Commission in making its determinations in the second five-year reviews generally continued in the current period.

The record indicates that apparent U.S. consumption fell from 2008 to 2009, but then rebounded and was *** percent higher in 2010 than 2009.⁵⁹ Apparent U.S. consumption was *** short tons in 2010, which was *** percent lower than in 2005, but exceeded annual levels observed during *** covered by the second five-year reviews.⁶⁰ Apparent U.S. consumption is forecast to continue to grow steadily.⁶¹ Two companies, Dow Corning and MPM Silicones, LLC, accounted for the majority of U.S. apparent consumption of silicon metal in 2010.⁶²

Silicon metal was produced in 15 countries in 2010, and exporters in 12 countries shipped to the United States.⁶³ Chinese production, however, accounted for about 46 percent of the world total.⁶⁴ Other major producers of silicon metal, in decreasing order, are Russia, Norway, the United States, and Ukraine.⁶⁵ Global silicon metal capacity utilization is reportedly less than 70 percent, mainly because of overcapacity in China.⁶⁶

There are currently two operating U.S. producers of silicon metal -- Globe and Dow Corning Alabama ("DC Alabama"). Globe is the largest domestic producer, accounting for *** percent of domestic production.⁶⁷ DC Alabama is a wholly-owned subsidiary of Dow Corning Corporation, which *** of apparent U.S. consumption in 2010.⁶⁸

Since the previous period of review, nonsubject imports have fluctuated, but they ended the period higher overall. They increased from 168,142 short tons in 2005 to 186,810 short tons in 2010 and accounted for a much larger share of the U.S. market than their share in the original period of investigation.⁶⁹ Imports of silicon metal from China have fluctuated, but remained below 1,000 short tons during four of the six years from 2005 to 2010.⁷⁰

Globe states that silicon metal is a commodity product and that domestic and imported silicon metal of the same grade, regardless of source, are completely interchangeable.⁷¹ Globe also states that the U.S. silicon metal market remains highly competitive, with numerous suppliers of domestic and

⁵⁹ Globe's Response at 35 and Exhibit 3.

⁶⁰ CR/PR at Table I-3. Apparent consumption was *** short tons in 2000, *** short tons in 2001, *** short tons in 2002, *** short tons in 2003, *** short tons in 2004, and *** short tons in 2005. CR/PR at C-5.

⁶¹ See Globe's Response at Exhibit 3 (***).

⁶² Globe's Response at 14.

⁶³ Globe's Response at 7-8.

⁶⁴ CR at I-22, PR at I-16.

⁶⁵ CR at I-22, PR at I-16.

⁶⁶ CR at I-22, PR at I-16.

⁶⁷ Globe's Response at 33.

⁶⁸ Globe's Response at 31.

⁶⁹ First Review Determination, USITC Pub. 3385 at 14 n.84. In 1990, nonsubject imports were 11,525 short tons and accounted for *** percent of apparent U.S. consumption in terms of quantity. In 2005, they accounted for *** percent of apparent U.S. consumption. In 2010, they accounted for *** percent. Id.; CR/PR at Table I-3; Second Review Determination, USITC Pub. 3892 at 14 n.88.

⁷⁰ CR/PR at Table I-2. Many of these imports were temporary importations under bond that were not subject to antidumping duties. Globe's Response at Exhibit 2.

⁷¹ Globe's Response at 2.

imported material.⁷² According to Globe, silicon metal is sold primarily on the basis of price, and publications such as *Metals Week*, *Ryan's Notes*, and *CRU Monitor* publish silicon metal prices that buyers and sellers frequently use as references in determining prices for sales in all market segments.⁷³

Based on the record evidence, we find that the conditions of competition in the silicon metal market are not likely to change significantly in the reasonably foreseeable future. Accordingly, we find that current conditions provide us with a reasonable basis on which to assess the likely effects of revocation of the antidumping duty order in the reasonably foreseeable future.

C. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the order under review were revoked, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.⁷⁴ In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.⁷⁵

1. The Original Investigations

In the original investigations, the Commission found that cumulated imports of silicon metal from the three subject countries (including Argentina and Brazil) increased 8.0 percent from 1988 to 1989 and 74.6 percent from 1989 to 1990.⁷⁶ The market share of cumulated subject imports, by quantity, increased substantially throughout the period, from 15.1 percent in 1988 to 17.8 percent in 1989 and 28.0 percent in 1990. The market share of subject imports from China increased from 4.5 percent in 1988 to 5.4 percent in 1989 and 12.1 percent in 1990.⁷⁷ The domestic industry’s market share increased from 71.7 percent in 1988 to 75.2 percent in 1989, then declined to 66.7 percent in 1990.⁷⁸

2. The Prior Five-Year Reviews

In the first five-year reviews, the record showed that the total volume of imports from China of in-scope silicon metal⁷⁹ remained steady at approximately 3,000 short tons annually from 1997 to 1999.⁸⁰

⁷² Globe’s Response at 2.

⁷³ Globe’s Response at 5.

⁷⁴ 19 U.S.C. § 1675a(a)(2).

⁷⁵ 19 U.S.C. § 1675a(a)(2)(A) - (D).

⁷⁶ Original China Determination, USITC Pub. 2385 at 26-27. Subject imports from China increased 172 percent from 1988 to 1990. Id. at Table 2.

⁷⁷ Original China Determination, USITC Pub. 2385 at 26-27, A-14.

⁷⁸ Original China Determination, USITC Pub. 2385 at 26-27, A-14.

⁷⁹ Most of these imports were temporary imports under bond (“TIBs”) not subject to the imposition of duties. Under the TIB program, imports are duty-free as articles to be processed under bond for exportation, including processes that result in articles manufactured or produced in the United States. If the imports are subsequently exported (including products made in the United States using the imports as raw materials), the bond is refunded,

Chinese producers' capacity increased from 20,300 short tons in 1997 to 28,400 short tons in 1999, and production increased from 18,380 short tons in 1997 to 25,600 short tons in 1999.⁸¹

Chinese producers also had significant excess capacity; they reported that 37 percent of their capacity was unused. Unused capacity combined with current inventories was equivalent to at least 46 percent of apparent U.S. consumption. The Commission found that China's industry was export-oriented. China also faced an antidumping duty order in the European Union with a 49 percent duty rate.⁸² Based on these facts, the Commission found that the likely volume of cumulated imports from Brazil and China would be significant within a reasonably foreseeable time.⁸³

In the second five-year reviews, the Commission noted that subject imports from China declined over the period of review, yet remained present in the U.S. market.⁸⁴ Although no Chinese producers responded to the Commission's questionnaires, available data indicated that Chinese subject producers' capacity was at least *** metric tons per year.⁸⁵ This capacity represented approximately *** the level of apparent consumption in the United States in 2005. Capacity utilization was estimated to be *** percent, and Chinese subject production *** over the period of review, rising from *** short tons in 2000 to *** short tons in 2005. Chinese export shipments, which were approximately *** percent of the Chinese industry's total shipments in 2005, increased similarly.⁸⁶ The Commission also noted that nothing in the record indicated that the Chinese producers would behave differently upon revocation of the order than they did during the period of the original investigations.⁸⁷ In view of China's large capacity, significant excess capacity, high and increasing level of production, and export shipments, the Commission found that subject imports of silicon metal from China would likely be significant either in absolute terms or relative to production or consumption in the United States in the reasonably foreseeable future if the antidumping duty order were revoked.⁸⁸

2. The Current Review

During the current period of review, the volume of subject imports was lower than during the original investigations.⁸⁹ Imports of silicon metal from China totaled 212 short tons in 2006, 421 short tons in 2007, 8,929 short tons in 2008, 664 short tons in 2009, and 460 short tons in 2010.⁹⁰ The majority of these imports of silicon metal from China, however, were imported under the TIB program and were

and no antidumping duties are levied. See Second Review Determination, USITC Pub. 3892 at 13-14 n.84.

⁸⁰ First Review Determination, USITC Pub. 3385 at Table I-1. TIB imports accounted for 80 percent of these imports in 1997, 98 percent in 1998 and 100 percent in 1999. USITC Pub. 3385 at Table I-1 n.4.

⁸¹ Data on the Chinese industry were very limited; the Commission received questionnaire responses from only five producers, whose reported production represented only 10 percent of total exports. First Review Determination, USITC Pub. 3385 at 16-17.

⁸² First Review Determination, USITC Pub. 3385 at 16-17.

⁸³ First Review Determination, USITC Pub. 3385 at 17-18.

⁸⁴ Second Review Determination, USITC Pub. 3892 at 23.

⁸⁵ Second Review Determination, USITC Pub. 3892 at 23.

⁸⁶ Second Review Determination, USITC Pub. 3892 at 23.

⁸⁷ Second Review Determination, USITC Pub. 3892 at 23.

⁸⁸ Second Review Determination, USITC Pub. 3892 at 23.

⁸⁹ See CR/PR at Table I-2; Second Review Determination, USITC Pub 3892 at 22.

⁹⁰ CR/PR at Table I-2.

not subject to antidumping duties.⁹¹ Subject (non-TIB) imports of silicon metal from China were less than 500 tons each year, with the exception of 2008, when they totaled 7,534 short tons.⁹² The relatively low volume of subject imports indicates that the antidumping duty order has had a significant restraining effect on the volume of subject imports from China.

Because of the lack of participation by Chinese producers and importers of subject merchandise, the Commission has limited information on the Chinese industry in this review. Nonetheless, public sources of information concerning the Chinese silicon metal industry indicate that it is massive relative to apparent U.S. consumption and that it has significant unused capacity. Globe estimates that the Chinese silicon metal industry consists of as many as *** producers, and, according to ***, capacity for production of silicon metal in China totaled *** short tons in 2010.⁹³ Chinese production represents 46 percent of world production of silicon metal.⁹⁴ Chinese production of silicon metal increased from *** short tons in 2005 to *** short tons in 2010.⁹⁵ Existing plans also reportedly call for the construction of as much as *** short tons of new silicon metal production capacity in China, adding to its already massive capacity.⁹⁶ The Chinese industry's excess capacity was estimated to total *** short tons in 2010, an amount several times greater than apparent U.S. consumption that year.⁹⁷

China is also the world's largest producer of ferrosilicon, producing 5.7 million short tons in 2009.⁹⁸ The record indicates that Chinese producers can shift from production of ferrosilicon to the production of silicon metal.⁹⁹

Further, although there is a market for silicon metal in China, the Chinese industry remains export oriented.¹⁰⁰ China continues to be the largest exporter of silicon metal in the world.¹⁰¹ Based on *** data, its exports of silicon metal totaled *** short tons in 2010, which constituted approximately *** percent of the country's total output that year.¹⁰²

The United States remains an attractive market for Chinese producers and exporters of silicon metal. The United States ranks behind only the European Union and China as the largest consumer of silicon metal in the world.¹⁰³ Chinese silicon metal, however, faces antidumping duties of 19 percent in the European Union.¹⁰⁴ In addition, Globe asserts that prices in the United States are higher than in other markets, such as the European Union and Japan.¹⁰⁵

⁹¹ See Globe's Response at Exhibit 2.

⁹² See Globe's Response at Exhibit 2.

⁹³ Globe's Response at 10-11.

⁹⁴ CR at I-22, PR at I-16.

⁹⁵ Globe Response to Notice of Institution at Exhibit 9.

⁹⁶ Globe's Response at 12.

⁹⁷ CR/PR at Table I-3; Globe's Response at 11. Global silicon metal capacity utilization as reported by the 2011 *Roskill Report* is less than 70 percent, in large part due to overcapacity in China. CR at I-22, PR at I-16.

⁹⁸ Globe's Response at 13. There is no information in the record concerning the current size of inventories in China or the United States.

⁹⁹ Globe's Response at 13.

¹⁰⁰ Globe's Response at 28.

¹⁰¹ Globe's Response at 11.

¹⁰² Globe's Response at 11.

¹⁰³ Globe's Response at 12 n.35.

¹⁰⁴ CR at I- 20, PR at I-15.

¹⁰⁵ See Globe's Response at 12. Further, Globe contends that domestic purchasers have sought to avoid paying antidumping duties on silicon metal from China by having their production facilities designated as Free Trade Zone manufacturing subzones. Globe's Response at 14-18. If true, these allegations further demonstrate that the volume of subject imports would likely increase if the order is revoked.

Given the Chinese silicon metal industry's large and increasing size, significant excess capacity, and export orientation, along with the attractiveness of the U.S. market and import restrictions in the European Union, we find that the likely volume of subject imports, both in absolute terms and as a share of the U.S. market, would be significant if the order is revoked.

D. Likely Price Effects of Subject Imports

In evaluating the likely price effects of subject imports if the order under review were revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports in relation to the domestic like product and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.¹⁰⁶

1. The Original Investigations

In the original investigations, the Commission found that the average unit value of the imports from the three subject countries decreased 9.0 percent from 1988 to 1989 and 15.1 percent from 1989 to 1990. With regard to spot prices for sales to secondary aluminum producers, domestic and import prices followed similar trends – increasing in 1988 and early 1989 and falling in late 1989. When domestic prices recovered in 1990, however, subject import prices generally continued to decline. Spot market prices for domestic sales to primary aluminum producers also declined. Overall, such prices were 4.7 percent lower at the end of the period of investigation than they were at the beginning.¹⁰⁷

The Commission found that there was significant underselling by the cumulated subject imports throughout the period. Subject imports from China undersold domestically produced silicon metal in nine of twelve quarters, with underselling margins ranging from 1.9 to 28.7 percent.¹⁰⁸ The underselling was particularly significant in light of the generally declining prices for the domestic product. With respect to prices reported by purchasers of secondary aluminum grade silicon metal, cumulated subject imports undersold the domestic product in 25 out of 35 quarterly comparisons for which data were available.¹⁰⁹ The margins of underselling ranged from less than one percent to 13.6 percent. Further, the steady increase in the ratio of the cost of goods sold to net sales over the period indicated that prices had been suppressed relative to costs.¹¹⁰

2. The Prior Five-Year Reviews

In the first five-year reviews, the Commission found that domestic silicon metal and imported silicon metal were generally substitutable within grades and that price was an important consideration for purchasers. Prices generally trended downward during the period of review, although some grades

¹⁰⁶ See 19 U.S.C. § 1675a(a)(3). The SAA states that “[c]onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices.” SAA at 886.

¹⁰⁷ Original China Determination, USITC Pub. 2385 at 27.

¹⁰⁸ Original China Determination, USITC Pub. 2385 at A-72.

¹⁰⁹ Original China Determination, USITC Pub. 2385 at 27-28.

¹¹⁰ Original China Determination, USITC Pub. 2385 at 27-28.

showed increases toward the end of the period.¹¹¹ Market prices were declining, and the domestic producers reported that they had to renegotiate long-term contracts with major customers to adjust prices downward. The Commission found that the likely significant increased volumes of subject silicon metal would likely undersell domestic silicon metal products to a significant degree and have significant price depressing and suppressing effects within a reasonably foreseeable time if the orders were revoked.¹¹²

In the second five-year reviews, there were no pricing comparisons available for subject product from China. The low unit values of the nonsubject TIB imports from China, however, provided some indication of the likely prices of subject merchandise upon revocation of the order. The average unit value of nonsubject TIB imports from China was \$1,118 per short ton in 2004 and \$1,065 per short ton in 2005. It was \$*** per short ton for subject imports from Brazil in 2004, and \$*** per short ton in 2005 and \$*** per short ton in 2005 for nonsubject imports from Brazil.¹¹³

The Commission also pointed to prices for Chinese silicon metal as reported in *Metal Bulletin*, a source sometimes used in price negotiations. It showed that the price of Chinese silicon metal was below the price of U.S. silicon metal in all months for which such data were available between 2000 and 2006.¹¹⁴

The Commission additionally noted that the quality of the Chinese subject product had improved since the first five-year reviews, which rendered subject imports more interchangeable with the domestic product and made it more likely that U.S. purchasers would buy significantly increased volumes of the lower-priced subject Chinese imports upon revocation of the order.¹¹⁵

The Commission found that data from the original investigations and first reviews indicated that the likely significant increased volumes of subject imports from China were likely to enter the U.S. market at prices that would significantly undersell the domestic product as well as significantly depress or suppress domestic prices within a reasonably foreseeable time if the order were revoked.¹¹⁶

3. The Current Review

As the Commission found in the first and second five-year reviews, the domestic like product and imports from all sources are generally substitutable.¹¹⁷ Price continues to be an important factor in purchasing decisions.¹¹⁸ Furthermore, as the Commission noted in the second reviews, the quality of the Chinese subject product has improved since the first reviews, making it even more likely that U.S. purchasers will buy significantly increased volumes of the lower-priced Chinese silicon metal upon revocation of the order.¹¹⁹

The record in the current review indicates that domestic silicon metal prices decreased from 137.5 cents per pound in 2008 to 116.6 cents per pound in 2009 because of the continued effects of the economic downturn that began during the third quarter of 2008.¹²⁰ Domestic prices fell in the first half of

¹¹¹ First Review Determination, USITC Pub. 3385 at 18.

¹¹² First Review Determination, USITC Pub. 3385 at 18.

¹¹³ Second Review Determination, USITC Pub. 3892 at 24.

¹¹⁴ Second Review Determination, USITC Pub. 3892 at 24.

¹¹⁵ Second Review Determination, USITC Pub. 3892 at 24.

¹¹⁶ Second Review Determination, USITC Pub. 3892 at 24.

¹¹⁷ Globe's Response at 2.

¹¹⁸ Globe's Response at 2.

¹¹⁹ Second Review Determination, USITC Pub. 3892 at 24.

¹²⁰ CR at I-13 to I-14, PR at I-9 to I-10.

2009 before recovering in the second half of 2009 and in 2010.¹²¹ The record in this expedited review, however, contains no new product-specific pricing information.

During the original investigations, subject imports from China undersold domestically produced silicon metal in nine of twelve quarters, with underselling margins ranging from 1.9 to 28.7 percent.¹²² The current record indicates that prices for Chinese exports of silicon metal to all markets are well below prevailing silicon metal prices in the United States.¹²³ Given the attractiveness of the U.S. market, we find it likely that subject producers would resume their pattern of underselling from the original investigations if the order was revoked in order to increase their share of the U.S. market.

Given the likely significant volume of imports, the importance of price in the silicon metal market, the substitutability of subject imports and the domestic like product, and past pricing patterns, we find it likely that increased volumes of subject imports from China would enter at prices that would significantly undersell the domestic product as well as significantly depress or suppress domestic prices within a reasonably foreseeable time if the order were revoked.

E. Likely Impact of Subject Imports¹²⁴

In evaluating the likely impact of imports of subject merchandise if the antidumping duty order were revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to the following: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.¹²⁵ All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry. As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the order at issue and whether the industry is vulnerable to material injury if the order were revoked.¹²⁶

¹²¹ CR at I-13 to I-14, PR at I-9 to I-10.

¹²² Original China Determination, USITC Pub. 2385 at A-72.

¹²³ Globe's Response at 21.

¹²⁴ Section 752(a)(6) of the Act states that "the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy" in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the "magnitude of the margin of dumping" to be used by the Commission in five-year reviews as "the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title." 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887.

Commerce expedited its determination in its review of silicon metal from China and found that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at a margin of 139.49 percent by all Chinese producers. Silicon Metal From the People's Republic of China: Final Results of the Expedited Third Sunset Review of the Antidumping Duty Order 77 Fed. Reg. 10477 (Feb. 22, 2012).

¹²⁵ 19 U.S.C. § 1675a(a)(4).

¹²⁶ The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, 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 may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." SAA at 885.

1. The Original Investigations

In the original investigations, the Commission noted that the domestic producers had catalogued a number of situations in which they were not able to modernize their facilities. They also had curtailed expansion and were experiencing difficulty in raising capital due to the effects of the subject imports.¹²⁷ In addition, the Commission assessed the overall patterns of apparent domestic consumption, including the domestic industry's decreasing share, and noted the mixed data relating to domestic production and employment. The Commission stated that one producer had filed a petition for bankruptcy reorganization in 1986 and another in 1990. Net sales, income, and profit margins had all declined. Both operating income and net return on total assets had suffered steep declines during the investigation period.¹²⁸

2. The Prior Five-Year Reviews

In the first five-year reviews, the Commission found that the domestic industry was vulnerable to material injury should the orders be revoked.¹²⁹ Two firms declared bankruptcy during the period, and most of the remaining firms had experienced ***. Two other domestic producers closed over the period covered by the reviews. Although the domestic industry's condition had improved since the orders were imposed, the gains were eroded over the period of review. The domestic industry experienced declines in capacity utilization, production, shipments, net sales, the number of production and related workers and their hours worked, and capital expenditures.¹³⁰ The Commission found that the domestic industry's price and volume declines likely would have a significant adverse impact on the production, shipments, sales, and revenue levels of the domestic industry.¹³¹ These reductions would have a direct adverse impact on the industry's profitability as well as its ability to raise capital and maintain necessary capital investments. In addition, the Commission found it likely that revocation of the orders would result in commensurate employment declines for domestic firms.¹³²

In the second five-year reviews, the Commission did not find the domestic industry to be vulnerable. The industry was continuing to consolidate, and Globe was the only significant domestic open-market supplier.¹³³ The industry's financial indicators showed significant improvement, especially toward the end of the period of review, which the domestic industry ascribed, at least in part, to the antidumping duty order that was imposed on imports of silicon metal from Russia in 2003. The ratio of operating income to net sales increased from *** percent in 2000 to *** percent in 2005. Total net sales rose in terms of quantity and value between 2000 and 2005.¹³⁴ Although there was some evidence that the domestic industry faced a cost/price squeeze, as the cost of goods sold relative to net sales increased from 2004 to 2005, this ratio decreased over the full review period. Capital expenditures also rose over the period of review, although research and development expenses declined.¹³⁵

¹²⁷ Original China Determination, USITC Pub. 2385 at 28.

¹²⁸ Original China Determination, USITC Pub. 2385 at 15-17.

¹²⁹ First Review Determination, USITC Pub. 3385 at 18.

¹³⁰ First Review Determination, USITC Pub. 3385 at 19.

¹³¹ First Review Determination, USITC Pub. 3385 at 19.

¹³² First Review Determination, USITC Pub. 3385 at 19.

¹³³ Second Review Determination, USITC Pub. 3892 at 21.

¹³⁴ Second Review Determination, USITC Pub. 3892 at 21.

¹³⁵ Second Review Determination, USITC Pub. 3892 at 21.

Other indicators of the condition of the domestic industry fell over the period of review, including capacity, production, total U.S. shipments, domestic market share, and the number of production workers and hours worked.¹³⁶

Although the domestic industry was found not to be vulnerable within the meaning of the statute, and although demand was projected to grow, the Commission found that the likely substantial volume and price effects of the subject imports from China would be sufficient to have a significant negative impact on the production, shipments, sales, and revenue levels of the domestic industry.¹³⁷ These reductions were likely to have a direct adverse impact on the industry's profitability, as well as its ability to raise capital and maintain necessary capital investments, and it was likely that revocation of the order would result in commensurate employment declines for domestic firms.¹³⁸

3. The Current Review

Because this is an expedited review, we have only limited information with respect to the domestic industry's financial performance. We collected 2010 data for several performance indicators, but no data from 2006 to 2009.¹³⁹ The data show an industry that has become smaller since the time of the original investigations and is ***.¹⁴⁰ Nonetheless, the limited record is insufficient for us to make a finding as to whether the domestic industry is vulnerable to the continuation or recurrence of material injury in the event of revocation of the order.¹⁴¹

The data show that, since the period examined in the last five-year review, the domestic industry has ***.¹⁴² In 2010, the domestic industry's capacity was *** short tons, its production was *** short tons, and its rate of capacity utilization was *** percent.¹⁴³ Each of these indicators declined from 2005 to 2010.¹⁴⁴ The domestic industry's U.S. shipments were *** short tons in 2010, accounting for *** percent of apparent U.S. consumption. Again, these figures are lower than those for 2005, when U.S. shipments were *** short tons and the domestic industry's market share was *** percent.¹⁴⁵

Despite its smaller size, the domestic industry's financial performance improved from 2005 to 2010.¹⁴⁶ In 2005, the domestic industry reported operating *** and an operating margin of *** percent.¹⁴⁷ In 2010, the industry earned operating *** and reported an operating margin of *** percent.¹⁴⁸

¹³⁶ Second Review Determination, USITC Pub. 3892 at 22.

¹³⁷ Second Review Determination, USITC Pub. 3892 at 24.

¹³⁸ Second Review Determination, USITC Pub. 3892 at 24.

¹³⁹ See CR/PR at Table I-1.

¹⁴⁰ See CR/PR at Table I-1.

¹⁴¹ Commissioner Pinkert finds that the domestic industry is not vulnerable to material injury if the order is revoked. Although the industry's capacity utilization and shipments *** in 2010 from the levels recorded in the final years covered by the original investigation and the first and second reviews, its operating income and operating income margin ***, with the operating income margin reaching *** percent.

¹⁴² Industry data for 2010 is based on the operations of Globe. See CR/PR at Table I-1.

¹⁴³ CR/PR at Table I-1.

¹⁴⁴ CR/PR at Table I-1. Trade and financial data were collected from domestic producers Elkem Metals, Globe, and Simcala in the previous review. Second Review Determination, USITC Pub. 3892 at III-1.

¹⁴⁵ Second Review Determination, USITC Pub. 3892 at Table I-6.

¹⁴⁶ CR/PR at Table I-1.

¹⁴⁷ CR/PR at Table I-1.

¹⁴⁸ CR/PR at Table I-1.

Based on the record of this review, we find that, should the order be revoked, the likely adverse volume and price effects of the subject imports would likely have a significant adverse impact on the production, shipments, sales, market share, and revenues of the domestic industry. Declines in these indicators of industry performance would have a direct adverse impact on the industry's profitability and employment, as well as its ability to raise capital, to make and maintain capital investments, and to fund research and development.

We have considered the role of factors other than subject imports, including the presence of nonsubject imports, so as not to attribute injury from other factors to the subject imports. The share of the U.S. market held by nonsubject imports has increased since the last review; it was *** percent in 2005 and *** percent in 2010.¹⁴⁹ Nevertheless, the ***. Moreover, there is no indication on the record of this review that the presence of nonsubject imports in the U.S. market would prevent subject imports from entering the United States at levels and prices that would cause injury to the domestic industry. Given the likely significant increase in subject imports and their underselling and adverse price effects in the event of revocation, we find that the expected increase in subject imports would be at the expense of the domestic industry even if nonsubject imports were also impacted. With respect to demand, it is forecast to continue to grow modestly and therefore is not expected to negatively impact the domestic industry.

Accordingly, based on the limited record in this review, we conclude that, if the antidumping duty order were revoked, subject imports would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

CONCLUSION

For the foregoing reasons, we determine that revocation of the antidumping duty order on silicon metal from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

¹⁴⁹ CR/PR at Table I-3; Second Review Determination, USITC Pub 3892 at 14 n.88.

INFORMATION OBTAINED IN THE REVIEW

INTRODUCTION

Background

On November 1, 2011, in accordance with section 751(c) of the Tariff Act of 1930, as amended (“the Act”),¹ the U.S. International Trade Commission (“Commission”) gave notice that it had instituted a review to determine whether revocation of the antidumping duty order on silicon metal from China would be likely to lead to a continuation or recurrence of material injury within a reasonably foreseeable time.^{2 3} On February 6, 2012, the Commission determined that the domestic interested party group response to its notice of institution was adequate⁴ and that the respondent interested party group response was inadequate.⁵ In the absence of respondent interested party responses and any other circumstances that would warrant the conduct of a full review, the Commission determined to conduct an expedited review of the antidumping duty order pursuant to section 751(c)(3) of the Act (19 U.S.C. § 1675(c)(3)).⁶ The Commission voted on this review on March 20, 2012, and notified Commerce of its determination on March 30, 2012. The following tabulation presents selected information relating to the schedule of this five-year review.

| Effective date | Action | Federal Register citation |
|----------------|---|---------------------------|
| Nov. 1, 2011 | Commission’s institution of five-year review | 76 FR 67476 |
| Nov. 1, 2011 | Commerce’s initiation of five-year review | 76 FR 67412 |
| Feb. 6, 2012 | Commission’s determination to conduct an expedited five-year review | 77 FR 10774 |
| Feb. 22, 2012 | Commerce’s final expedited five-year review determination | 77 FR 10477 |
| March 20, 2012 | Commerce’s final expedited five-year review determination | N/A |
| March 30, 2012 | Commission’s determination to Commerce | N/A |

¹ 19 U.S.C. 1675(c).

² *Silicon Metal From China*, 76 FR 67476, November 1, 2011. All interested parties were requested to respond to this notice by submitting the information requested by the Commission. The Commission’s notice of institution is presented in app. A.

³ In accordance with section 751(c) of the Act, the U.S. Department of Commerce (“Commerce”) published a notice of initiation of a five-year review of the subject antidumping duty order concurrently with the Commission’s notice of institution. *Initiation of Five-Year (“Sunset”) Review*, 76 FR 67412, November 1, 2011.

⁴ The Commission received one submission in response to its notice of institution in the subject review. It was filed on behalf of Globe Metallurgical Inc. (“Globe”), a U.S. producer of silicon metal. Globe reported that it accounted for approximately *** percent of total U.S. production of silicon metal in 2011. *Response* on behalf Globe Metallurgical Inc., December 1, 2011.

⁵ The Commission did not receive any responses from Chinese producers or importers of the subject merchandise.

⁶ *Silicon Metal from China*, 77 FR 10774, February 23, 2012. The Commission’s notice of an expedited review appears in app. A. The Commission’s statement on adequacy is presented in app. B.

The Original Investigation and Prior Five-Year Reviews

On August 24, 1990, a petition was filed with Commerce and the Commission alleging that an industry in the United States was materially injured and threatened with further material injury by reason of subsidized imports of silicon metal from Brazil and less-than-fair-value (“LTFV”) imports of silicon metal from Argentina, Brazil, and China.⁷⁸

On June 3, 1991, the Commission determined that an industry in the United States was being materially injured by reason of LTFV imports of silicon metal from China.⁹ Commerce issued an antidumping duty order on June 10, 1991.¹⁰

On July 24, 1991, the Commission made a final affirmative LTFV determination for Brazil,¹¹ and on July 31, 1991, Commerce issued an antidumping duty order on subject imports from Brazil.¹²

On September 19, 1991, the Commission made a final affirmative LTFV determination for Argentina, and on September 26, 1991, Commerce issued an antidumping duty order on subject imports from Argentina.¹³

In January 2001, after conducting full reviews, the Commission issued its determinations in the first five-year reviews. The Commission determined that revocation of the antidumping duty orders on subject imports of silicon metal from Brazil and China would be likely to lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time and that the revocation of the antidumping duty order on silicon metal from Argentina would not be likely to lead to continuation or recurrence of material injury to an industry in the U.S. within a reasonably foreseeable time.¹⁴ On February 16, 2001, Commerce published a notice of continuation of the antidumping duty orders on silicon metal from Brazil and China and revoked the antidumping duty order on silicon metal from Argentina effective January 1, 2000.¹⁵

On January 3, 2006, the Commission instituted the second five-year reviews to determine whether revocation of the antidumping duty orders on silicon metal from Brazil and China would likely lead to a continuation or recurrence of material injury.¹⁶ The Commission determined to continue the antidumping duty order on imports of silicon metal from China¹⁷ and to revoke the antidumping duty

⁷ The petition was filed by American Alloys, Inc. (“American Alloys”); Elkem Metals Co., L.P. (“Elkem”); Silicon Metaltech, Inc. (“Metaltech”); SiMETCO, Inc. (“SiMETCO”); and SKW Alloys, Inc. (“SKW”). On October 3, 1990, the petition was amended to add the following unions as petitioners: Oil, Chemical and Atomic Workers, Local 3-89; International Union of Electrical, Machine and Furniture Workers, AFL-CIO Local 693; Textile Processors, Service Trades, Health Care Professional and Technical Employees International Union, Local 60; and the United Steelworkers of America, Locals 5171, 8538, and 12646.

⁸ On November 27, 1990, Commerce published notice of its preliminary negative countervailing duty determination regarding silicon metal imports from Brazil (55 FR 49322). Commerce published its final negative determination on June 12, 1991 (59 FR 26977).

⁹ *Silicon Metal from the People’s Republic of China*, Inv. No. 731-TA-472 (Final), USITC Pub. 2385 (June 1991)(“Original China Determination”).

¹⁰ 56 Fed. Reg. 26649 (June 10, 1991).

¹¹ *Silicon Metal from Brazil*, Inv. No. 731-TA-471 (Final), USITC Pub. 2404 (July 1991)(“Original Brazil Determination”).

¹² 56 Fed. Reg. 36135 (July 31, 1991).

¹³ *Silicon Metal from Argentina*, Inv. No. 731-TA-470 (Final), USITC Pub. 2429 (Sept., 1991)(“Original Argentina Determination”).

¹⁴ *Silicon Metal From Argentina, Brazil, and China*, Invs. Nos. 731-TA-470-472 (Review), USITC Publication 3385, Jan., 2001, p. 1.

¹⁵ 66 FR 10669, (Feb. 16, 2001).

¹⁶ 71 FR 138 (Jan. 3, 2006).

¹⁷ 71 FR 76636, (Dec. 21, 2006).

order on imports from Brazil.¹⁸ Commerce issued the second continuation of the antidumping duty order on subject imports from China on December 21, 2006.¹⁹

Commerce's Final Result of Expedited Third Five-Year Review

Commerce conducted an expedited review with respect to silicon metal from China and found that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping.²⁰ Commerce determined that revocation of the antidumping duty order would be likely to lead to the continuation or recurrence of dumping at a weighted dumping margin of 139.49 percent for all exporters.²¹

Commerce's New Shipper and Administrative Reviews

Commerce instituted new shipper reviews of the antidumping duty order on silicon metal from China on July 25, 2006. It issued its *Final Results* on October 16, 2007, for the period of review of June 1, 2005, through May 31, 2006. Based on its analysis, it determined that the antidumping duty margin was 7.93 percent for Shanghai Jinnen; 50.62 percent for Jiangxi Gangyuan; and that the PRC-Wide Rate was 139.49 percent.²² Petitioner, Globe Metallurgical, Inc. and Respondents Jiangxi Gangyuan, and Shanghai Jinneng with its affiliated producer Datong Jinneng, filed lawsuits with the Court of International Trade (CIT) challenging several aspects of Commerce's *Final Results*. On October 1, 2008, the CIT remanded the case to Commerce to obtain better information for valuing silica fume. On February 2, 2009, Commerce submitted its remand results to the CIT. *See Final Results of Redetermination Pursuant to Court Remand*, Court No.07-00386 (Feb. 2, 2009). The CIT sustained Commerce's remand results on May 5, 2009 and accordingly, Commerce amended its final results and revised the weighted-average dumping margins for Jiangxi Gangyuan and Datong Jinneng/Shanghai Jinneng. The Jiangxi Gangyuan margin was revised to 71.51, and the Datong Jinneng/Shanghai Jinneng margin was revised to 50.41.²³

Information on Commerce's administrative review determinations, is presented in the following tabulation.

¹⁸ The Commission determined that revocation of the antidumping duty order on silicon metal from Brazil would not be likely to lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. The order concerning Brazil was revoked effective February 16, 2006 (71 FR 76635, December 21, 2006).

¹⁹ 71 FR 76636 (December 21, 2006).

²⁰ 77 FR 10477.

²¹ *Id.*

²² 72 FR 58,641 (October 16, 2007).

²³ 75 FR 15412, 15413 (March 29, 2010).

Silicon Metal: Commerce’s administrative reviews, by effective date

| Effective Date | Federal Register Citation | Period of Review | Antidumping duty margins (percent)(ad valorem) | |
|----------------|---------------------------|------------------|--|----------------|
| | | | Firm Specific | Country Wide |
| 7/98 | 63 FR 37850 | 6/1/96-5/31/97 | | 139.49 |
| 6/03 | 68 FR 35383 | 6/1/01-5/31/02 | Groupstars Chem. Co., Ltd. | 139.49 |
| 8/11/08 | 73 FR 46587 | 6/1/06-5/31/07 | | 139.49 |
| 7/9/09 | 74 FR 32885 | 6/1/07-5/31/08 | Shanghai Jinneng Jiangxi Gangyuan | 41.81 55.25 |
| 1/12/10 | 75 FR 1592 (final) | 6/1/07-5/31/08 | Shanghai Jinneng Jiangxi Gangyuan | 23.16 50.02 |
| 1/19/11 | 76 FR 3084 | 6/1/08-5/31/09 | Shanghai Jinneng | 3.14 |
| 2/11/11 | 76 FR 7811 | 6/1/08-5/31/09 | Shanghai Jinneng | 3.30 |

Related Commission Investigations

On March 2, 2002, Globe filed a petition with Commerce and the Commission alleging that an industry in the United States was materially injured and threatened with further material injury by LTFV imports of silicon metal from Russia.²⁴ On March 19, 2003, the Commission determined that an industry in the United States was materially injured by reason of LTFV imports of silicon metal from Russia.²⁵ Commerce issued an antidumping duty order on March 26, 2003.²⁶ Respondents Bratsk Aluminum Smelter and Sual Trade Limited (“plaintiffs”) appealed the Commission’s determination to the U.S. Court of International Trade (“CIT”). The CIT remanded the case to the Commission and on September 15, 2004, the Commission filed its affirmative remand determination with the CIT. The CIT affirmed the Commission and dismissed the case.²⁷ Plaintiffs appealed the CIT’s dismissal to the U.S. Court of Appeals for the Federal Circuit (“CAFC”). The CAFC vacated and remanded the CIT’s determination so that the CIT would remand the case back to the Commission.²⁸ On August 7, following its denial of the Commission’s petition for rehearing *en banc* and the Commission’s motion to stay issuance of the mandate to the CIT, the CAFC remanded the case to the CIT. The CIT, in turn, remanded the case to the Commission. The Commission then filed a motion to stay the remand proceedings at the CIT pending a decision on whether to seek *certiorari*. The CIT granted the stay and on December 20, 2006, the Commission informed the CIT that it would not be seeking *certiorari* at that time. The CIT lifted the stay and instructed the Commission to submit its remand results to the CIT by March 22, 2007. The Commission determined that an industry in the United States was materially injured by reason of imports

²⁴ *Silicon Metal From Russia, Investigation No. 731-TA-991 (Final)*, USITC Publication 3584, Mar. 2003, p. I-1.

²⁵ 68 FR 14260 (March 24, 2003).

²⁶ 68 FR 14578 (March 26, 2003).

²⁷ *Bratsk Aluminum Smelter v. United States*, Slip Op. 04-153, CIT 2004, December 3, 2004.

²⁸ *Bratsk Aluminum Smelter v. United States*, 444 F.3d 1369, 1375 (Fed. Cir. 2006).

of silicon metal from Russia that Commerce found to be sold at LTFV.²⁹ On January 15, 2008, the CIT affirmed the Commission's affirmative remand determination.³⁰ That decision was not appealed to the CIT.

On February 1, 2008, the Commission instituted a review on silicon metal from Russia.³¹ On May 6, 2008, the Commission determined to conduct an expedited review³², and on June 19, 2008, the Commission determined to continue the antidumping duty orders on imports of silicon metal from Russia.³³

THE PRODUCT

Scope

In its most recent *Federal Register* notice, Commerce defined the subject merchandise as follows:

silicon metal containing at least 96.00 but less than 99.99 percent of silicon by weight. Also covered by this review is silicon metal from the PRC containing between 89.00 and 96.00 percent silicon by weight but which contains a higher aluminum content than the silicon metal containing at least 96.00 percent but less than 99.99 percent silicon by weight. Silicon metal is currently provided for under subheadings 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule ("HTS") as a chemical product, but is commonly referred to as a metal. Semiconductor-grade silicon (silicon metal containing by weight not less than 99.99 percent of silicon and provided for in subheading 2804.61.00 of the HTS) is not subject to this review. Although the HTS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.³⁴

On September 30, 2008, Globe Metallurgical Inc. requested that Commerce initiate a scope ruling investigation regarding silicon metal from China for a determination as to whether certain silicon metal exported by Ferro-Alliages et Mineraux to the United States from Canada is within the scope of the antidumping duty order. An investigation was initiated on February 10, 2009, a preliminary rescission was issued on August 11, 2010, a final rescission was issued on November 29, 2010, and the investigation was terminated on February 25, 2011. *See, eg., Notice of Scope Rulings*, 76 FR 31302 (May 31, 2011)(listing Silicon Metal Scope among terminated inquiries).

U.S. Tariff Treatment

Silicon metal is provided for under Harmonized Tariff Schedule of the United States ("HTS") subheading 2804.69.10 (containing by weight less than 99.99 percent but not less than 99 percent of silicon) has a normal trade relations tariff rate of 5.3 percent; when provided for under subheading

²⁹ Commissioner Deanna Tanner Okun was recused from the investigation. Vice Chairman Aranoff and Commissioners Williamson and Pinkert did not participate in the original investigation or first remand determination, but participated in the second remand proceeding. *Silicon Metal From Russia, Investigation No. 731-TA-991 (Final)(Second Remand)*, USITC Publication 3910, March 2007, pp.1 and I-1.

³⁰ *Bratsk Aluminum Smelter v. United States*, Slip Op. 08-5 (January 15, 2008).

³¹ 73 FR 6204 (February 1, 2008).

³² 73 FR 28153 (May 15, 2008).

³³ *Russia Review*, USITC Pub. 4018, at p. 1.

³⁴ 77 FR 10477(February 22, 2012).

2804.69.50 (containing by weight less than 99 percent of silicon) it has a normal trade relations tariff rate of 5.5 percent.

Domestic Like Product and Domestic Industry

In its original determination, the Commission defined the domestic like product as silicon metal, regardless of grade, having a silicon content of at least 96.00 percent but less than 99.99 percent of silicon by weight, and excluding semiconductor grade silicon, corresponding to Commerce's scope. It also defined the domestic industry as all producers of the domestic like product. In its first and second five-year review determinations, the Commission defined the domestic like product as all silicon metal, regardless of grade, corresponding to Commerce's current scope of the order, and it defined the domestic industry as all domestic producers of silicon metal. Globe indicated in its response to the Commission's notice of institution in this third five-year review that it agrees with the definitions of the domestic like product and the domestic industry. Specifically, Globe noted that it agrees that the domestic like product is all silicon metal, regardless of grade, corresponding to the current scope of the order and that the domestic industry consists of all domestic producers of silicon metal.

Physical Characteristics and Uses

Silicon is a chemical element, metallic in appearance, solid in mass, and steel gray in color, that is commonly found in nature in combination with oxygen either as silica or in combination with both oxygen and a metal in silicate minerals. Although commonly referred to as metal, silicon exhibits characteristics of both metals and nonmetals. Silicon metal is a polycrystalline material whose crystals have a diamond cubic structure at atmospheric pressure. Whether imported or domestic, it is usually sold in lump form typically ranging from 6 inches x ½ inch to 4 inches x ¼ inch.³⁵

There are four broadly defined categories, or grades, of silicon metal, which are ranked ingenerally descending order of purity as: (1) semiconductor grade;³⁶ (2) chemical grade; (3) a metallurgical grade used to produce primary aluminum (aluminum produced from ore); and (4) ametailurgical grade used to produce secondary aluminum (aluminum produced from scrap).³⁷

³⁵ The dimensions refer to the maximum and minimum dimensions of the silicon metal lumps. If the specification is 6 inches x ½ inch, no dimension of a lump can be larger than 6 inches or smaller than ½ inch.

³⁶ Semiconductor grade silicon, used in the electronics industry, is not covered by the antidumping duty order. It is a high purity product generally containing over 99.99 percent silicon.

³⁷ Although silicon metal has been described in terms of different grades, there is no uniformly accepted grade classification system. Silicon metal "grades" actually refer to ranges of specifications that are typically sold to particular groups of customers. These specifications, which exist within very narrow bands and are often proprietary, establish the minimum amounts of silicon and the maximum amount of impurities such as iron, calcium, aluminum, or titanium, that the silicon may contain. Specifications for chemical-use silicon metal typically require silicon that contains less than 0.4 percent iron, less than 0.025 percent calcium, and less than 0.25 percent aluminum. Specifications for the metallurgical primary-aluminum product typically require silicon metal that contains less than 0.5 percent iron, and less than 0.07 percent calcium. Specifications for silicon metal used in metallurgical secondary-aluminum product typically allow for no more than 1 percent iron and no more than 0.35 percent calcium. Chemical customers each have their own detailed specifications. Requirements vary widely among primary aluminum customers. Even some secondary aluminum customers, whose product comes closest to representing a commodity, have differences in tolerances with regard to impurities.

The type and level of impurities rather than the precise silicon content (assuming it is near 99 percent) is the principal factor determining whether the silicon metal product can be used in a given application. As such, it is not possible to assume that silicon metal imported under HTS subheading 2804.69.10 (silicon containing by weight less than 99.99 percent but not less than 99.00 percent silicon) is necessarily better quality than silicon metal imported

(continued...)

In general, domestic and imported silicon metal of the same “grade” are completely interchangeable regardless of source.³⁸ Moreover, “higher grade” silicon metal can be and often is sold for use in “lower grade” applications.³⁹ Importantly, by ensuring that the specifications of all types of customers are met, silicon metal producers can and do manufacture a single product.⁴⁰ Furthermore, regardless of market segment, prices are generally comparable in level and similar in trend.⁴¹ The silicon metal content for all four grades of silicon metal is typically at least 98.5 percent.

Silicon metal is used in the chemical industry to produce silanes which are, in turn, used to produce a family of organic chemicals known as silicones. Silicones are used in a wide variety of applications including resins, lubricants, elastomers, anti-foaming agents, and water-repellent compounds which are employed in the chemical, pharmaceutical, automotive, and aerospace industries.⁴²

Silicon metal employed in the production of primary and secondary aluminum is used as an alloying agent (it is a required component in aluminum casting alloys) because the silicon increases fluidity and reduces shrinkage while it enhances strength, castability, and weldability.⁴³ Primary aluminum applications include the manufacture of components that require higher purity aluminum, such as automobile wheels. Secondary-aluminum applications apply primarily to the automotive castings industry. Other applications for silicon metal include the production of brass and bronzes, steel, copper alloys, ceramic powders, and refractory coatings.

According to Globe, demand for aluminum has grown steadily in recent years, reflecting increased economic activity in both the developed and developing world, as well as new uses as a lighter, more economical replacement for other materials. Silicon metal consumption by aluminum manufacturers has grown accordingly. Globe asserts that the fastest growing market for silicon metal is for the very-high-purity product from which most photovoltaic (“PV”) solar cells are manufactured.⁴⁴

Manufacturing Process

Silicon metal is produced from mined quartzite (a rock consisting principally of quartz, a natural crystallized silica) which is washed, crushed, and screened. Only material containing a high percentage of silica (over 99 percent) and a low iron content (less than one percent) can be used to produce silicon metal. The quartzite is combined with a carbon-containing reducing agent (low-ash coal, petroleum coke, charcoal, or coal char) and a bulking agent (such as wood chips) in a submerged-arc electric furnace to produce molten silica, which is reduced to silicon metal. The overall chemical reaction is summarized as SiO_2 (silica) + 2C (carbon) = Si (silicon metal) + 2CO (carbon monoxide).

The hot metal is poured into iron molds or onto beds of silicon metal fines for cooling, and is then shaped into ingots or crushed to the desired size for shipping.⁴⁵ Lumps of the chemical-grade silicon are of smaller size (about 1 inch maximum) compared with lumps for the metallurgical grades. Also, the more

³⁷ (...continued)

under HTS subheading 2804.69.50 (silicon containing by weight less than 99.00 percent silicon) even though the silicon content of the former is higher.

³⁸ *Russia Review*, USITC Pub. 4018. at I-10; *China Second Review*, USITC Pub. 3892 at 7-8.

³⁹ *Russia Review*, USITC Pub. 4018. at I-11 to I-13; *China Second Review*, USITC Pub. 3892 at I-14.

⁴⁰ *Russia Review*, USITC Pub. 4018. at I-10; n.44; *China Second Review*, USITC Pub. 3892 at I-12, n.13.

⁴¹ *Russia Review*, USITC Pub. 4018. at I-10 (“the silicon metal market is a single market in which prices in different segments are interrelated”).

⁴² Petition in the original (2002) investigation on silicon metal from Russia, p. 10; *Kirk-Othmer Encyclopedia of Chemical Technology*, on-line version located at <http://www.mrw.interscience.wiley.com/kirk/articles/purerun/>.

⁴³ Because iron interferes with these functions, the iron content of silicon metal used in the production of aluminum is usually limited to a maximum of 1 percent or less.

⁴⁴ Globe Specialty Metals on-line at <http://www.glbsm.com/siliconmetal.aspx>.

⁴⁵ *Silicon Metal from Russia, Investigation No. 731-TA-991 (Final)*, USITC Pub. 3584, March 2003, p. I-8.

refined grades of silicon metal require an oxidative refining step that is not required to produce secondary aluminum. There are differences in the costs of production of the more refined grades versus the secondary aluminum grade, assuming the oxidative refining step is eliminated in producing the latter. However, in practice U.S. producers “sell down” the higher-grade silicon metal to secondary aluminum customers even though these have less stringent purity specifications.⁴⁶ Differences in costs also arise because some forms of silicon (e.g., the low-iron grades), require higher raw material expenditures. Production capability is limited by the ***.⁴⁷

According to *** the hardware for silicon furnaces worldwide is basically the same.⁴⁸ The physical differences relate to differences in the size of furnaces and the electrodes. Also, the purities of the raw materials and the carbon sources used can vary widely. There are, however, characteristics that silicon production facilities share worldwide. For example, given the large amounts of quartz required to produce silicon metal, quartz sources worldwide need to be reasonably near the silicon furnace.⁴⁹

One noticeable economic trend that affected the production costs of silicon metal for U.S. producers during the first review was increasing manufacturing costs, particularly for energy, consisting of electricity and natural gas. During 2000-05, average energy costs per unit of silicon metal sold increased by *** percent.⁵⁰ Natural gas prices continued to rise between mid-2006 and mid-2008, but began to fall in early 2009. Natural gas prices continued to fall through 2010.⁵¹

According to the 2011 Roskill Report, production costs due to energy prices will cause silicon metal producers to attempt to raise market prices and/or shut down uneconomic capacity in the future.⁵²

Pricing

Both domestic and import suppliers produce silicon metal that meets the specifications of U.S. consumers in all market segments.⁵³ Based on this, Globe asserts that competition for silicon metal is centered on price and that relatively small differences in price can lead consumers to switch suppliers.⁵⁴ Globe reiterates the Commission’s finding in the original investigation that : “There is evidence in the record that although chemical manufacturers realize that their grades require a premium for lower impurities, they expect their prices to be adjusted according to the prices of secondary aluminum grade silicon metal.”⁵⁵ In the first review, the Commission determined that “notwithstanding the existence of three grades of silicon metal, only one price is published and this single price influences the prices of silicon metal of all grades by varying degrees.”⁵⁶ In the investigation on silicon metal from Russia, the Commission found that “silicon metal prices in all three segments key off the secondary aluminum price

⁴⁶ Hearing transcript (Lutz), p. 30, *Silicon Metal from Russia, Investigation No. 731-TA-991 (Final)*.

⁴⁷ *Silicon Metal From Brazil and China*, Inv. Nos. 471-472 (Second Review), *** response to the producers’ questionnaire, question II-6.

⁴⁸ Fax from ***, August 4, 2006.

⁴⁹ *Id.*, Fax from ***, August 4, 2006.

⁵⁰ *Silicon Metal From Brazil and China*, Inv. Nos. 471-472 (Second Review) Staff report, table III-7.

⁵¹ *Peak Oil News*, <http://peakoil.com/business>.

⁵² 2011 Roskill comments on its Silicon Report, www.roskill.com/silicon.

⁵³ *Russia Review*, USITC Pub. 4018 at 10 and *China Second Review*, USITC Pub. 3892 at 14.

⁵⁴ *Response of Globe Metallurgical Inc. to The Notice of Institution Of Five-Year Review*, p. 5.

⁵⁵ *Silicon Metal From The People’s Republic of China*, Inv. No. 731-472 (Final), USITC Pub. 2385 at 9 n. 16 (June 1991)(“China Investigation”).

⁵⁶ *Silicon Metal From Argentina, Brazil, and China*, Inv. Nos. 731-TA-470-472 (Review), USITC Pub. 3385 at 18 (January 2001)(“China First Review”).

and exhibit similar trends.”⁵⁷ Finally, in the sunset review on silicon metal from Russia, the Commission stated that “the silicon metal market is a single market in which prices in different segments are interrelated.”⁵⁸

Silicon metal prices increased after the order was imposed against China in 1991. Data published in *Metals Week* show prices rising from a low level of 54.8 cents a pound during 1990 to 61.5 cents a pound in 1991, and then to an average of 89.7 cents a pound in 1997.⁵⁹ Prices continued to rise through 1998. In 2000, a price decline started, and by 2001, prices for silicon metal had dropped to levels below those seen during the original investigation. The U.S. industry filed an antidumping duty petition against unfairly traded imports from Russia and prices rose again, reaching an average of 81.9 cents a pound in 2004.⁶⁰ Prices declined in 2005 to 76.2 cents a pound before rising steadily for the next several years to a peak of 162.4 cents a pound in 2008.⁶¹

Silicon metal prices decreased from 137.5 cents per pound in 2008 to 116.6 cents a pound in 2009⁶² because of the continued effects of the economic downturn that began during the third quarter of 2008. The year-average spot prices given by *Platts Metal Week* were 116.3 cents per pound; this price was 28 percent lower than that of 2008. The average monthly silicon metal price at the beginning of 2009 was at a high of 137.5 cents per pound; prices hit a low of 104.5 cents per pound in early August 2009 before rising again. Prices again began to recover in 2010 as the economy improved, reaching 139.8 cents per pound. Prices continued to increase in the first quarter 2011, but then fell in the last quarter to 2011 to 149.5 cents per pound.⁶³

The 2011 Roskill Report predicts that over the coming years, prices are likely to continue to rise as both demand and production costs increase.⁶⁴

THE INDUSTRY IN THE UNITED STATES

U.S. Producers

The original investigation concerning silicon metal resulted from a petition filed by U.S. merchant producers of silicon metal on August 24, 1990.⁶⁵ During the original investigation, the Commission identified the following eight producers of silicon metal in the United States: American Alloys, Dow Corning Corp. (“Dow”), Elkem, Globe, Metaltech, Reynolds Metals (“Reynolds”), SiMETCO, and SKW.

In 1990, Reynolds closed its U.S. silicon metal plant. In 1993, Dow’s silicon metal production facility was acquired by Globe. Also in 1993, Metaltech declared bankruptcy and its assets were acquired

⁵⁷ *Russia Investigation*, USITC Pub. 3584 at 12. On remand, the Commission clarified this finding by stating that “published spot prices for secondary aluminum grade silicon metal served as a benchmark for silicon metal prices in all three customer sectors.” *Views of the Commission on Remand, Bratsk Aluminum Smelter v. United States, Consol.* Court No. 03-0200 (September 2004).

⁵⁸ *Russia Review*, USITC Pub. 4018 at I-10.

⁵⁹ *Metals Weekly* is the source of all price data in this paragraph.

⁶⁰ *Silicon Metal From Argentina, Brazil, and China*, Inv. Nos. 731-TA-470-472 (Review), USITC Pub. 3385 at 18 (January 2001)(“*China First Review*”).

⁶¹ *Id.*

⁶² *Metals Weekly* is the source of all price data in this paragraph.

⁶³ *Id.*

⁶⁴ 2011 Roskill comments on its Silicon Report, www.roskill.com/silicon.

⁶⁵ On October 3, 1990, the petition was amended to add the following unions as petitioners: Oil, Chemical and Atomic Workers, Local 3-89; International Union of Electric, Electrical, Machine and Furniture Workers, AFL-CIO Local 693; Textile Processors, Service Trades, Health Care Professional and Technical Employees International Union, Local 60; and the United Steelworkers of America, Locals 5171, 8538, and 12646.

by American Silicon Technologies (“AST”). In 1994, Globe acquired SKW’s production facility and, in 1995, SiMETCO declared bankruptcy and its assets were acquired by SIMCALA. During the period for which data were collected in the first five-year review, five U.S. firms (American Alloys, American Silicon Technologies (“AST”), Elkem, Globe, and SIMCALA) produced silicon metal.

American Alloys and AST closed their silicon metal facilities in 1998 and 1999, respectively, leaving the following three firms producing silicon metal during at least a portion of the period examined in the Commission’s second five-year review: Elkem, Globe, and SIMCALA.⁶⁶ During 2005, however, Elkem sold its U.S. silicon metal production assets to Globe.

Globe indicated in its response to the Commission’s notice of institution in this third five-year review that there are currently two U.S. producers of silicon metal (Globe (the largest domestic producer) and Dow Corning Alabama (“DC Alabama”) (a wholly-owned subsidiary of Dow Corning Corp.)) It is through Dow (the largest domestic consumer of silicon metal) that DC Alabama is related to the Chinese silicon metal exporter Dalian DC (the largest purchaser of chemical grade silicon metal in China). In addition, Dalian DC has an ownership interest in a Chinese silicon metal producer, Sichuan Jinyang Corning Silicon Co., Ltd. (“Sichuan Jinyang Corning”). Globe is not related to any Chinese producer or exporter of silicon metal, nor is it an importer (or related to an importer) of silicon metal from China. DC Alabama did not respond to the Commission’s notice of institution in this third five-year review.

U.S. Producers’ Trade and Financial Data

Table I-1 presents data reported by U.S. producers of silicon metal in the Commission’s original investigation and its subsequent reviews. Domestic data presented in the Commission’s staff report for the period examined in the final phase of the original investigation were provided by the following five producers of silicon metal: American Alloys, Elkem, Metaltech, SiMETCO; and SKW. Data presented for the first five-year review were provided by five domestic silicon metal producers (Elkem, Globe, Simcala, American Alloys and AST), that were believed to have represented 100 percent of U.S. production of silicon metal in 2005.⁶⁷ Data presented for the second five-year review were provided by three producers (Elkem, Globe, and Simcala) that were believed to have represented 100 percent of U.S. production of silicon metal during this period. Data presented for the third five-year review was provided by Globe, which reports that it represents approximately *** percent of U.S. production of silicon metal in 2010.⁶⁸ Appendix C presents data from the original investigation and first review and second review.

⁶⁶ In June 2003, Dow purchased U.S. silicon metal producer SIMCALA. SIMCALA was also related to Chinese exporter Dalian DC Silicon Co., Ltd. (“Dalian DC”), a joint venture between Dow and Dalian Kangning Silicon Development Corp., a Chinese silicon metal producers’ alliance.

⁶⁷ *Staff Report on Investigation Nos. 731-TA-471 and 472 (Second Review): Silicon Metal from Brazil and China*, INV-DD-146, October 25, 2006, p. III-2; III-10 through III-15.

⁶⁸ *Response of Globe Metallurgical Inc. to The Notice of Institution of Five-Year Review*, December 1, 2011, p. 33.

Table I-1

Silicon Metal : U.S. producers' trade, employment, and financial data, 1990, 2000, 2005, and 2010
(Quantity=gross short tons; value=\$1,000; unit values / unit financial data are per gross short ton)

| Item | Original final Investigation | First review | Second review | Third review ¹ |
|---|------------------------------|--------------|---------------|---------------------------|
| | 1990 | 2000 | 2005 | 2010 |
| Capacity | 183,171 | *** | *** | *** |
| Production | 157,218 | *** | *** | *** |
| Capacity Utilization (percent) | 85.8 | *** | *** | *** |
| U.S. Shipments: | | | | |
| Quantity | 144,729 | *** | *** | *** |
| Value | 171,964 | *** | *** | *** |
| Unit Value | \$1,188.00 | *** | *** | *** |
| Net sales (\$1,000) | 168,679 | *** | *** | *** |
| Cost of goods sold (\$1,000) | 159,900 | *** | *** | *** |
| Gross profit or loss (\$1,000) | 8,779 | *** | *** | *** |
| SG&A (\$1,000) | 10,487 | *** | *** | *** |
| Operating income or loss (\$1,000) | (1,708) | *** | *** | *** |
| COGS/sales (percent) | 94.8 | *** | *** | *** |
| Operating income (loss)/sales (percent) | (1.0) | *** | *** | *** |

¹ Data presented for third review is for Globe only. ***.

Source: Data for 1990, 2000, and 2005, were obtained from the Staff Reports in Investigation Nos. 731-TA-470-472 (Final), pp. 1-4 and 1-5; Investigation Nos. 731-TA-471 and 472 (Review) pp. III-4 through III-9 and tables III-2 through Table III-5; Investigation Nos. 731-TA-471 and 472 (Second Review), pp. I-30 and I-31; III-8 through III-111; and Tables I-5 and III-5. Data for 2010 is from *Response of Globe Metallurgical Inc. To The Notice Of Five-Year Review*, pp. 11, 18, 33, and Exhibit 14. Data obtained from the Staff Reports were compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.

U.S. IMPORTS AND APPARENT U.S. CONSUMPTION

U.S. Imports

Sixteen firms, including three U.S. producers⁶⁹, were identified by Commission staff as importers of silicon metal from the subject countries during the period of the original investigation. Responses to the Commission's importers' questionnaire were believed to have represented greater than 90 percent of imports of silicon metal from the subject countries from 1988 through 1990.

In the first review 16 importers responded to the Commission questionnaires with usable data. Importers accounted for *** percent of subject imports in 1999, and *** percent of total imports from all sources in 1999.⁷⁰

During the Commission's full second five-year review, 16 importers that accounted for *** percent of total subject imports responded to the Commission questionnaires with usable data. In its response to the Commission's notice of institution in this current third five-year review, Globe listed the

⁶⁹ ***. ***. Inv. Nos. 731-TA-470-472 (Final): Silicon Metal from Argentina, Brazil, and China--Staff Report, p.A-25.

⁷⁰ Investigations Nos. 731-TA-470-472 (Review): Silicon Metal from Argentina, Brazil, and China--Staff Report, p. I-15.

following two firms as U.S. importers of subject merchandise from China since 2005: Momentive Performance Materials and TST Inc., TIMCO/Tandem Division. Globe also listed 18 Chinese producers as known exporters of silicon metal from China since 2005.⁷¹ U.S. silicon metal imports from China amounted to 460 gross short tons with an average unit value of \$1,987 during 2010. Data regarding U.S. imports of silicon metal are presented in table I-2.

According to Globe, Dow Corning and other U.S. customers have undertaken extensive efforts to obtain Chinese silicon metal without paying antidumping duties by having their U.S. production facilities designated as FTZ manufacturing subzones. These customers include Dow Corning and MPM Silicones, LLC (“MPM”) (the two largest consumers of silicon metal in the United States⁷²), REC Silicon and Hoku Materials, Inc.

Table I-2
Silicon metal: Imports 2005-2010

| Country | Calendar year | | | | | |
|---|---------------|---------|---------|---------|---------|---------|
| | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 |
| Quantity (gross short tons) | | | | | | |
| China | 2,733 | 212 | 421 | 8,929 | 664 | 460 |
| All other | 168,142 | 161,878 | 161,278 | 177,863 | 123,545 | 186,810 |
| Total | 170,874 | 162,090 | 161,699 | 186,793 | 124,210 | 187,270 |
| Value (\$1,000) | | | | | | |
| China | 2,938 | 384 | 880 | 20,742 | 1,047 | 913 |
| All other | 248,553 | 239,394 | 285,292 | 425,810 | 298,451 | 465,956 |
| Total | 251,491 | 239,778 | 286,171 | 446,551 | 299,498 | 466,870 |
| Unit value (\$gross/short ton) | | | | | | |
| China | \$1,075 | \$1,813 | \$2,090 | \$2,323 | \$1,575 | \$1,987 |
| All other | \$1,478 | \$1,479 | \$1,769 | \$2,394 | \$2,416 | \$2,494 |
| Average | \$1,472 | \$1,479 | \$1,770 | \$2,391 | \$2,411 | \$2,493 |
| Source: USDOC (HTS 2804.69.1000, 2804.69.5000). | | | | | | |

Apparent U.S. Consumption and Market Shares

Demand for silicon metal in the United States is largely determined by demand in the aluminum industry and the chemical industry. Demand in aluminum applications is particularly influenced by demand by the auto industry, where aluminum use has increased in order to improve fuel efficiency. Demand in chemical uses also appears to be growing, particularly for use in silicon for construction. In addition, there has been increased use of silicon metal in solar panels.

⁷¹ *Response of Globe Metallurgical to The Notice of Institution of Five-Year Review*, pp. 32 and 33, and Exhibits 19 and 20.

⁷² *Id.*, p.14.

Globe explained that the domestic product and imports from China can be used interchangeably in the same applications.⁷³ As such, U.S. silicon market is a single market, of which no segment is insulated from import competition. Accordingly, Globe asserts that competition among suppliers is fundamentally based on price, and that because the prevailing price of silicon metal is publically available, contracts for purchase of silicon metal allow purchasers to take advantage of price fluctuations.⁷⁴ According to Globe, the following factors resulted in imported silicon metal taking market share from the U.S. producers; interchangeability of the domestic product and the imported product, the fact that competition is based on price, and the public availability of silicon metal prices.

Globe also points out that although U.S. silicon metal consumption and imports fell significantly from 2008 to 2009 due to the global recession, and began to recover in mid-2009, U.S. silicon metal imports have recovered at a much faster rate than U.S. metal consumption and have caused U.S. prices to decline.⁷⁵

As part of their response to the notice of institution, interested parties were asked to provide a list of the five top purchasers in the U.S. market for silicon metal. Based on the five responses received from the named top purchasers, there have been no changes nor is there any anticipated change in technology, production methods, or development efforts to produce silicon metal that affected the availability of silicon metal in the U.S. market or in the market for silicon metal in China since 2006. Apparent consumption of silicon metal and market shares are presented in Table I-3. Appendix D contains the responses received from the five U.S. purchasers.

Table I-3
Silicon Metal: U.S. producers' U.S. shipments, U.S. imports, and apparent U.S. consumption, 2010

| Item | 2010 |
|--|---------|
| Quantity (gross short tons) | |
| U.S. producers' U.S. shipments | *** |
| U.S. imports from China | 460 |
| U.S. imports, all other sources | 186,810 |
| Total U.S. imports | 187,270 |
| Apparent consumption | *** |
| Share of consumption based on quantity (percent) | |
| U.S. producers' U.S. shipments | *** |
| U.S. imports from China | *** |
| U.S. imports all other sources | *** |
| Total imports | *** |
| Note-The applicable HTS numbers, 2804.69.10 and 2804.69.50 include products outside the scope of this review. Therefore, imports may be somewhat overstated. | |
| Note.-Numbers may not add due to rounding. | |
| Source: Domestic interested parties response to notice of institution and official Commerce statistics. | |

⁷³ Response of Globe Metallurgical Inc., December 1, 2011, p. 2, quoting *China Second Review*, USITC Pub. 3892 at p.10.

⁷⁴ Response of Globe Metallurgical Inc., December 1, 2011, p. 5, 6.

⁷⁵ Response of Globe Metallurgical Inc., December 1, 2011, p. 34.

ANTIDUMPING ACTIONS OUTSIDE THE UNITED STATES

Silicon metal from China is currently subject to antidumping duty orders in the European Union (at a rate of 19 percent).⁷⁶

THE SUBJECT INDUSTRY IN CHINA

During the original silicon metal investigation, the Commission identified 31 producers of silicon metal in China. During the Commission's first five-year review, counsel for the domestic interested parties identified 42 silicon metal producers in China. In that full first five-year review, five Chinese producers provided data in response to Commission questionnaires. In the Commission's second five-year review, domestic producer Globe listed 127 firms as silicon metal producers in China. The following seven firms were also identified as having exported silicon metal to the U.S. market since 1999: Bluestar Silicon Materials Co., Ltd.; Chongqing Trust - Glory New Metal Co., Ltd.; Hunan Silicon & Chemical Corp.; Hunan Sino Silicon Industry Ltd.; Jaco Metal Ltd.; Jinan Yinfeng Silicon Products Co., Ltd.; and Prags Development. However, no Chinese firm responded to the Commission questionnaires in that full second five-year review.

In its response to the Commission's notice of institution in this third five-year review, Globe reported that China is by far the world's largest producer of silicon metal. It added that the Chinese silicon metal industry is believed to currently consist of as many as *** producers, with an estimated production capacity of *** short tons, and 2010 production of *** short tons.⁷⁷ Globe provided a list of 18 Chinese silicon metal producers and reported that the following two Chinese producers are known to have exported to the U.S. market since 2005: Datong Jinneng Industrial Silicon Co., Ltd. (through its affiliated trading company Shanghai Jinneng) and Jiangxi Gangyuan. No Chinese firm responded to the Commission's notice of institution.

A significant amount of new silicon metal production capacity is either planned or under construction in China. In total, existing plans reportedly call for the construction of as much as *** short tons of new silicon metal production capacity. Two of the largest new silicon metal plants are located in Sichuan Province, where Panda Industrial Silicon, Co, Ltd. is constructing six new furnaces with a total capacity of 110,000 short tons per year, and Ganzi Ferroatlantica Silicon Industry Company is constructing a plant with capacity of 141,000 short tons per year that it describes as the world's largest silicon metal plant.⁷⁸ In addition, China is the world's largest producer of ferrosilicon, capacity that can be switched to produce silicon metal. In 2009, China produced 5.7 million short tons of ferrosilicon, nearly 70 percent of world production that year.⁷⁹

⁷⁶ The EU antidumping measures were imposed in 1990 and have since been continued following expiry reviews in 1997, 2004, and 2010.

⁷⁷ China's 2005 silicon metal production capacity was reported to be approximately *** short tons, and production was estimated to be *** short tons. Globe's response to the notice of institution, p. 11.

⁷⁸ Globe's response to the notice of institution, pp. 11-12.

⁷⁹ Globe's response to the notice of institution, p. 13.

THE GLOBAL MARKET⁸⁰

The main markets for silicon metal in 2010 were as an alloying element with aluminum (45%), in silicone and silane chemicals (35%) and in PV's (12%). The major recent development in the silicon industry is the tripling of demand for solar grade polysilicon between 2008 and 2010, with the expectation that the quantity used in solar photovoltaic (PV) modules will start to rival that in the high volume silicon markets within a few years.

Although demand for silicon is expected to remain robust in the coming years, producers are likely to face challenging times due to overcapacity and rising production costs. Silicon metal was produced in 15 countries in 2010, with Chinese production accounting for about 46 percent of the world total. Other major producers of silicon metal, in decreasing order are Russia, Norway, the United States, and Ukraine. Global silicon metal capacity utilization is less than 70 percent, mainly because of significant overcapacity in China. Rising production costs due to increasing energy prices will likely see producers attempt to raise market prices, and/or shut down uneconomic capacity.

Forecasts indicate that the demand for silicon metal will continue an upward creep of close to a 10 percent increase in the next 2-3 years. The automobile, semiconductor and solar industries, the development of construction and infrastructure, commitment to energy saving, as well as the upsurge in electronic devices production are among the key factors anticipated to drive the demand for silicon metal in the future.

Silicon metal supply and production are mostly dominated by global companies but growth in the aluminum, chemical and semiconductor industry has attracted new entrants, especially from Asian and European countries.

⁸⁰ Information about the world market was taken from A 2011 Roskill Report, www.roskill.com and EBSCOhost, <http://web.ebscohost.com/ehost/detail>.

APPENDIX A
***FEDERAL REGISTER* NOTICES**

Issued: October 24, 2011.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011-27937 Filed 10-31-11; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-472 (Third Review)]

Silicon Metal From China; Institution of a Five-Year Review Concerning the Antidumping Duty Order on Silicon Metal From China

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on silicon metal from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;¹ to be assured of consideration, the deadline for responses is December 1, 2011. Comments on the adequacy of responses may be filed with the Commission by January 13, 2012. For further information concerning the conduct of this review 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, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

DATES: *Effective Date:* November 1, 2011.

FOR FURTHER INFORMATION CONTACT:

Mary Messer (202) 205-3193, 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

¹ No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 12-5-259, expiration date June 30, 2014. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

(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 this review may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—On June 10, 1991, the Department of Commerce ("Commerce") issued an antidumping duty order on imports of silicon metal from China (56 FR 26649). Following first five-year reviews by Commerce and the Commission, effective February 16, 2001, Commerce issued a continuation of the antidumping duty order on imports of silicon metal from China (66 FR 10669). Following second five-year reviews by Commerce and the Commission, effective December 21, 2006, Commerce issued a continuation of the antidumping duty order on imports of silicon metal from China (71 FR 76636). The Commission is now conducting a third review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise*. In its original determination, the Commission defined the *Domestic Like Product* as silicon metal, regardless of grade, having a silicon content of at least 96.00 percent but less than 99.99 percent of silicon by weight, and excluding semiconductor grade silicon, corresponding to Commerce's scope. In its full first and second five-year review determinations, the Commission defined the *Domestic*

Like Product as all silicon metal, regardless of grade, corresponding to Commerce's current scope of the order.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product*, or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the *Domestic Industry* as all producers of the *Domestic Like Product*. In its full first and second five-year review determinations, the Commission defined the *Domestic Industry* as all domestic producers of silicon metal.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the review 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 review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the "same particular matter" as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy

Agency Ethics Official, at (202) 205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is December 1, 2011. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is January 13, 2012. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 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, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c)

and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information to be Provided in Response to this Notice of Institution: As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product*, a U.S. union or worker group, a U.S. importer of the *Subject Merchandise*, a foreign producer or exporter of the *Subject Merchandise*, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry*.

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product*. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2005.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product*, provide the following information on your firm's operations on that product during calendar year 2010, except as noted (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating

income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country*, provide the following information on your firm's(s') operations on that product during calendar year 2010 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country*; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country*.

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country*, provide the following information on your firm's(s') operations on that product during calendar year 2010 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Subject Merchandise* in the *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and

cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* after 2005, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country*, and such merchandise from other countries.

(13) (Optional) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry*; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: October 24, 2011.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011-27932 Filed 10-31-11; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA-2010-0047]

Bloodborne Pathogens Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend OMB approval of the information collection requirements specified in the Bloodborne Pathogens Standard (29 CFR 1910.1030). The information collection requirements specified in the Bloodborne Pathogens Standard provide employers and workers with means to provide protection from adverse health effects associated with occupational exposure to bloodborne pathogens.

DATES: Comments must be submitted (postmarked, sent, or received) by January 3, 2012.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693-1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA-2010-0047, U.S. Department of Labor, Occupational Safety and Health Administration, Room N-2625, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., E.T.

Instructions: All submissions must include the Agency name and OSHA docket number for the Information Collection Request (ICR) (OSHA-2010-0047). All comments, including any personal information you provide, are placed in the public docket without change and may be made available online at <http://www.regulations.gov>.

DATES: *Effective Date:* November 1, 2011.

FOR FURTHER INFORMATION CONTACT:

Dmitry Vladimirov, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; *telephone:* (202) 482-0665.

SUPPLEMENTARY INFORMATION:

Background

On March 31, 2011, the Department of Commerce (the Department) initiated an administrative review of the antidumping duty order on small diameter graphite electrodes from the People's Republic of China (PRC) for the period February 1, 2010, through January 31, 2011. See *Initiation of Antidumping Duty Administrative Reviews, Requests for Revocation in Part, and Deferral of Administrative Review*, 76 FR 17825 (March 31, 2011) (*Initiation Notice*). We initiated an administrative review of 160 companies.¹

The preliminary results of the review are currently due no later than October 31, 2011.

Extension of Time Limit for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to complete the preliminary results within 245 days after the last day of the anniversary month of an order for which a review is requested and the final results within 120 days after the date on which the preliminary results are published. If it is not practicable to complete the review

within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary results to a maximum of 365 days after the last day of the anniversary month.

We determine that it is not practicable to complete the preliminary results of this review within the original time limit because we require additional time to analyze the appropriateness of the sales and factors-of-production data reported. Therefore, we are extending the time period for issuing the preliminary results of this review by 95 days until February 3, 2012.

This notice is published in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2).

Dated: October 26, 2011.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2011-28323 Filed 10-31-11; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year ("Sunset") Review

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

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended ("the Act"), the Department of Commerce ("the Department") is automatically initiating a five-year review ("Sunset Review") of the antidumping duty orders listed below. The International Trade Commission

("the Commission") is publishing concurrently with this notice its notice of *Institution of Five-Year Review* which covers the same orders.

DATES: *Effective Date:* November 1, 2011.

FOR FURTHER INFORMATION CONTACT: The Department official identified in the *Initiation of Review* section below at AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205-3193.

SUPPLEMENTARY INFORMATION:

Background

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders: Policy Bulletin*, 63 FR 18871 (April 16, 1998).

Initiation of Review

In accordance with 19 CFR 351.218(c), we are initiating the Sunset Review of the following antidumping duty orders:

| DOC case No. | ITC case No. | Country | Product | Department contact |
|-----------------|------------------|-------------------|---|----------------------------------|
| A-570-806 | 731-TA-472 | China | Silicon Metal (3rd Review) | Julia Hancock (202) 482-1394. |
| A-475-828 | 731-TA-865 | Italy | Stainless Steel Butt-Weld Pipe Fittings (2nd Review). | Dana Mermelstein (202) 482-1391. |
| A-557-809 | 731-TA-866 | Malaysia | Stainless Steel Butt-Weld Pipe Fittings (2nd Review). | Dana Mermelstein (202) 482-1391. |
| A-565-801 | 731-TA-867 | Philippines | Stainless Steel Butt-Weld Pipe Fittings (2nd Review). | Dana Mermelstein (202) 482-1391. |

Filing Information

As a courtesy, we are making information related to Sunset Review proceedings, including copies of the pertinent statute and Department's regulations, the Department schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the

public on the Department's Internet Web site at the following address: "<http://ia.ita.doc.gov/sunset/>." All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, and service of documents. These rules can be found at 19 CFR 351.303.

This notice serves as a reminder that any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information. See section 782(b) of the Act. Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all AD/CVD investigations or proceedings

¹ In the *Initiation Notice*, we listed names by which certain companies are also known, or were

formerly known, as reflected in the February 25, 2011, request for an administrative review

submitted by the petitioners, SGL Carbon LLC and Superior Graphite, Co.

initiated on or after March 14, 2011. See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule*, 76 FR 7491 (February 10, 2011) (“*Interim Final Rule*”) amending 19 CFR 351.303(g)(1) and (2) and supplemented by *Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings: Supplemental Interim Final Rule*, 76 FR 54697 (September 2, 2011). The formats for the revised certifications are provided at the end of the *Interim Final Rule*. The Department intends to reject factual submissions if the submitting party does not comply with the revised certification requirements.

Pursuant to 19 CFR 351.103(d), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties to apply for access to proprietary information under administrative protective order (“APO”) immediately following publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The Department’s regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required From Interested Parties

Domestic interested parties defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b) wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department’s regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review. See 19 CFR 351.218(d)(1)(iii).

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department’s regulations provide that *all parties*

wishing to participate in the Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department’s information requirements are distinct from the Commission’s information requirements. Please consult the Department’s regulations for information regarding the Department’s conduct of Sunset Reviews.¹ Please consult the Department’s regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: October 18, 2011.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2011–28315 Filed 10–31–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

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

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, Office of AD/CVD Operations, Customs Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, *telephone:* (202) 482–4735.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspended

¹ In comments made on the interim final sunset regulations, a number of parties stated that the proposed five-day period for rebuttals to substantive responses to a notice of initiation was insufficient. This requirement was retained in the final sunset regulations at 19 CFR 351.218(d)(4). As provided in 19 CFR 351.302(b), however, the Department will consider individual requests to extend that five-day deadline based upon a showing of good cause.

investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (“the Act”), may request, in accordance with 19 CFR 351.213, of the Department of Commerce (“the Department”) regulations, that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting date.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection (“CBP”) data for U.S. imports during the period of review. We intend to release the CBP data under Administrative Protective Order (“APO”) to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 21 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. The Department invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the review.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department has found that determinations concerning whether particular companies should be “collapsed” (*i.e.*, treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.*, investigation, administrative review, new shipper

Assessment

The Department will instruct CBP to assess antidumping duties on all appropriate entries. For IUSA, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period November 22, 2010, through October 31, 2011, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

Notification to Importers

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent increase in the amount of antidumping duties assessed.

Notification Regarding Administrative Protective Order

This notice serves as a final reminder to parties subject to administrative protective orders ("APOs") of their responsibility concerning the disposition of proprietary information disclosed under an APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: February 15, 2012.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2012-4123 Filed 2-21-12; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-570-806]

Silicon Metal From the People's Republic of China: Final Results of the Expedited Third Sunset Review of the Antidumping Duty Order

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

SUMMARY: On November 1, 2011, the Department of Commerce ("the Department") initiated the third sunset review of the antidumping duty order on silicon metal from the People's Republic of China ("PRC") pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). Based on the notice of intent to participate and adequate substantive response filed by the domestic interested party, and the lack of response from any respondent interested party, the Department conducted an expedited (120-day) sunset review of the antidumping duty order on silicon metal from the PRC, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2). As a result of this sunset review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping, at the levels indicated in the "Final Results of Sunset Review" section of this notice, *infra*.

DATES: *Effective Date:* February 22, 2012.

FOR FURTHER INFORMATION CONTACT:

Patrick O'Connor or Howard Smith, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-0989 or (202) 482-5193, respectively.

SUPPLEMENTARY INFORMATION: On June 10, 1991, the Department published the antidumping duty order on silicon metal from the PRC.¹ On November 1, 2011, the Department published the notice of initiation of the third sunset review of the antidumping duty order on silicon metal from the PRC, pursuant to section 751(c) of the Act.² On November 16, 2011, pursuant to 19 CFR 351.218(d)(1), the Department received a timely and complete notice of intent to participate in the sunset review from Globe Metallurgical, Inc., a domestic

producer of silicon metal ("Globe"). On December 1, 2011, pursuant to 19 CFR 351.218(d)(3), Globe filed a timely and adequate substantive response. The Department did not receive substantive responses from any respondent interested party. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited (120-day) sunset review of the antidumping duty order on silicon metal from the PRC.

Scope of the Order

Imports covered by this review are shipments of silicon metal containing at least 96.00 but less than 99.99 percent of silicon by weight. Also covered by this review is silicon metal from the PRC containing between 89.00 and 96.00 percent silicon by weight but which contains a higher aluminum content than the silicon metal containing at least 96.00 percent but less than 99.99 percent silicon by weight. Silicon metal is currently provided for under subheadings 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule ("HTS") as a chemical product, but is commonly referred to as a metal. Semiconductor-grade silicon (silicon metal containing by weight not less than 99.99 percent of silicon and provided for in subheading 2804.61.00 of the HTS) is not subject to this review. Although the HTS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review is provided in the accompanying Issues and Decision Memorandum, which is hereby adopted by this notice. See "Issues and Decision Memorandum for the Expedited Third Sunset Review of the Antidumping Duty Order on Silicon Metal from the People's Republic of China," from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, dated concurrently with this notice ("I&D Memorandum"). The issues discussed in the I&D Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the order is revoked. The I&D Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS"). Access to IA ACCESS is

¹ See *Antidumping Duty Order: Silicon Metal From the People's Republic of China*, 56 FR 26649 (June 10, 1991).

² See *Initiation of Five-Year ("Sunset") Review*, 76 FR 67412 (November 1, 2011).

available in the Central Records Unit ("CRU"), room 7046 of the main Department of Commerce building. In addition, a complete version of the I&D Memorandum can be accessed directly on the internet at <http://www.trade.gov/ia/>. The signed I&D Memorandum and the electronic versions of the I&D Memorandum are identical in content.

Final Results of Sunset Review

The Department determines that revocation of the antidumping duty order on silicon metal from the PRC would be likely to lead to continuation or recurrence of dumping at the following weighted-average margins:

| Exporters | Weighted-Average margin (percent) |
|---------------------|-----------------------------------|
| PRC-Wide Rate | 139.49 |

Notification Regarding Administrative Protective Order

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

We are issuing and publishing the results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act.

Dated: February 15, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2012-4127 Filed 2-21-12; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-980]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation

AGENCY: Import Administration, International Trade Administration, Commerce.

FOR FURTHER INFORMATION CONTACT: Gene Calvert, Jun Jack Zhao, or Emily Halle, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-3586, (202) 482-1396 or (202) 482-0176, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 21, 2011, based on a timely request from the petitioner, SolarWorld Industries America, Inc. (Petitioner), the Department of Commerce (the Department) extended the due date for the preliminary determination in the countervailing duty investigation of crystalline silicon photovoltaic cells, whether or not assembled into modules, from the People's Republic of China, to no later than February 13, 2012.¹ Petitioner made a second timely request on January 19, 2012, to further postpone the preliminary countervailing duty determination by 18 days, to March 2, 2012, which the Department granted.²

Postponement of Due Date for the Preliminary Determination

Section 703(b)(1) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the preliminary determination in a countervailing duty investigation within 65 days after the date on which the Department initiated the investigation. However, if the Department concludes that the parties concerned in the investigation are cooperating and determines that the investigation is extraordinarily complicated, section 703(c)(1)(B) of the Act allows the Department to postpone making the preliminary determination until no later than 130 days after the date on which the administering authority initiated the investigation.

The Department has determined that the parties involved in this proceeding are cooperating, and that the investigation is extraordinarily complicated.³ The mandatory respondents recently filed extensive questionnaire responses and also identified and included responses to the

¹ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 76 FR 81914 (December 29, 2011).

² See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Second Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 77 FR 4764 (January 31, 2012).

³ See section 703(c)(1)(B) of the Act.

questionnaire for multiple cross-owned affiliated companies, which now are included in the investigation.⁴ Specifically, the Department is investigating 27 alleged subsidy programs including, but not limited to, loans, grants, income tax incentives, and the provision of goods and services for less than adequate remuneration. Due to the number of companies and the complexity of the alleged countervailable subsidy practices being investigated, we determine that this investigation is extraordinarily complicated. Therefore, in accordance with section 703(c)(1)(B) of the Act, we are fully extending the due date for the preliminary determination to no later than 130 days after the day on which the investigation was initiated. However, as that date falls on a Saturday (*i.e.*, March 17, 2012), the deadline for completion of the preliminary determination is now Monday, March 19, 2012, the next business day.⁵

This notice is issued and published pursuant to section 703(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: February 15, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2012-4119 Filed 2-21-12; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty

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

DATES: *Effective Date:* February 22, 2012.

FOR FURTHER INFORMATION CONTACT: Gayle Longest, AD/CVD Operations, Office 3, Import Administration, International Trade Administration,

⁴ See letter from Changzhou Trina Solar Energy Co., Ltd., regarding, "Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China; CVD Questionnaire Response of Changzhou Trina Solar Energy Co., Ltd.," dated January 31, 2012. See also letter from Wuxi Suntech Power Co. Ltd., regarding, "Crystalline Silicon Photovoltaic ("CSPV") Cells from the People's Republic of China: Countervailing Duty Questionnaire Response of Wuxi Suntech Power Co., Ltd.," dated January 31, 2012.

⁵ See *Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-472 (Third Review)]

Silicon Metal From China; Scheduling of an Expedited Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)) (the Act) to determine whether revocation of the antidumping duty order on silicon metal from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of this review 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, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* February 6, 2012.

FOR FURTHER INFORMATION CONTACT: Barbara Elkins (202-205-2250), 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 this review may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—On February 6, 2012, the Commission determined that the domestic interested party group response to its notice of institution (76 FR 67476, November 1, 2011) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.¹ Accordingly,

¹ A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.²

Staff report.—A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on March 1, 2012, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,³ and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before March 6, 2012 and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by March 6, 2012. However, should the Department of Commerce extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please be aware that the Commission's rules with respect to electronic filing have been amended. The amendments took effect on November 7, 2011. See 76 FR 61937 (Oct. 6, 2011) and the newly revised Commission's Handbook on E-Filing, available on the Commission's Web site at <http://edis.usitc.gov>.

Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response). The

² Chairman Deanna Tanner Okun is not participating in this review.

³ The Commission has found the response submitted by Globe Metallurgical Inc. to be individually adequate. Comments from other interested parties will not be accepted (see 19 CFR 207.62(d)(2)).

Secretary will not accept a document for filing without a certificate of service.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: February 17, 2012.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2012-4197 Filed 2-22-12; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on February 14, 2012, the United States lodged a proposed Consent Decree with Defendants Bradley Mining Company ("BMC") and Frederick Bradley, Trustee for the Worthen Bradley Family Trust ("Bradley Trust"), in *United States v. Bradley Mining Company, et al.*, Civil Action No. 3:08-CV-03968 TEH (N.D. Cal.), with respect to the Sulphur Bank Mercury Mine Superfund Site in Lake County, California ("Sulphur Bank Site"), and with Defendant BMC in a consolidated case, *United States v. Bradley Mining Company*, Civil Action No. 3:08-CV-05501 TEH (N.D. Cal.), with respect to the Stibnite Mine Site in Valley County, Idaho ("Stibnite Mine Site").

The proposed Consent Decree resolves the following claims: (1) on August 19, 2008, the United States, on behalf of the United States Environmental Protection Agency ("EPA"), filed a complaint under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9607, against BMC and Bradley Trust, seeking recovery of response costs incurred by EPA related to releases of hazardous substances at the Sulphur Bank Site; and (2) on September 26, 2008, the United States, on behalf of EPA and the United States Department of Agriculture Forest Service ("Forest Service"), filed a complaint under CERCLA section 107 against BMC seeking recovery of response costs incurred by EPA and the Forest Service related to the releases of hazardous substances at the Stibnite Mine Site. The proposed Consent Decree also resolves claims in the Sulphur Bank case brought by the Elem Tribe against BMC, the Bradley Trust, and the United States for cost recovery

APPENDIX B
STATEMENT ON ADEQUACY

EXPLANATION OF COMMISSION DETERMINATION ON ADEQUACY
in
Cased Pencils from China, Inv. No. 731-TA-669 (Second Review)

On October 4, 2005, the Commission determined that it should proceed to an expedited review in the subject five-year reviews pursuant to section 751(c)(3) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(3).

The Commission received an adequate joint response to the notice of institution on behalf of five domestic producers: General Pencil Co., Inc.; Musgrave Pencil Co.; Rose Moon, Inc.; Sanford, L.P.; and Tennessee Pencil Co. Because the Commission received an adequate response from domestic producers accounting for a substantial percentage of U.S. production, the Commission determined that the domestic interested party group response was adequate.

The Commission did not receive a response from any respondent interested party concerning subject imports from China and therefore determined that the respondent interested party group response was inadequate. In the absence of an adequate respondent interested party group response, or other circumstances warranting a full review, the Commission determined to conduct an expedited review. A record of the Commissioners' votes is available from the Office of the Secretary and the Commission's web site (<http://www.usitc.gov>).

APPENDIX C
HISTORICAL DATA

Table C-1

Silicon metal: Summary data concerning the U.S. market, 1997-99, January-June 1999, and January-June 2000

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

| Item | Reported data | | | | | Period changes | | | |
|---------------------------------|---------------|---------|---------|--------------|---------|----------------|---------|---------|----------------------|
| | 1997 | 1998 | 1999 | January-June | | 1997-99 | 1997-98 | 1998-99 | Jan.-June 1999-00 |
| | | | | 1999 | 2000 | | | | |
| U.S. consumption quantity: | | | | | | | | | |
| Amount | 338,951 | 320,683 | 329,786 | 165,658 | 179,223 | -2.7 | -5.4 | 2.8 | 8.2 |
| Producers' share (1) | 61.0 | 64.5 | 61.7 | 62.9 | 58.8 | 0.7 | 3.5 | -2.8 | -6.1 |
| Importers' share (1): | | | | | | | | | |
| Argentina | 0.0 | (2) | 0.0 | 0.0 | 0.0 | 0.0 | (3) | (3) | 0.0 |
| Brazil | 3.2 | 2.0 | 4.3 | 3.2 | 5.8 | 1.1 | -1.2 | 2.3 | 2.6 |
| China | 0.9 | 1.0 | 1.0 | 1.0 | 1.0 | 0.1 | 0.0 | 0.1 | (3) |
| Subtotal | 4.1 | 2.9 | 5.3 | 4.2 | 6.8 | 1.2 | -1.2 | 2.4 | 2.6 |
| Other sources | 34.9 | 32.6 | 33.0 | 32.9 | 36.3 | -1.9 | -2.3 | 0.4 | 3.5 |
| Total imports | 39.0 | 35.5 | 38.3 | 37.1 | 43.2 | -0.7 | -3.5 | 2.8 | 6.1 |
| U.S. consumption value: | | | | | | | | | |
| Amount | 519,337 | 458,509 | 426,073 | 216,543 | 216,095 | -18.0 | -11.7 | -7.1 | -0.2 |
| Producers' share (1) | 61.8 | 67.6 | 65.2 | 66.1 | 61.6 | 3.4 | 5.8 | -2.4 | -4.5 |
| Importers' share (1): | | | | | | | | | |
| Argentina | 0.0 | (2) | 0.0 | 0.0 | 0.0 | 0.0 | (3) | (3) | 0.0 |
| Brazil | 3.3 | 1.8 | 4.0 | 3.0 | 6.1 | 0.8 | -1.5 | 2.2 | 3.1 |
| China | 0.6 | 0.6 | 0.7 | 0.7 | 0.7 | 0.0 | -0.1 | 0.1 | (3) |
| Subtotal | 3.9 | 2.4 | 4.7 | 3.6 | 6.8 | 0.8 | -1.6 | 2.3 | 3.1 |
| Other sources | 34.3 | 30.0 | 30.1 | 30.3 | 31.6 | -4.2 | -4.3 | 0.1 | 1.3 |
| Total imports | 38.2 | 32.4 | 34.8 | 33.9 | 38.4 | -3.4 | -5.8 | 2.4 | 4.5 |
| U.S. imports from: | | | | | | | | | |
| Argentina: | | | | | | | | | |
| Quantity | 0 | 44 | 0 | 0 | 0 | (4) | (4) | -100.0 | (4) |
| Value | 0 | 61 | 0 | 0 | 0 | (4) | (4) | -100.0 | (4) |
| Unit value | (4) | \$1,406 | (4) | (4) | (4) | (4) | (4) | (4) | (4) |
| Ending inventory quantity | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Brazil: | | | | | | | | | |
| Quantity | 10,795 | 6,341 | 14,268 | 5,324 | 10,411 | 32.2 | -41.3 | 125.0 | 95.5 |
| Value | 17,010 | 8,251 | 17,203 | 6,425 | 13,083 | 1.1 | -51.5 | 108.5 | 103.6 |
| Unit value | \$1,576 | \$1,301 | \$1,206 | \$1,207 | \$1,257 | -23.5 | -17.4 | -7.3 | 4.2 |
| Ending inventory quantity | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| China: | | | | | | | | | |
| Quantity | 3,214 | 3,058 | 3,324 | 1,673 | 1,812 | 3.4 | -4.9 | 8.7 | 8.3 |
| Value | 3,373 | 2,559 | 2,885 | 1,471 | 1,522 | -14.5 | -24.1 | 12.7 | 3.5 |
| Unit value | \$1,050 | \$837 | \$868 | \$879 | \$840 | -17.3 | -20.3 | 3.7 | -4.4 |
| Ending inventory quantity | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Subtotal: | | | | | | | | | |
| Quantity | 14,009 | 9,442 | 17,592 | 6,997 | 12,222 | 25.6 | -32.6 | 86.3 | 74.7 |
| Value | 20,383 | 10,872 | 20,088 | 7,895 | 14,606 | -1.5 | -46.7 | 84.8 | 85.0 |
| Unit value | \$1,455 | \$1,151 | \$1,142 | \$1,128 | \$1,195 | -21.5 | -20.9 | -0.8 | 5.9 |
| Ending inventory quantity | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Other sources: | | | | | | | | | |
| Quantity | 118,250 | 104,453 | 108,852 | 54,463 | 65,130 | -7.9 | -11.7 | 4.2 | 19.8 |
| Value | 178,206 | 137,765 | 128,344 | 65,530 | 68,311 | -28.0 | -22.7 | -6.8 | 4.2 |
| Unit value | \$1,507 | \$1,319 | \$1,179 | \$1,203 | \$1,049 | -21.8 | -12.5 | -10.6 | -12.8 |
| Ending inventory quantity | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| All sources: | | | | | | | | | |
| Quantity | 132,259 | 113,895 | 128,444 | 61,460 | 77,353 | -4.4 | -13.9 | 11.0 | 25.9 |
| Value | 198,589 | 148,637 | 148,432 | 73,426 | 82,917 | -25.3 | -25.2 | -0.1 | 12.9 |
| Unit value | \$1,502 | \$1,305 | \$1,174 | \$1,195 | \$1,072 | -21.8 | -13.1 | -10.0 | -10.3 |
| Ending inventory quantity | *** | *** | *** | *** | *** | *** | *** | *** | *** |

Table continued on next page.

Table C-1--Continued

Silicon metal: Summary data concerning the U.S. market, 1997-99, January-June 1999, and January-June 2000

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

| Item | Reported data | | | | | Period changes | | | |
|---|---------------|----------|----------|--------------|----------|----------------|---------|---------|-------------------|
| | 1997 | 1998 | 1999 | January-June | | 1997-99 | 1997-98 | 1998-99 | Jan.-June 1999-00 |
| | | | | 1999 | 2000 | | | | |
| U.S. producers': | | | | | | | | | |
| Average capacity quantity | 225,690 | 234,099 | 236,857 | 119,952 | 110,769 | 4.9 | 3.7 | 1.2 | -7.7 |
| Production quantity | 213,010 | 213,274 | 209,117 | 107,009 | 106,744 | -1.8 | 0.1 | -1.9 | -0.2 |
| Capacity utilization (1) | 94.4 | 91.1 | 88.3 | 89.2 | 96.4 | -6.1 | -3.3 | -2.8 | 7.2 |
| U.S. shipments: | | | | | | | | | |
| Quantity | 206,692 | 206,788 | 203,342 | 104,198 | 101,870 | -1.8 | (2) | -1.7 | -2.2 |
| Value | 320,748 | 309,872 | 277,641 | 143,117 | 133,178 | -13.4 | -3.4 | -10.4 | -6.9 |
| Unit value | \$1,552 | \$1,499 | \$1,365 | \$1,374 | \$1,307 | -12.0 | -3.4 | -8.9 | -4.8 |
| Export shipments: | | | | | | | | | |
| Quantity | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Value | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Unit value | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Ending inventory quantity | 11,174 | 10,982 | 9,151 | 8,056 | 9,679 | -18.1 | -1.7 | -16.7 | 20.1 |
| Inventories/total shipments (1) | 5.3 | 5.2 | 4.4 | 3.8 | 4.6 | -1.0 | -0.1 | -0.9 | 0.9 |
| Production workers | 816 | 816 | 770 | 771 | 719 | -5.6 | 0.0 | -5.6 | -6.7 |
| Hours worked (1,000s) | 1,936 | 1,801 | 1,750 | 911 | 835 | -9.6 | -7.0 | -2.8 | -8.3 |
| Wages paid (\$1,000s) | 31,474 | 31,829 | 32,174 | 16,440 | 15,626 | 2.2 | 1.1 | 1.1 | -5.0 |
| Hourly wages | \$16.26 | \$17.67 | \$18.39 | \$18.05 | \$18.71 | 13.1 | 8.7 | 4.0 | 3.7 |
| Productivity (gross short tons 1000/hrs.) | 110.0 | 118.4 | 119.5 | 117.5 | 127.8 | 8.6 | 7.8 | 0.9 | 8.8 |
| Unit labor costs | \$147.78 | \$149.24 | \$153.86 | \$153.63 | \$146.39 | 4.1 | 1.0 | 3.1 | -4.7 |
| Net sales: | | | | | | | | | |
| Quantity | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Value | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Unit value | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Cost of goods sold (COGS) | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Gross profit or (loss) | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| SG&A expenses | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Operating income or (loss) | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Capital expenditures | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Unit COGS | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Unit SG&A expenses | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Unit operating income or (loss) | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| COGS/sales (1) | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| Operating income or (loss)/ sales (1) | *** | *** | *** | *** | *** | *** | *** | *** | *** |

(1) "Reported data" are in percent and "period changes" are in percentage points.

(2) Less than 0.05 percent.

(3) Less than 0.05 percentage points absolute difference.

(4) Not applicable.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to Commerce questionnaires and official statistics of the U.S. Department of Commerce.

Table C-1
Silicon metal: Summary data concerning the U.S. market, 2000-05

| Item | Reported data | | | | | | | | | | | Period changes | | | |
|---------------------------------------|---------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|----------------|-----|--|--|
| | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2000-05 | 2000-01 | 2001-02 | 2002-03 | 2003-04 | 2004-05 | | | |
| U.S. consumption quantity | | | | | | | | | | | | | | | |
| Amount | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Producers' share (1) | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Importers' share (1) | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Brazil (subject) | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| China (subject) | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Subtotal (subject) | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Brazil (non-subject) | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| China (non-subject) | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| All other sources | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Subtotal (non-subject) | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Total imports | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| U.S. consumption value | | | | | | | | | | | | | | | |
| Amount | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Producers' share (1) | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Importers' share (1) | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Brazil (subject) | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| China (subject) | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Subtotal (subject) | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Brazil (non-subject) | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| China (non-subject) | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| All other sources | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Subtotal (non-subject) | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Total imports | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| U.S. imports from | | | | | | | | | | | | | | | |
| Brazil (subject) | | | | | | | | | | | | | | | |
| Quantity | 22,797 | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Value | 29,520 | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Unit value | \$1,295 | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Ending inventory quantity | 0 | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| China (subject) | | | | | | | | | | | | | | | |
| Quantity | 52 | 1,177 | 33 | 22 | 119 | 44 | -15.4 | 2193.5 | -97.2 | -33.3 | 427.3 | -42.1 | | | |
| Value | 55 | 1,109 | 38 | 23 | 117 | 78 | 38.2 | 1916.4 | -96.5 | -41.0 | 428.7 | -35.0 | | | |
| Unit value | \$1,058 | \$942 | \$1,182 | \$1,045 | \$1,009 | \$1,727 | 89.3 | -10.9 | 25.4 | -11.5 | -3.5 | 71.3 | | | |
| Ending inventory quantity | 0 | 0 | 0 | 0 | 0 | 0 | (2) | (2) | (2) | (2) | (2) | (2) | | | |
| Subtotal (subject) | | | | | | | | | | | | | | | |
| Quantity | 22,849 | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Value | 29,575 | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Unit value | \$1,294 | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Ending inventory quantity | 0 | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Brazil (non-subject) | | | | | | | | | | | | | | | |
| Quantity | 0 | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Value | 0 | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Unit value | (2) | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Ending inventory quantity | 0 | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| China (non-subject) | | | | | | | | | | | | | | | |
| Quantity | 4,878 | 3,198 | 5,478 | 3,074 | 3,022 | 2,681 | -45.0 | -35.3 | 73.8 | -43.9 | -1.7 | -11.3 | | | |
| Value | 3,897 | 2,273 | 4,152 | 2,637 | 3,379 | 2,855 | -29.2 | -41.2 | 82.7 | -36.5 | 28.1 | -15.5 | | | |
| Unit value | \$793 | \$720 | \$758 | \$868 | \$1,118 | \$1,065 | 34.3 | -9.1 | 5.2 | 13.2 | 30.3 | -4.8 | | | |
| Ending inventory quantity | 0 | 0 | 0 | 0 | 0 | 0 | (2) | (2) | (2) | (2) | (2) | (2) | | | |
| All other sources | | | | | | | | | | | | | | | |
| Quantity | 113,940 | 107,798 | 111,851 | 79,042 | 97,449 | 93,487 | -20.0 | -4.7 | 3.8 | -39.3 | 29.3 | -7.2 | | | |
| Value | 123,349 | 112,794 | 114,287 | 88,918 | 127,491 | 126,163 | 12.4 | -8.8 | 1.4 | -22.5 | 43.5 | 9.2 | | | |
| Unit value | \$1,096 | \$1,047 | \$1,022 | \$1,124 | \$1,308 | \$1,538 | 40.4 | -4.5 | -2.3 | 9.8 | 16.4 | 17.4 | | | |
| Ending inventory quantity | 2,110 | 2,897 | 5,298 | 5,919 | 8,058 | 2,608 | 29.9 | 37.3 | 81.8 | 12.4 | 36.1 | -87.0 | | | |
| Subtotal (non-subject) | | | | | | | | | | | | | | | |
| Quantity | 117,818 | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Value | 127,713 | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Unit value | \$1,083 | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Ending inventory quantity | 2,110 | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| All sources | | | | | | | | | | | | | | | |
| Quantity | 140,768 | 129,544 | 159,599 | 138,395 | 178,511 | 162,525 | 15.5 | -8.0 | 23.2 | -13.3 | 27.5 | -7.9 | | | |
| Value | 157,287 | 138,823 | 173,191 | 157,572 | 223,548 | 239,940 | 52.5 | -11.7 | 24.8 | -9.0 | 41.9 | 7.3 | | | |
| Unit value | \$1,117 | \$1,072 | \$1,085 | \$1,139 | \$1,256 | \$1,479 | 32.1 | -4.1 | 1.3 | 4.9 | 11.2 | 16.6 | | | |
| Ending inventory quantity | 2,110 | 2,897 | 5,298 | 7,843 | 9,096 | 6,486 | 207.4 | 37.3 | 81.8 | 48.9 | 22.5 | -32.5 | | | |
| U.S. producers' | | | | | | | | | | | | | | | |
| Average capacity quantity | | | | | | | | | | | | | | | |
| Quantity | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Production quantity | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Capacity utilization (1) | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| U.S. shipments | | | | | | | | | | | | | | | |
| Quantity | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Value | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Unit value | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Export shipments | | | | | | | | | | | | | | | |
| Quantity | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Value | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Unit value | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Ending inventory quantity | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Inventories/total shipments (1) | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Production workers | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Hours worked (1,000s) | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Wages paid (\$1,000s) | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Hourly wages | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Productivity (tons/1,000 hours) | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Unit labor costs | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Net sales | | | | | | | | | | | | | | | |
| Quantity | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Value | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Unit value | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Cost of goods sold (COGS) | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Impairment | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Gross profit or (loss) | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| SG&A expenses | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Operating income or (loss) | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Capital expenditures | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Unit COGS | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Unit SG&A expenses | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Unit operating income or (loss) | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| COG-Sales (1) | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |
| Operating income or (loss)/ sales (1) | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | *** | | |

(1) "Reported data" are in percent and "period changes" are in percentage points.
(2) Not applicable.

Note: Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

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

APPENDIX D
PURCHASER RESPONSES

As part of their response to the notice of institution, interested parties were asked to provide a list of three to five leading purchasers in the U.S. market for the domestic like product. A response was received from domestic interested parties and it named the following five firms as the top purchasers of silicon metal: ***. Purchaser questionnaires were sent to these five firms and all five firms (***) provided responses which are presented below.

1. a) **Have any changes occurred in technology; production methods; or development efforts to produce silicon metal that affected the availability of silicon metal in the U.S. market or in the market for silicon metal in China since 2006?**

b) **Do you anticipate any changes in technology; production methods; or development efforts to produce silicon metal that will affect the availability of silicon metal in the U.S. market or in the market for silicon metal in China within a reasonably foreseeable time?**

| Purchaser | Changes that have occurred | Anticipated changes |
|------------------|-----------------------------------|----------------------------|
| *** | *** | *** |
| *** | *** | *** |
| *** | *** | *** |
| *** | *** | *** |
| *** | *** | *** |

2. a) Have any changes occurred in the ability to increase production of silicon metal (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production) that affected the availability of silicon metal in the U.S. market or in the market for silicon metal in China since 2006?

b) Do you anticipate any changes in the ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production) that will affect the availability of silicon metal in the U.S. market or in the market for silicon metal in China within a reasonably foreseeable time?

| Purchaser | Changes that have occurred | Anticipated changes |
|-----------|----------------------------|---------------------|
| *** | *** | *** |
| *** | *** | *** |
| *** | *** | *** |
| *** | *** | *** |
| *** | *** | *** |

3. a) Have any changes occurred in factors related to the ability to shift supply of silicon metal among different national markets (including barriers to importation in foreign markets or changes in market demand abroad) that affected the availability of silicon metal in the U.S. market or in the market for silicon metal in China since 2006?

b) Do you anticipate any changes in factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad) that will affect the availability of silicon metal in the U.S. market or in the market for silicon metal in China within a reasonably foreseeable time?

| Purchaser | Changes that have occurred | Anticipated changes |
|-----------|----------------------------|---------------------|
| *** | *** | *** |
| *** | *** | *** |
| *** | *** | *** |
| *** | *** | *** |
| *** | *** | *** |

4. a) Have there been any changes in the end uses and applications of silicon metal in the U.S. market or in the market for silicon metal in China since 2006?

b) Do you anticipate any changes in the end uses and applications of silicon metal in the U.S. market or in the market for silicon metal in China within a reasonably foreseeable time?

| Purchaser | Changes that have occurred | Anticipated changes |
|-----------|----------------------------|---------------------|
| *** | *** | *** |
| *** | *** | *** |
| *** | *** | *** |
| *** | *** | *** |
| *** | *** | *** |

5. a) Have there been any changes in the existence and availability of substitute products for silicon metal in the U.S. market or in the market for silicon metal in China since 2006?

b) Do you anticipate any changes in the existence and availability of substitute products for silicon metal in the U.S. market or in the market for silicon metal in China within a reasonably foreseeable time?

| Purchaser | Changes that have occurred | Anticipated changes |
|-----------|----------------------------|---------------------|
| *** | *** | *** |
| *** | *** | *** |
| *** | *** | *** |
| *** | *** | *** |
| *** | *** | *** |

6. a) Have there been any changes in the level of competition between silicon metal produced in the United States, silicon metal produced in China, and such merchandise from other countries in the U.S. market or in the market for silicon metal in China since 2006?

b) Do you anticipate any changes in the level of competition between silicon metal produced in the United States, silicon metal produced in China, and such merchandise from other countries in the U.S. market or in the market for silicon metal in China within a reasonably foreseeable time?

| Purchaser | Changes that have occurred | Anticipated changes |
|-----------|----------------------------|---------------------|
| *** | *** | *** |
| *** | *** | *** |
| *** | *** | *** |
| *** | *** | *** |
| *** | *** | *** |

7. a) Have there been any changes in the business cycle for silicon metal in the U.S. market or in the market for silicon metal in China since 2006?

b) Do you anticipate any changes in the business cycle for silicon metal in the U.S. market or in the market for silicon metal in China within a reasonably foreseeable time?

| Purchaser | Changes that have occurred | Anticipated changes |
|-----------|----------------------------|---------------------|
| *** | *** | *** |
| *** | *** | *** |
| *** | *** | *** |
| *** | *** | *** |
| *** | *** | *** |