

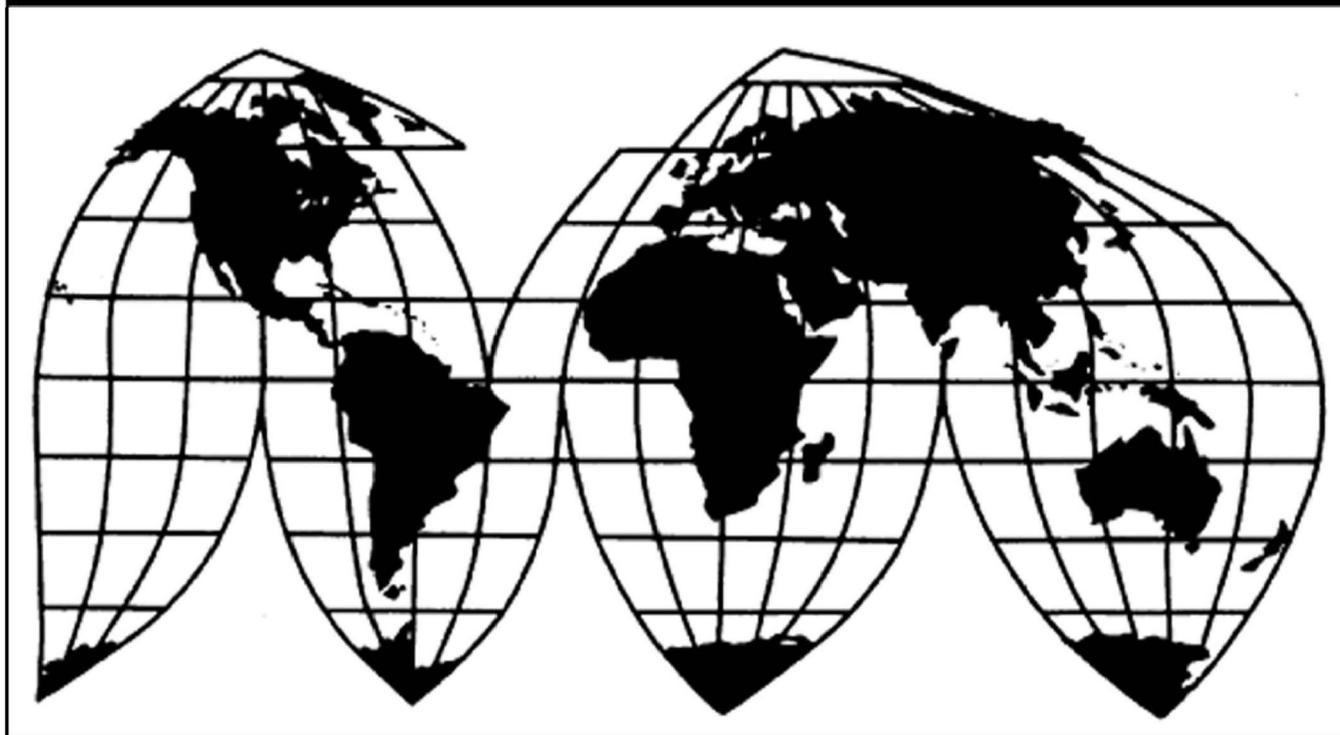
# **Silicomanganese from China and Ukraine**

Investigation Nos. 731-TA-672-673 (Fourth Review)

**Publication 4845**

**November 2018**

**U.S. International Trade Commission**



Washington, DC 20436

# U.S. International Trade Commission

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Emily Burke, Economist

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Cynthia Payne, Statistician

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Patrick Gallagher, Attorney

Douglas Corkran, Supervisory Investigator

Address all communications to  
Secretary to the Commission  
United States International Trade Commission  
Washington, DC 20436

# U.S. International Trade Commission

Washington, DC 20436  
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Note.—Information that would reveal confidential operations of individual concerns may not be published. Such information is identified by brackets or by parallel lines in confidential reports and is deleted and replaced with asterisks in public reports.



# UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 731-TA-672-673 (Fourth Review)

Silicomanganese from China and Ukraine

## DETERMINATIONS

On the basis of the record<sup>1</sup> developed in the subject five-year reviews, the United States International Trade Commission (“Commission”) determines, pursuant to the Tariff Act of 1930 (“the Act”), that revocation of the antidumping duty orders on silicomanganese from China and Ukraine would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>2</sup>

## BACKGROUND

The Commission, pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)), instituted these reviews on October 2, 2017 (82 F.R. 45892) and determined on January 5, 2018 that it would conduct full reviews (83 F.R. 3025, January 22, 2018). Notice of the scheduling of the Commission’s reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* on May 25, 2018 (83 F.R. 24346). The hearing was held in Washington, DC, on September 25, 2018, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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<sup>1</sup> The record is defined in sec. 207.2(f) of the Commission’s Rules of Practice and Procedure (19 CFR 207.2(f)).

<sup>2</sup> Commissioner Meredith M. Broadbent dissenting with respect to the determination regarding silicomanganese from China.



## Views of the Commission

Based on the record in these five-year reviews, we determine under section 751(c) of the Tariff Act of 1930, as amended (“the Act”), that revocation of the antidumping duty orders on silicomanganese from China and Ukraine 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.<sup>1</sup>

### I. Background

*Original Investigations:* The original investigations of silicomanganese from Brazil, China, Ukraine, and Venezuela were instituted based on a petition filed by Elkem Metals Co. (“Elkem”) and the Oil, Chemical and Atomic Workers Local 3-639 on November 12, 1993. In December 1994, the Commission determined that an industry in the United States was materially injured or threatened with material injury by reason of imports of silicomanganese from Brazil, China, and Ukraine that were being sold at less than fair value (“LTFV”).<sup>2</sup> On December 22, 1994, the U.S. Department of Commerce (“Commerce”) issued antidumping duty orders on silicomanganese from Brazil and China.<sup>3</sup>

*First Five-Year Reviews:* The Commission instituted its first five-year reviews of the orders on silicomanganese from Brazil and China and the suspended investigation on silicomanganese from Ukraine on November 2, 1999.<sup>4</sup> The Commission determined to conduct full reviews.<sup>5</sup> In January 2001, the Commission determined that revocation of the antidumping duty orders on silicomanganese from Brazil and China and the suspended investigation on silicomanganese from Ukraine would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>6</sup> On February

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<sup>1</sup> Commissioner Broadbent determines that revocation of the antidumping duty order on silicomanganese from China 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. *See Separate and Dissenting Views of Commissioner Meredith M. Broadbent.* She joins sections I-IV.C, IV.E, and V.A-V.B of this opinion unless otherwise stated.

<sup>2</sup> *Silicomanganese from Brazil, the People’s Republic of China, Ukraine, and Venezuela*, Inv. Nos. 731-TA-671-674 (Final), USITC Pub. 2836 (Dec. 1994) (“Original Investigations”). The Commission reached a negative determination with respect to silicomanganese from Venezuela.

<sup>3</sup> 59 Fed. Reg. 66003 (Dec. 22, 1994). Effective October 31, 1994, Commerce suspended the antidumping investigation of silicomanganese from Ukraine, based on an agreement by the government of Ukraine to restrict the volume of direct and indirect silicomanganese exports to the United States and to sell such exports at or above a “reference price” in order to prevent the suppression or undercutting of price levels of silicomanganese produced in the United States. 59 Fed. Reg. 60951 (Nov. 29, 1994). Petitioners then requested continuation of the investigation regarding silicomanganese from Ukraine.

<sup>4</sup> 64 Fed. Reg. 59209 (Nov. 2, 1999).

<sup>5</sup> 65 Fed. Reg. 7891 (Feb. 16, 2000).

<sup>6</sup> *Silicomanganese from Brazil, China, and Ukraine*, Inv. Nos. 731-TA-671-673 (Review), USITC Pub. 3386 (January 2001) (“First Five-Year Reviews”).

16, 2001, Commerce published a notice of continuation of the antidumping duty orders on silicomanganese from Brazil and China.<sup>7</sup>

*Second Five-Year Reviews:* The Commission instituted its second reviews of the antidumping duty orders on silicomanganese from Brazil, China, and Ukraine<sup>8</sup> on January 3, 2006, and received a response to the notice of institution from a domestic interested party, but no responses from any respondent interested parties. On April 10, 2006, the Commission determined to conduct expedited reviews.<sup>9</sup> On August 1, 2006, the Commission made affirmative determinations.<sup>10</sup> On September 14, 2006, Commerce published a notice of continuation of the antidumping duty orders on silicomanganese from Brazil, China, and Ukraine.<sup>11</sup>

*Third Five-Year Reviews:* The Commission instituted its third reviews of the antidumping duty orders on silicomanganese from Brazil, China, and Ukraine on August 1, 2011.<sup>12</sup> The Commission conducted full reviews. In October 2012, it determined that revocation of the antidumping duty orders on silicomanganese from China and Ukraine would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>13</sup> It also determined that revocation of the antidumping order on silicomanganese from Brazil would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>14</sup> On November 7, 2012, Commerce published a notice of revocation of the antidumping duty order on silicomanganese from Brazil.<sup>15</sup> On November 8, 2012, Commerce published a notice of continuation of the antidumping duty orders on silicomanganese from China and Ukraine.<sup>16</sup>

*The Current Five-Year Reviews:* On October 2, 2017, the Commission instituted these fourth five-year reviews.<sup>17</sup> The Commission received three responses to its notice of institution. The Commission received a response from Eramet Marietta, Inc. (“Eramet”), a domestic producer of silicomanganese. The Commission also received responses to the notice of institution from Nikopol Ferroalloy Plant and Zaporozhye Ferroalloy Plant, producers of silicomanganese in Ukraine (jointly “Ukrainian producers”). The Commission did not receive any responses from foreign producers, importers, or exporters with respect to the order on

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<sup>7</sup> 66 Fed. Reg. 10669 (February 16, 2001).

<sup>8</sup> On July 19, 2001, the government of Ukraine requested that Commerce terminate the suspension agreement on silicomanganese from Ukraine. On September 17, 2001, Commerce terminated the suspension agreement and issued an antidumping duty order covering imports of silicomanganese from Ukraine. See 66 Fed. Reg. 43838 (Aug. 21, 2001).

<sup>9</sup> 71 Fed. Reg. 27515 (May 11, 2006).

<sup>10</sup> *Silicomanganese from Brazil, China, and Ukraine*, Inv. Nos. 731-TA-671-673 (Second Review), USITC Pub. 3879 (August 2006) (“Second Five-Year Reviews”).

<sup>11</sup> 71 Fed. Reg. 54272 (Sept. 14, 2006).

<sup>12</sup> 76 Fed. Reg. 45856 (Aug. 1, 2011).

<sup>13</sup> *Silicomanganese from Brazil, China, and Ukraine*, Inv. Nos. 731-TA-671-673 (Third Review), USITC Pub. 4354 (October 2012) (“Third Five-Year Reviews”).

<sup>14</sup> Third Five-Year Reviews, USITC Pub. 4354 at 35.

<sup>15</sup> 77 Fed. Reg. 66798 (Nov. 7, 2012).

<sup>16</sup> 77 Fed. Reg. 66956 (Nov. 8, 2012).

<sup>17</sup> 82 Fed. Reg. 46221 (October 4, 2017).

silicomanganese from China. On January 5, 2018, the Commission determined to conduct a full review of the order on subject imports from Ukraine after receiving adequate interested party responses and determined to conduct a full review concerning silicomanganese from China to promote administrative efficiency.<sup>18</sup>

The Commission received a prehearing brief, posthearing brief, and final comments from Eramet, which appeared at the Commission's hearing accompanied by counsel. Ukrainian producers filed a joint prehearing brief, posthearing brief, and final comments, and their representatives appeared at the Commission's hearing accompanied by counsel. The Commission also received a prehearing brief, posthearing brief, and final comments from the government of Ukraine ("Ukrainian government"). Representatives from the Embassy of Ukraine appeared at the hearing. No producer, exporter, or importer of the subject merchandise from China participated in these reviews.

U.S. industry data are based on the questionnaire responses of two producers that accounted for all known U.S. production of silicomanganese in 2017.<sup>19</sup> U.S. import data and related information are based on official Commerce statistics; the Commission received questionnaire responses from 18 importers of silicomanganese that accounted for \*\*\* percent of subject imports from China and \*\*\* percent of subject imports from Ukraine in 2015, the most recent year there were reported U.S. imports from either subject country.<sup>20</sup> Foreign industry data and related information are based on the questionnaire responses of two producers of silicomanganese in Ukraine accounting for all production in that country in 2017.<sup>21</sup> No producer or exporter from China submitted a questionnaire response.

## II. Domestic Like Product and Domestic Industry

### A. Domestic Like Product

In making its determination under section 751(c) of the Tariff Act, the Commission defines the "domestic like product" and the "industry."<sup>22</sup> The Tariff 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."<sup>23</sup> The Commission's practice in five-year reviews is to examine the domestic like product definition from the original

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<sup>18</sup> 83 Fed. Reg. 3025 (January 22, 2018).

<sup>19</sup> Confidential Report ("CR"), INV-QQ-116 (Oct. 22, 2018), as revised by INV-QQ-119 (Oct. 25, 2018), at III-1, Public Report ("PR") INV-QQ-116, as revised by INV-QQ-119, at III-1.

<sup>20</sup> CR/PR at IV-1.

<sup>21</sup> CR at IV-21, PR at IV-; CR/PR at Table IV-9.

<sup>22</sup> 19 U.S.C. § 1677(4)(A).

<sup>23</sup> 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, 96<sup>th</sup> Cong., 1<sup>st</sup> Sess. 90-91 (1979).

investigation and consider whether the record indicates any reason to revisit the prior findings.<sup>24</sup>

Commerce has defined the scope of the antidumping duty orders in these reviews as follows:

The merchandise covered by these orders is silicomanganese. Silicomanganese, which is sometimes called ferrosilicon manganese, is a ferroalloy composed principally of manganese, silicon and iron, and normally contains much smaller proportions of minor elements, such as carbon, phosphorus, and sulfur. Silicomanganese generally contains by weight not less than 4 percent iron, more than 30 percent manganese, more than 8 percent silicon, and not more than 3 percent phosphorous. All compositions, forms and sizes of silicomanganese are included within the scope of the order, including silicomanganese slag, fines and briquettes. Silicomanganese is used primarily in steel production as a source of both silicon and manganese.<sup>25</sup>

Silicomanganese is consumed in bulk form primarily by the steel industry as a source of both silicon and manganese, and sometimes as an alloying agent in the production of iron castings. Although manufactured to ASTM International specifications A483 in three grades (A, B, and C) that are differentiated by their silicon and carbon content, most silicomanganese produced and sold in the United States conforms to the specification for grade B. Silicomanganese generally is sold in small pieces of fairly uniform sizes.<sup>26</sup> It is produced by smelting together in a submerged arc furnace sources of silicon, manganese, iron, and a carbonaceous reducing agent (usually coke).<sup>27</sup>

## **1. The Original Investigations and Prior Five-Year Reviews**

In its original investigations, the Commission considered whether there should be multiple domestic like products, and found that all silicomanganese is used as a source of manganese and silicon in iron and steelmaking. The Commission therefore adopted a single domestic like product definition that included all silicomanganese, coextensive with Commerce's scope.<sup>28</sup>

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<sup>24</sup> 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).

<sup>25</sup> *Silicomanganese From the People's Republic of China and Ukraine: Final Results of the Expedited Fourth Sunset Reviews of the Antidumping Duty Orders*, 83 Fed. Reg. 5609, 5610 (Feb. 8, 2018).

<sup>26</sup> CR at I-21, PR at I-16.

<sup>27</sup> CR at I-25, PR at I-18.

<sup>28</sup> Original Investigations, USITC Pub. 2836 at I-6 to I-7 (December 1994) (Commissioners Rohr and Newquist) and I-21 to I-22 (Commissioners Watson, Nuzum, Crawford, and Bragg). The Ukrainian

In the prior reviews, the Commission again defined the domestic like product as all silicomanganese, coextensive with Commerce's scope. In so doing, the Commission indicated that none of the parties disagreed with the Commission's original domestic like product definition and that the record contained no new information that would suggest that the Commission should change that definition.<sup>29</sup>

## 2. The Current Reviews

In these reviews, Eramet has stated that it agrees with the Commission's prior definition of the domestic like product, and neither the Ukrainian producers nor the Ukrainian government has raised any contrary argument.<sup>30</sup> There is no information in the record indicating any changes in silicomanganese since the prior proceedings with respect to the factors that the Commission examines in its like product analysis.<sup>31</sup> We therefore continue to define a single domestic like product consisting of all domestically produced silicomanganese that corresponds to the scope description.

### B. Domestic Industry

Section 771(4)(A) of the Tariff 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."<sup>32</sup> In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.

In the original investigations, the Commission defined the domestic industry as the sole domestic producer Elkem, which was not a related party.<sup>33</sup> In the first reviews, the Commission defined the domestic industry as consisting of Eramet (the successor to Elkem), the sole domestic producer of silicomanganese at that time.<sup>34</sup> In the second reviews, the Commission again defined the domestic industry to encompass Eramet. Although Eramet was a related party, the Commission found that appropriate circumstances did not exist to exclude it from the domestic industry.<sup>35</sup>

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respondents had argued that off-specification silicomanganese should be treated as a separate like product.

<sup>29</sup> First Five-Year Reviews, USITC Pub. 3386 at 5; Second Five-Year Reviews, USITC Pub. 3879 at 5; and Third Five-Year Reviews, USITC Pub. 4354 at 6.

<sup>30</sup> See Eramet Prehearing Brief at 7.

<sup>31</sup> See *generally* CR at I-21 to I-27, PR at I-20.

<sup>32</sup> 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.

<sup>33</sup> Original Investigations, USITC Pub. 2836 at I-7 to I-9 and I-22 to I-25.

<sup>34</sup> There were no related party issues in the first reviews. See First Five-Year Reviews, USITC Pub. 3386 at 6.

<sup>35</sup> Second Five-Year Reviews, USITC Pub. 3879 at 5 n.19.

In the third reviews, the Commission found that while both domestic producers, Eramet and Felman Production, were related parties, appropriate circumstances did not exist to exclude either firm from the domestic industry. It consequently defined the domestic industry to include all domestic producers of silicomanganese.<sup>36</sup>

In these fourth reviews, we must determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to section 771(4)(B) of the Tariff Act.<sup>37</sup> This provision allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry any producer that is related to an exporter or importer of the subject merchandise, or are themselves importers.<sup>38</sup> Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each investigation.<sup>39</sup>

Domestic producer Felman Production may be a related party on the basis of an affiliation with an importer of subject merchandise. Eramet claims that Felman Production is affiliated with \*\*\*.<sup>40</sup> This firm imported a small amount of silicomanganese from Ukraine in 2015.<sup>41</sup> Eramet also contends that there is common ownership between Felman Trading and producers and exporters of subject merchandise from Ukraine.<sup>42</sup> Information available in the record does not clearly indicate whether there is a control relationship between Felman Production and importers or exporters of subject merchandise from Ukraine.<sup>43</sup> Should it share common control with an exporter or importer of subject merchandise, Felman Production

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<sup>36</sup> Third Five-Year Reviews, USITC Pub. 4354 at 7-9.

<sup>37</sup> Eramet has stated that it agrees with the Commission's prior definitions of the domestic industry. See Eramet Prehearing Brief at 10-15 (regarding \*\*\* and related party status). No party has raised any contrary arguments.

<sup>38</sup> See *Torrington Co v. United States*, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), *aff'd without opinion*, 991 F.2d 809 (Fed. Cir. 1993); *Sandvik AB v. United States*, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), *aff'd mem.*, 904 F.2d 46 (Fed. Cir. 1990); *Empire Plow Co. v. United States*, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987).

<sup>39</sup> The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party include the following:

- (1) the percentage of domestic production attributable to the importing producer;
- (2) the reason the U.S. producer has decided to import the product subject to investigation (whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market);
- (3) whether inclusion or exclusion of the related party will skew the data for the rest of the industry;
- (4) the ratio of import shipments to U.S. production for the imported product; and
- (5) whether the primary interest of the importing producer lies in domestic production or importation. *Changzhou Trina Solar Energy Co. v. USITC*, 100 F. Supp.3d 1314, 1326-31 (Ct. Int'l. Trade 2015); see also *Torrington Co. v. United States*, 790 F. Supp. at 1168.

<sup>40</sup> Eramet Prehearing Brief at 10-11.

<sup>41</sup> CR at I-35 and n.111, and IV-1 and n.2, PR at I-24 and n.111, CR/PR at IV-1 and n.2, and CR/PR at Table IV-1. \*\*\* went into bankruptcy and permanently closed in 2016. *Id.*

<sup>42</sup> Eramet Prehearing Brief at 10-11.

<sup>43</sup> See CR at I-32 to I-34, PR at I-22 to I-23.

would be a related party subject to possible exclusion from the domestic industry.<sup>44</sup> For the purposes of our analysis, we assume *arguendo* that such a control relationship exists.

Felman Production accounted for \*\*\* percent of U.S. production in 2017.<sup>45</sup> It \*\*\* continuation of the order on Ukraine, and \*\*\* continuation of the order on China.<sup>46</sup> The volume of subject imports attributed to \*\*\* is small and was entered only in \*\*\* of the period of review.<sup>47</sup> With Felman Production's substantial investment \*\*\* and other capital investments during the period of review,<sup>48</sup> and the limited volume of imports by its related entity, its primary interest appears to lie in domestic production rather than importation. Based on these considerations, we find that appropriate circumstances do not exist to exclude Felman Production from the domestic industry even assuming *arguendo* that it is a related party.

We accordingly find that appropriate circumstances do not exist to exclude Felman Production from the domestic industry. We therefore define the domestic industry as consisting of all U.S. producers of silicomanganese.

### III. Cumulation

#### A. Legal Standard

With respect to five-year reviews, section 752(a) of the Tariff Act provides as follows:

the Commission may cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews under section 1675(b) or (c) of this title were initiated on the same day, if such imports would be likely to compete with each other and with domestic like products in the United States market. The Commission shall not cumulatively assess the volume and effects of imports of the subject merchandise in a case in which it determines that such imports are likely to have no discernible adverse impact on the domestic industry.<sup>49</sup>

Cumulation therefore is discretionary in five-year reviews, unlike original investigations, which are governed by section 771(7)(G)(i) of the Tariff Act.<sup>50</sup> The Commission may exercise its

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<sup>44</sup> See 19 U.S.C. § 1675(4)(B)(ii)(III).

<sup>45</sup> Calculated from CR/PR at Table III-3.

<sup>46</sup> CR/PR at Table I-5.

<sup>47</sup> CR at I-35 and n.111, PR at I-24 and n.111.

<sup>48</sup> CR/PR at III-1.

<sup>49</sup> 19 U.S.C. § 1675a(a)(7).

<sup>50</sup> 19 U.S.C. § 1677(7)(G)(i); see also, e.g., *Nucor Corp. v. United States*, 601 F.3d 1291, 1293 (Fed. Cir. 2010) (Commission may reasonably consider likely differing conditions of competition in deciding whether to cumulate subject imports in five-year reviews); *Allegheny Ludlum Corp. v. United States*, 475 F. Supp. 2d 1370, 1378 (Ct. Int'l Trade 2006) (recognizing the wide latitude the Commission has in selecting the types of factors it considers relevant in deciding whether to exercise discretion to cumulate

discretion to cumulate, however, only if the reviews are initiated on the same day, the Commission determines that the subject imports are likely to compete with each other and the domestic like product in the U.S. market, and imports from each such subject country are not likely to have no discernible adverse impact on the domestic industry in the event of revocation. Our focus in five-year reviews is not only on present conditions of competition, but also on likely conditions of competition in the reasonably foreseeable future.

The statutory threshold for cumulation is satisfied in these reviews because both were initiated on the same day: October 2, 2017.<sup>51</sup>

## **B. Arguments of the Parties**

Eramet requests that the Commission exercise its discretion in these reviews to cumulatively assess subject imports from China and Ukraine.<sup>52</sup> The Ukrainian producers argue that cumulation of subject imports from Ukraine with subject imports from China is not appropriate in these reviews.<sup>53</sup>

## **C. Original Investigations and Prior Reviews**

In the original investigations,<sup>54</sup> three of the six Commissioners found a reasonable overlap of competition and cumulated imports from all the subject countries for purposes of their analysis of material injury.<sup>55</sup> Three Commissioners cumulated subject imports from Brazil and China, but did not cumulate imports from Ukraine, finding no reasonable overlap in competition between imports from Ukraine and the domestic like product.<sup>56</sup> Among the three Commissioners who made threat of material injury determinations, one cumulated imports from Brazil and China and the other two Commissioners did not cumulate imports from any of the four subject countries for purposes of their threat analysis.<sup>57</sup>

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subject imports in five-year reviews); *Nucor Corp. v. United States*, 569 F. Supp. 2d 1328, 1337-38 (Ct. Int'l Trade 2008).

<sup>51</sup> *Silicomanganese from China and Ukraine: Institution of Five-Year Reviews*, 82 Fed. Reg. 45892 (Oct. 2, 2017).

<sup>52</sup> Eramet Prehearing Brief at 15-38 and Posthearing Brief at 9-10.

<sup>53</sup> Ukrainian Producers Prehearing Brief at 2-6 and Posthearing Brief at 3-8.

<sup>54</sup> In the original investigations, the Commission made affirmative determinations for imports from Brazil and Ukraine by a 3-3 vote (the basis for the affirmative determinations was two material injury determinations and one threat of material injury); an affirmative determination for imports from China by a 5-1 vote (the basis for the affirmative determinations was three threat of material injury determinations and two material injury); and a negative determination for imports from Venezuela by a 4-2 vote. See Original Investigations, USITC Pub. 2836.

<sup>55</sup> Commissioners Rohr and Newquist (who made affirmative present injury determinations) and Nuzum (who made negative present injury determinations).

<sup>56</sup> Commissioners Watson, Crawford and Bragg. These Commissioners also did not cumulate subject imports from Venezuela.

<sup>57</sup> Original Investigations, USITC Pub. 2836 at I-12 to I-15, I-30 to I-35, I-53, I-61, I-69, I-73 to I-75, and I-80 to I-81. For the threat of material injury determinations, Commissioner Watson cumulated

In the first and second reviews, the Commission cumulated subject imports from all three subject countries: Brazil, China, and Ukraine.<sup>58</sup> The Commission did not find that revocation of the antidumping duty orders on silicomanganese from Brazil, China, and Ukraine would likely have no discernible adverse impact on the domestic industry.<sup>59</sup> The Commission found that the subject imports and the domestic like product remained highly fungible and substitutable, that the subject industries in all three countries had the economic incentive and ability to increase sales to the United States, that sustained underselling by dumped imports would likely have significant price-depressing or suppressing effects if the orders were revoked, and that excess capacity existed in all three countries.<sup>60</sup>

Regarding the likely reasonable overlap of competition, the Commission found with respect to fungibility that imports from each subject country were likely to be fungible with each other and with the domestic like product.<sup>61</sup> The Commission also found that subject imports were likely to be used in the same channels of distribution (*i.e.*, mostly sold directly to end users), likely to serve overlapping geographical markets, and likely be simultaneously present in the U.S. market.<sup>62</sup> In the first reviews, the Commission found that other likely conditions of competition, including the commodity nature of silicomanganese, the high degree of substitutability between the subject imports and the domestic like product, and excess capacity in each of the subject countries, supported cumulation.<sup>63</sup> In the second reviews, it similarly found no likely differences in conditions of competition with respect to imports from the subject countries.<sup>64</sup>

In the third reviews, the Commission cumulated subject imports from China and Ukraine.<sup>65</sup> The Commission did not find that revocation of the antidumping duty orders on silicomanganese from China and Ukraine would likely have no discernible adverse impact on

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subject imports from Brazil and China, and made affirmative threat determinations; Commissioner Nuzum did not cumulate subject imports from China and Ukraine, but made affirmative threat of material injury determinations for imports from each of these countries; and Commissioner Bragg only made an affirmative threat of material injury determination regarding subject imports from China.

<sup>58</sup> First Five-Year Reviews, USITC Pub. 3386 at 10; Second Five-Year Reviews, USITC Pub. 3879 at 12.

<sup>59</sup> First Five-Year Reviews, USITC Pub. 3386 at 8; Second Five-Year Reviews, USITC Pub. 3879 at 8-10.

<sup>60</sup> First Five-Year Reviews, USITC Pub. 3386 at 8; Second Five-Year Reviews, USITC Pub. 3879 at 8-10.

<sup>61</sup> First Five-Year Reviews, USITC Pub. 3386 at 9-10; Second Five-Year Reviews, USITC Pub. 3879 at 11-12. In the first reviews, the Commission recognized that silicomanganese from Ukraine generally was fungible with the domestic like product and other subject imports notwithstanding that it possessed a higher phosphorus content. First Five-Year Reviews, USITC Pub. 3386 at 9-10.

<sup>62</sup> First Five-Year Reviews, USITC Pub. 3386 at 9-10; Second Five-Year Reviews, USITC Pub. 3879 at 11-12.

<sup>63</sup> First Five-Year Reviews, USITC Pub. 3386 at 8-10.

<sup>64</sup> Second Five-Year Reviews, USITC Pub. 3879 at 12.

<sup>65</sup> Third Five-Year Reviews, USITC Pub. 4354 at 18. The Commission exercised its discretion not to cumulate subject imports from Brazil with subject imports from China and Ukraine for its analysis. It found that subject imports from Brazil would not be likely to compete under similar conditions of competition with subject imports from China and Ukraine. *Id.* at 16-18.

the domestic industry because subject producers in each country had significant capacity and excess capacity, and export orientation.<sup>66</sup> With respect to the likelihood of a reasonable overlap of competition, the Commission found that the subject imports and the domestic like product remained highly fungible and substitutable (although the Commission recognized the interchangeability could be limited by the chemical composition of the material from Ukraine), were sold primarily to end users in every geographic market in the United States, and would likely be simultaneously present in the U.S. market, as they were prior to the imposition of the orders.<sup>67</sup>

With respect to the likely conditions of competition, the Commission found that the industries in China and Ukraine played a substantial and increasing role in the global supply of silicomanganese. It observed that the production capacity in each country was huge and increased substantially over the period of review, while production had not kept pace with the increases in capacity, leading to increasing excess capacity.<sup>68</sup> It also found that export volumes for producers in Ukraine remained large. Finally, the Commission found that producers in China and Ukraine had exported silicomanganese to a wide range of markets around the globe and each were subject to antidumping duty orders in two countries.<sup>69</sup> Therefore, the Commission exercised its discretion to cumulate subject imports from China and Ukraine.<sup>70</sup>

#### **D. Likelihood of No Discernible Adverse Impact<sup>71</sup>**

The statute precludes cumulation if the Commission finds that subject imports from a country are likely to have no discernible adverse impact on the domestic industry.<sup>72</sup> Neither the statute nor the Uruguay Round Agreements Act (“URAA”) Statement of Administrative Action (“SAA”) provides specific guidance on what factors the Commission is to consider in determining that imports “are likely to have no discernible adverse impact” on the domestic industry.<sup>73</sup> With respect to this provision, the Commission generally considers the likely volume of subject imports and the likely impact of those imports on the domestic industry within a reasonably foreseeable time if the orders are revoked. Our analysis for each of the orders under review takes into account, among other things, the nature of the product and the behavior of subject imports in the original investigations.

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<sup>66</sup> Third Five-Year Reviews, USITC Pub. 4354 at 13, 14.

<sup>67</sup> Third Five-Year Reviews, USITC Pub. 4354 at 15-16.

<sup>68</sup> Third Five-Year Reviews, USITC Pub. 4354 at 16-16.

<sup>69</sup> Third Five-Year Reviews, USITC Pub. 4354 at 17.

<sup>70</sup> Third Five-Year Reviews, USITC Pub. 4354 at 18.

<sup>71</sup> Commissioner Broadbent does not join this discussion of whether subject imports are likely to have no discernible adverse impact on the domestic industry. For her discussion of this issue, see Separate and Dissenting Views of Commissioner Meredith M. Broadbent.

<sup>72</sup> 19 U.S.C. § 1675a(a)(7).

<sup>73</sup> SAA, H.R. Rep. No. 103-316, vol. I at 887 (1994).

## 1. Silicomanganese from China

During the original period of investigation, the quantity of U.S. shipments of subject imports from China increased from 6,064 short tons in 1991 to 24,092 short tons in 1993.<sup>74</sup> Subject imports from China declined following the imposition of the antidumping duty order and there were no imports during the periods examined in the first or second reviews, and there were limited quantities of subject imports from China from 2006 to 2011 during the third review.<sup>75</sup> The only subject imports from China in the current period of review were 11 short tons in 2015.<sup>76</sup>

No subject producer of silicomanganese in China responded to the Commission's questionnaire in these reviews.<sup>77</sup> According to information from published sources, Chinese production of silicomanganese increased from 2011 to 2017; estimated production was \*\*\* short tons in 2011 and then increased irregularly over the period to \*\*\* short tons in 2017.<sup>78</sup> Reported capacity utilization for the silicomanganese industry in China for 2017 was \*\*\* percent.<sup>79</sup> According to published sources, total Chinese exports of silicomanganese were 1,718 short tons in 2015, 873 short tons in 2016, and 7,382 short tons in 2017, an eight-fold increase from 2016 to 2017.<sup>80</sup> In 2017, Chinese silicomanganese was exported to markets in multiple regions, including Asia, Africa, and South America.<sup>81</sup> The United States would be an attractive market for Chinese producers given its large size and prices that are well above prices in other markets such as China, India, and the European Union.<sup>82</sup>

Subject imports from China undersold the domestic like product in 10 of 13 price comparisons during the original period of investigation.<sup>83</sup> There were no price comparison data for subject imports from China in this review or in the prior five-year reviews.<sup>84</sup>

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<sup>74</sup> Original Investigations, USITC Pub. 2836 at Table I-1; *see also* CR/PR at Table I-1.

<sup>75</sup> CR/PR at Tables I-1 and IV-1.

<sup>76</sup> CR/PR at Table IV-1. Data for imports from China are based on official Commerce import statistics. *Id.*

<sup>77</sup> CR at IV-12, PR at IV-11.

<sup>78</sup> CR/PR at Table IV-6.

<sup>79</sup> CR/PR at Table IV-6.

<sup>80</sup> CR/PR at Table IV-8. The largest export destinations for silicomanganese from China in 2017 were Bahrain, Indonesia, and Kuwait. CR at IV-17, PR at IV-14, and CR/PR at Table IV-8. Exports of silicomanganese from China may be affected by a Chinese export tax that reached 20 percent *ad valorem* in 2008. Domestic producer Eramet provided information to suggest that the continued application of the export tax was uncertain, although it appears to be in place at the current time. CR IV-17 to IV-18, PR at IV-14.

<sup>81</sup> CR/PR at Table IV-8.

<sup>82</sup> CR/PR at Figure V-3.

<sup>83</sup> *See* Third Five-Year Review, USITC Pub. 4354 at V-5 n.188. Margins of underselling ranged from 0.4 to 7.2 percent. *Id.*

<sup>84</sup> *See* CR at V-10 n.10, PR at V-6 n.10; First Five-Year Review, USITC Pub. 3386 at V-4 to V-5 (no price data for China and one data point for Ukraine in the second quarter of 2000); Second Five-Year Review, USITC Pub. 3879 at 1; and Third Five-Year Review, USITC Pub. 4354 at V-5.

Based on the foregoing, including the large and increasing size of the industry in China and its demonstrated ability to quickly increase its volume of export shipments, we find that revocation of the antidumping duty order on silicomanganese from China is not likely to have no discernible adverse impact on the domestic industry in the event of revocation.

## 2. Silicomanganese from Ukraine

In the original investigations, the quantity of U.S. shipments of subject imports from Ukraine increased from zero in 1991 and 1992 to 29,468 short tons in 1993.<sup>85</sup> After the suspension agreement became effective in 1994, subject imports from Ukraine declined to very low levels and during the first review period were 8,259 short tons in 1997, zero in 1998, and 9,025 short tons in 1999.<sup>86</sup> With the termination of the suspension agreement and the imposition of the antidumping duty order in 2001, the quantity of U.S. shipments of subject imports from Ukraine declined to zero in both the second and third five-year review periods, except for \*\*\* of 22 short tons imported in 2010.<sup>87</sup> In these fourth reviews, the only subject imports from Ukraine were 22 short tons imported in 2015.<sup>88</sup>

In the current reviews, two Ukrainian firms, Nikopol and Zaporozhye, reportedly accounting for \*\*\* percent of total silicomanganese production, provided data in response to the Commission's questionnaires.<sup>89</sup> Reported production capacity was steady at \*\*\* short tons

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<sup>85</sup> CR/PR at Table C-2.

<sup>86</sup> CR/PR at Table C-2.

<sup>87</sup> CR/PR at Table C-2.

<sup>88</sup> See CR/PR at Table I-1.

<sup>89</sup> CR at IV-21, PR at IV-17. A third Ukrainian ferroalloy plant, Public Joint Stock Company Stakhanov Ferroalloy Plant ("Stakhanov Plant"), is reported not to have produced any silicomanganese since 2014. Ukrainian Producers Response to Notice of Institution at 3. The Stakhanov plant is located in the Luhansk region, a location of recent military conflict. On November 7, 2014, the government of Ukraine issued Resolution No. 1085, which identified a list of towns and cities over which Ukrainian public authorities temporarily do not exercise power, including the city of Kadiivka where the Stakhanov facility is located. Ukrainian Government Posthearing Brief at 8; Ukrainian Producers Posthearing Brief at 10. Furthermore, on March 15, 2017 the President of Ukraine issued decree No. 62/2017, which stopped the movement of goods into the Donetsk and Luhansk regions with the exception of humanitarian goods. Ukrainian Government Posthearing Brief at 8 and Attachment A; Ukrainian Producers Posthearing Brief at Attachment B.

The parties dispute the current status of the Stakhanov plant. Respondents provide information from the Ukrainian Association of Ferroalloys that the Stakhanov plant was still idle as of January 2018. Ukrainian Producers Posthearing Brief at 12. By contrast, Eramet asserts that public sources indicate that the Stakhanov facility began trial runs as early as November 2017 and may begin full operations at the end of 2018. Eramet Posthearing Brief, Response to Questions at 18. Notwithstanding the parties' dispute over the status of the Stakhanov plant, and regardless of the accuracy of their respective characterizations, our analysis in these reviews concerning the Ukrainian industry is based on the questionnaire data provided by the Ukrainian producers Nikopol and Zaporozhye.

from 2015 to 2017.<sup>90</sup> Reported production by subject producers increased from \*\*\* short tons in 2015 to \*\*\* short tons in 2016 and to \*\*\* short tons in 2017. Capacity utilization fluctuated, and was \*\*\* percent in 2015, \*\*\* percent in 2016, and \*\*\* percent in 2017.<sup>91</sup> Additionally, producers in Ukraine reported that other products are produced on the same equipment and machinery used to produce silicomanganese. These producers reported that \*\*\* percent of total production was of products other than silicomanganese, such as ferromanganese.<sup>92</sup>

Total exports of silicomanganese from Ukraine reported by subject producers increased from 2015 to 2017, and were \*\*\* short tons in 2015, \*\*\* short tons in 2016, and \*\*\* short tons in 2017.<sup>93</sup> Total exports as a percentage of shipments increased irregularly from 2015 to 2017, and were \*\*\* percent in 2015, \*\*\* percent in 2016, and \*\*\* percent in 2017.<sup>94</sup> The largest export markets for silicomanganese from Ukraine in 2017 were Turkey, Italy, and the Netherlands.<sup>95</sup> In 2017, exports of silicomanganese from Ukraine reached 49 countries, including three countries in Latin America (Argentina, Colombia, and Peru).<sup>96</sup>

There were no price comparison data for subject imports from Ukraine in these reviews.<sup>97</sup> Subject imports from Ukraine undersold the domestic like product in two of six price comparisons during the original period of investigation.<sup>98</sup> In the first reviews, the Ukrainian product undersold the U.S. product in the only comparison available.<sup>99</sup> No pricing comparisons were available in the second or third reviews.<sup>100</sup>

In light of the large capacity, substantial unused capacity, and export orientation of the industry in Ukraine, we find that revocation of the antidumping duty orders on silicomanganese from Ukraine is not likely to have no discernible adverse impact on the domestic industry in the event of revocation.<sup>101</sup>

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<sup>90</sup> CR/PR at Table IV-11. The production capacity of the silicomanganese producers in Ukraine rose steadily from 2015 to 2017, increasing approximately \*\*\* percent overall during that period. Calculated from CR/PR at Table IV-11.

<sup>91</sup> CR/PR at Table IV-11. Total exports of silicomanganese from Ukraine were \*\*\* short tons in interim 2017 and \*\*\* short tons in interim 2018. *Id.*

<sup>92</sup> CR at IV-29, PR at IV-19, and CR/PR at Table IV-13.

<sup>93</sup> CR/PR at Table IV-11. Total exports increased between the interim periods, and were \*\*\* short tons in interim 2017 and \*\*\* short tons in interim 2018. *Id.*

<sup>94</sup> CR/PR at Table IV-11. Total exports as a percentage of shipments increased between the interim periods, and were \*\*\* percent in interim 2017 and \*\*\* percent in interim 2018. *Id.*

<sup>95</sup> CR/PR at Table IV-14.

<sup>96</sup> CR at IV-30, PR at IV-19.

<sup>97</sup> CR at V-10 n.10, PR at V-6 n.10.

<sup>98</sup> See Third Five-Year Review, USITC Pub. 4354 at V-5 n.188. Underselling margins ranged from 4.1 to 5.7 percent. *Id.*

<sup>99</sup> See CR at V-10 n.10, PR at V-6 n.10; First Five-Year Reviews, USITC Pub. 3386 at V-4 to V-5.

<sup>100</sup> See CR at V-10 n.10, PR at V-6 n.10; Second Five-Year Reviews, USITC Pub. 3879 at 1, and Third Five-Year Reviews, USITC Pub. 4354 at V-5.

<sup>101</sup> The contention of the Ukrainian producers that the industry in Ukraine lacks sufficient excess capacity to export appreciable volumes of subject merchandise to the United States is not supported by the record. See Ukrainian Producers Prehearing Brief at 3-4 and Ukrainian Producers Posthearing Brief at 5. To the contrary, unused capacity in Ukraine in 2017 equated to \*\*\* percent of apparent U.S. consumption that year. See CR/PR at Tables I-9, IV-11. Ukrainian Producers similarly have not

## E. Likely Reasonable Overlap of Competition

The Commission generally has considered four factors intended to provide a framework for determining whether subject imports compete with each other and with the domestic like product.<sup>102</sup> Only a “reasonable overlap” of competition is required.<sup>103</sup> In five-year reviews, the relevant inquiry is whether there likely would be competition even if none currently exists because the subject imports are absent from the U.S. market.<sup>104</sup>

*Fungibility.* Imported silicomanganese is generally considered to be interchangeable with domestic silicomanganese in most applications.<sup>105</sup> In comparisons of interchangeability among imports of silicomanganese from China and Ukraine and the domestic like product, \*\*\* U.S. producers and the vast majority of U.S. importers and purchasers found silicomanganese from each of these three sources to be either “always” or “frequently” interchangeable.<sup>106</sup> Additionally, a majority of responding purchasers found silicomanganese from China and

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documented their claims that they have long-term relationships with importers that would preclude them from exporting subject merchandise to the United States (which, in any event, would not preclude them from utilizing excess capacity to facilitate such exports). See Hearing Transcript at 160 (Mowry); Ukrainian Producers Prehearing Brief at 3-4, 7; Posthearing Brief, Attachment A at 5; and Final Comments at 8. Moreover, available data indicate both that Ukrainian producers export to a large number of countries worldwide and that there are large annual fluctuations in such exports to specific destinations, such that the producers have shown the ability to redirect shipments in a short time. CR/PR at Table III-14.

<sup>102</sup> The four factors generally considered by the Commission in assessing whether imports compete with each other and with the domestic like product are as follows: (1) the degree of fungibility between subject imports from different countries and between subject imports and the domestic like product, including consideration of specific customer requirements and other quality-related questions; (2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product; (3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and (4) whether subject imports are simultaneously present in the market with one another and the domestic like product. See, e.g., *Wieland Werke, AG v. United States*, 718 F. Supp. 50 (Ct. Int’l Trade 1989).

<sup>103</sup> See *Mukand Ltd. v. United States*, 937 F. Supp. 910, 916 (Ct. Int’l Trade 1996); *Wieland Werke*, 718 F. Supp. at 52 (“Completely overlapping markets are not required.”); *United States Steel Group v. United States*, 873 F. Supp. 673, 685 (Ct. Int’l Trade 1994), *aff’d*, 96 F.3d 1352 (Fed. Cir. 1996). We note, however, that there have been investigations where the Commission has found an insufficient overlap in competition and has declined to cumulate subject imports. See, e.g., *Live Cattle from Canada and Mexico*, Inv. Nos. 701-TA-386 and 731-TA-812-13 (Preliminary), USITC Pub. 3155 at 15 (Feb. 1999), *aff’d sub nom, Ranchers-Cattlemen Action Legal Foundation v. United States*, 74 F. Supp. 2d 1353 (Ct. Int’l Trade 1999); *Static Random Access Memory Semiconductors from the Republic of Korea and Taiwan*, Inv. Nos. 731-TA-761-62 (Final), USITC Pub. 3098 at 13-15 (Apr. 1998).

<sup>104</sup> See generally, *Cheflin Corp. v. United States*, 219 F. Supp. 2d 1313, 1314 (Ct. Int’l Trade 2002).

<sup>105</sup> CR at II-20, PR at II-14.

<sup>106</sup> CR/PR at Table II-10.

Ukraine to be comparable with each other and with the domestic like product with respect to all product characteristics.<sup>107</sup>

There may be some limitation to interchangeability due to the chemical composition of the material. In the prior proceedings, the Commission found that while the use of silicomanganese from Ukraine could be limited for certain applications due to a higher level of phosphorous, it was considered substitutable in certain applications, such as static structural steel products.<sup>108</sup> It further found that producers and purchasers are able to blend high-phosphorous silicomanganese with standard silicomanganese to produce a silicomanganese with lower phosphorous content.<sup>109</sup>

There is no information in the record of the present reviews indicating that the phosphorous content contained in silicomanganese from Ukraine has changed since the prior proceedings or that the fungibility of silicomanganese from all sources has changed.<sup>110</sup> The information provided by the responding Ukrainian producers indicates that an appreciable share of their 2017 shipments (\*\*\*) percent) were classified as ASTM A483 grade B.<sup>111</sup> This is the same grade of silicomanganese produced by the domestic industry.<sup>112</sup> The Ukrainian industry's production of ASTM B grade silicomanganese totaled \*\*\* short tons in 2017, equivalent to \*\*\* percent of apparent U.S. consumption in that year.<sup>113</sup> Despite the Ukrainian producers' contention that it is difficult to procure the manganese ore necessary to produce grade B silicomanganese, production of grade B silicomanganese in Ukraine increased by \*\*\* percent between 2015 and 2017.<sup>114</sup> Moreover, importers reported that \*\*\* percent of their shipments in 2017 were of high phosphorus silicomanganese.<sup>115</sup>

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<sup>107</sup> CR/PR at Table II-9.

<sup>108</sup> First Five-Year Reviews, USITC Pub. 3386 at 9; Second Five-Year Reviews, USITC Pub. 3879 at 11; and Third Five-Year Reviews, USITC Pub. 4354 at 15.

<sup>109</sup> First Five-Year Reviews, USITC Pub. 3386 at 9; Second Five-Year Reviews, USITC Pub. 3879 at 11; and Third Five-Year Reviews, USITC Pub. 4354 at 15.

<sup>110</sup> In light of this, we do not give credence to Ukrainian producers' arguments that we should accord little probative weight to purchasers' perceptions given their likely lack of familiarity with subject imports from Ukraine in the U.S. market during the current review period. See Ukrainian Producers Prehearing Brief at 6 and Posthearing Brief at 2, 8-9.

<sup>111</sup> CR at IV-25, PR at IV-19.

<sup>112</sup> CR/PR at Table IV-5. Although the largest percentage of U.S. shipments of nonsubject imports were also grade B, the second largest percentage of U.S. shipments was of high phosphorous silicomanganese. *Id.*

<sup>113</sup> CR/PR at Table IV-12 and Table C-1.

<sup>114</sup> Ukrainian Producers Prehearing Brief at 7-8 and Posthearing Brief, Attachment A at 7-8; CR/PR at Table IV-12.

<sup>115</sup> CR at IV-9, PR at IV-8. Eramet reported that \*\*\* U.S. purchasers accounting for at least 30 percent of steelmakers' consumption used high phosphorus silicomanganese (\*\*\*). CR at II-15, PR at II-10; see also Hearing Transcript at 41-45 (Rochussen); Eramet Posthearing Brief at Exhibit F (request for quotations from \*\*\* indicating high phosphorus tolerance range for purchases within same ranges as Ukrainian export certifications) and Exhibit C (Summary of Ukraine's Exports by Phosphorus Content). These data tend to rebut Ukrainian producers' assertion that the high phosphorous product cannot or will not be acquired by U.S. purchasers.

*Common or Similar Channels of Distribution.* During each year of the period of review, the vast majority of domestic producers' U.S. shipments of silicomanganese were sold directly to steel producers.<sup>116</sup> Importers provided limited channels of distribution data for subject imports from the subject countries<sup>117</sup> and sold nonsubject imports primarily to steel producers, with sales peaking at \*\*\* percent in 2017.<sup>118</sup>

*Geographic Overlap.* The domestic like product is sold in every geographical market of the contiguous United States.<sup>119</sup> One responding importer reported that the small volume of imports from China present during the current review period was sold in the Northeast United States.<sup>120</sup>

*Simultaneous Market Presence.* The domestic like product has been present in the U.S. market throughout the period of review. Imports of silicomanganese from China and Ukraine were each reported for only one of 42 months during the current review period.<sup>121</sup>

*Conclusion.* The information in the record supports a finding that subject imports from China and Ukraine are fungible with the domestic like product and each other. Given our finding that imports from each subject country will enter the United States upon revocation in sufficient quantities to satisfy the discernible adverse impact standard, these imports would likely be predominantly sold to end users, be available in multiple U.S. regions, and be simultaneously present in the U.S. market as they were prior to imposition of the orders.<sup>122</sup> In light of the foregoing, we find that there likely would be a reasonable overlap of competition between the domestic like product and imports from each subject country and between imports from each subject country upon revocation.

## **F. Likely Conditions of Competition<sup>123</sup>**

We next consider whether subject imports of silicomanganese from China and Ukraine are likely to compete under different conditions of competition in the U.S. market. There are a number of similarities between the silicomanganese industries in China and Ukraine. The

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<sup>116</sup> CR/PR at Table II-1. The percentage of U.S. producers' U.S. shipments to steel producers was \*\*\* percent in 2015, \*\*\* percent in 2016, \*\*\* percent in 2017, and was \*\*\* percent in January-June ("interim") 2017 and \*\*\* percent in interim 2018. *Id.*

<sup>117</sup> See CR/PR at Table II-1. Importers reported that \*\*\* percent of subject imports from China in 2015 were sold to steel producers. There was no data reported by importers for the subject imports from Ukraine sold in 2015. *Id.*

<sup>118</sup> CR/PR at Table II-1.

<sup>119</sup> CR/PR at Table II-2.

<sup>120</sup> CR at II-3, PR at II-2, and CR/PR at Table II-2.

<sup>121</sup> CR at IV-11 and n.13, PR at IV-10 and n.13.

<sup>122</sup> See *generally* Original Investigations, USITC Pub. 2836 at I-12 to I-14 (Commissioners Newquist and Rohr), I-73 to I-75 (Commissioner Nuzum).

<sup>123</sup> Commissioner Broadbent does not join this section of the opinion. She finds that subject imports from China and Ukraine would likely compete under different conditions of competition in the U.S. market if the orders were revoked. Consequently, she does not exercise her discretion to cumulate subject imports from China with subject imports from Ukraine. See Separate and Dissenting Views of Commissioner Meredith M. Broadbent.

industries in both countries have substantial capacity and excess capacity, with the industries in China and Ukraine respectively being the largest and third-largest global producers of silicomanganese.<sup>124</sup> Each subject industry also had increasing exports of silicomanganese during the latter portion of the period of review.<sup>125</sup> We also note some differences, mainly the Chinese industry's much lower level of exports to all markets, and the fact that, unlike Ukraine, the record does not show that imports from China are subject to trade measures in third countries.<sup>126</sup>

Overall, we find the similarities in the conditions affecting imports from the two countries to outweigh the differences, especially given the moderate-to-high degree of substitutability of silicomanganese regardless of source<sup>127</sup> and the importance of price in purchasing decisions.<sup>128</sup> Accordingly, we find that silicomanganese from China and Ukraine likely would compete in the U.S. market under similar conditions of competition in the event of revocation of the orders.<sup>129</sup> Given our findings above, we determine to exercise our discretion to cumulate subject imports of silicomanganese from China and Ukraine.

#### **IV. Revocation of the Antidumping Duty Orders Would Likely to Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time**

##### **A. Legal Standards**

In a five-year review conducted under section 751(c) of the Tariff 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 material injury within a reasonably foreseeable time.”<sup>130</sup> The 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

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<sup>124</sup> CR at IV-32 to IV-33, PR at IV-22, and CR/PR at Table IV-15.

<sup>125</sup> See CR/PR at Tables IV-8, IV-14.

<sup>126</sup> CR at IV-32, PR at IV-22. As noted above, the Chinese government imposes a 20 percent *ad valorem* tax on exports of silicomanganese. See footnote 79 *supra*, and CR IV-17 to IV-18, PR at IV-14.

<sup>127</sup> CR at II-12, PR at II-8.

<sup>128</sup> See CR/PR at Table II-6.

<sup>129</sup> The Ukrainian producers contend that their likely participation in the U.S. market will be minimal, unlike the subject producers in China, because the Ukrainian industry has little excess capacity and devotes its production efforts to servicing home market and long-term export customers in Europe and Asia. See, e.g., Hearing Transcript at 160 (Mowry); Ukrainian Producers Prehearing Brief at 3-4, 7, Posthearing Brief, Attachment A at 5; and Final Comments at 8. As discussed in section III.A.2. above, these assertions lack support in the record; to the contrary, the data indicate that Ukrainian producers have substantial unused capacity and export to a large number of markets across the globe in quantities that vary from year-to-year. See CR/PR at Tables IV-14 and C-2.

<sup>130</sup> 19 U.S.C. § 1675a(a).

elimination of its restraining effects on volumes and prices of imports.”<sup>131</sup> Thus, the likelihood standard is prospective in nature.<sup>132</sup> 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.<sup>133</sup>

The statute 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.”<sup>134</sup> 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.”<sup>135</sup>

Although the standard in a five-year review is not the same as the standard applied in an original 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.”<sup>136</sup> 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 an order is revoked or a suspension agreement is terminated, and any findings by Commerce

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<sup>131</sup> SAA at 883-84. 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.

<sup>132</sup> 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.

<sup>133</sup> 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*, 26 CIT 1059, 1070 (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’”).

<sup>134</sup> 19 U.S.C. § 1675a(a)(5).

<sup>135</sup> 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.*

<sup>136</sup> 19 U.S.C. § 1675a(a)(1).

regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).<sup>137</sup> The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission's determination.<sup>138</sup>

In evaluating the likely volume of imports of subject merchandise if an order under review is revoked and/or a suspended investigation is terminated, 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.<sup>139</sup> 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.<sup>140</sup>

In evaluating the likely price effects of subject imports if an order under review is revoked and/or a suspended investigation is terminated, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared 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.<sup>141</sup>

In evaluating the likely impact of imports of subject merchandise if an order under review is revoked and/or a suspended investigation is terminated, 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.<sup>142</sup> 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

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<sup>137</sup> 19 U.S.C. § 1675a(a)(1). Commerce has not made any duty absorption findings with respect to the antidumping duty orders under review. CR at I-17 n.48, PR at I-11 n.48.

<sup>138</sup> 19 U.S.C. § 1675a(a)(5). Although the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

<sup>139</sup> 19 U.S.C. § 1675a(a)(2).

<sup>140</sup> 19 U.S.C. § 1675a(a)(2)(A-D).

<sup>141</sup> 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.

<sup>142</sup> 19 U.S.C. § 1675a(a)(4).

which any improvement in the state of the domestic industry is related to the orders under review and whether the industry is vulnerable to material injury upon revocation.<sup>143</sup>

## **B. Conditions of Competition and the Business Cycle**

In evaluating the likely impact of the subject imports on the domestic industry if an order is revoked, 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.”<sup>144</sup>

### **1. Original Investigations and Prior Five-Year Reviews**

In the original investigations and prior reviews, the Commission identified several conditions of competition pertinent to the domestic silicomanganese industry. These included the fact that the U.S. market for silicomanganese was highly competitive, demand for silicomanganese was largely derived from demand from steelmakers and producers of ferrous castings, particularly in the production of long products by minimills, and that, consequently,

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<sup>143</sup> 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; 19 U.S.C. § 1675(a)(4). Section 752(a)(6) of the Tariff 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).

The Ukrainian government claims that the margins likely to prevail as determined by Commerce in its sunset review were the same margins Commerce calculated in the original investigation using a non-market economy methodology. It questions the validity of the likely margins as Ukraine has been accorded market economy status since the original investigation. Ukrainian Government Prehearing Brief at 3-4 and Posthearing Brief at 4-5, 6-7. These arguments are not properly addressed to the Commission because the statute requires the Commission, should it consider the magnitude of the likely dumping margin, to use the margin(s) Commerce has determined in its sunset review. 19 U.S.C. § 1677(35)(C); see 19 U.S.C. § 1675a(a)(6); see *Issues and Decision Memorandum for the Final Results of the Expedited Sunset Review of the Antidumping Duty Orders on Silicomanganese from the Peoples Republic of China and Ukraine*, DOC Doc. 3669185-01, dated February 2, 2018, at 2. Moreover, we note that silicomanganese exports from Ukraine are subject to antidumping duty measures in third countries that were imposed after Ukraine was granted market economy status. See CR at IV-32, PR at IV-22 (measures imposed by Eurasian Economics Commission and Korea). Notably, exports of silicomanganese from Ukraine to these countries declined substantially after imposition of the orders. See Eramet Posthearing Brief, Exhibit E.

<sup>144</sup> 19 U.S.C. § 1675a(a)(4).

demand was cyclically tied to conditions in the U.S. and global steel industries.<sup>145</sup> The Commission also found that domestic capacity was small relative to demand and that imports were therefore required to meet domestic demand.<sup>146</sup>

The Commission found in the original investigations and first reviews that silicomanganese was a commodity product made to common industry standards, and that once a producer has qualified multiple suppliers, price takes on central importance to purchasing decisions.<sup>147</sup> Although silicomanganese can be produced with some variations in chemistry, the Commission found that silicomanganese consumed in the United States was largely grade B, and silicomanganese with variations in chemistry other than those specified by the ASTM standards was still viewed in the market as silicomanganese.<sup>148</sup> In both the original investigations and first reviews, the Commission also found that silicomanganese producers were able, at least to a limited extent, to produce other products, particularly ferromanganese, in their silicomanganese furnaces.<sup>149</sup>

In the second reviews, the Commission found that there was no indication that there had been any significant changes in the conditions of competition since the first reviews. Specifically, there was no indication that the domestic like product and subject imports were no longer highly substitutable or that silicomanganese was no longer sold primarily on the basis of price.<sup>150</sup>

In the third reviews, the Commission found that the U.S. market was characterized by a limited number of purchasers with the majority of shipments sold directly to end users. It found that apparent U.S. consumption fluctuated but increased overall during the period of review.<sup>151</sup> With respect to supply conditions, the Commission found the U.S. market to be characterized by a small number of U.S. producers and that Felman Production entered the market as a new domestic producer. The Commission found that a majority of supply was provided by nonsubject imports and there were virtually no subject imports during the period.<sup>152</sup> With respect to other likely conditions of competition, the Commission found that silicomanganese was a commodity product made to common industry standards.<sup>153</sup> The record also indicated that price was an important factor for purchasing decisions and producers and

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<sup>145</sup> First Five-Year Reviews, USITC Pub. 3386 at I-14; Third Five-Year Reviews, USITC Pub. 4354 at 23.

<sup>146</sup> Original Investigations, USITC Pub. 2836 at I-25; First Five-Year Reviews, USITC Pub. 3386 at 14; Second Five-Year Reviews, USITC Pub. 3879 at 16; Third Five-Year Reviews, USITC Pub. 4354 at 20-21.

<sup>147</sup> Original Investigations, USITC Pub. 2836 at I-6-I-7 (Commissioners Rohr and Newquist) and I-21-I-22, I-26 (Commissioners Watson, Nuzum, Crawford, and Bragg); First Five-Year Reviews, USITC Pub. 3386 at 14.

<sup>148</sup> First Five-Year Reviews, USITC Pub. 3386 at I-14. The U.S. market at the time of the first reviews was served by silicomanganese suppliers from at least 20 countries.

<sup>149</sup> Original Investigations, USITC Pub. 2836 at I-26; First Five-Year Reviews, USITC Pub. 3386 at 15.

<sup>150</sup> Second Five-Year Reviews, USITC Pub. 3879 at 15.

<sup>151</sup> Third Five-Year Reviews, USITC Pub. 4354 at 23.

<sup>152</sup> Third Five-Year Reviews, USITC Pub. 4354 at 24.

<sup>153</sup> Third Five-Year Reviews, USITC Pub. 4354 at 24.

purchasers had access to current price information. Finally, silicomanganese producers were able to produce other products, particularly ferromanganese, using their silicomanganese furnaces.<sup>154</sup>

## 2. The Current Five-Year Reviews

The following conditions inform our determinations.

*Demand Conditions.* Silicomanganese is primarily consumed by electric arc furnaces in the production of long-rolled products, including bars and structural shapes.<sup>155</sup> Demand for silicomanganese is derived from demand for downstream steel products, specifically for long products used in the construction industry, such as concrete reinforcing bar and rod (“rebar”).<sup>156</sup> A majority of market participants reported that U.S. demand for silicomanganese had increased or fluctuated since 2012.<sup>157</sup> A majority of market participants also reported that future demand in the United States would likely fluctuate.<sup>158</sup>

Apparent U.S. consumption of silicomanganese declined from \*\*\* short tons in 2015 to \*\*\* short tons in 2016, and then increased to \*\*\* short tons in 2017.<sup>159</sup> Apparent U.S. consumption of silicomanganese was \*\*\* percent higher in 2017 than in 2015.<sup>160</sup> Public data indicate that global consumption of silicomanganese fluctuated between 2013 and 2016, but increased from 13.0 million short tons in 2015 to 14.0 million short tons in 2016.<sup>161</sup>

*Supply Conditions.* Nonsubject imports supplied the largest share of the U.S. silicomanganese market, followed by the domestic industry. There were virtually no subject imports during the period of review.<sup>162</sup>

In these reviews, nonsubject imports’ share of apparent U.S. consumption was \*\*\* percent in 2015, \*\*\* percent in 2016, and \*\*\* percent in 2017. It was \*\*\* percent in interim 2017 and \*\*\* percent in interim 2018.<sup>163</sup> The largest nonsubject sources of silicomanganese during the period of review were South Africa, Georgia, and Australia.<sup>164</sup> U.S. imports of

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<sup>154</sup> Third Five-Year Reviews, USITC Pub. 4354 at 25.

<sup>155</sup> CR at I-22, PR at I-16 to I-17.

<sup>156</sup> CR at II-8 to II-9, PR at II-5 to II-6. Total U.S. shipments of rebar, a product that can be produced using high-phosphorus silicomanganese, increased overall by \*\*\* percent between January 2013 and July 2018. CR at II-10, PR at II-7, and CR/PR at Figure II-2.

<sup>157</sup> CR/PR at Table II-4.

<sup>158</sup> CR/PR at Table II-4.

<sup>159</sup> CR/PR at Table III-9. Apparent U.S. consumption was \*\*\* short tons in interim 2017 and higher, at \*\*\* short tons, in interim 2018. *Id.*

<sup>160</sup> CR/PR at Table C-1.

<sup>161</sup> CR/PR at Table IV-15.

<sup>162</sup> CR/PR at Table I-8.

<sup>163</sup> CR/PR at Table I-9.

<sup>164</sup> CR at II-7, PR at II-5, and CR/PR at Table IV-2. U.S. imports of silicomanganese from Georgia were “high grade” silicomanganese with a higher content of manganese and a higher phosphorus content of 0.20-0.35 percent than standard silicomanganese. CR at I-23, IV-39, PR at I-17, IV-27; Hearing Transcript at 43 (Levy).

silicomanganese from India, Kazakhstan, and Venezuela are currently subject to antidumping duty orders.<sup>165</sup>

As previously discussed, the domestic industry consists of two producers, Eramet and Felman Production.<sup>166</sup> Felman Production's capacity is expected to double by 2019 after it restarted one of its furnaces in August 2018.<sup>167</sup> The domestic industry's market share decreased over the period of review, from \*\*\* percent in 2015 to \*\*\* percent in 2017.<sup>168</sup>

*Substitutability and Other Conditions.* We find that domestically produced silicomanganese and subject imports from China and Ukraine are moderately to highly substitutable.<sup>169</sup> Silicomanganese is made to common industry standards.<sup>170</sup> Subject imports from each source and the domestic like product generally were considered interchangeable in most applications.<sup>171</sup> Although silicomanganese may be produced with some variations in chemical composition, most product consumed in the United States during the period conforms to the specification for ASTM A483 Grade B.<sup>172</sup>

We also find that price is a key factor in purchasing decisions for silicomanganese. Nearly all reporting purchasers of silicomanganese reported that price was a very important factor in their purchasing decisions; availability, quality, and reliability of supply were also important factors.<sup>173</sup> A majority of purchasers reported that they usually purchase the lowest-priced silicomanganese.<sup>174</sup>

Silicomanganese producers and purchasers also have access to current price information through industry publications such as *American Metal Market*, *Platt's Metals Week*, and *CRU Ryan's Notes*, which reportedly disseminate the spot market pricing information and are used to set prices in many of the contracts. As a result, prices reported in the spot market can be reflected in prices in the contract market.<sup>175</sup> Additionally, contract prices are indexed to raw material prices, including for manganese ore.<sup>176</sup>

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<sup>165</sup> CR at I-6, PR at I-4 to I-5.

<sup>166</sup> CR at I-29, PR at I-27, and CR/PR at III-1.

<sup>167</sup> CR/PR at Table III-8 notes.

<sup>168</sup> CR/PR at Table I-9. The domestic industry's share of apparent U.S. consumption was \*\*\* percent in 2015, \*\*\* percent in 2016, \*\*\* percent in 2017, \*\*\* percent in interim 2017, and \*\*\* percent in interim 2018. *Id.*

<sup>169</sup> CR at II-12, PR at II-8.

<sup>170</sup> CR at I-21, PR at I-16.

<sup>171</sup> CR at II-20, PR at II-14, and CR/PR at Table II-10.

<sup>172</sup> CR at I-21, PR at I-16. There are also significant shipments of silicomanganese with high phosphorus content in the U.S. market. See CR/PR at Table IV-5.

<sup>173</sup> CR/PR at Table II-7.

<sup>174</sup> CR at II-13, PR at II-9.

<sup>175</sup> CR at V-3 to V-4, PR at V-3.

<sup>176</sup> CR at V-6, PR at V-4.

Additional imports duties on silicomanganese from China were imposed in September 2018 pursuant to Section 301 of the Trade Act.<sup>177 178</sup> As the duties were imposed late in the period of review and after the period for which the Commission collected data, it is too soon to determine whether they have affected the Chinese industry's incentive to export silicomanganese to the United States. Finally, market participants indicated that tariffs imposed on certain steel products under Section 232 of the Trade Expansion Act did not affect conditions of competition for silicomanganese.<sup>179</sup>

## C. Likely Volume of Subject Imports

### 1. The Original Investigations and Prior Reviews

In the original investigations, the Commissioners considered the subject imports' ability to increase their presence in the U.S. market in absolute and relative terms.<sup>180</sup> In the first reviews, the Commission found that the antidumping duty orders and the suspension agreement on silicomanganese from Ukraine had a restraining effect on subject import volumes, which dropped from 168,000 short tons in 1993 to 9,000 short tons in 1999.<sup>181</sup> The volume of subject imports remained very low during the second reviews.<sup>182</sup>

In the first and second reviews, the Commission concluded that the subject producers' ability to increase substantially their shipments to the United States, their continued production and exportation of substantial quantities of silicomanganese, their apparent substantial capacity, and their export orientation, as well as the rapid increase in subject imports to the United States in the original investigations, indicated that they were likely to increase exports

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<sup>177</sup> Effective September 24, 2018, imports of silicomanganese from China are subject to an additional duty of 10 percent pursuant to duties imposed under section 301 of the Trade Act of 1974, as amended (19 U.S.C. § 2411). These section 301 duties could be raised to 25 percent as of January 1, 2019. *See Notice of Modification of Section 301 Action: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 83 Fed. Reg. 47974, 48153 (Sept. 21, 2018); CR at II-7, PR at II-5.

<sup>178</sup> Commissioner Broadbent does not join the remainder of these Views. She writes separately regarding the likelihood of continuation or recurrence of material injury. *See Separate and Dissenting Views of Commissioner Meredith M. Broadbent.*

<sup>179</sup> On March 8, 2018, the President issued Presidential Proclamation 9705, entitled "Adjusting Imports of Steel into the United States," exercising his authority under Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. § 1862), to impose 25 percent *ad valorem* duties on all steel mill products from all countries except Canada and Mexico effective March 23, 2018. The vast majority of reporting U.S. producers, importers and purchasers stated that neither the section 232 investigation nor the issuance of the proclamations affected the conditions of competition for silicomanganese in the production of steel. CR at II-17, PR at II-11; *see, e.g., \*\*\*.*

<sup>180</sup> Original Investigations, USITC Pub 2836, Views of Commissioners Rohr and Newquist at 20-21; Views of Chairman Watson and Commissioners Crawford and Bragg at 11-12; and Additional and Dissenting Views of Chairman Nuzum at 24-27.

<sup>181</sup> First Five-Year Reviews, USITC Pub. 3386 at 15.

<sup>182</sup> Second Five-Year Reviews, USITC Pub. 3879 at 16.

to the United States significantly upon revocation of the antidumping duty orders.<sup>183</sup> Accordingly, the Commission concluded that the likely volume of the subject merchandise, both in absolute terms and relative to consumption and production in the United States, would be significant absent the restraining effect of the orders.<sup>184</sup>

In the third reviews, cumulated subject imports from China and Ukraine continued to be minimal.<sup>185</sup> The Commission found that subject imports from China and Ukraine were likely to return to the U.S. market and that the likely cumulated volume of such imports would be significant if the orders were revoked. It emphasized that subject producers in China and Ukraine had massive and increasing silicomanganese production capacity and combined excess capacity, which dwarfed both U.S. production and apparent U.S. consumption. Additionally, these producers exported large quantities of silicomanganese. Although combined exports in absolute terms and as a share of Chinese and Ukrainian production declined over the period of review, the combined volume of exports in 2011 was almost double apparent U.S. consumption that year.<sup>186</sup>

The Commission found that China was the world's largest producer of silicomanganese, its share of global production had increased, and the capacity of the industry in China almost doubled while capacity utilization declined.<sup>187</sup> The Commission also found that the responding Ukrainian producers reported a significant increase in their capacity from 2006 to 2011 and possessed significant excess capacity in 2011.<sup>188</sup>

The Commission found that subject producers in China and Ukraine had the incentive to use their excess capacity to increase exports to the United States after revocation, given their significant degree of export orientation, the size of the U.S. market, and the higher prices available in the U.S. market.<sup>189</sup> It observed that, during the period of review, silicomanganese exports from the subject countries were subject to antidumping orders in other markets, which provided an additional incentive to direct export shipments to the United States.<sup>190</sup>

## **2. The Current Five-Year Reviews**

The record indicates that subject producers of silicomanganese in China and Ukraine have the means and the incentive to export subject merchandise to the U.S. market in significant volumes within a reasonably foreseeable time if the antidumping duty orders were revoked. The subject industries in China and Ukraine have substantial production capacity and

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<sup>183</sup> First Five-Year Reviews, USITC Pub. 3386 at 15-18; Second Five-Year Reviews, USITC Pub. 3879 at 16-17.

<sup>184</sup> First Five-Year Reviews, USITC Pub. 3386 at 18; Second Five-Year Reviews, USITC Pub. 3879 at 17.

<sup>185</sup> Third Five-Year Reviews, USITC Pub. 4534 at 25.

<sup>186</sup> Third Five-Year Reviews, USITC Pub. 4354 at 26.

<sup>187</sup> Third Five-Year Reviews, USITC Pub. 4354 at 26.

<sup>188</sup> Third Five-Year Reviews, USITC Pub. 4354 at 27.

<sup>189</sup> Third Five-Year Reviews, USITC Pub. 4354 at 27.

<sup>190</sup> Third Five-Year Reviews, USITC Pub. 4354 at 28.

unused capacity, and the record indicates that, on a cumulated basis, the subject industries are export oriented. The United States remains an important and attractive export market for silicomanganese.

At the end of the original period of investigation, the volume and market share of cumulated subject imports fell dramatically as a result of the imposition of trade remedies and have continued to remain at extremely low levels during the periods examined in prior reviews.<sup>191</sup> During the current period of review, the only subject imports were \*\*\* short tons imported from China and \*\*\* short tons imported from Ukraine in 2015.<sup>192</sup> We find the continued limited presence of cumulated subject imports in the U.S. market during the period of review is a function of the discipline of the orders.

As discussed above, the Commission received questionnaire responses from foreign producers in Ukraine, but no foreign producers in China responded to the Commission's questionnaires. While the lack of participation by producers in China has prevented the Commission from assembling a single consistent set of capacity and production data for subject silicomanganese producers in China and Ukraine, the record contains published data concerning the industry in China to supplement the available foreign producer questionnaire data from subject producers in Ukraine in assessing subject producer capacity, production, capacity utilization, and shipment patterns.

The information available in these reviews indicates that the silicomanganese industries in China and Ukraine, on a cumulated basis, have significant production capacity, considerable unused capacity, and have exported substantial volumes of silicomanganese. China is by far the world's largest producer of silicomanganese.<sup>193</sup> Ukraine is the world's third-largest producer.<sup>194</sup>

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<sup>191</sup> See CR/PR at Table C-2.

<sup>192</sup> CR/PR at Table IV-1.

<sup>193</sup> Although China's share of global silicomanganese production decreased from 59.3 percent in 2011 to 56.0 percent in 2015, it accounted for more than 50 percent of global production over that period. Calculated from CR/PR at Table IV-15. China's silicomanganese capacity increased from \*\*\* short tons in 2015 to \*\*\* short tons in 2017, and its production also increased from \*\*\* short tons in 2015 to \*\*\* short tons in 2017. CR/PR at Table IV-6. Because production outpaced increases in capacity, capacity utilization increased over the period from \*\*\* percent in 2015 to \*\*\* percent in 2017. *Id.* Chinese exports to all markets increased from 1,718 short tons in 2015 to 7,382 short tons in 2017. CR/PR at Table IV-8.

<sup>194</sup> CR/PR at Table IV-15. The capacity and production of the silicomanganese industry in Ukraine increased steadily over the period of review. CR/PR at Table IV-11. Ukrainian production capacity increased from \*\*\* short tons in 2015 to \*\*\* short tons in 2016 and to \*\*\* short tons in 2017, and was \*\*\* short tons in interim 2017 and \*\*\* short tons in interim 2018. Production increased from \*\*\* short tons in 2015 to \*\*\* short tons in 2016 and to \*\*\* short tons in 2017, and was \*\*\* short tons in interim 2017 and \*\*\* short tons in 2018. *Id.* Moreover, the percentage of shipments exported also increased over the period of review. CR/PR at Table IV-11 (Exports reported by GTA are somewhat larger for 2015 and 2017 than the direct exports reported by subject producers in Ukraine. This difference may be attributable to shipments made by subject producers to traders in Ukraine that in turn exported the silicomanganese after the initial sale). The volume of exports in absolute terms increased steadily over the period of review and was substantially larger than apparent U.S. consumption throughout the period. CR/PR at Table IV-11. The Ukrainian industry's export shipments were \*\*\* short tons in 2015,

Production capacity in the subject countries also increased over the period of review. Combined production capacity for China and Ukraine increased from \*\*\* short tons in 2015 to \*\*\* short tons in 2016 and to \*\*\* short tons in 2017.<sup>195</sup> Production generally kept pace with increases in capacity, resulting in a slight increase in capacity utilization by the end of the period of review. Combined production for China and Ukraine increased from \*\*\* short tons in 2015 to \*\*\* short tons in 2016 and to \*\*\* short tons in 2017;<sup>196</sup> combined production for China and Ukraine accounted for \*\*\* percent of global silicomanganese production in 2015.<sup>197</sup> Therefore, combined excess capacity for China and Ukraine was \*\*\* short tons in 2015 to \*\*\* short tons in 2016 and \*\*\* short tons in 2017.<sup>198</sup> By comparison, apparent U.S. consumption of silicomanganese in 2017 was \*\*\* short tons and U.S. production was \*\*\* short tons.<sup>199</sup> Consequently, available excess capacity in the subject countries far exceeds demand levels in the U.S. market.

Not only do the cumulated subject industries have substantial excess capacity, they also export substantial volumes of silicomanganese. Cumulated exports from the subject countries increased in absolute terms over the period of review and reached \*\*\* short tons in 2017, which was \*\*\* apparent U.S. consumption for that year.<sup>200</sup>

Prices in the U.S. market are higher than prices in other markets, providing a further incentive for subject producers to increase production or to divert exports currently shipped to other markets to the U.S. market if the orders were revoked.<sup>201</sup>

Silicomanganese exports from Ukraine have been subject to antidumping duty orders and related trade measures in other markets during the period of review.<sup>202</sup> These measures provide another incentive for subject producers to direct export shipments to the U.S. market in the event of revocation of the orders.<sup>203</sup>

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\*\*\* short tons in 2016, \*\*\* short tons in 2017, and were \*\*\* short tons in interim 2017 and \*\*\* short tons in interim 2018. *Id.*

<sup>195</sup> Calculated from CR/PR at Tables IV-6 and IV-11.

<sup>196</sup> Calculated from CR/PR at Tables IV-6 and IV-11.

<sup>197</sup> Calculated from CR/PR at Table IV-15 (2015 is the most recent year for which global production data were available). Furthermore, \*\*\*. CR at IV-14, PR at IV-11.

<sup>198</sup> Calculated from CR/PR at Tables IV-6 and IV-11.

<sup>199</sup> CR/PR at Table C-1.

<sup>200</sup> CR at IV-12, PR at IV-10, and CR/PR at Table C-1. Subject exports from Ukraine as a share of production increased over the period and was \*\*\* percent in 2015, \*\*\* percent in 2016, and \*\*\* in 2017, thus demonstrating a heavy reliance on exports by the Ukrainian producers. The share was \*\*\* percent in interim 2017 and \*\*\* percent in 2018. CR/PR at Table IV-11.

We have previously rebutted Ukrainian producers' contentions that they lack any incentive to export subject merchandise to the United States. In section IV.D.2., we reject their argument that they lack the capacity to increased exports to the United States. In section IV.E., we reject their argument that the high-phosphorus nature of the product they produce could not be used by purchasers in the U.S. market.

<sup>201</sup> CR at IV-37 and n.49, V-4, PR at IV-26 and n.49, V-3, and CR/PR at Figure V-3.

<sup>202</sup> CR at IV-32 and n.44, PR at IV-22 and n.44.

<sup>203</sup> We have also examined inventories of subject merchandise. The available information is limited to silicomanganese inventories in Ukraine. Data indicates that inventory levels were at generally stable levels during the period of review. CR/PR at Table IV-12. Ukrainian producers report that

We find that, in the event of revocation, subject producers in China and Ukraine are likely to direct additional exports to the U.S. market in light of their excess capacity, export orientation, and the relative attractiveness of the high-priced U.S. market. Moreover, the subject industries in both China and Ukraine demonstrated in the original investigations the ability to increase exports to the United States substantially in a short period of time. We consequently conclude that the cumulated subject import volume likely would be significant, both in absolute terms and relative to U.S. consumption, upon revocation of the antidumping duty orders.

## **D. Likely Price Effects of Subject Imports**

### **1. Original Investigations and Prior Five-Year Reviews**

During the original investigations, the Commission found that the domestic like product and subject imports were highly fungible. Prices for the domestic like product and subject imports declined over most of the period examined. The evidence showed a mixed pattern of overselling and underselling by the subject imports, with data obtained by the Commission indicating 21 instances of underselling and 19 instances of overselling by the imports with respect to contract prices, and eight instances of underselling and five instances of overselling on the spot market.<sup>204</sup>

The record in the first and second reviews contained limited data on prices of subject imports in the U.S. market. The Commission found, in light of the already high degree of price-based competition in the U.S. market and the inelasticity of demand for silicomanganese, that subject producers would likely expand their U.S. market share by underselling prevailing domestic prices.<sup>205</sup> Thus, the Commission found that the subject imports from Brazil, China, and Ukraine would likely enter the United States at prices that would significantly depress or suppress prices for the domestic like product if the orders were revoked.<sup>206</sup>

In the third reviews, pricing comparisons were unavailable because of the absence of subject imports from China or Ukraine in the U.S. market. Over the period of review, prices for

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inventories of silicomanganese were \*\*\* short ton in 2015, \*\*\* short tons in 2016, \*\*\* short tons in 2017, \*\*\* short tons in interim 2017, and \*\*\* short tons in interim 2018. Inventories as a ratio to total shipments were \*\*\* percent in 2015, \*\*\* percent in 2016, and \*\*\* percent in 2017, and were \*\*\* percent in interim 2017 and \*\*\* percent in 2018. *Id.*

We have also examined the potential for product shifting. The Ukrainian producers reported manufacturing other products on the same equipment and machinery used to produce silicomanganese, particularly \*\*\*. CR/PR at Tables II-3 and IV-13; *see also* CR/PR at Table IV-7 (showing ferroalloy plants in China that reportedly can produce silicomanganese and other ferroalloy products in the same facilities).

<sup>204</sup> Original Investigations, USITC Pub. 2836, Views of Commissioners Rohr and Newquist at 21; Views of Chairman Watson and Commissioners Crawford and Bragg at 4-7; and Additional and Dissenting Views of Chairman Nuzum at 13-14.

<sup>205</sup> First Five-Year Reviews, USITC Pub. 3386 at 18-19; Second Five-Year Reviews, USITC Pub. 3879 at 17-18.

<sup>206</sup> First Five-Year Reviews, USITC Pub. 3386 at 19; Second Five-Year Reviews, USITC Pub. 3879 at 18.

domestically produced silicomanganese fluctuated between quarters, but generally increased.<sup>207</sup> In light of the high degree of price-based competition in the U.S. market and the relatively price-inelastic demand for silicomanganese, the Commission concluded that cumulated subject imports would be likely to expand their market share by entering the U.S. market at low prices. It also found that any underselling by subject imports might not be significant or persistent due to the rapid way in which price changes were communicated in the U.S. silicomanganese market. Nonetheless, the Commission found that the likely significant volume of cumulated subject imports from China and Ukraine likely entering at low prices in the event of revocation would trigger price declines in the U.S. market and likely have significant depressing or suppressing effects on the price of the domestic like product.<sup>208</sup>

## 2. The Current Reviews

In considering the likely price effects of subject imports from China and Ukraine if the orders were revoked, we refer to our findings above that the cumulated subject imports and the domestic like product are generally interchangeable and that price is an important factor in purchasing decisions. Moreover, the use of widely available pricing information can cause price changes to be disseminated rapidly throughout the market.

The Commission collected pricing data on sales of four products.<sup>209</sup> Two U.S. producers provided usable pricing data, which represented approximately 100 percent of U.S. shipments of domestically produced silicomanganese in 2017.<sup>210</sup> Responding U.S. importers did not provide price data for subject imports because there were virtually no subject imports from China or Ukraine during the period of review.<sup>211</sup> Consequently, there are no price comparison data available for the period of review.<sup>212</sup>

We have found that the likely cumulated volume of subject imports from China and Ukraine would be significant if the orders were revoked. In light of the importance of price in purchasing decisions in the U.S. market and the relatively price-inelastic demand for silicomanganese, cumulated subject imports would be likely to obtain market share by entering the U.S. market at low prices. Due to the rapid manner in which price changes are communicated in the market, any underselling by subject imports may not necessarily be

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<sup>207</sup> Third Five-Year Reviews, USITC Pub. 4354 at 28.

<sup>208</sup> Third Five-Year Reviews, USITC Pub. 4354 at 29.

<sup>209</sup> CR at V-7, PR at V-5. Product 1. – ASTM grade B bulk silicomanganese sold to steel producers under contracts; Product 2. – ASTM grade B bulk silicomanganese sold to distributors under contracts; Product 3. – ASTM grade B bulk silicomanganese sold to steel producers as spot sales; Product 4. – ASTM grade B bulk silicomanganese sold to distributors as spot sales. CR at V-7, PR at V-5, and CR/PR at Table V-3. Products 1 and 2 involved substantial sales quantities and prices were provided for each quarter whereas Products 3 and 4 generally involved lesser quantities and prices were not reported for each quarter. See CR/PR at Table V-3.

<sup>210</sup> CR at V-7, PR at V-5.

<sup>211</sup> CR at IV-2, CR at IV-7, CR at IV-2, PR at IV-5, and CR/PR at Table IV-1.

<sup>212</sup> Over the period of review, prices for domestically produced products 1 and 2 \*\*\*, but generally \*\*\*. Prices for domestically produced product 3 were reported for only quarter. Prices for domestically produced product 4, which were \*\*\*, fluctuated but generally \*\*\*. See CR/PR at Table V-3.

persistent.<sup>213</sup> Nevertheless, the likely significant cumulated volume of subject imports from China and Ukraine likely entering the United States at low prices would require domestic producers to exercise price discipline and likely have significant depressing and suppressing effects on the price of the domestic like product. These price effects are exacerbated in the U.S. market by the fact that the domestic industry ties some of its contracts to the published prices, which reflect the low-price offerings. Consequently, the likely aggressive pricing of the subject imports in the event of revocation likely would affect existing contract prices as well as future sales negotiations.

## **E. Likely Impact of Subject Imports**

### **1. Original Investigations and Prior Reviews**

In the original investigations, the Commission found that, due to falling prices, the domestic industry was unable to operate profitably.<sup>214</sup> In the first reviews, the Commission found that, despite the imposition of the orders and suspension agreement, the domestic industry's financial condition remained weak and that it would be vulnerable to material injury if the orders were revoked and the suspended investigation terminated. Accordingly, the Commission found that the subject imports would be likely to have a significant impact on the domestic industry within a reasonably foreseeable time if the orders were revoked and suspended investigation terminated.<sup>215</sup>

In the second reviews, the Commission found that, given the likely significant increase in volume of subject imports and the resultant intense price competition, the domestic industry would likely experience significant declines in output, sales, and income, with eventual losses in employment, and capital and research and development ("R&D") expenditures similar to those experienced in the years examined during the original investigations.<sup>216</sup> The Commission found that the limited evidence in the record was insufficient to enable it to determine whether the domestic industry producing silicomanganese was vulnerable.<sup>217</sup>

In the third reviews, the Commission recognized that the domestic industry had experienced positive changes that might not have been possible without the protection of the orders. Nevertheless, although there was some improvement in performance in 2011, the industry continued to experience weak financial performance. As a result, the Commission found that the domestic industry was in a vulnerable condition. The Commission reasoned that the domestic industry was particularly susceptible to a loss of sales volume, and that revocation of the orders would likely impede the industry's ability to implement price increases in the

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<sup>213</sup> In the original investigations, subject imports from China and Ukraine, on a cumulated basis, undersold the domestic like product in 12 of 19 comparisons; subject imports from China undersold the domestic like product in 10 of 13 price comparisons and subject imports from Ukraine undersold the domestic like product in 2 of 6 price comparisons. See Third Five-Year Reviews, USITC Pub. 4354 at V-5 n.188 and Original Investigations, USITC Pub. 2836 at I-8, I-83.

<sup>214</sup> Original Investigations, USITC Pub. 2836 at I-28.

<sup>215</sup> First Five-Year Reviews, USITC Pub. 3386 at 20.

<sup>216</sup> Second Five-Year Reviews, USITC Pub. 3879 at 18-19.

<sup>217</sup> Second Five-Year Reviews, USITC Pub. 3879 at 19.

event demand would continue to improve. Consequently, it found that the likely significant volume of low-priced subject imports from China and Ukraine, when combined with the likely adverse price effects of those imports, would likely have a significant impact on the domestic industry's profitability and return on investment, as well as its ability to raise capital and make and maintain necessary capital investments. It found that the likely volume and price effects of the subject imports also would likely have a significant impact on the production, shipments, sales, market share, revenues, and employment of the domestic industry.<sup>218</sup>

In its analysis, the Commission also considered whether there were other factors that likely would affect the domestic industry. The Commission observed that the domestic industry could only supply a relatively small share of U.S. demand during the period of review and nonsubject imports were a significant factor in the U.S. market. It also observed, however, that the quantity and share of nonsubject imports had declined as the domestic industry was able to supply a greater share of apparent U.S. consumption. Without the discipline of the orders, the likely significant volume of cumulated subject imports would adversely impact the domestic industry because of the direct competition between subject imports and domestically produced silicomanganese, even if nonsubject imports maintained their historical levels.<sup>219</sup>

## 2. The Current Reviews

In evaluating the likely impact of cumulated subject imports on the domestic industry, we recognize that the industry has experienced some positive performance that may have not been possible without the protection of the orders. As discussed below, some performance indicators of the domestic industry producing silicomanganese showed some modest improvement over the period of review, but the industry lost market share over the period and exhibited weak financial performance for most of the period.<sup>220</sup> Because the domestic industry's financial performance was poor overall, despite some increases in output and capacity utilization, we find the domestic industry is in a vulnerable condition. Were the orders to be revoked, we find that cumulated subject imports from China and Ukraine would likely have a significant impact on the domestic industry.

The domestic industry's capacity decreased from \*\*\* short tons in 2015 to \*\*\* short tons in 2016, before increasing to \*\*\* short tons in 2017.<sup>221</sup> Its production also decreased from \*\*\* short tons in 2015 to \*\*\* short tons in 2016, before increasing to \*\*\* short tons in 2017.<sup>222</sup> The domestic industry's rate of capacity utilization increased from \*\*\* percent in 2015 to \*\*\* percent in 2016, and to \*\*\* percent in 2017.<sup>223</sup>

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<sup>218</sup> Third Five-Year Reviews, USITC Pub. 4354 at 30.

<sup>219</sup> Third Five-Year Reviews, USITC Pub. 4354 at 31-32.

<sup>220</sup> CR/PR at Table C-1.

<sup>221</sup> CR/PR at Table III-3. The domestic industry's capacity was \*\*\* short tons in interim 2017 and \*\*\* short tons in 2018. *Id.* Domestic producer Felman Production indicated that the \*\*\*. CR at III-4, PR at III-3, and CR/PR at Table III-2.

<sup>222</sup> CR/PR at Table III-3. The domestic industry's production was \*\*\* short tons in interim 2017 and \*\*\* short tons in 2018. *Id.*

<sup>223</sup> CR/PR at Table III-3. The domestic industry's rate of capacity utilization was \*\*\* percent in interim 2017 and \*\*\* percent in 2018. *Id.*

The domestic industry's net commercial sales quantity increased over the period from \*\*\* short tons in 2015 to \*\*\* short tons in 2016, and to \*\*\* short tons in 2017.<sup>224</sup> The domestic industry's U.S. shipments, however, declined over the period from \*\*\* short tons in 2015 to \*\*\* short tons in 2016 and to \*\*\* short tons in 2017.<sup>225</sup> Inventories declined from 2015 to 2017.<sup>226</sup> The domestic industry's share of apparent U.S. consumption increased from \*\*\* percent in 2015 to \*\*\* percent in 2016, and then decreased to \*\*\* percent in 2017, an overall decline of \*\*\* percentage points.<sup>227</sup>

The domestic industry's employment and wages generally declined during the period, although hours worked increased and productivity fluctuated. The domestic industry's employment decreased from \*\*\* production and related workers ("PRWs") in 2015 to \*\*\* PRWs in 2016, before increasing to \*\*\* PRWs in 2017, an overall decrease of \*\*\* percent from 2015 to 2017.<sup>228</sup> Hours worked decreased from \*\*\* hours in 2015 to \*\*\* hours in 2016, and increased to \*\*\* hours in 2017.<sup>229</sup> Wages paid were \$\*\*\* in 2015, \$\*\*\* in 2016, and \$\*\*\* in 2017, a decrease of \*\*\* percent from 2015 to 2017.<sup>230</sup> The domestic industry's productivity at 1,000 short tons per hour increased from \*\*\* in 2015 to \*\*\* in 2016, and declined to \*\*\* in 2017.<sup>231</sup>

The domestic industry experienced poor financial performance in 2015 and 2016, and a marked improvement in 2017. The domestic industry's operating income was \*\*\* in 2015, \*\*\* in 2016, and \$\*\*\* in 2017.<sup>232</sup> The domestic industry's operating income margin was \*\*\* percent in 2015, \*\*\* percent in 2016, and \*\*\* percent in 2017.<sup>233</sup> The domestic industry made increasing capital and R&D expenditures during the period. Its capital expenditures were \$\*\*\*

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<sup>224</sup> CR/PR at Table III-10. The domestic industry's net commercial sales were \*\*\* short tons in 2017 and \*\*\* short tons in interim 2018. *Id.*

<sup>225</sup> CR/PR at Table III-5. The domestic industry's U.S. shipments were \*\*\* short tons in 2017 and \*\*\* short tons in interim 2018. *Id.*

<sup>226</sup> End-of-period inventories declined from \*\*\* short tons in 2015 to \*\*\* short tons in 2016, and then increased to \*\*\* short tons in 2018. Inventories were lower in interim 2018, at \*\*\* short tons, than in interim 2017, at \*\*\* short tons. CR/PR at Table III-6.

<sup>227</sup> CR/PR at Tables III-3 and C-4. The domestic industry's share of apparent U.S. consumption was \*\*\* percent in interim 2017 and \*\*\* percent in interim 2018. *Id.*

<sup>228</sup> CR/PR at Tables III-9 and C-4. The domestic industry's PRWs were \*\*\* in interim 2017 and \*\*\* in interim 2018. *Id.*

<sup>229</sup> The domestic industry's hours worked were \*\*\* hours in interim 2017 and \*\*\* hours in 2018. *Id.*

<sup>230</sup> CR/PR at Tables III-9 and C-4. The domestic industry's wages paid were \$\*\*\* in interim 2017 and \*\*\* in interim 2018. *Id.*

<sup>231</sup> CR/PR at Tables III-9. Productivity at 1,000 short tons per hour was \*\*\* in interim 2017 and \*\*\* in interim 2018. *Id.*

<sup>232</sup> CR/PR at Table III-10 and C-1. The domestic industry's operating income was \$\*\*\* in interim 2017 and \$\*\*\* in interim 2018. *Id.*

<sup>233</sup> CR/PR at Table III-10 and C-1. The domestic industry's operating income margin was \*\*\* percent in interim 2017 and \*\*\* percent in interim 2018. *Id.*

in 2015, \$\*\*\* in 2016, and \$\*\*\* in 2017.<sup>234</sup> The domestic industry's R&D expenses were \$\*\*\* in 2015, \$\*\*\* in 2016, and \$\*\*\* in 2017.<sup>235</sup>

Given the general interchangeability of the subject imports and the domestic like product, we find that the likely significant volume of low-priced subject imports would likely have a significant impact on the domestic industry's profitability and return on investment, as well as its ability to raise capital and make necessary capital investments. We find the likely volume and price effects of the subject imports also likely would have a significant impact on the production, shipments, sales, market share, revenues, and employment of the domestic industry. We therefore conclude that, if the orders were revoked, subject imports from China and Ukraine likely would be likely to have a significant impact on the domestic industry within a reasonably foreseeable time.

In our analysis of the likely impact of subject imports on the domestic industry, we have taken into account whether there are other factors that likely would affect the domestic industry. We recognize that nonsubject imports were a significant factor in the U.S. market because the domestic industry can only satisfy a relatively small share of U.S. demand. Without the discipline of the orders, the likely significant volume of subject imports would likely adversely impact the domestic industry because of the direct competition between subject imports and the domestic like product, even if nonsubject imports maintain their historically high levels. There is no indication or argument on the record of these reviews that the presence of nonsubject imports would prevent cumulated subject imports from China and Ukraine from significantly increasing their presence in the U.S. market in the event of revocation of the antidumping duty orders, given the export orientation of the cumulated subject industries and the attractiveness of the U.S. market. Given the substitutability of the subject imports and the domestic like product, an appreciable share of additional subject imports likely upon revocation will likely come at the expense of the domestic industry, even if some come at the expense of the significant quantity of nonsubject imports that are present in the U.S. market.

Accordingly, we find that revocation of the antidumping duty orders on silicomanganese from China and Ukraine would likely have a significant impact on the domestic industry.

## **V. Conclusion**

For the above stated reasons, we determine that revocation of the antidumping duty orders on silicomanganese from China and Ukraine 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.

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<sup>234</sup> CR/PR at Table III-14. The domestic industry's capital expenditures were \$\*\*\* in interim 2017 and \$\*\*\* in interim 2017. *Id.*

<sup>235</sup> CR/PR at Table III-14. The domestic industry's R&D expenses were \$\*\*\* in interim 2017 and \$\*\*\* in interim 2017. *Id.*



## Separate and Dissenting Views of Commissioner Meredith M. Broadbent

### I. Introduction

Based on the record in these five-year reviews, I determine that revocation of the antidumping duty order on imports of silicomanganese from China would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. I also determine that revocation of the antidumping duty order on imports of silicomanganese from Ukraine would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

My negative determination with respect to subject imports from China is based primarily on the Chinese industry's consistent low export volumes despite its large size due to longstanding Chinese policies to suppress exports of silicomanganese. I find that the small quantity of Chinese exports will not likely be diverted to the United States in significant volumes, and therefore are not likely to cause a continuation or recurrence of material injury to an industry in the United States. My affirmative determination with respect to subject imports from Ukraine is based on the Ukrainian industry's primary focus on exporting silicomanganese to a broad variety of countries, which would likely include the United States if the order were revoked. Significant quantities of imports from Ukraine would likely enter at low prices, causing a continuation or recurrence of material injury to the domestic industry.

I join the Views of the Commission unless otherwise stated. I write separately to discuss my findings on cumulation and with respect to the likelihood of continuation or recurrence of material injury by reason of subject imports from China and Ukraine.

### II. Cumulation

In these reviews, I do not exercise my discretion to cumulate subject imports from China and Ukraine. Subject imports from China and Ukraine are not likely to have no discernible adverse impact on the domestic industry if the orders were revoked. As discussed in greater detail below, there are large industries in both countries, and both countries also export at least some quantity of silicomanganese.<sup>236</sup> In addition, for the reasons discussed in section III.E of the Views of the Commission, there would likely be a reasonable overlap of competition between the subject imports from China and Ukraine.

However, subject imports from China and Ukraine are likely to compete under different conditions of competition if the orders were revoked. The industry in China is the largest in the world,<sup>237</sup> but exported extremely small quantities of silicomanganese throughout the period of

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<sup>236</sup> Although the volume of subject imports from China is likely to remain low for reasons discussed in greater detail below, I do not find it likely that subject imports from China would have no discernible adverse impact upon revocation due to the large size of the Chinese industry and the existence of some small, fluctuating volumes of Chinese exports shipped to a variety of countries.

<sup>237</sup> CR/PR at Table IV-15.

review. Based on information provided by Eramet from \*\*\*, the Chinese industry had capacity of \*\*\* short tons and production of \*\*\* short tons in 2017.<sup>238</sup> By contrast, Chinese exports were only 7,382 short tons in 2017 according to official export statistics from the IHS/GTA database, or less than \*\*\* percent of Chinese production of silicomanganese in that year.<sup>239</sup> The Chinese industry's lack of export orientation has been consistent going back to the prior period of review, with Chinese exports remaining between 873 short tons and 19,006 short tons since 2011.<sup>240</sup>

The persistently low volume of Chinese exports has coincided with the Chinese government's imposition of an export tax on silicomanganese. During the prior reviews, the Commission recognized that the Chinese industry had shifted away from being a large exporter starting in 2009, occurring as the Chinese government instituted progressively higher export taxes to restrict the export of silicomanganese.<sup>241</sup> The Commission further noted, "There is some indication that the Chinese government may eliminate or reduce these export taxes as it has done with other similar export taxes on other steel inputs and products in recent years, but as of the closing of the record in these reviews, no such action had been announced."<sup>242</sup> Therefore, at the time of the third reviews, the Chinese export tax on silicomanganese was a relatively new development subject to some uncertainty. However, in these fourth five-year reviews, the Chinese export taxes have now consistently remained in effect for over ten years.<sup>243</sup> Eramet acknowledges that Chinese exports to other countries have remained low primarily due to the export tax.<sup>244</sup> Therefore, the Chinese export tax, which has substantially limited the Chinese industry's exports of silicomanganese, is likely to reduce the Chinese industry's ability and willingness to supply the U.S. market.

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<sup>238</sup> Eramet Posthearing Brief, Responses to Commissioners' Questions at 25.

<sup>239</sup> CR/PR at Table IV-8; Eramet Posthearing Brief, Responses to Commissioners' Questions at 25.

<sup>240</sup> EDIS Doc. 659912; Third Reviews Confidential Report at Table IV-13.

<sup>241</sup> *Silicomanganese from Brazil, China, and Ukraine*, Inv. Nos. 731-TA-671-673 (Third Review), USITC Pub. 4354 (Oct. 2012) at 26-27. The Commission wrote, "The Chinese export tax on silicomanganese was five percent at the beginning of 2006, and increased three times in five percent increments, reaching 20 percent on January 1, 2008." In addition, the Commission stated that, "The economic effect of these policies was to restrict the export of silicomanganese (as well as other steel sector inputs), thereby increasing their supply and lowering their price in the domestic market in China and promoting their incorporation into downstream, 'higher value-added' production activities in steel in China." USITC Pub. 4354 at 26-27.

<sup>242</sup> USITC Pub. 3454 at 27.

<sup>243</sup> CR at IV-17; PR at IV-17.

<sup>244</sup> Hearing Tr. at 77 (Levy). Eramet states that there is uncertainty regarding the Chinese government's continued enforcement of the export tax on silicomanganese, and that it may have been phased out. Eramet Posthearing Brief, Responses to Commissioners' Questions at 29; Hearing Tr. at 78 (Levy). The export commodity tax rate table (a table that lists export tariffs imposed on 202 commodities in 2017 and provisional export tax rates for 2018) that was published by the Ministry of Finance of the People's Republic of China ("MOFCOM") on December 12, 2017, listed a 20 percent export tariff on silicomanganese for 2017 and had a blank space in the 2018 temporary tariff column. The meaning of the blank space in the table was not defined, although "0" was used in other cases where the provisional 2018 export tariff was zero.\*\*\*. CR at IV-17-18; PR at IV-14. Accordingly, the evidence on the record indicates that the Chinese export tax remains in effect in 2018.

By contrast, the Ukrainian industry, which is also large and has excess capacity, relies primarily on exports rather than home market sales. Between 2015 and 2017, the Ukrainian industry's exports were between \*\*\* percent and \*\*\* percent of total industry shipments.<sup>245</sup> There is no indication on the record that the Ukrainian government has imposed barriers to reduce these exports over the period of review or going forward. Therefore, the Ukrainian industry does not face the same limitations as the Chinese industry in supplying the U.S. market, and is likely to compete under different conditions of competition if the orders were revoked.

Accordingly, I do not exercise my discretion to cumulate subject imports from China and Ukraine for purposes of these reviews.

### III. Continuation or Recurrence of Material Injury

I determine that revocation of the antidumping duty order on silicomanganese from China would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonable foreseeable time. I also determine that revocation of the antidumping duty order on silicomanganese from Ukraine would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. I join the Views of the Commission with respect to the legal standards of five-year reviews and conditions of competition in the U.S. silicomanganese market, unless otherwise stated.

#### A. China

*Likely Volume.* After the antidumping duty order on silicomanganese from China was imposed in 1994, subject imports from China have remained at extremely low levels.<sup>246</sup> Between 2015 and 2017, subject imports from China only entered in 2015, totaling 11 short tons.<sup>247</sup> It is likely that the low volume of subject imports from China was due, in part, to the existence of the antidumping duty order, particularly during the first and second review periods during which China had substantial exports of silicomanganese to other countries.<sup>248</sup> However, during the third review period, Chinese export taxes increased progressively from 5 percent in 2006 to 20 percent in 2008.<sup>249</sup> After remaining between 571,106 short tons and 930,566 short tons between 2006 and 2008, Chinese exports subsequently decreased, falling to 126,959 short

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<sup>245</sup> CR/PR at Table IV-11.

<sup>246</sup> See CR/PR at Table C-2.

<sup>247</sup> CR/PR at Table C-1.

<sup>248</sup> During the first review period, Chinese exports to the world ranged from 328,187 short tons to 472,939 short tons between 1997 and 1999. *Silicomanganese from Brazil, China, and Ukraine*, Inv. Nos. 731-TA-671-673 (Review), USITC Pub. 3386 (Jan. 2001) at Table IV-5. During the second review period, Chinese exports ranged from \*\*\* short tons to \*\*\* short tons between 2000 and 2005. Second Reviews Confidential Report at Table I-12.

<sup>249</sup> CR at IV-17; PR at IV-14.

tons in 2009, 79,527 short tons in 2010, and 19,006 short tons in 2011.<sup>250</sup> Between 2012 and 2017, Chinese exports remained between 873 short tons and 18,927 short tons.<sup>251</sup> In 2017, Chinese exports totaled 7,382 short tons, a quantity equivalent to less than \*\*\* percent of Chinese production, \*\*\* percent of apparent U.S. consumption, and 1.9 percent of U.S. imports in that year.<sup>252</sup> Therefore, Chinese exports to all markets have remained low since 2011, regardless of whether or not those markets have had antidumping duty orders in place.<sup>253</sup>

Data provided by Eramet indicate that, since the prior period of review, Chinese capacity to produce silicomanganese decreased from \*\*\* short tons in 2012 to \*\*\* short tons in 2017, while Chinese production of silicomanganese increased from \*\*\* short tons in 2012 to \*\*\* short tons in 2017.<sup>254</sup> This information indicates that while the Chinese industry had substantial unused capacity throughout the current period of review, its capacity utilization increased from \*\*\* percent in 2012 to \*\*\* percent in 2017.<sup>255</sup> The Chinese industry was able to increase its production while reducing its capacity without substantially increasing its exports, as exports peaked at 18,927 short tons during this period in 2013, equivalent to \*\*\* percent of production in that year.<sup>256</sup> If the Chinese industry had an incentive to further reduce unused capacity by increasing shipments during the period of review, this incentive did not translate to increased exports.<sup>257</sup>

Eramet argues that the U.S. market is attractive to exporters, including those from China, due to its higher prices and its substantial demand that must be met in part by

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<sup>250</sup> Third Reviews Confidential Report at Table IV-13.

<sup>251</sup> EDIS Doc. 659912.

<sup>252</sup> CR/PR at Table IV-8, Table C-1; Eramet Posthearing Brief, Responses to Commissioners' Questions at 25.

<sup>253</sup> No antidumping or countervailing duty orders on Chinese silicomanganese were identified in third-country markets. CR at IV-32; PR at IV-22. Eramet argues that Chinese exports of silicomanganese increased in 2017 following a slowdown in Chinese steel production, with exports increasing "eight-fold" from 2016 to 2017. Eramet Posthearing Brief, Responses to Commissioners' Questions at 27-28. Although Chinese steel production decreased in 2017, this was a continuation of an ongoing trend extending back to each year since 2014. As Chinese steel production declined between 2014 and 2017, Chinese exports also fell as well in each year before increasing in 2017. Eramet's data also indicates that Chinese consumption of silicomanganese increased during the period of review, reaching a period high in 2017. Eramet Posthearing Brief, Responses to Commissioners' Questions at 27; EDIS Doc. 659912. In addition, Eramet's argument that Chinese exports increased substantially in 2017 is misleading, as this increase occurred from an extremely low base level of only 873 short tons in 2016. As stated above, China's exports fluctuated at low levels throughout the period of review, and therefore the 2017 volume was consistent with these trends. EDIS Doc. 659912.

<sup>254</sup> Eramet Posthearing Brief, Responses to Commissioners' Questions at 25.

<sup>255</sup> Eramet Posthearing Brief, Responses to Commissioners' Questions at 25.

<sup>256</sup> Eramet Posthearing Brief, Responses to Commissioners' Questions at 25; EDIS Doc. 659912.

<sup>257</sup> The record is limited with respect to silicomanganese inventories and the potential for product shifting in China. Nonetheless, even if the Chinese industry did hold significant inventories of silicomanganese and had the ability to shift production from other products to silicomanganese, this additional potential supply of silicomanganese did not result in increased Chinese exports during the period of review, and would not likely do so in a reasonably foreseeable time.

imports.<sup>258</sup> Eramet further argues that U.S. market prices are sufficiently higher than prices in other global markets such that Chinese producers will find these price levels sufficiently attractive to pay the 20 percent export tax in order to access the U.S. market.<sup>259</sup> Such a presentation of relative prices, however, does not take into account the existence of an additional section 301 tariff of 10 percent ad valorem, scheduled to increase to 25 percent in January 2019, on U.S. imports of silicomanganese from China.<sup>260</sup> Therefore, Chinese producers not only face an export tax imposed by their own government designed to reduce exports of silicomanganese, but also an additional U.S. import tariff which could further deter U.S. imports of silicomanganese from China. Chinese producers are not likely to find the U.S. market sufficiently and uniquely attractive to cause them to diverge from their consistent pattern over many years of shipping almost exclusively to the Chinese home market rather than export destinations.

Although the Chinese industry is larger than other global suppliers of silicomanganese, its exports have remained low, consistent with a trend that developed in 2011 during the prior period of review. The low volume of Chinese exports is likely due to a Chinese export tax on silicomanganese, and U.S. imports of silicomanganese from China would face an additional U.S. import tariff of 10 to 25 percent in the reasonably foreseeable future. Accordingly, I find that the likely volume of subject imports from China, in absolute terms and relative to U.S. consumption, would not be significant in the event of revocation of the antidumping duty order.

*Likely Price Effects.* As discussed in the Views of the Commission, subject imports from China are moderately to highly substitutable with the domestic like product, and price is an important factor in purchasing decisions for silicomanganese. In these reviews, there are no pricing data specific to silicomanganese from China because there have been few subject imports from China during this period.<sup>261</sup> Given my finding that the volume of subject imports from China is not likely to be significant upon revocation, any likely volume of subject imports from China would be too small to have a significant effect on prices for the domestic like

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<sup>258</sup> Eramet Posthearing Brief, Responses to Commissioners' Questions at 35-38. Eramet also argues that nonsubject imports from Brazil, which were previously under antidumping duty orders, increased substantially after the Commission revoked the order on Brazil during the prior reviews. Eramet Posthearing Brief, Responses to Commissioners' Questions at 35-36. In fact, nonsubject imports from Brazil remained between 0.3 percent and 2.7 percent of total U.S. imports from 2015 to 2017, and have thus fluctuated at low levels in recent years. CR/PR at Table IV-2.

<sup>259</sup> Eramet Posthearing Brief, Responses to Commissioners' Questions at 29.

<sup>260</sup> The initial section 301 tariff rate on or after September 24, 2018 is 10 percent ad valorem (13.9 percent when added to the MFN rate of 3.9 percent) with an increase to 25 percent ad valorem on January 1, 2019 (28.9 percent when added to the MFN rate). CR at I-10 and I-20; PR at I-7-8 and I-15. Eramet argues that there is significant uncertainty about the scope, duration, and ultimately the impact of the section 301 tariffs. Eramet Posthearing Brief, Responses to Commissioners' Questions at 31-32. The section 301 tariff on silicomanganese from China is currently in force, however, and any assertion made by Eramet that the tariff may be removed or mitigated in the reasonably foreseeable future is speculative.

<sup>261</sup> During the original investigations, price data showed a mixed pattern of underselling and overselling by subject imports from all countries. CR at V-10 n. 10; PR at V-6 n. 10.

product. Accordingly, I find that revocation of the antidumping duty order on silicomanganese from China would not be likely to lead to significant underselling or significant price depression or suppression within a reasonably foreseeable time.

*Likely Impact.* The domestic industry's output and financial indicators exhibited mixed trends over the period of review. <sup>262</sup> <sup>263</sup> As a result of these events, the domestic industry's capacity substantially decreased from <sup>264</sup> short tons in 2015 to <sup>265</sup> short tons in 2016, increasing slightly to <sup>266</sup> short tons in 2017. Its production also decreased from <sup>267</sup> short tons in 2015 to <sup>268</sup> short tons in 2016 before increasing to <sup>269</sup> short tons in 2017. The domestic industry's rate of capacity utilization increased from <sup>270</sup> percent in 2015 to <sup>271</sup> percent in 2016, and to <sup>272</sup> percent in 2017.

The domestic industry's net commercial sales quantity increased over the period from <sup>273</sup> short tons in 2015 to <sup>274</sup> short tons in 2016, and to <sup>275</sup> short tons in 2017. The domestic industry's U.S. shipments declined slightly over the period from <sup>276</sup> short tons in 2015 to <sup>277</sup> short tons in 2016 and to <sup>278</sup> short tons in 2017. Inventories declined from 2015 to 2017. The domestic industry's share of apparent U.S. consumption increased from <sup>279</sup> percent in 2015 to <sup>280</sup> percent in 2016, and then decreased to <sup>281</sup> percent in 2017.

The domestic industry's employment trends fluctuated over the period of review, with the number of production and related workers ("PRWs") and wages decreasing overall and hours worked and productivity increasing overall. The domestic industry's employment decreased from <sup>282</sup> PRWs in 2015 to <sup>283</sup> PRWs in 2016, before increasing to <sup>284</sup> PRWs in 2017. Hours worked decreased from <sup>285</sup> hours in 2015 to <sup>286</sup> hours in 2016, and increased to <sup>287</sup> hours in 2017. Wages paid were \$<sup>288</sup> in 2015, \$<sup>289</sup> in 2016, and \$<sup>290</sup> in 2017.

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<sup>262</sup> CR at III-4-5; PR at III-3.

<sup>263</sup> CR/PR at Table III-8. <sup>264</sup> CR/PR at Table III-2.

<sup>264</sup> CR/PR at Table III-3. The domestic industry's capacity was <sup>265</sup> short tons in interim 2017 and <sup>266</sup> short tons in 2018.

<sup>265</sup> CR/PR at Table III-3. The domestic industry's production was <sup>266</sup> short tons in interim 2017 and <sup>267</sup> short tons in 2018.

<sup>266</sup> CR/PR at Table III-3. The domestic industry's rate of capacity utilization was <sup>267</sup> percent in interim 2017 and <sup>268</sup> percent in 2018.

<sup>267</sup> CR/PR at Table III-10. The domestic industry's net commercial sales were <sup>268</sup> short tons in 2017 and <sup>269</sup> short tons in interim 2018.

<sup>268</sup> CR/PR at Table III-5. The domestic industry's U.S. shipments were <sup>269</sup> short tons in 2017 and <sup>270</sup> short tons in interim 2018.

<sup>269</sup> CR/PR at Table III-6. End-of-period inventories declined from <sup>270</sup> short tons in 2015 to <sup>271</sup> short tons in 2016, and then increased to <sup>272</sup> short tons in 2018. Inventories were lower in interim 2018, at <sup>273</sup> short tons, than in interim 2017, at <sup>274</sup> short tons.

<sup>270</sup> CR/PR at Tables III-3 and C-4. The domestic industry's share of apparent U.S. consumption was <sup>271</sup> percent in interim 2017 and <sup>272</sup> percent in interim 2018.

<sup>271</sup> CR/PR at Tables III-9 and C-4. The domestic industry's PRWs were <sup>272</sup> in interim 2017 and <sup>273</sup> in interim 2018.

<sup>272</sup> The domestic industry's hours worked were <sup>273</sup> hours in interim 2017 and <sup>274</sup> hours in 2018.

<sup>273</sup> CR/PR at Tables III-9 and C-4. The domestic industry's wages paid were \$<sup>274</sup> in interim 2017 and <sup>275</sup> in interim 2018.

The domestic industry's productivity increased from \*\*\* short tons per hour in 2015 to \*\*\* short tons per hour in 2016, and declined to \*\*\* short tons per hour in 2017.<sup>274</sup>

The domestic industry's financial performance improved over the period of review. Sales revenues rose \*\*\* percent from 2015 to 2017, and were \$\*\*\* in 2015, \$\*\*\* in 2016, and \$\*\*\* in 2017.<sup>275</sup> Total cost of goods sold ("COGS") rose \*\*\* percent from 2015 to 2017, and was \$\*\*\* in 2015, \$\*\*\* in 2016, and \$\*\*\* in 2017.<sup>276</sup> The domestic industry's operating income rose from 2015 to 2017, and was \$\*\*\* in 2015, \$\*\*\* in 2016, and \$\*\*\* in 2017.<sup>277</sup> The domestic industry's operating income margin rose by \*\*\* percentage points from 2015 to 2017, and was \*\*\* percent in 2015, \*\*\* percent in 2016, and \*\*\* percent in 2017.<sup>278</sup>

The domestic industry made increasing capital expenditures and research and development ("R&D") expenses during the period. Its capital expenditures were \$\*\*\* in 2015, \$\*\*\* in 2016, and \$\*\*\* in 2017, largely reflecting substantial capital investments made by \*\*\* in 2017.<sup>279</sup> The domestic industry's R&D expenses were \$\*\*\* in 2015, \$\*\*\* in 2016, and \$\*\*\* in 2017.<sup>280</sup>

The domestic industry's capacity decreased over the period of review, coinciding with a substantial \*\*\*. Production and employment trends fluctuated, falling in 2016 and then increasing in 2017, while capacity utilization substantially improved in each year. The industry's shipments did not increase to the same extent as apparent U.S. consumption, and the industry's market share slightly declined as nonsubject imports increased. However, the industry increased its capital expenditures and R&D expenses, which will likely allow the industry to increase production in response to any improvements in demand.<sup>281</sup> In addition, the industry substantially improved its financial performance, such that it became profitable in 2017. The improvement in financial performance occurred as U.S. prices for silicomanganese substantially increased in 2017, and these higher price levels remained throughout 2017 and

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<sup>274</sup> CR/PR at Tables III-9. Productivity was \*\*\* short tons per hour in interim 2017 and \*\*\* short tons per hour in interim 2018.

<sup>275</sup> CR/PR at Table III-10 and C-1. The domestic industry's sales revenue were \$\*\*\* in interim 2017 and \$\*\*\* in interim 2018.

<sup>276</sup> CR/PR at Table III-10 and C-1. The domestic industry's total COGS was \$\*\*\* in interim 2017 and \$\*\*\* in interim 2018.

<sup>277</sup> CR/PR at Table III-10 and C-1. The domestic industry's operating income was \$\*\*\* in interim 2017 and \$\*\*\* in interim 2018.

<sup>278</sup> CR/PR at Table III-10 and C-1. The domestic industry's operating income margin was \*\*\* percent in interim 2017 and \*\*\* percent in interim 2018.

<sup>279</sup> CR/PR at Table III-14. The domestic industry's capital expenditures were \$\*\*\* in interim 2017 and \$\*\*\* in interim 2017.

<sup>280</sup> CR/PR at Table III-14. The domestic industry's R&D expenses were \$\*\*\* in interim 2017 and \$\*\*\* in interim 2017.

<sup>281</sup> Apparent U.S. consumption, by quantity, increased by \*\*\* percent from 2015 to 2017, and increased by \*\*\* percent between interim periods. CR/PR at Table C-1. As stated in the Views of the Commission, demand for silicomanganese is derived from demand for the downstream steel products, specifically for long products used in the construction industry, such as concrete reinforcing bar and rod ("rebar"). U.S. rebar shipments were at their highest level during the 2015-2017 period in \*\*\*, suggesting that demand is likely to remain higher in the reasonably foreseeable future. CR/PR at Figure II-2.

interim 2018.<sup>282</sup> In light of the recent improvements in the industry's capital investments, financial performance, and prices, I do not find that the domestic industry is in a vulnerable condition.

Given that I do not find it likely that there would be a significant volume of subject imports from China or that any such imports likely would have significant price effects, I find that revocation of the antidumping duty order on subject imports from China would not likely lead to a significant impact on the domestic industry.

## B. Ukraine

*Likely Volume.* Subject imports from Ukraine have remained at low levels since the original period of investigation.<sup>283</sup> During the current period of review, subject imports from Ukraine totaled \*\*\* short tons in 2015, and did not enter in any other year.<sup>284</sup> However, I find that the low volume of subject imports from Ukraine in recent years is likely due to the existence of the antidumping duty order.

Ukraine was the third-largest producer of silicomanganese in the world in 2015.<sup>285</sup> The Ukrainian industry reported that their capacity increased from \*\*\* short tons in 2015 to \*\*\* short tons in 2017 and production increased from \*\*\* short tons in 2015 to \*\*\* short tons in 2017.<sup>286</sup> The Ukrainian industry had excess capacity throughout the period of review, operating at a capacity utilization rate of \*\*\* percent in 2017, up from \*\*\* percent in 2015.<sup>287</sup>

The Ukrainian industry is highly export oriented, with exports accounting for \*\*\* percent of Ukrainian producers' total reported shipments in 2017, up from \*\*\* percent in 2015.<sup>288</sup> According to official export statistics, Ukraine was the second-largest exporter of silicomanganese in the world after India in 2017,<sup>289</sup> with substantial volumes of exports shipped to a large variety of countries in the European Union, the Middle East, Asia, and other regions.<sup>290</sup> Ukraine's exports were consistently greater in quantity than apparent U.S. consumption during the period of review.<sup>291</sup> Therefore, a diversion of only a portion of Ukrainian exports to the United States upon revocation would likely result in subject imports from Ukraine gaining a substantial share of the U.S. market.

The Ukrainian industry also faces foreign barriers to trade in third-country markets. The Eurasian Economics Commission (in 2016) and South Korea (in 2017) have recently imposed

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<sup>282</sup> CR/PR at Figure V-4.

<sup>283</sup> CR/PR at Table C-2.

<sup>284</sup> CR/PR at Table C-1.

<sup>285</sup> CR/PR at Table IV-15.

<sup>286</sup> CR/PR at Table IV-11.

<sup>287</sup> CR/PR at Table IV-11. On equipment used to make silicomanganese and other products, Ukrainian producers consistently utilized \*\*\* percent of that production to make silicomanganese. CR/PR at Table IV-13. The Ukrainian industry held only small volumes of silicomanganese in inventory relative to total production in each year. See CR/PR at Table IV-11.

<sup>288</sup> CR/PR at Table IV-11.

<sup>289</sup> CR/PR at Table IV-16.

<sup>290</sup> EDIS Doc. 659912.

<sup>291</sup> See CR/PR at Table IV-11 and Table C-1.

antidumping duty orders on silicomanganese from Ukraine, corresponding with substantially reduced shipments to these markets, which were previously among the largest destinations for Ukrainian exports.<sup>292</sup> These trade actions affecting Ukrainian exports have coincided with substantial increases in Ukrainian exports to other markets, particularly the European Union.<sup>293</sup>

Therefore, the Ukrainian industry is clearly focused on exporting most of its production, has faced increasing trade actions in important third-country markets, and has shifted large quantities of silicomanganese between markets over short periods of time. The U.S. market, which is the fifth-largest individual country market in the world and which has among the world's highest prices for silicomanganese,<sup>294</sup> is likely to be an attractive destination for Ukrainian silicomanganese exports, whether diverted from existing exports or supplied by utilization of existing excess capacity. Because Ukrainian producers have a consistent trend of exporting the largest share of their production and face no additional impediments to exportation, I find that subject imports from Ukraine would likely be significant, both in absolute terms and relative to U.S. consumption, upon revocation of the antidumping duty order.

*Likely Price Effects.* As discussed in the Views of the Commission, subject imports from Ukraine are moderately to highly substitutable with the domestic like product, and price is an important factor in purchasing decisions for silicomanganese. In these reviews, there are no pricing data specific to silicomanganese from Ukraine, in light of the absence of subject imports from Ukraine during this period.<sup>295</sup> I have found that the volume of subject imports from Ukraine would likely be significant if the order were revoked. In order to increase U.S. market share, subject imports from Ukraine would likely be priced lower than U.S. prices, forcing the domestic industry to lower its own prices or lose sales. Therefore, subject imports from Ukraine would likely undersell the domestic like product, causing significant price depression and suppression and/or leading to a loss of domestic industry market share. Because of their likely significant volume and adverse price effects, subject imports from Ukraine would also be likely to have a significant impact on the domestic industry, notwithstanding my finding that the domestic industry is not vulnerable.<sup>296</sup>

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<sup>292</sup> CR at IV-32; PR at IV-22; EDIS Doc. 659912. Ukraine's exports to Russia were 122,377 short tons in 2015, 73,732 short tons in 2016, and 0 short tons in 2017. Ukraine's exports to South Korea were 47,511 short tons in 2015, 55,360 short tons in 2016, and 4,927 short tons in 2017. Ukraine's exports to Belarus were 14,477 short tons in 2015, 15,031 short tons in 2016, and 0 short tons in 2017. EDIS Doc. 659912.

<sup>293</sup> Ukraine's exports to the European Union increased from \*\*\* short tons in 2015 to \*\*\* short tons in 2017, and increased from \*\*\* short tons in interim 2017 to \*\*\* short tons in interim 2018. CR/PR at Table IV-11.

<sup>294</sup> CR/PR at Table IV-15; CR at IV-37 and n.49; PR at; CR/PR at Figure V-3.

<sup>295</sup> During the original investigations, price data showed a mixed pattern of underselling and overselling by subject imports from all countries. CR at V-10 n. 10; PR at V-6 n. 10.

<sup>296</sup> Given the substitutability of the subject imports and the domestic like product, an appreciable share of additional subject imports would likely come at the expense of the domestic industry, even if some also take market share from nonsubject imports that are present in the U.S. market.

#### **IV. Conclusion**

For the foregoing reasons, I determine that revocation of the antidumping duty order on silicomanganese from China would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonable foreseeable time. I also determine that revocation of the antidumping duty order on silicomanganese from Ukraine would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

## PART I: INTRODUCTION

### BACKGROUND

On October 2, 2017, the U.S. International Trade Commission (“Commission” or “USITC”) gave notice, pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”),<sup>1</sup> that it had instituted reviews to determine whether revocation of the antidumping duty orders on silicomanganese from China and Ukraine would likely lead to the continuation or recurrence of material injury to a domestic industry.<sup>2</sup> <sup>3</sup> On January 5, 2018, the Commission determined that it would conduct full reviews pursuant to section 751(c)(5) of the Act.<sup>4</sup> The following tabulation presents information relating to the background and schedule of this proceeding:<sup>5</sup>

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<sup>1</sup> 19 U.S.C. 1675(c).

<sup>2</sup> *Silicomanganese from China and Ukraine: Institution of Five-Year Reviews*, 82 FR 45892, October 2, 2017. All interested parties were requested to respond to this notice by submitting the information requested by the Commission.

<sup>3</sup> In accordance with section 751(c) of the Act, the U.S. Department of Commerce (“Commerce”) published a notice of initiation of five-year reviews of the subject antidumping and countervailing duty. *Initiation of Five-Year (Sunset) Reviews*, 82 FR 46221, October 4, 2017.

<sup>4</sup> *Silicomanganese from China and Ukraine; Notice of Commission Determinations to Conduct Full Five-Year Reviews*, 83 FR 3025, January 22, 2018. For the order on the subject merchandise from China, Chairman Rhonda K. Schmidlein, Vice Chairman David S. Johanson, and Commissioners Irving A. Williamson and Meredith M. Broadbent concluded that the domestic group response was adequate and the respondent group response was inadequate, but that circumstances warranted a full review. For the order on the subject merchandise from Ukraine, Chairman Schmidlein, Vice Chairman Johanson, and Commissioners Williamson and Broadbent concluded that both the domestic group response and the respondent group response were adequate and voted for a full review.

<sup>5</sup> The Commission’s notice of institution, notice to conduct full reviews, scheduling notice, and statement on adequacy are referenced in appendix A and may also be found at the Commission’s web site (internet address [www.usitc.gov](http://www.usitc.gov)). Commissioners’ votes on whether to conduct expedited or full reviews may also be found at the web site. Appendix B presents a list of witnesses appearing at the Commission’s hearing.

Effective date	Action
October 1, 2017	Commerce's initiation of five-year reviews (82 FR 46221, October 4, 2017)
October 2, 2017	Commission's institution of five-year reviews (82 FR 45892)
January 22, 2018	Commission's determinations to conduct full five-year reviews (83 FR 3025, January 22, 2018)
February 8, 2018	Commerce's final results of expedited five-year reviews of the antidumping duty orders (83 FR 5609)
May 25, 2018	Commission's scheduling of the reviews (83 FR 24346)
September 25, 2018	Commission's hearing
November 2, 2018	Commission's vote
November 30, 2018	Commission's determinations and views

### The original investigations

The original investigations resulted from petitions filed by Elkem Metals Co. ("Elkem"), Pittsburgh, Pennsylvania, and the Oil, Chemical and Atomic Workers ("OCAW") Local 3-639, Belpre, Ohio, on November 12, 1993, alleging that an industry in the United States was materially injured and threatened with material injury by reason of less-than-fair-value ("LTFV") imports of silicomanganese from Brazil, China, Ukraine, and Venezuela.<sup>6</sup> On October 31, 1994, Commerce suspended the antidumping investigation regarding imports of silicomanganese from Ukraine based on an agreement by the Government of Ukraine to restrict the volume of exports of silicomanganese to the United States and to sell such exports at or above a "reference price" in order to prevent the suppression or undercutting of price levels of U.S. domestic silicomanganese.<sup>7</sup> On November 7, 1994, Commerce made final affirmative determinations that imports of silicomanganese from Brazil, China, and Venezuela were sold at LTFV in the U.S. market.<sup>8</sup> On December 14, 1994, the Commission determined that an industry in the United States was materially injured or threatened with material injury by reason of LTFV

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<sup>6</sup> *Silicomanganese from Brazil, the People's Republic of China, Ukraine, and Venezuela, Inv. Nos. 731-TA-671-674 (Final)*, USITC Publication 2836, December 1994. Confidential version: Investigations Nos. 731-TA-671 through 674 (Final): Silicomanganese from Brazil, the People's Republic of China, Ukraine, and Venezuela—Staff Report, Office of Investigations Memorandum No. INV-R-187, November 29, 1994.

<sup>7</sup> *Antidumping: Silicomanganese from Ukraine; Suspension of Investigation*, 59 FR 60951, November 29, 1994. On December 2, 1994, Commerce notified the Commission that it continued its investigation on silicomanganese from Ukraine. Accordingly, the Commission continued its investigation and made a determination regarding silicomanganese from Ukraine.

<sup>8</sup> *Notice of Final Determination of Sales at Less Than Fair Value: Silicomanganese from Brazil*, 59 FR 55432, November 7, 1994; *Notice of Final Determination of Sales at Less Than Fair Value: Silicomanganese from the People's Republic of China*, 59 FR 55435, November 7, 1994; and, *Notice of Final Determination of Sales at Less Than Fair Value: Silicomanganese from Venezuela*, 59 FR 55438, November 7, 1994.

imports of silicomanganese from Brazil, China and Ukraine, but was not materially injured or threatened with material injury by reason of LTFV imports of silicomanganese from Venezuela.<sup>9</sup> Following the Commission's determinations, Commerce issued antidumping duty orders on silicomanganese from Brazil and China.<sup>10</sup>

## **Subsequent five-year reviews**

### **First five-year reviews**

In January 2001, the Commission completed full five-year reviews of the antidumping duty orders on imports of silicomanganese from Brazil and China, and the suspended investigation on imports of silicomanganese from Ukraine, and determined that revocation of the antidumping duty orders on silicomanganese from Brazil and China and termination of the suspension agreement on silicomanganese from Ukraine would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>11</sup> <sup>12</sup> On February 16, 2001, Commerce issued a notice continuing the antidumping duty orders on imports of silicomanganese from Brazil and China and the suspended antidumping duty investigation on silicomanganese from Ukraine.<sup>13</sup> On July 19, 2001, the Government of Ukraine officially requested termination of the suspension agreement on exports of silicomanganese to the United States, and effective September 17, 2001, Commerce issued an antidumping duty order on imports of silicomanganese from Ukraine.<sup>14</sup>

### **Second five-year reviews**

In August 2006, the Commission completed expedited five-year reviews of the antidumping duty orders on silicomanganese from Brazil, China, and Ukraine, and determined revocation of the antidumping duty orders on silicomanganese from Brazil, China, and Ukraine would be likely to lead to continuation or recurrence of material injury to an industry in the

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<sup>9</sup> *Silicomanganese from Brazil, the People's Republic of China, Ukraine, and Venezuela*, 59 FR 65788, December 21, 1994.

<sup>10</sup> Commerce did not issue an antidumping duty order on imports of silicomanganese from Ukraine, at the time, as the suspension agreement was in force.

<sup>11</sup> *Silicomanganese from Brazil, China, and Ukraine: Investigations Nos. 731-TA-671-673 (Review)*, USITC Publication 3386, January 2001. Confidential version: *Investigations Nos. 731-TA-671-673 (Review): Silicomanganese from Brazil, China, and Ukraine--Staff Report*, Office of Investigations Memorandum No. INV-X-256, December 20, 2000.

<sup>12</sup> *Silicomanganese from Brazil, China, and Ukraine*, 66 FR 8981, February 5, 2001.

<sup>13</sup> *Continuation of Antidumping Duty Orders on Silicon Metal from Brazil and China and on Silicomanganese from Brazil and China, and Continuation of Suspended Antidumping Duty Investigation on Silicomanganese from Ukraine*, 66 FR 10669, February 16, 2001.

<sup>14</sup> *Suspension Agreement on Silicomanganese from Ukraine; Termination of Suspension Agreement and Notice of Antidumping Duty Order*, 66 FR 43838, August 21, 2001.

United States within a reasonably foreseeable time.<sup>15</sup> <sup>16</sup> On September 14, 2006, Commerce issued a notice continuing the antidumping duty orders on imports of silicomanganese from Brazil, China, and Ukraine.<sup>17</sup>

### **Third five-year reviews**

In October 2012, the Commission completed full five-year reviews of the subject order and determined that revocation of the antidumping order on silicomanganese from Brazil would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time and that revocation of the antidumping orders on silicomanganese from China and Ukraine would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>18</sup> Commerce revoked the antidumping duty order on imports of silicomanganese from Brazil effective September 14, 2012 and issued a continuation of the antidumping duty orders on imports of silicomanganese from China and Ukraine effective November 8, 2012.<sup>19</sup>

## **PREVIOUS AND RELATED INVESTIGATIONS**

### **Commission investigations and reviews**

U.S. imports of silicomanganese from India, Kazakhstan, and Venezuela are currently subject to antidumping duty orders.<sup>20</sup> The orders on silicomanganese from India, Kazakhstan, and Venezuela resulted from a petition that was filed in 2001 by Eramet and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5-0639.<sup>21</sup> Following

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<sup>15</sup> *Silicomanganese from Brazil, China, and Ukraine: Investigations Nos. 731-TA-671-673 (Second Review)*, USITC Publication 3879, August 2006. Confidential version: *Investigations Nos. 731-TA-671-673 (Second Review): Silicomanganese from Brazil, China, and Ukraine--Staff Report*, Office of Investigations Memorandum No. INV-DD-074, June 1, 2006.

<sup>16</sup> *Silicomanganese from Brazil, China, and Ukraine*, 71 FR 52145, September 1, 2006.

<sup>17</sup> *Silicomanganese from Brazil, Ukraine, and the People's Republic of China: Continuation of Antidumping Duty Orders*, 71 FR 54272, September 14, 2006.

<sup>18</sup> *Silicomanganese from Brazil, China and Ukraine*, Inv. Nos. 731-TA-671-673 (Third Review), USITC Publication 4354, October 2012.

<sup>19</sup> *Silicomanganese from Brazil: Revocation of Antidumping Duty Order*, 77 FR 66798, November 7, 2012; *Silicomanganese from People's Republic of China and Ukraine: Continuation of Antidumping Duty Orders*, 77 FR 66956, November 8, 2012.

<sup>20</sup> *Silicomanganese from Australia: Final Determination of Sales at Less Than Fair Value*, 81 FR 8682, February 22, 2016; *Silicomanganese from India, Kazakhstan, and Venezuela: Continuation of Antidumping Duty Orders*, 78 FR 60846, October 2, 2013.

<sup>21</sup> *Silicomanganese from India, Kazakhstan, and Venezuela, Investigation Nos. 731-TA-929-931 (Second Review)*, USITC Publication 4424, September 2013.

notification of a final determination by Commerce that imports of silicomanganese from India, Kazakhstan, and Venezuela were being sold at LTFV, the Commission determined on May 16, 2002 that a domestic industry was materially injured by reason of LTFV imports of silicomanganese from India, Kazakhstan, and Venezuela.<sup>22</sup> Commerce published the antidumping duty orders on silicomanganese from India, Kazakhstan, and Venezuela on May 23, 2002.<sup>23</sup> Effective August 2, 2007, Commerce made an affirmative decision to continue the antidumping duty orders in regards to silicomanganese from India, Kazakhstan, and Venezuela.<sup>24</sup> Following expedited first reviews, on November 14, 2007 the Commission determined that revocation of the antidumping duty orders on silicomanganese from India, Kazakhstan, and Venezuela would be likely to lead to continuation or recurrence of material injury to an industry in the United States.<sup>25</sup> Effective October 2013, following second full five-year reviews; Commerce continued the antidumping duty orders on silicomanganese from India, Kazakhstan, and Venezuela.<sup>26</sup> <sup>27</sup> With respect to the orders on silicomanganese from India, Kazakhstan, and Venezuela the Commission instituted its five-year reviews on September 4, 2018 and Commerce initiated its five-year reviews on September 1, 2018.<sup>28</sup>

In 2015, Felman filed a petition resulting in the investigation of silicomanganese from Australia.<sup>29</sup> Commerce issued its final determination on February 22, 2016, concluding that imports of silicomanganese from Australia were being sold in the United States at LTFV.<sup>30</sup> In its final determination Commerce calculated a weighted average dumping margin of 12.03 percent for all companies including Tasmanian Electro Metallurgical Company Pty Ltd.<sup>31</sup> In the final phase of its investigation, the Commission unanimously determined that an industry in the United States was not materially injured or threatened with material injury, and the

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<sup>22</sup> *Silicomanganese from India, Kazakhstan, and Venezuela, Inv. Nos. 731-TA-929-931 (Final)*, USITC Publication 3505 (May 2002).

<sup>23</sup> *Notice of Amended Final Determination of Sales at Less than Fair Value and Antidumping Duty Orders: Silicomanganese from India, Kazakhstan, and Venezuela*, 67 FR 36149, May 23, 2002.

<sup>24</sup> *Silicomanganese from India, Kazakhstan, and Venezuela: Final Results of Expedited Five-year ("Sunset") Reviews of the Antidumping Duty Orders*, 72 FR 42393, August 2, 2007.

<sup>25</sup> *Silicomanganese from India, Kazakhstan, and Venezuela*, 72 FR 67965, December 3, 2007.

<sup>26</sup> *Silicomanganese from India, Kazakhstan, and Venezuela: Continuation of Antidumping Duty Orders*, 78 FR 60846, October 2, 2013.

<sup>27</sup> In the second full five-year reviews With respect to imports from India and Kazakhstan, all six Commissioners made affirmative determinations. With respect to Venezuela, Chairman Irving A. Williamson and Commissioners Shara L. Aranoff, Dean A. Pinkert, David S. Johanson, and Meredith M. Broadbent voted in the affirmative; Commissioner Daniel R. Pearson voted in the negative.

<sup>28</sup> *Silicomanganese from India, Kazakhstan, and Venezuela; Institution of Five-Year Reviews*, 83 FR 44898, September 4, 2018; and *initiation of Five-Year (Sunset) Reviews*, 83 FR 45887, September 11, 2018.

<sup>29</sup> *Silicomanganese from Australia, Investigation No. 731-TA-1269 (Final)*, USITC Publication 4600, April 2016.

<sup>30</sup> *Silicomanganese from Australia: Final Determination of Sales at Less Than Fair Value*, 81 FR 8682, February 22, 2016.

<sup>31</sup> *Ibid.*

establishment of an industry in the United States was not materially retarded, by reason of imports of silicomanganese from Australia.<sup>32</sup>

### Sections 232 and 301

Silicomanganese is not currently covered under section 232. Steel products that require silicomanganese, however, are covered. On April 19, 2017, the Secretary of Commerce initiated a Section 232 investigation, under the *Trade Expansion Act of 1962*, as amended (19 U.S.C 1862), to determine the impact of steel imports on the national security of the United States.<sup>33</sup> A public hearing was held on May 24, 2017 and Commerce submitted the findings from its investigation to the President on January 11, 2018.<sup>34</sup> The report was then released on February 16, 2018, which recommended evaluating the challenges facing the steel industry as a whole including basic materials used to make steel in addition to the following:

- A global tariff of at least 24% on all steel imports from all countries, or
- A tariff of at least 53% on all steel imports from 12 countries (Brazil, China, Costa Rica, Egypt, India, Malaysia, Republic of Korea, Russia, South Africa, Thailand, Turkey and Vietnam) with a quota by product on steel imports from all other countries equal to 100% of their 2017 exports to the United States, or
- A quota on all steel products from all countries equal to 63% of each country's 2017 exports to the United States.<sup>35</sup>

On March 8, 2018, the President announced his decision to impose 25 percent ad valorem duties on all steel mill products imported from all U.S. trade partners except Canada and Mexico.<sup>36</sup> On March 22, 2018, the President authorized the suspension of tariffs on steel and aluminum imports from the following countries: Argentina, Australia, Brazil, Canada, Mexico, member countries of the European Union, and South Korea.<sup>37</sup> On April 30, 2018, the

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<sup>32</sup> *Silicomanganese from Australia*, 81 FR 21590, April 12, 2016.

<sup>33</sup> U.S. Department of Commerce webpage: <https://www.commerce.gov/page/section-232-investigation-effect-imports-steel-us-national-security>, retrieved October 3, 2018.

<sup>34</sup> *Ibid.*

<sup>35</sup> Commerce, *The Effect of Imports of Steel on the National Security, an Investigation Conducted Under Section 232 of the Trade Expansion Act of 1962, as Amended*, January 11, 2018, pp. 58-61; and Commerce, "Secretary Ross Releases Steel and Aluminum 232 Reports in Coordination with White House," Press Release, February 16, 2018, <https://www.commerce.gov/news/press-releases/2018/02/secretary-ross-releases-steel-and-aluminum-232-reports-coordination>, retrieved October 3, 2018.

<sup>36</sup> Presidential Proclamation on Adjusting Imports of Steel into the United States, paragraphs 8 and 10, March 8, 2018

<sup>37</sup> President Trump Approves Section 232 Tariff Modifications, March 22, 2018, <https://www.whitehouse.gov/briefings-statements/president-trump-approves-section-232-tariff-modifications/>, retrieved October 3, 2018.

President announced the expiration of exemptions on tariffs on steel and aluminum imports from Canada, the European Union Member States, and Mexico on May 31, 2018.<sup>38</sup> The President also announced the exemptions were extended permanently for Korea in return for agreeing to product specific quotas beginning on January 1, 2019, and expiration of exemptions for Argentina, Australia, and Brazil were not imposed.<sup>39</sup>

On August 18, 2017, the Office of the U.S. Trade Representative (“USTR”) initiated an investigation into certain acts, policies, and practices of the government of China related to technology transfer, intellectual property and innovation.<sup>40</sup> On April 6, 2018, the USTR, pursuant to Section 301(b) of the Trade Act of 1974, determined it was appropriate to impose a 25 percent duty on certain products from China.<sup>41</sup> Additional duties were applied in two tranches to include 818 tariff subheadings and 279 tariff subheadings.<sup>42</sup> On August 7, 2018, the USTR announced that supplemental action may be taken to impose additional duties on production from China,<sup>43</sup> and subsequently held a 6-day public hearing from August 20-27, 2018. On September 21, 2018, the USTR modified its section 301 tariff to impose additional duties on products from China to include silicomanganese.<sup>44</sup> <sup>45</sup> The initial duty rate on or after September 24, 2018 is 10 percent ad valorem with an increase to 25 percent ad valorem on January 1, 2019.<sup>46</sup>

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<sup>38</sup> Presidential Proclamation Adjusting Imports of Steel into the United States, April 30, 2018, <https://www.whitehouse.gov/presidential-actions/presidential-proclamation-adjusting-imports-steel-united-states-3/> , retrieved October 3, 2018.

<sup>39</sup> Presidential Proclamation on Adjusting Imports of Steel into the United States, April 30, 2018, <https://www.whitehouse.gov/presidential-actions/presidential-proclamation-adjusting-imports-steel-united-states-3/> , retrieved October 3, 2018.

<sup>40</sup> *Initiation of Section 301 Investigation; Hearing; and Requests for Public Comments: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 82 FR 40213, August 24, 2017.

<sup>41</sup> *Notice of Determination and Request for Public Comment Concerning Proposed Determination of Action Pursuant to Section 301: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 83 FR 14906, April 6, 2018.

<sup>42</sup> *Notice of Action and Request for Public Comment Concerning Proposed Determination of Action Pursuant to Section 301: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 83 FR 28710, June 20, 2018; and *Notice of Action Pursuant to Section 301: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 83 FR 40823, August 16, 2018.

<sup>43</sup> *Extension of Public Comment Period Concerning Proposed Modification of Action Pursuant to Section 301: China’s Acts, Policies, and Practices related to Technology Transfer, Intellectual Property, and Innovation*, 83 FR 38760, August 7, 2018.

<sup>44</sup> HTS 7202.30.00 defined as “ferrosilicon manganese.”

<sup>45</sup> *Notice of Modification of Section 301 action: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 83 FR 47974, September 21, 2018.

<sup>46</sup> *Ibid.*

## SUMMARY DATA

Table I-1 presents a summary of terminal year data from the original investigations and previous five-year reviews concerning the antidumping duty orders on silicomanganese from China and Ukraine. Additionally, figure I-1 presents data on U.S. producers' U.S. shipments and imports for 2012 through 2017. Complete data series are presented in appendix C.

### Table I-1

**Silicomanganese: Comparative data from the original investigations and subsequent reviews, 1993, 1999, 2005, 2011, and 2017**

\* \* \* \* \*

Table continued on next page.

**Table I-1—Continued**  
**Silicomanganese: Comparative data from the original investigations and subsequent reviews, 1993, 1999, 2005, 2011, and 2017**

Item	Original investigations	First reviews	Second reviews	Third reviews	Fourth reviews
	1993	1999	2005	2011	2017
	Quantity (short tons); Value (1,000 dollars); and Unit Value (dollars per short ton)				
U.S. imports.--					
China					
Quantity	24,092	---	---	1	---
Value	10,637	---	---	3	---
Unit value	\$442	---	---	\$2,196	---
Ukraine:					
Quantity	29,468	9,025	---	---	---
Value	14,253	3,317	---	---	---
Unit value	\$484	\$368	---	---	---
Subject sources:					
Quantity	53,560	9,025	---	1	---
Value	24,890	3,317	---	3	---
Unit value	\$465	\$368	---	\$3,000	---
Nonsubject sources:					
Quantity	264,900	322,323	360,920	347,497	387,199
Value	123,581	128,809	249,264	426,712	421,111
Unit value	\$467	\$400	\$691	\$1,228	\$1,088
All import sources:					
Quantity	318,460	331,348	360,920	347,498	387,199
Value	148,471	132,126	249,264	426,715	421,111
Unit value	\$466	\$399	\$691	\$1,228	\$1,088

Note.--Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent.  
 Note.--Brazil is not subject in the current proceedings but was in the original investigations the previous reviews.

Source: Office of Investigations Memorandum INV-KK-095 (September 26, 2012)), official U.S. import statistics, and compiled from data submitted in response to Commission questionnaires.

**Figure I-1**  
**Silicomanganese: U.S. producers' U.S. shipments and U.S. import data, 2012-17**

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## STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

### Statutory criteria

Section 751(c) of the Act requires Commerce and the Commission to conduct a review no later than five years after the issuance of an antidumping or countervailing duty order or the suspension of an investigation to determine whether revocation of the order or termination of the suspended investigation “would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.”

Section 752(a) of the Act provides that in making its determination of likelihood of continuation or recurrence of material injury--

*(1) IN GENERAL.-- . . . the Commission shall determine whether revocation of an order, or termination of a suspended investigation, would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission shall consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated. The Commission shall take into account--*

*(A) its prior injury determinations, including the volume, price effect, and impact of imports of the subject merchandise on the industry before the order was issued or the suspension agreement was accepted,*

*(B) whether any improvement in the state of the industry is related to the order or the suspension agreement,*

*(C) whether the industry is vulnerable to material injury if the order is revoked or the suspension agreement is terminated, and*

*(D) in an antidumping proceeding . . . , (Commerce’s findings) regarding duty absorption . . . .*

*(2) VOLUME.--In evaluating the likely volume of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether the likely volume of imports of the subject merchandise would be significant if the order is revoked or the suspended investigation is terminated, either in absolute terms or relative to production or consumption in the United States. In so doing, the Commission shall consider all relevant economic factors, including--*

*(A) any likely increase in production capacity or existing unused production capacity in the exporting country,*

*(B) existing inventories of the subject merchandise, or likely increases in inventories,*

*(C) the existence of barriers to the importation of such merchandise into countries other than the United States, and*

*(D) 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.*

*(3) PRICE.--In evaluating the likely price effects of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether--*

- (A) there is likely to be significant price underselling by imports of the subject merchandise as compared to domestic like products, and*
- (B) imports of the subject merchandise are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like products.*

*(4) IMPACT ON THE INDUSTRY.--In evaluating the likely impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated, the Commission shall consider all relevant economic factors which are likely to have a bearing on the state of the industry in the United States, including, but not limited to--*

- (A) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,*
- (B) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and*
- (C) 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.*

*The Commission shall evaluate all such relevant economic factors . . . within the context of the business cycle and the conditions of competition that are distinctive to the affected industry.*

Section 752(a)(6) of the Act states further that in making its determination, “the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy. If a countervailable subsidy is involved, the Commission shall consider information regarding the nature of the countervailable subsidy and whether the subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement.”

## Organization of report

Information obtained during the course of the reviews that relates to the statutory criteria is presented throughout this report. A summary of trade and financial data for silicomanganese as collected in the reviews is presented in appendix C. U.S. industry data are based on the questionnaire responses of two U.S. producers of silicomanganese that are believed to have accounted for all known domestic production of silicomanganese in 2017. U.S. import data and related information are based on Commerce's official import statistics and the questionnaire responses of 18 U.S. importers of silicomanganese that are believed to have accounted for more than 95 percent of U.S. imports during 2017. Foreign industry data and related information are based on the questionnaire responses of two Ukrainian producers of silicomanganese reported to account for the total production of silicomanganese in Ukraine in 2017.<sup>47</sup> There were no responses from Chinese producers of silicomanganese. Responses by U.S. producers, importers, purchasers, and foreign producers of silicomanganese to a series of questions concerning the significance of the existing antidumping and orders and the likely effects of revocation of such orders are presented in appendix D.

## COMMERCE'S REVIEWS

### Administrative reviews<sup>48</sup>

Commerce has not completed any administrative reviews of the outstanding antidumping duty order on silicomanganese from China. Commerce has completed one administrative review of the outstanding antidumping duty order on silicomanganese from Ukraine.<sup>49</sup> <sup>50</sup> The results of the administrative review on silicomanganese from Ukraine are shown in table I-2.

**Table I-2**

**Silicomanganese: Administrative review of the antidumping duty order for Ukraine**

Date results published	Period of review	Producer or exporter	Margin (percent)
August 9, 2017 (82 FR 37197)	8/1/15 – 7/31/2016	PJSC Zaporozhye Ferroalloy Plant	163.00
		PJSC Nikopol Ferroalloy Plant	163.00

Source: Cited Federal Register notice.

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<sup>47</sup> As discussed in Part IV, parties dispute the status of a third Ukrainian producer of silicomanganese.

<sup>48</sup> Commerce has not issued any duty absorption findings with respect to silicomanganese from China and Ukraine. Additionally, Commerce has not conducted any changed circumstances reviews or scope inquiry reviews with respect to silicomanganese from China and Ukraine.

<sup>49</sup> For previously reviewed or investigated companies not included in an administrative review, the cash deposit rate continues to be the company-specific rate published for the most recent period.

<sup>50</sup> Commerce rescinded an administrative review of silicomanganese from Ukraine for the review period of August 1, 2014 – July 31, 2015 *Silicomanganese from Ukraine: Notice of Rescission of Antidumping Duty Administrative Review*, 81 FR 22211, April 15, 2016.

## Five-year reviews

Commerce has issued the final results of its most recent expedited fourth five-year reviews with respect to both subject countries.<sup>51</sup> Table I-3 presents the dumping margins calculated by Commerce in its original investigations and subsequent five-year reviews regarding China and Table I-4 presents the dumping margins calculated by Commerce in its original investigations and subsequent five-year reviews regarding Ukraine.

**Table I-3**  
**Silicomanganese: Commerce’s original and first five-year dumping margins for producers/exporters in China**

<b>Producer/exporter</b>	<b>Original margin (percent)</b>	<b>First five-year review margin (percent)</b>	<b>Second five-year review margin (percent)</b>	<b>Third five-year review margin (percent)</b>	<b>Fourth five-year review margin (percent)</b>
Country-wide	150.00	150.00	150.00	150.00	150.00

*Source: Notice of Final Determination of Sales at Less Than Fair Value: Silicomanganese from the People’s Republic of China, 59 FR 55432 November 7, 1994; Silicomanganese From the People’s Republic of China and Brazil; Final Results of Antidumping Duty Expedited Sunset Reviews, 65 FR 35324 June 2, 2000 Silicomanganese From Brazil, Ukraine, and the People’s Republic of China: Five-year Sunset Reviews of Antidumping Duty Orders; Final Results, 71 FR 26927 May 9, 2006; Silicomanganese From Brazil, the People’s Republic of China, and Ukraine: Final Results of the Expedited Third Sunset Reviews of the Antidumping Duty Orders, 76 FR 73587, November 29, 2011; Silicomanganese From the People’s Republic of China and Ukraine: Final Results of Expedited Fourth Sunset Reviews of the Antidumping Duty Orders, 83 FR 5609, February 8, 2018.*

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<sup>51</sup> *Silicomanganese from the People’s Republic of China and Ukraine: Final Results of Expedited Fourth Sunset Reviews of the Antidumping Duty Orders, 83 FR 5609, February 8, 2018.*

**Table I-4**  
**Silicomanganese: Commerce’s original and first five-year dumping margins for producers/exporters in Ukraine**

<b>Producer/exporter</b>	<b>Original margin (percent)</b>	<b>First five-year review margin (percent)</b>	<b>Second five-year review margin (percent)</b>	<b>Third five-year review margin (percent)</b>	<b>Fourth five-year review margin (percent)</b>
Country-wide	(1)	163.00 <sup>2</sup>	163.00	163.00	163.00

<sup>1</sup> Commerce suspended the antidumping duty investigation regarding silicomanganese imports from Ukraine effective October 31, 1994, based on an agreement by the Government of Ukraine to restrict the volume of direct or indirect silicomanganese exports to the United States and to sell such exports at or above a “reference price” in order to prevent the suppression or undercutting of price levels of U.S. domestic silicomanganese. *Antidumping: Silicomanganese From Ukraine; Suspension of investigation*, 59 FR 60951, November 29, 1994.

<sup>2</sup> On September 27, 2000 Commerce found that termination of the suspended antidumping duty investigation would be likely to lead to continuation or recurrence of dumping. *Final Results of Full Sunset Review: Silicomanganese from Ukraine*, 65 FR 58045, September 27, 2000.

Source: *Final Results of Full Sunset Review: Silicomanganese from Ukraine*, 65 FR 58045, September 27, 2000; *Silicomanganese From Brazil, Ukraine, and the People’s Republic of China: Five-year Sunset Reviews of Antidumping Duty Orders; Final Results*, 71 FR 26927 May 9, 2006 *Silicomanganese From Brazil, the People’s Republic of China, and Ukraine: Final Results of the Expedited Third Sunset Reviews of the Antidumping Duty Orders*, 76 FR 73587, November 29, 2011; *Silicomanganese From the People’s Republic of China and Ukraine: Final Results of Expedited Fourth Sunset Reviews of the Antidumping Duty Orders*, 83 FR 5609, February 8, 2018.

## **THE SUBJECT MERCHANDISE**

### **Commerce’s scope**

In the current proceeding, Commerce has defined the scope as follows:

The merchandise covered by the orders is silicomanganese. Silicomanganese, which is sometimes called ferrosilicon manganese, is a ferroalloy composed principally of manganese, silicon and iron, and normally contains much smaller proportions of minor elements, such as carbon, phosphorus, and sulfur. Silicomanganese generally contains by weight not less than 4 percent iron, more than 30 percent manganese, more than 8 percent silicon, and not more than 3 percent phosphorous. All compositions, forms, and sizes of silicomanganese are included within the scope of the order, including silicomanganese slag, fines, and briquettes. Silicomanganese is used primarily in steel production as a source of both silicon and manganese.

Silicomanganese is currently classifiable under subheading 7202.30.00 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Some silicomanganese may also currently be classifiable under HTSUS subheading 7202.99.50. The orders cover all silicomanganese, regardless of its tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the orders remain dispositive.<sup>52</sup>

### Tariff treatment

Silicomanganese is currently provided for in HTS subheading 7202.30.00 as "Ferrosilicon manganese,"<sup>53</sup> which includes all compositions, forms, and sizes of silicomanganese in Commerce’s scope.<sup>54</sup> Silicomanganese imported from China enters the U.S. market at a column 1-general duty rate of 3.9 percent, while silicomanganese imported from Ukraine enters the U.S. market at a column 1-special duty rate of “Free,”<sup>55</sup> as Ukraine is an eligible beneficiary country for the Generalized System of Preferences (“GSP”) program.<sup>56</sup> Decisions on the tariff classification and treatment of imported goods are within the authority of U.S. Customs and Border Protection.

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<sup>52</sup> *Silicomanganese from the People’s Republic of China and Ukraine: Continuation of Antidumping Duty Orders*, 77 FR 66956, November 8, 2012; *Silicomanganese From the People’s Republic of China and Ukraine: Final Results of the Expedited Fourth Sunset Reviews of the Antidumping Duty Orders*, 83 FR 5609, February 8, 2018.

<sup>53</sup> *Harmonized Tariff Schedule of the United States (2018) — Revision 8*, USITC Publication 4813, August 2018, p. 72-9

<sup>54</sup> Some “off-specification” silicomanganese or silicomanganese slag may be imported under HTS subheading 7202.99.50, which covers “other” (i.e., nonenumerated) ferroalloys. In the original investigations, no silicomanganese was found to have been imported under this HTS subheading. *Silicomanganese from Brazil, the People’s Republic of China, Ukraine, and Venezuela, Inv. Nos. 731-TA-671-674 (Final)*, USITC Publication 2836, December 1994, p. 1-17.

<sup>55</sup> *Harmonized Tariff Schedule of the United States (2018) — Revision 8*, USITC Publication 4813, August 2018, p. 72-9

<sup>56</sup> *Ibid.*, p. GN-11.

## THE PRODUCT

### Description and uses<sup>57</sup>

Silicomanganese, a silvery metallic ferroalloy,<sup>58</sup> is composed principally of manganese, silicon, and iron. It is produced in a number of different grades and sizes. However, most silicomanganese is manufactured and sold to ASTM International specification A483, in one of three grades, designated “A,” “B,” and “C” that differ by their silicon and carbon content.<sup>59</sup> Most silicomanganese produced and sold in the United States conforms to the specification for grade B. Silicomanganese is sold in small pieces of uniform sizes. A typical screening-size range for silicomanganese lumps is from ¼ inch to 3 inches in diameter.<sup>60</sup>

Silicomanganese is consumed in bulk form principally by the steel industry as a source of both silicon and manganese,<sup>61</sup> although some silicomanganese is used as an alloying agent in the production of iron castings. Manganese, intentionally present in nearly all steels, is used as a desulfurizer and deoxidizer. By removing sulfur, manganese prevents the steel from becoming brittle during the hot-rolling process and enhances the strength and hardness of the steel. Silicon is used as a deoxidizer to aid in producing steels of uniform chemistry and mechanical properties. As such, it is not retained within the steel, but forms silicon oxide, which separates out from the molten steel as a component of the slag. As an alloying agent, silicon increases the

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<sup>57</sup> Unless otherwise noted, this information is based on *Silicomanganese from Brazil, China, and Ukraine, Inv. No. 731-TA-671-673 (Third Review)*, USITC Publication 4354, October 2012, pp. I-16 through I-17 and *Silicomanganese from Australia, Investigation No. 731-TA-1269 (Final)*, USITC Publication 4600, April 2016, pp. I-11– I-14.

<sup>58</sup> A ferroalloy is an alloy of iron containing one or more other elements. The iron acts as a carrier to dissolve these other elements into molten iron or steel.

<sup>59</sup> According to this ASTM standard specification, each of the three grades must contain 65 to 68 percent manganese, a maximum of 0.20 percent phosphorus, and a maximum of 0.04 percent sulfur, by weight. The silicon and carbon contents for each grade are:

Grade A contains 18.5-21.0 percent silicon and a maximum of 1.5 percent carbon.

Grade B contains 16.0-18.5 percent silicon and a maximum of 2.0 percent carbon.

Grade C contains 12.5-16.0 percent silicon and a maximum of 3.0 percent carbon.

Additionally, the content of minor elements arsenic, tin, lead, chromium, nickel, and molybdenum, is limited. See: ASTM Designation A483/A483M-10 (reapproved 2015), Standard Specification for Silicomanganese, tables 1 (Chemical Requirements) and table 2 (Supplemental Chemical Requirements). Designation: A 483-04 Standard Specification for Silicomanganese in: *Annual Book of ASTM Standards, Section 1 Iron and Steel Products, Volume 01.02 Ferrous Castings; Ferroalloys*, 2017, p. 270.

<sup>60</sup> These dimensions refer to the diameters of the openings in the standard screens or sieves that are used to size silicomanganese. Silicomanganese is crumbly, and is susceptible to appreciable reduction in size by repeated handling. This generates small lumps and fines (the diameter of small lumps may be one-half that of regular-sized pieces, but there is no specified minimum diameter for fines).

<sup>61</sup> Other elements in steel are carbon as the principal hardening element, and phosphorus and sulfur, as impurities that cause brittleness and cracking.

hardness and strength of hot-rolled steel mill products, and enhances the toughness, corrosion resistance, and magnetic and electrical properties of certain steel mill products. \*\*\*.<sup>62</sup>

Use of silicomanganese depends upon the steelmaking practices of a given producer. It may be either imparted directly into the steelmaking furnace or added as a chemistry addition or deoxidizer to molten steel at a separate ladle metallurgy station. As a furnace addition, silicomanganese is used in lump sizes and melted along with other steelmaking raw materials. As a ladle addition, it is typically used in smaller sizes. Silicomanganese is principally consumed by electric-arc furnace steelmakers in the production of long-rolled products, including bars and structural shapes. Such use may be due to less restrictive specifications for silicon for long-rolled products than for flat-rolled, carbon steel mill products, such as sheet and strip.<sup>63</sup> Silicomanganese accounts for only a small share of the total production cost for steel mill products.<sup>64</sup> Most steel contains from 0.2 percent to 2 percent manganese, depending on the grade of the steel.<sup>65</sup>

A grade of silicomanganese containing a somewhat higher level of manganese—72 percent in contrast to a range of 65 to 68 percent in standard silicomanganese—is produced at Georgian Manganese, in the Republic of Georgia, affiliated with Felman and Felman Trading.<sup>66</sup> This so-called “high grade” silicomanganese also contains a higher amount of the element phosphorus (0.20–0.35 percent) than does standard silicomanganese.<sup>67</sup> Ukrainian respondents ZFP and NFP produce silicomanganese with a higher amount of manganese and phosphorus (0.25–0.30 percent)<sup>68</sup> than standard grade owing to the phosphorous content of the manganese ore that they use to produce silicomanganese.<sup>69</sup> In their prehearing brief, respondents ZFP and NFP stated that the quality of silicomanganese is characterized by its silicon and manganese content, as well as of the deleterious elements: sulphur, carbon, and phosphorus. They stated that high quality silicomanganese must contain up to 0.02 percent

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<sup>62</sup> Staff fieldwork and interview with \*\*\*.

<sup>63</sup> Producers of flat-rolled steel mill products reportedly tend to use a combination of both ferromanganese and ferrosilicon, rather than silicomanganese, which allows them greater control of each individual element. Staff field work and interview with \*\*\*.

<sup>64</sup> Typically, 6 to 7 kilograms of manganese are required for each ton of steel produced. *Eramet Investor Presentation—September 2017*, Eramet, p. 16, [http://www.eramet.com/en/system/files/publications/pdf/investors\\_presentation\\_en.pdf](http://www.eramet.com/en/system/files/publications/pdf/investors_presentation_en.pdf). Retrieved August 16, 2018.

<sup>65</sup> *Eramet webpage*, <http://www.eramet.com/en/our-activities/extracting-recuperating/manganese/our-products/simn-silicomanganese>, retrieved August 16, 2018.

<sup>66</sup> *Georgian American Alloys webpage*, <http://www.gaalloys.com/index.php/products/simn>. Retrieved August 30, 2018.

<sup>67</sup> A company official from Eramet stated that as far as he was aware, all high-manganese silicomanganese was also high-phosphorus. Hearing transcript, p. 45, (Rochussen).

<sup>68</sup> At the hearing respondents states that Ukrainian silicomanganese typically contains more than 0.25 percent phosphorous and often as much as 0.50 to 0.60 percent phosphorous. Hearing transcript, p. 24 (Mowry).

<sup>69</sup> NFP and ZFP’s prehearing brief, p. 6

sulphur and up to 0.2 percent phosphorus. They contend that the higher content of deleterious elements decreases the price of silicomanganese, and makes it impossible to be used in the production process of high-quality steel for manufacturing of cars, oil and gas pipes, etc.<sup>70</sup> Domestic interested party, Eramet, stated that while some steel mills are not interested in purchasing silicomanganese with higher phosphorous levels, others are willing to purchase higher phosphorous silicomanganese, particularly because it allows them to acquire additional manganese units at a discount. At the right price, Eramet contends, some purchasers are willing to change their steel production recipe to use silicomanganese with higher phosphorous level, or blend it with lower phosphorous silicomanganese.<sup>71</sup>

Finally, a low-carbon grade of silicomanganese containing about 60 percent manganese, about 30 percent silicon, and less than 0.10 percent carbon is also available principally for production of stainless steel. Low-carbon silicomanganese is produced by upgrading standard grade material by addition of silicon wastes from the ferrosilicon industry.<sup>72</sup>

### **Manufacturing process<sup>73</sup>**

Silicomanganese is produced by smelting together, in a submerged electric-arc furnace, sources of silicon, manganese, iron, and a carbonaceous reducing agent, usually coal and coke.<sup>74</sup> The principal sources of manganese are manganese ore and ferromanganese slag, which is a byproduct of ferromanganese production.<sup>75</sup> <sup>76</sup> The sources of silicon are natural quartz (river gravel) or dross, which is purchased from ferrosilicon producers.<sup>77</sup> The raw

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<sup>70</sup> NFP and ZFP's prehearing brief, p. 6

<sup>71</sup> Hearing transcript, p. 29 (Rochussen).

<sup>72</sup> Olsen, S.E. and M. Tangstad, *Silicomanganese Production-Process Understanding*, in *Proceedings: Tenth International Ferroalloys Congress, 2004*. p. 232.

<sup>73</sup> Unless otherwise noted, this information is based on *Silicomanganese from Brazil, China, and Ukraine, Inv. Nos. 731-TA-671-673 (Third Review)*, USITC Publication 4354, October 2012, pp. I-17 through I-18 and *Silicomanganese from Australia, Investigation No. 731-TA-1269 (Final)*, USITC Publication 4600, April 2016, pp. I-14 through I-16.

<sup>74</sup> For further discussion of inputs, see *Silicomanganese from Brazil, the People's Republic of China, Ukraine, and Venezuela, Inv. Nos. 731-TA-671-674 (Final)*, USITC Publication 2836, December 1994.

<sup>75</sup> Manganese ore is classified as high-grade (greater than 40 percent manganese content) and low-grade (30 to 40 percent manganese content). Manganese ore grades are a function of the deposit from which they are produced. Silicomanganese producers typically purchase different grades of ore and mix them to achieve the desired manganese content level for the furnace. Staff fieldwork and interview with \*\*\*.

<sup>76</sup> All ore used for silicomanganese production is imported because there is no U.S. production of manganese ore. The primary sources of manganese ore from 2013–16 were: Gabon, 73 percent; South Africa, 11 percent; and Australia, 9 percent. Corathers, Lisa A., "Manganese," 2018 Mineral Commodity Summaries. \*\*\*. Staff fieldwork and interview with \*\*\*.

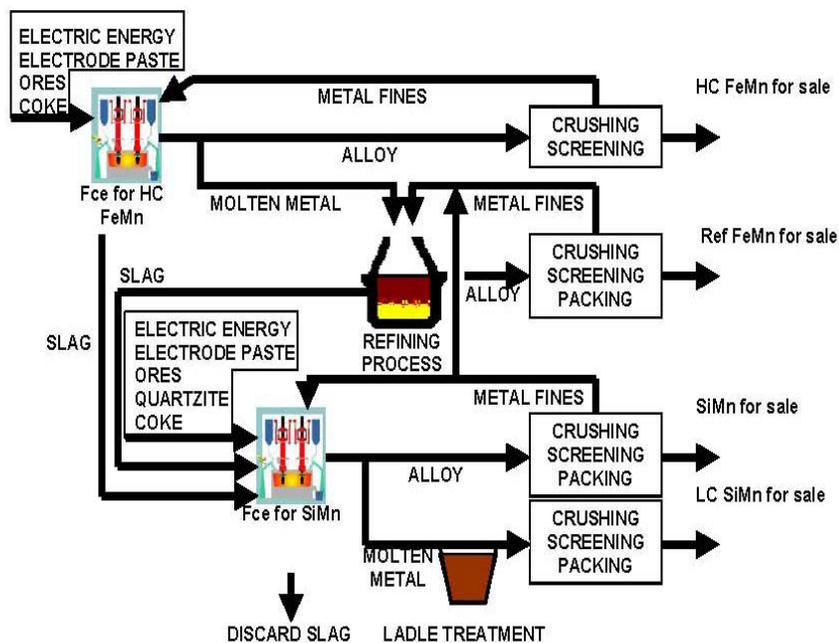
<sup>77</sup> Silicon dross is a by-product of the silicon industry and contains trapped "metallic" silicon inside of a silica slag. Some silicon (and ferrosilicon) producers sell slag and dross generated at their plants to silicomanganese producers. Simcoa Operations PTY LTD website, <http://simcoa.com.au/faq.html>, retrieved August 17, 2018.

materials are combined in a “charge” (which may also include wood chips, dolomite, and a fluxing agent) and introduced into a furnace where an electrical transformer system delivers high-current, low-voltage electricity to the charge through carbon electrodes. The charge is heated to a temperature of 1,300 to 1,400 degrees centigrade. Impurities from the ore or other manganese sources are released and form slag, which rises to the top of the furnace and floats on top of molten silicomanganese.

Following smelting, the molten silicomanganese and slag are removed (“tapped”) from the furnace. The molten silicomanganese is poured into large molds (called “chills”), where it cools and hardens. Once the alloy has hardened, the chills are emptied and the alloy is crushed into small pieces and screened to fairly uniform sizes. Figure I-2 presents the basic process for the production of silicomanganese and ferromanganese at Eramet Marietta.

**Figure I-2**  
**Silicomanganese and ferromanganese: Production processes at Eramet.**

## Process flow-sheet



Source: *Silicomanganese from Brazil, China, and Ukraine, Inv. Nos. 731-TA-671-673 (Third Review)*, USITC Publication 4354, October 2012, p. I-18.

Silicomanganese is manufactured in the same or similar facilities as those used to produce high-carbon ferromanganese, although switching from one grade or type of manganese ferroalloy to another involves costs in terms of lost production, reduced productivity, or possible contamination of the higher grade product. Generally, little difference appears to exist between silicomanganese production processes in the domestic industry and those used abroad. This reflects the maturity of the industry, and may be attributed to the

diffusion of process technology, techniques, and equipment on a world-wide basis; the similarity of steelmaking techniques; and the commonality of steel recipes.

### DOMESTIC LIKE PRODUCT ISSUES

The domestic like product is defined as 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 determinations, the Commission defined the domestic like product as all silicomanganese.<sup>78</sup> In the first, second, and third five-year reviews, the Commission also defined the domestic like product as all silicomanganese.<sup>79</sup> In its notice of institution in these current five-year reviews, the Commission solicited comments from interested parties regarding the appropriate domestic like product and domestic industry.<sup>80</sup> In its response to the notice of institution, Eramet agreed with the definition of the domestic like product that was adopted in the original injury investigations, but reserved the right to comment on the appropriate definitions during the course of the instant reviews.<sup>81</sup> In their response to the notice of institution, respondent interested parties took no position with respect to the definition of the domestic like product and reserved the right to address this issue during full reviews.<sup>82</sup> No party requested that the Commission collect data concerning other possible domestic like products in their comments on the Commission's draft questionnaires.<sup>83</sup>

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<sup>78</sup> *Silicomanganese from Brazil, the People's Republic of China, Ukraine, and Venezuela, Investigations Nos. 731-TA-671-674 (Final)*, USITC Publication 2836, December 1994, pp. I-6 to I-7 and I-21 to I-22.

<sup>79</sup> *Silicomanganese from Brazil, China, and Ukraine: Investigations Nos. 731-TA-671-673 (Review)*, USITC Publication 3386, January 2001, p. 5; *Silicomanganese from Brazil, China, and Ukraine: Investigations Nos. 731-TA-671-673 (Second Review)*, USITC Publication 3879, August 2006, p. 5; and *Silicomanganese from China and Ukraine: Investigations Nos. 731-TA-671-673 (Second Review)*, USITC Publication 4354, October 2012, pp. 5-6.

<sup>80</sup> *Silicomanganese from China and Ukraine: Institution of Five-Year Reviews*, 82 FR 45892, October 2, 2018.

<sup>81</sup> *Domestic Interested Party's Response to the Notice of Institution*, p. 31.

<sup>82</sup> *NFP Respondent Interested Party's Response to the Notice of Institution*, p. 9; and *ZFP Respondent Interested Party's Response to the Notice of Institution*, p. 8.

<sup>83</sup> *Eramet Marietta, Inc. Comments on Draft Questionnaires*, June 6, 2018. *Nikopol Ferroalloy Plant and Zaporozhye Ferroalloy Plant Comments on Draft Questionnaires*, June 6, 2018.

## U.S. MARKET PARTICIPANTS

### U.S. producers

During the original investigations, Elkem Metals Co. (“Elkem”) supplied the Commission with information on their U.S. operations with respect to silicomanganese. Elkem accounted for all known U.S. production of silicomanganese in 1993.<sup>84</sup> From 2002 to 2005, Highlander Alloys, LLC (“Highlander”) attempted to produce silicomanganese at a silicon and silicon alloy facility in New Haven, West Virginia. After a number of difficulties including financial strain, strikes by unpaid workers and production difficulties resulting in only sporadic production of silicomanganese in January 2006 Felman Production, LLC (“Felman”) purchased the silicomanganese assets out of Highlander’s bankruptcy proceedings.<sup>85 \*\*\*</sup><sup>86</sup> These firms accounted for all know U.S. production of silicomanganese in 2011.<sup>87</sup> In these current proceedings, the Commission issued U.S. producers’ questionnaires to Felman and Eramet both provided the Commission with information on their product operations. These firms are believed to account for all known U.S. production of silicomanganese in 2017. Presented in table I-5 is a list of current domestic producers of silicomanganese and each company’s position on continuation of the orders, production locations, and share of reported production of silicomanganese in 2017. Table I-6 presents data on ownership and related and/or affiliated firms.

**Table I-5**  
**Silicomanganese: U.S. producers, positions on orders, U.S. production locations, related and/or affiliated firms, and shares of 2017 reported U.S. production**

Firm	Position on order	Production location	Share of production (percent)
Eramet: China	***	Marietta, OH	***
Ukraine	***		
Felman: China	***	Letart, WV	***
Ukraine	***		
Total			***

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

<sup>84</sup> The one U.S. producer that supplied the Commission with usable questionnaire information during the original investigations was Elkem Metals Co. (“Elkem”) a subsidiary of the Norwegian firm Elkem S/A. In July 1999, Eramet SA of France purchased the production facility in Marietta, Ohio, which included all of Elkem’s silicomanganese assets, from Elkem S/A and created the U.S. company Eramet Marietta, Inc. (“Eramet”).

<sup>85</sup> *Silicomanganese from China and Ukraine: Investigations Nos. 731-TA-671-673 (Third Review)*, USITC Publication 4354, October 2012, p. I-19.

<sup>86</sup> *Investigation Nos. 731-TA-671-673 (Third Review): Silicomanganese from Brazil, China, and Ukraine—INV-KK-095*, September 26, 2012, pp. I-22 – I-23.

<sup>87</sup> *Silicomanganese from China and Ukraine: Investigations Nos. 731-TA-671-673 (Third Review)*, USITC Publication 4354, October 2012, p. I-19

**Table I-6**  
**Silicomanganese: U.S. producers' ownership, related and/or affiliated firms, since January 2015**

\* \* \* \* \*

As indicated in table I-6, both U.S. producers are related to foreign producers of the subject merchandise and both are related to U.S. importers of the subject merchandise. In addition, as discussed in greater detail in Part III, both U.S. producers directly import silicomanganese and \*\*\* purchased silicomanganese from U.S. importers.

At the time of the second five-year reviews of these orders (*i.e.*, in 2006), Counsel for Felman submitted an entry of appearance with the Commission indicating that Felman had “plans to restart the plant \*\*\* and produce \*\*\*, including silicomanganese” and that “Felman \*\*\* related to \*\*\*, a Ukrainian producer of silicomanganese, and also is a potential importer of silicomanganese from Ukraine.”<sup>88</sup> Counsel for Felman subsequently withdrew the entry of appearance and neither Felman nor Zaporozhye, the Ukrainian producer, submitted responses to the Commission’s notice of institution in those reviews.<sup>89</sup>

During the third five-year reviews, Felman indicated that \*\*\*.<sup>90</sup> Felman indicated that it does not share common management with the Ukrainian producers. Furthermore, Felman indicated that \*\*\*.<sup>91</sup> Public data appear to indicate that the Privat Group, which owns the Ukrainian producers, had an ownership interest in \*\*\* but confidential statements from the Ukrainian producers \*\*\*.<sup>92</sup> Additional record evidence submitted by the Brazilian interested party, at the time, appears to connect Felman and the Ukrainian producers through common ownership interests (*i.e.*, the Privat Group) in 2011.<sup>93</sup>

In the current reviews, Felman listed \*\*\*.<sup>94</sup> Upon inquiry Felman informed staff that Felman Trading Americas \*\*\*.<sup>95</sup> Additionally, \*\*\*.<sup>96</sup> According to the company’s website, Felman Trading Americas “is a distributor of ferroalloys produced by US-based companies Felman Production, Inc., located in New Haven, West Virginia, CC Metals and Alloys, located in Calvert City, Kentucky, and Eastern European-based Georgian Manganese, located in Georgia, Black Sea region. Besides working with U.S. based companies, Felman Trading Americas has sales arrangements with the world's largest, longstanding alloy producers like SC Feral SRL, located in Romania (SiMn, HC FeMn, and Ferrochrome), Nikopol Ferroalloy Plant, Zaporozh'ye

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<sup>88</sup> *Silicomanganese from Brazil, China, and Ukraine: Investigations Nos. 731-TA-671-673 (Second Review)*, USITC Publication 3879, August 2006, p. I-3 and fn. 5.

<sup>89</sup> *Ibid.*

<sup>90</sup> *Investigation Nos. 731-TA-671-673 (Third Review) Silicomanganese from Brazil, China, and Ukraine—Staff Report*, INV-KK-095, September 26, 2012, pp. I-25 – I-26.

<sup>91</sup> *Ibid.*

<sup>92</sup> *Ibid.*

<sup>93</sup> *Silicomanganese from Brazil China, and Ukraine: Investigations Nos. 731-TA-671-673 (Third Review)*, USITC Publication 4354, October 2012, pp. I-20 – I-21.

<sup>94</sup> \*\*\* producer questionnaire response, section I-5.

<sup>95</sup> \*\*\*.

<sup>96</sup> *Ibid.*

Ferroalloy Plant, and Stakhanov Ferroalloy Plant in Ukraine (SiMn, HC/MC FeMn, FeSi, and Mn metal)".<sup>97</sup> Additional public information from 2017 appears to connect Felman and Felman Trading to the Privat Group.<sup>98</sup>

In its prehearing brief Eramet asserted that public information shows a common ownership between Felman Production, Felman Trading Inc., and Felman Trading Americas and the three Ukrainian producers Nikopol Ferroalloy Plant ("NFP"), Zaporozhsky Ferro Alloy Plant ("ZFP"), and Stakhanov Ferroalloy Plant ("Stakhanov")<sup>99</sup> through two Ukrainian nationals Igor Kolomoisky and Gennady Bogolyubov and Miami, Florida-based businessman (Mordechai "Motti" Korf), who "exercise their ownership of these assets through various names, such as Georgian American Alloys, Optima Acquisitions LLC, and the Privat Group."<sup>100</sup>

In their foreign producer questionnaire \*\*\*.<sup>101</sup> When asked to clarify their relationship with any U.S. entity engaged in producing, importing, or purchasing silicomanganese, the Ukrainian respondents could neither confirm nor deny any relation.<sup>102</sup> In their posthearing brief, the Ukrainian respondents noted that based on public information the Privat Group owns both NFP and ZFP as well as Georgian American Alloys.<sup>103</sup> However, the Ukrainian respondents also noted that Felman Trading's website citing exclusive sales agreements with NFP and ZFP is unreliable and both NFP and ZFP "do not and have never had an exclusive sales agreement with Felman Trading".<sup>104</sup> In follow-up correspondence with Felman a representative indicated:

\*\*\*

\*\*\*.<sup>105</sup>

## U.S. importers

In the original investigations, 21 U.S. importing firms supplied the Commission with usable information on their operations involving the importation of silicomanganese, accounting for the vast majority of U.S. imports of silicomanganese during from January 1991 through June 1994.<sup>106</sup> In the first full five-year reviews seven importers supplied the

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<sup>97</sup> Felman Trading Americas webpage <https://ftamericas.com/about-us>, retrieved August 16, 2018.

<sup>98</sup> The Spectacular Rise and Fall of Ihor Kolomoisky's Steel Empire, Kyiv Post, <https://www.kyivpost.com/ukraine-politics/spectacular-rise-fall-ihor-kolomoiskys-steel-empire.html?cn-reloaded=1> March 2, 2017.

<sup>99</sup> Parties have debated the current state of the Stakhanov facility. See p. IV-21.

<sup>100</sup> Eramet's prehearing brief, pp. 10-11.

<sup>101</sup> \*\*\* foreign producer questionnaire response, section I-4.

<sup>102</sup> Hearing transcript, p. 175 (Vatutina).

<sup>103</sup> Ukrainian respondent interested parties' posthearing brief, attachment B.

<sup>104</sup> Ukrainian respondent interested parties' posthearing brief, attachment C.

<sup>105</sup> \*\*\*, email message to USITC staff, October 1, 2018.

<sup>106</sup> *Silicomanganese from Brazil, the People's Republic of China, Ukraine, and Venezuela: Investigations Nos. 731-TA-671-674*, USITC Publication 2836, December 1994, p. I-13.

Commission with usable data accounting for 100.0 percent of silicomanganese imports.<sup>107</sup> In the previous third full five-year reviews ten importers of silicomanganese supplied the Commission with usable data accounting for 95.8 percent of U.S. imports of silicomanganese in from 2006 to 2011.<sup>108</sup> <sup>109</sup> Of the responding U.S. importers, two were domestic producers: Felman and Eramet.

In the current proceedings, the Commission issued U.S. importers' questionnaires to 38 firms believed to be importers of silicomanganese, as well as to all U.S. producers of silicomanganese. Usable questionnaire responses were received from 18 firms,<sup>110</sup> representing more than 95 percent of U.S. imports in 2017.<sup>111</sup> Table I-7 lists all responding U.S. importers of silicomanganese from China and Ukraine and other sources, their locations, and their shares of U.S. imports in 2017.

In 2017, the largest importer was \*\*\*. <sup>112</sup> Additionally, \*\*\*. In 2017, Eramet imported \*\*\* short tons of silicomanganese and Felman Trading imported \*\*\* short tons of silicomanganese.<sup>113</sup> In its importer questionnaire, Eramet indicated that it \*\*\*.<sup>114</sup> Additionally, Felman Trading's \*\*\*.<sup>115</sup>

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<sup>107</sup> *Silicomanganese from Brazil, China, and Ukraine: Investigations Nos. 731-TA-671-673 (Review)*, USITC Publication 3386, January 2001, pp. I-2 and IV-2.

<sup>108</sup> *Silicomanganese from Brazil, China, and Ukraine: Investigations Nos. 731-TA-671-673 (Third Review)*, BPI staff report, October 2012, pp. I-27-I-28.

<sup>109</sup> The second five-year reviews were expedited therefore importer questionnaires were not issued.

<sup>110</sup> \*\*\* confirmed imports but its questionnaire was incomplete and therefore not included in this report.

<sup>111</sup> \*\*\* imported silicomanganese from China which accounted for \*\*\* percent of U.S. imports from silicomanganese in 2015. Proprietary Customs data show small amount imports of silicomanganese from Ukraine in 2015 believed to be imported by \*\*\*. Import data show no imports of silicomanganese from China and Ukraine from 2016 through June 2018.

<sup>112</sup> \*\*\* importer questionnaire response, section II-7a.

<sup>113</sup> \*\*\* importer questionnaire response, section II-7a.

<sup>114</sup> \*\*\* importer questionnaire response, section II-4.

<sup>115</sup> \*\*\* importer questionnaire response, section II-4.

**Table I-7**  
**Silicomanganese: U.S. importers, source(s) of imports, U.S. headquarters, and shares of imports in 2017**

Firm	Headquarters	Share of imports by source (percent)		
		Subject sources	Nonsubject sources	All import sources
CCMA	Amherst, NY	***	***	***
Commercial Metals	Irving, TX	***	***	***
DCM ALLOYS	Fürstenfeld, AT	***	***	***
DJJ	Cincinnati, OH	***	***	***
Eramet	Marietta, OH	***	***	***
Felman Trading	Miami, FL	***	***	***
Felman Trading Americas	Miami, FL	***	***	***
Ferroatlantica	Madrid, Spain	***	***	***
Glencore	New York, NY	***	***	***
Medima	Clarence, NY	***	***	***
Millbank	Portland, OR	***	***	***
Minerais	Hillsborough, NJ	***	***	***
NAS	Ghent, KY	***	***	***
ProFound Alloys	Mcmurray, PA	***	***	***
Russian Ferro Alloys	Mishawaka, IN	***	***	***
Samancor	Hergiswil, NW	***	***	***
Traxys Comerals	Fort Lee, NJ	***	***	***
Traxys North America	New York, NY	***	***	***
Total		***	***	***

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

### U.S. purchasers

The Commission received 16 usable questionnaire responses from firms that bought silicomanganese during 2015 through June 2018.<sup>116</sup> Two responding purchasers are distributors, 13 are end users, and one is both an end user and a distributor. In general, responding U.S. purchasers were located in the Midwest. The responding purchasers represented firms in the steel industry industries. Large purchasers of silicomanganese include \*\*\* and \*\*\*.

### APPARENT U.S. CONSUMPTION

Data concerning apparent U.S. consumption of silicomanganese are shown in table I-8. Additionally, figure I-3 displays data on apparent U.S. consumption during the period in which data were collected.

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<sup>116</sup> Of the 16 responding purchasers, seven purchased domestic silicomanganese, none purchased imports of silicomanganese from China and Ukraine, and 14 purchased imports of silicomanganese from other sources.

**Table I-8**

**Silicomanganese: U.S. shipments of domestic product, U.S. shipments of imports, and apparent U.S. consumption, 2015-17, January to June 2017, and January to June 2018**

Item	Calendar year			January to June	
	2015	2016	2017	2017	2018
	<b>Quantity (short tons)</b>				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. imports from.--					
China	11	---	---	---	---
Ukraine	22	---	---	---	---
Subject sources	33	---	---	---	---
Nonsubject sources	331,428	291,188	387,199	188,639	221,484
All import sources	331,461	291,188	387,199	188,639	221,484
Apparent consumption	***	***	***	***	***
	<b>Value (1,000 dollars)</b>				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. imports from.--					
China	24	---	---	---	---
Ukraine	20	---	---	---	---
Subject sources	44	---	---	---	---
Nonsubject sources	318,770	203,929	421,111	198,826	199,690
All import sources	318,814	203,929	421,111	198,826	199,690
Apparent consumption	***	***	***	***	***

Source: Compiled from data provided in response to Commission questionnaires, and from official U.S. import statistics using HTS statistical reporting number 7202.30.0000, accessed August 10, 2018.

**Figure I-3**

**Silicomanganese: Apparent U.S. consumption, 2015-17, January to June 2017, and January to June 2018**

\* \* \* \* \*

**U.S. MARKET SHARES**

U.S. market share data are presented in table I-9 and figure I-4.

**Table I-9**

**Silicomanganese: U.S. consumption and market shares, 2015-17, January to June 2017, and January to June 2018**

\* \* \* \* \*

**Figure I-4**

**Silicomanganese: Market shares, 2015-17, January to June 2017, and January to June 2018**

\* \* \* \* \*

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

### U.S. MARKET CHARACTERISTICS

Silicomanganese is used by steel producers as a source of manganese and silicon for a variety of steel products including coils, bars, and rods generally used in the construction and infrastructure industries. Silicomanganese is a commodity product most often produced to order and sold under long-term contracts and spot sales to steel producers and distributors.<sup>1</sup> There are three basic grades of standard silicomanganese (grades A, B, and C) determined by the levels of manganese, silicon, carbon, phosphorus, and sulfur contained in the silicomanganese, as well as high-phosphorus/manganese and low-carbon variants. U.S. producers, importers, and foreign producers reported no changes in silicomanganese production since January 1, 2012.

The U.S. market is supplied by two U.S. producers of silicomanganese, Eramet and Felman,<sup>2</sup> and more than a dozen importers. Imports from nonsubject countries are the largest source of supply in the U.S. market (representing \*\*\* percent of apparent consumption and \*\*\* percent of total imports in 2017), of which the largest sources are Australia, Georgia, and South Africa. Purchasers reported most frequently buying ASTM B grade silicomanganese, followed by non-ASTM grades.<sup>3</sup> Purchasers reportedly \*\*\* from China or Ukraine since January 1, 2012.

Apparent U.S. consumption of silicomanganese fluctuated during January 2012 to June 2018. Overall, apparent U.S. consumption in 2017 was \*\*\* percent lower than in 2012.

### CHANNELS OF DISTRIBUTION

U.S. producers sold mainly to steel producers and secondarily to distributors, while importers of silicomanganese from nonsubject sources sold mainly to steel producers and secondarily to end users as shown in table II-1.

**Table II-1**

**Silicomanganese: U.S. producers' and importers' share of reported U.S. shipments, by sources and channels of distribution, 2015-17, January to June 2017, and January to June 2018**

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<sup>1</sup> Eramet posthearing brief, p. 1.

<sup>2</sup> U.S. producer \*\*\* produces silicomanganese under \*\*\* and sells to customers through \*\*, a related trading company. For the purposes of these reviews, staff combined responses from both entities and refers to responses as \*\*\*.

<sup>3</sup> The Commission received responses from 16 purchasers, including the three largest steel makers purchasing domestic silicomanganese (\*\*\*).

## GEOGRAPHIC DISTRIBUTION

U.S. producers reported selling silicomanganese to all regions in the contiguous United States (table II-2). The two responding importers reported selling to the Northeast.<sup>4</sup> For U.S. producers, \*\*\* percent of sales were within 100 miles of their production facility, \*\*\* percent were between 101 and 1,000 miles, and \*\*\* percent were over 1,000 miles.

**Table II-2**  
**Silicomanganese: Geographic market areas in the United States served by U.S. producers and importers**

Region	U.S. producers	Importers
Northeast	***	***
Midwest	***	***
Southeast	***	***
Central Southwest	***	***
Mountain	***	***
Pacific Coast	***	***
Other <sup>1</sup>	***	***
All regions (except Other)	***	***
Reporting firms	***	***

<sup>1</sup> All other U.S. markets, including AK, HI, PR, and VI.

Note.-- Firms were asked to provide the geographic markets from imports of subject countries only. Importer \*\*\* reported selling Chinese product.

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

## SUPPLY AND DEMAND CONSIDERATIONS

### U.S. supply

Table II-3 provides a summary of the supply factors regarding silicomanganese from U.S. producers and from subject countries. The Commission did not receive any responses from Chinese producers or exporting firms.

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<sup>4</sup> U.S. producers of silicomanganese are located in West Virginia and Ohio.

**Table II-3**

**Silicomanganese: Supply factors that affect the ability to increase shipments to the U.S. market**

Country	Capacity (1000 short tons)		Capacity utilization (percent)		Ratio of inventories to total shipments (percent)		Shipments by market, 2017 (percent)		Able to shift to alternate products
	2015	2017	2015	2017	2015	2017	Home market shipments	Exports to non-U.S. markets	No. of firms reporting "yes"
United States	***	***	***	***	***	***	***	***	2 of 2
China	***	***	***	***	***	***	***	***	0 of 0
Ukraine	***	***	***	***	***	***	***	***	2 of 2

Note.-- Responding U.S. producers accounted for virtually all of U.S. production of silicomanganese in 2017. Responding foreign producer/exporter firms accounted for no U.S. imports of silicomanganese from Ukraine during 2017. For additional data on the number of responding firms and their share of U.S. production and of U.S. imports from each subject country, please refer to Part I, "Summary Data and Data Sources."

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

**Domestic production**

Based on available information, U.S. producers of silicomanganese have the ability to respond to changes in demand with large changes in the quantity of shipments of U.S.-produced silicomanganese to the U.S. market. The main contributing factors to this degree of responsiveness of supply are the availability of unused capacity and inventories, ability to shift shipments from inventories, and the ability to shift production to or from alternate products. Factors mitigating responsiveness of supply include limited ability to shift shipments from alternate markets.

U.S. producers' capacity decreased \*\*\* percent during 2015-17, and capacity utilization increased approximately (\*\*\*) during the same period. U.S. producers reported a decline in production of about \*\*\* percent in 2016 with capacity decreasing \*\*\* percent, leading to an increase in capacity utilization of about \*\*\* percentage point, however, production \*\*\* to similar 2015 levels in 2017. According to U.S. producer \*\*\*, the domestic industry is "unable to supply the full need for silicomanganese in the United States."<sup>5</sup> U.S. producer \*\*\* stated that shifting U.S. sales of silicomanganese to exports would be difficult due to high costs of export (e.g., transportation costs, packaging, and stevedoring). U.S. producer \*\*\* reported sales to \*\*\* since January 1, 2012. U.S. producers reportedly can produce \*\*\* on the same equipment as silicomanganese. Factors affecting U.S. producers' ability to shift production include \*\*\*.

**Subject imports from China**

Based on available information, producers of silicomanganese from China have the ability to respond to changes in demand with moderate-to-large changes in the quantity of

<sup>5</sup> Eramet posthearing brief, p. 59.

shipments of silicomanganese to the U.S. market.<sup>6</sup> The main contributing factors to this degree of responsiveness of supply are the availability of unused capacity and some ability to shift shipments from alternate markets.

Chinese exports of silicomanganese have been subject to at least a 5 percent export tax since the beginning of 2006, which the Chinese government increased to 20 percent in 2008.<sup>7</sup> In the most recently available announcement on export taxes for 2018, the Government of China reported that it is reducing or eliminating export taxes on several products. \*\*\*.<sup>8</sup> In 2018, the U.S. Government announced section 301 duties on products that currently include silicomanganese with an initial duty rate on or after September 24, 2018 of 10 percent ad valorem with an increase to 25 percent ad valorem on January 1, 2019,<sup>9</sup> however, exclusion requests for the “list 3 products” under the section 301 duties have not been announced.<sup>10</sup>

### **Subject imports from Ukraine**

Based on available information, Ukrainian producers of silicomanganese<sup>11</sup> have the ability to respond to changes in demand with large changes in the quantity of shipments of silicomanganese to the U.S. market. The main contributing factors to this degree of responsiveness of supply are the availability of unused capacity, ability to shift shipments from alternative markets, and the ability to shift production to or from alternate products. Factors mitigating responsiveness of supply include limited availability of inventory.

Ukrainian production increased by \*\*\* percent during 2015-17 and capacity increased by \*\*\* percent during the same period, leading to an \*\*\* percent increase in capacity utilization. Ukrainian producers report using \*\*\* and that the industry does not have \*\*\*.<sup>12</sup> Ukraine’s largest export markets include Turkey, Italy, the Netherlands, and Poland. Another product that responding foreign producers reportedly can produce on the same equipment as silicomanganese is ferromanganese. Factors affecting foreign producers’ ability to shift production include \*\*\*. \*\*\* expect \*\*\* in availability of Ukrainian silicomanganese in the United States if duties are lifted, and reported that product ranges, mix, and marketing do not differ between the home market product and export market product.

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<sup>6</sup> Please see Part IV “The Industry in China” for further information.

<sup>7</sup> Eramet posthearing brief, p. 51.

<sup>8</sup> \*\*\*.

<sup>9</sup> *Notice of Modification of Section 301 action: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 83 FR 47974, September 21, 2018.

<sup>10</sup> Eramet posthearing brief, pp. 54-55.

<sup>11</sup> Ukrainian producers make “high grade” silicomanganese, a product with a higher manganese and phosphorous content than standard grade silicomanganese, as well as Grade B silicomanganese.

<sup>12</sup> NFP and ZFP posthearing brief, Attachment A p. 5.

## **Imports from nonsubject sources**

Nonsubject imports accounted for 100 percent of total U.S. imports in 2017. The largest sources of nonsubject imports during January 2015 to June 2018 were Georgia, South Africa, and Australia. Combined, these countries accounted for two-thirds of nonsubject imports in 2017.

## **Supply constraints**

The vast majority of U.S. importers (10 of 12) and purchasers (13 of 15) reported no supply constraints since January 1, 2012. However, two importers reported supply constraints due to duties and low prices, and two purchasers reported logistical issues and firms declining to quote on requirements. \*\*\* reported four instances of supply constraints since January 1, 2012. \*\*\* solicits orders based on available inventory and anticipated production, however, in four instances it miscounted physical inventory which led to incorrect production runs. \*\*\* delayed full shipments to two to three customers during these periods who were able to continue operations without their entire fulfillments.

## **New suppliers**

Six of 16 purchasers indicated that new suppliers entered the U.S. market since January 1, 2012, and two expect additional entrants. Purchasers cited new suppliers and facilities in Malaysia, including Asian Minerals and Assmang.

## **U.S. demand**

Based on available information, the overall demand for silicomanganese is likely to experience small changes in response to changes in price. The main contributing factors are the limited range of substitute products and the very small cost share of silicomanganese in most of its end-use products.

## **End uses and cost share**

U.S. demand for silicomanganese depends on the demand for U.S.-produced steel. Reported end uses include a variety of steel products (e.g., plate, flat rolls, wire rod, coils, and bars) produced in integrated mills, electric arc furnaces, and foundries. High grade silicomanganese is generally used by steelmakers. All responding U.S. producers and importers, and the vast majority of purchasers (13 of 14) reported no changes in end uses.

Silicomanganese accounts for a small share of the cost of the end-use products in which it is used. Reported cost shares for almost all end-use products were between 1 to 6 percent.<sup>13</sup>

### Business cycles

\*\*\* U.S. producers, 3 of 13 importers, and 5 of 16 purchasers indicated that the market was subject to business cycles or conditions of competition. Specifically, demand is generally lower in summer and generally tracks crude steel production, specifically for long products used in the construction industry.

### Demand trends

U.S. importers and purchasers were divided on U.S. silicomanganese demand increasing or fluctuating since January 1, 2012, while U.S. producers reported U.S. demand decreasing or fluctuating (table II-4). Most firms expect demand to fluctuate over the next two years. U.S. producer \*\*\* stated that demand for silicomanganese depends on the demand for steel products in the United States and the presence of lower-priced steel imports. Purchasers reported future U.S. demand will depend on the availability of imported finished and semi-finished steel products.

**Table II-4**  
**Silicomanganese: Firms' responses regarding U.S. demand**

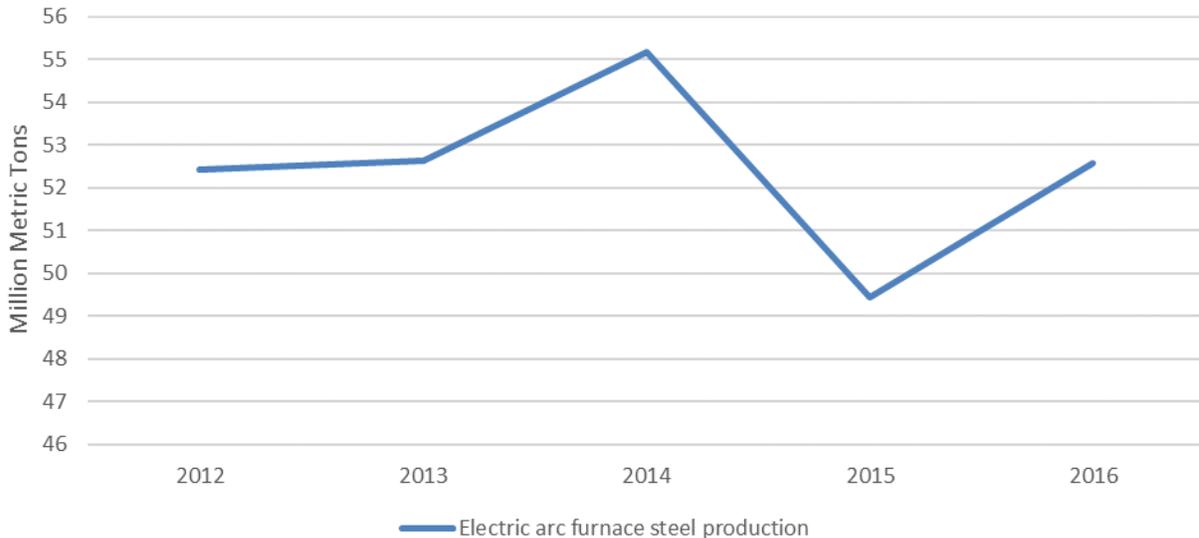
Item	Increase	No change	Decrease	Fluctuate
<b>Demand in the United States</b>				
U.S. producers	***	***	***	***
Importers	5	2	1	5
Purchasers	5	1	---	7
Foreign producers	***	***	***	***
<b>Anticipated future demand</b>				
U.S. producers	***	***	***	***
Importers	1	3	---	10
Purchasers	3	1	---	7
Foreign producers	***	***	***	***
<b>Demand for purchasers' final products since 2012</b>				
Purchasers	4	3	---	8

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

Total electric arc furnace steel production in the United States fluctuated between 2012 and 2016 (figure II-1).

<sup>13</sup> U.S. purchaser \*\*\* reported the following end-products and cost shares: 8219 steel (41 percent), 4121 steel (34 percent), and 5120/5120M steel (46 percent).

**Figure II-1**  
**Steel product: Total U.S. electric arc furnace steel production, annual, 2012-16**



Source: World Steel Association, *Steel Statistical Yearbook 2017*, p. 23.

Total U.S. shipments of concrete reinforcing bar and rod (“rebar”),<sup>14</sup> a product that can be made with high-phosphorus silicomanganese, fluctuated between January 2013 and July 2018, but increased overall by \*\*\* percent (figure II-2). During January 2015 – June 2018, the principal period for which data were collected in the Commission’s questionnaires, U.S. shipments of rebar increased by \*\*\* percent. In addition, prices for rebar have been rising rapidly. North American rebar prices increased by 31.9 percent between July 2017 and May 2018.<sup>15</sup>

**Figure II-2**  
**Concrete reinforcing bars and rods: Total concrete reinforcing bar and rod U.S. shipments, monthly, January 2013 through July 2018**

\* \* \* \* \*

**Substitute products**

A combination of high-carbon ferromanganese and ferrosilicon can be used as a substitute for silicomanganese. Both U.S. producers and foreign producers, a majority of importers, and a majority of purchasers reported the blend of ferromanganese and ferrosilicon as the only substitute for silicomanganese. Typically, end users producing long products use silicomanganese for their manganese and silicon requirements, and end users producing flat

<sup>14</sup> *Silicomanganese from Brazil, China, Ukraine, and Venezuela, Inv. Nos. 731-TA-671-674 (Final)*, USITC Publication 2836, December 1994, p. II-6.

<sup>15</sup> MEPS, *North American Carbon Steel Prices (Public)*, retrieved October 15, 2018.

product use the combination of ferromanganese and ferrosilicon for their manganese and silicon requirements.<sup>16</sup> Steel producers take into account price and the required amount of silicon content in the final steel product when determining whether to use the combination of high carbon ferromanganese and ferrosilicon instead of silicomanganese.<sup>17</sup> \*\*\* U.S. producers, and all importers and purchasers, do not anticipate any future changes in substitutes.

### **SUBSTITUTABILITY ISSUES**

The degree of substitution between domestic and imported silicomanganese depends upon such factors as relative prices, quality (e.g., grade standards, defect rates, etc.), and conditions of sale (e.g., price discounts/rebates, lead times between order and delivery dates, reliability of supply, product services, etc.). Based on available data, staff believes that there is moderate-to-high degree of substitutability between domestically produced silicomanganese and silicomanganese imported from subject sources, with low-carbon being the least substitutable, followed by high phosphorous and then ASTM grade B silicomanganese.

#### **Lead times**

Silicomanganese is primarily produced-to-order.<sup>18</sup> U.S. producers reported that \*\*\* percent of their commercial shipments were produced-to-order, with lead times averaging \*\*\* days. The remaining \*\*\* percent of their commercial shipments came from inventories, with lead times averaging \*\*\* days.

#### **Knowledge of country sources**

Thirteen purchasers indicated they had marketing/pricing knowledge of domestic product, 3 of Chinese product, 2 of Ukrainian product, and 12 of product from nonsubject countries. As shown in table II-5, most purchasers and their customers never make purchasing decisions based on the producer or country of origin.

**Table II-5**  
**Silicomanganese: Purchasing decisions based on producer and country of origin**

<b>Purchaser/customer decision</b>	<b>Always</b>	<b>Usually</b>	<b>Sometimes</b>	<b>Never</b>
Purchaser makes decision based on producer	2	1	4	9
Purchaser's customers make decision based on producer	---	1	2	9
Purchaser makes decision based on country	3	---	2	10
Purchaser's customers make decision based on country	---	1	2	8

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

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<sup>16</sup> Hearing transcript, p. 92 (Levy).

<sup>17</sup> Hearing transcript, p. 93 (Rochussen).

<sup>18</sup> Foreign producers did not provide lead times in their questionnaire responses.

## Factors affecting purchasing decisions

The most often cited top three factors firms consider in their purchasing decisions for silicomanganese were price or cost (16 firms), quality (10 firms), and availability (9 firms) as shown in table II-6. Price was the most frequently cited first-most important factor (cited by 7 firms), followed by other factors (4 firms); price, quality, and other factors were the most frequently reported second-most important factor (5 firms each); and availability was the most frequently reported third-most important factor (6 firms).

**Table II-6**  
**Silicomanganese: Ranking of factors used in purchasing decisions as reported by U.S. purchasers, by factor**

Factor	First	Second	Third	Total
Price, pricing, or cost	7	5	5	16
Quality	3	5	2	10
Availability or supply	2	1	6	9
Other <sup>1</sup>	4	5	---	9

<sup>1</sup> Other factors include meeting specifications, delivery, and sustainability.

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

The majority of purchasers (11 of 15) reported that they usually purchase the lowest-priced product. When asked if they purchased silicomanganese from one source although a comparable product was available from another source, one purchaser reported security of supply.

### Importance of specified purchase factors

Purchasers were asked to rate the importance of 18 factors in their purchasing decisions (table II-7). The factors rated as very important by more than half of responding purchasers were availability (16); quality meets industry standards and reliability of supplier (15 each); delivery time, price, and product consistency (14 each); delivery terms (13); made to ASTM specifications (12); U.S. transportation costs (10); and phosphorus content (9).

**Table II-7**  
**Silicomanganese: Importance of purchase factors, as reported by U.S. purchasers, by factor**

Factor	Very important	Somewhat important	Not important
Availability	16	---	---
Availability of different grades	---	6	10
Delivery terms	13	2	1
Delivery time	14	1	1
Discounts offered	6	8	2
Extension of credit	6	6	3
Made to ASTM specification	12	3	---
Minimum quantity requirements	4	9	3
Packaging	7	5	4
Phosphorus content	9	6	1
Price	14	2	---
Product consistency	14	2	---
Product range	---	7	9
Quality meets industry standards	15	1	---
Quality exceeds industry standards	---	9	6
Reliability of supply	15	---	1
Technical support/service	3	10	3
U.S. transportation costs	10	5	1

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

### Phosphorus content

The amount of phosphorus within silicomanganese determines whether it is considered standard grade (0.2 percent or less) or high grade (above 0.2 percent). According to Eramet, the vast majority of U.S. purchases are of ASTM grade B silicomanganese and high grade/ high phosphorus silicomanganese.<sup>19</sup> High grade silicomanganese accounted for 2.6 percent of purchases in 2017 as reported by purchasers. According to U.S. producer \*\*\*, three U.S. purchasers \*\*\*, who account approximately 30 percent of steelmakers' consumption, use high phosphorus silicomanganese.<sup>20</sup>

### Supplier certification

Eleven of 16 responding purchasers require their suppliers to become certified or qualified to sell silicomanganese to their firm. Most purchasers reported that the time to qualify a new supplier ranged from 7 to 90 days. One purchaser reported an unspecified domestic or foreign supplier had failed in its attempt to qualify product, or had lost its approved status since January 1, 2012.

<sup>19</sup> Eramet posthearing brief, p. 28.

<sup>20</sup> Eramet posthearing brief, p. 35.

## Changes in purchasing patterns

Purchasers were asked about changes in their purchasing patterns from different sources since 2012 (table II-8); reasons reported for changes in sourcing included pricing, domestic production shutdowns, additional sourcing for security, and capacity constraints. Eleven of 16 responding purchasers reported that they had changed suppliers since January 1, 2012. Specifically, firms dropped or reduced purchases from Felman, Glencore, CCMA, DCM, Medima, and BHP Billiton Marketing because of price, delivery minimums, and idled production. Firms added or increased purchases from DCM, DJJ Ferroalloys, Julimar Trading, Medima, and ProFound because of competitive pricing.

**Table II-8**  
**Silicomanganese: Changes in purchase patterns from U.S., subject, and nonsubject countries**

Source of purchases	Did not purchase	Decreased	Increased	Constant	Fluctuated
United States	5	4	1	1	4
China	11	---	---	---	1
Ukraine	11	---	---	---	1
All other countries	---	---	6	4	5
Sources unknown	6	---	---	---	1

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

## Effect of section 232 investigation on steel

The vast majority of U.S. producer, importers, and purchasers<sup>21</sup> who reported being aware of the 232 investigation on imports of certain steel products and subsequent tariffs on imported steel products stated that the neither the announcements of the 232 investigation in April 2017 nor the issuance of proclamations on imported steel products in March 2018 impacted the conditions of competition for silicomanganese use in the production of steel.

## Importance of purchasing domestic product

Fifteen of 16 purchasers reported that most or all of their purchases did not require purchasing U.S.-produced silicomanganese. One reported it preferred purchasing domestic product because of increased security of supply.

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<sup>21</sup> All responding purchasers reported that they did not expect their purchasing patterns to change in the next two years.

### **Comparisons of domestic products, subject imports, and nonsubject imports**

Purchasers were asked a number of questions comparing silicomanganese produced in the United States, subject countries, and nonsubject countries. First, purchasers were asked for a country-by-country comparison on the same 18 factors (table II-9) for which they were asked to rate the importance. The vast majority of purchasers reported that U.S. and both Chinese and Ukrainian product were comparable on every factor, however, only 4 of the 16 responding purchasers were able to compare U.S. product to Chinese or Ukrainian product.

The vast majority of purchasers reported that domestic product and silicomanganese imported from nonsubject countries were comparable on every factor. The vast majority of purchasers comparing product from China with that from Ukraine reported that product was comparable on every factor.

**Table II-9  
Silicomanganese: Purchasers' comparisons between U.S.-produced and imported product**

Factor	U.S. vs. China			U.S. vs. Ukraine			China vs. Ukraine		
	S	C	I	S	C	I	S	C	I
Availability	1	3	---	1	3	---	---	3	---
Availability of different grades	1	3	---	1	3	---	---	3	---
Delivery terms	1	3	---	1	3	---	---	3	---
Delivery time	---	4	---	---	4	---	---	3	---
Discounts offered	---	3	1	---	4	---	1	2	---
Extension of credit	---	3	---	---	4	---	---	3	---
Made to ASTM specification	---	4	---	---	4	---	---	3	---
Minimum quantity requirements	---	4	---	---	4	---	---	3	---
Packaging	---	4	---	---	4	---	---	3	---
Phosphorus content	---	3	---	---	4	---	---	3	---
Price <sup>1</sup>	---	3	1	---	4	---	---	3	---
Product consistency	---	4	---	---	4	---	---	3	---
Product range	---	4	---	---	4	---	---	3	---
Quality meets industry standards	---	4	---	---	4	---	---	3	---
Quality exceeds industry standards	---	4	---	---	4	---	---	3	---
Reliability of supply	---	4	---	---	4	---	---	3	---
Technical support/service	---	4	---	---	3	---	---	3	---
U.S. transportation costs <sup>1</sup>	---	3	---	---	4	---	---	3	---
Factor	U.S. vs. nonsubject			China vs. nonsubject			Ukraine vs. nonsubject		
	S	C	I	S	C	I	S	C	I
Availability	1	8	---	---	2	---	---	3	---
Availability of different grades	1	8	---	---	2	---	---	3	---
Delivery terms	2	7	---	---	2	---	---	3	---
Delivery time	1	8	---	---	2	---	---	3	---
Discounts offered	---	9	---	---	2	---	---	3	---
Extension of credit	---	9	---	---	2	---	---	3	---
Made to ASTM specification	---	9	---	---	2	---	---	2	---
Minimum quantity requirements	---	9	---	---	2	---	---	3	---
Packaging	---	9	---	---	2	---	---	3	---
Phosphorus content	---	8	---	---	2	---	---	3	---
Price <sup>1</sup>	---	8	1	---	2	---	---	3	---
Product consistency	1	8	---	---	2	---	---	3	---
Product range	---	8	---	---	2	---	---	3	---
Quality meets industry standards	---	9	---	---	2	---	---	3	---
Quality exceeds industry standards	---	8	---	---	2	---	---	3	---
Reliability of supply	1	8	---	---	2	---	---	3	---
Technical support/service	1	8	---	---	2	---	---	3	---
U.S. transportation costs <sup>1</sup>	1	7	1	---	2	---	---	2	---

<sup>1</sup> A rating of superior means that price/U.S. transportation costs is generally lower. For example, if a firm reported "U.S. superior," it meant that the U.S. product was generally priced lower than the imported product.

Note.--S=first listed country's product is superior; C=both countries' products are comparable; I=first list country's product is inferior.

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

## Comparison of U.S.-produced and imported silicomanganese

In order to determine whether U.S.-produced silicomanganese can generally be used in the same applications as imports from China and Ukraine, U.S. producers, importers, and purchasers were asked whether the products can always, frequently, sometimes, or never be used interchangeably. As shown in table II-10, \*\*\* U.S. producers, and the majority of importers and purchasers reported that silicomanganese from both subject and nonsubject countries can always be used interchangeably with U.S. product. Both foreign producers reported that the silicomanganese they produce and sell in Ukraine is interchangeable with silicomanganese they sell to the United States and third-country markets.

**Table II-10**  
**Silicomanganese: Interchangeability between silicomanganese produced in the United States and in other countries, by country pair**

Country pair	Number of U.S. producers reporting				Number of U.S. importers reporting				Number of purchasers reporting				
	A	F	S	N	A	F	S	N	A	F	S	N	
<b>U.S. vs. subject countries:</b>													
U.S. vs. China	***	***	***	***	7	4	---	1	4	2	1	---	
U.S. vs. Ukraine	***	***	***	***	7	4	---	1	4	2	1	---	
<b>Subject countries comparisons:</b>													
China vs. Ukraine	***	***	***	***	7	4	---	1	4	1	1	---	
<b>Nonsubject countries comparisons:</b>													
U.S. vs. nonsubject	***	***	***	***	7	4	---	1	7	5	1	---	
China vs. nonsubject	***	***	***	***	7	4	---	1	4	1	1	---	
Ukraine vs. nonsubject	***	***	***	***	7	4	---	1	4	2	1	---	

Note.-- A=Always, F=Frequently, S=Sometimes, N=Never.

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

As can be seen from table II-11, seven of 12 responding purchasers reported that domestically produced product always met minimum quality specifications. Two of three responding purchasers reported that Chinese and Ukrainian silicomanganese always met minimum quality specifications.

**Table II-11**  
**Silicomanganese: Ability to meet minimum quality specifications, by source<sup>1</sup>**

Source	Always	Usually	Sometimes	Rarely or never
United States	7	4	1	---
China	2	---	1	---
Ukraine	2	---	1	---

<sup>1</sup> Purchasers were asked how often domestically produced or imported silicomanganese meets minimum quality specifications for their own or their customers' uses.

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

In addition, U.S. producers, importers, and purchasers were asked to assess how often differences other than price were significant in sales of silicomanganese from the United States, subject, or nonsubject countries. As seen in table II-12, \*\*\* U.S. producers, importers, and purchasers reported that differences other than prices are sometimes or never significant in the sale of silicomanganese. Some importers (3 of 12) reported that differences other than price are always significant, while one purchaser stated such differences are always significant between nonsubject silicomanganese versus domestic or subject product.

**Table II-12**  
**Silicomanganese: Significance of differences other than price between silicomanganese produced in the United States and in other countries, by country pair**

Country pair	Number of U.S. producers reporting				Number of U.S. importers reporting				Number of purchasers reporting				
	A	F	S	N	A	F	S	N	A	F	S	N	
<b>U.S. vs. subject countries:</b>													
U.S. vs. China	***	***	***	***	3	1	4	4	---	---	3	1	
U.S. vs. Ukraine	***	***	***	***	3	1	4	4	---	---	2	1	
<b>Subject countries comparisons:</b>													
China vs. Ukraine	***	***	***	***	3	1	4	4	---	---	1	1	
<b>Nonsubject countries comparisons:</b>													
U.S. vs. nonsubject	***	***	***	***	3	1	4	4	1	1	4	3	
China vs. nonsubject	***	***	***	***	3	1	4	4	1	---	1	1	
Ukraine vs. nonsubject	***	***	***	***	3	1	4	4	1	---	2	1	

Note.--A = Always, F = Frequently, S = Sometimes, N = Never.

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

## ELASTICITY ESTIMATES

This section discusses elasticity estimates.

### U.S. supply elasticity

The domestic supply elasticity<sup>22</sup> for silicomanganese measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of silicomanganese. The elasticity of domestic supply depends on several factors including the level of excess capacity, the ease with which producers can alter capacity, producers' ability to shift to production of other products, the existence of inventories, and the availability of alternate markets for U.S.-produced silicomanganese. Analysis of these factors above indicates that the U.S. industry is likely to be able to greatly increase or decrease shipments to the U.S. market; an estimate in the range of 4 to 6 is suggested.

<sup>22</sup> A supply function is not defined in the case of a non-competitive market.

### **U.S. demand elasticity**

The U.S. demand elasticity for silicomanganese measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of silicomanganese. This estimate depends on factors discussed above such as the existence, availability, and commercial viability of substitute products, as well as the component share of the silicomanganese in the production of any downstream products. Based on the available information, the aggregate demand for silicomanganese is likely to be inelastic; a range of -0.25 to -0.75 is suggested.

### **Substitution elasticity**

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.<sup>23</sup> Product differentiation, in turn, depends upon such factors as quality (e.g., chemistry, appearance, etc.) and conditions of sale (e.g., availability, sales terms/ discounts/ promotions, etc.). Based on available information, the elasticity of substitution between U.S.-produced silicomanganese and imported silicomanganese is likely to be in the range of 3 to 5, with grade B silicomanganese on the higher end and non-ASTM variants at the lower end of the range.

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<sup>23</sup> The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and the domestic like products to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject products (or vice versa) when prices change.

## PART III: CONDITION OF THE U.S. INDUSTRY

### OVERVIEW

The information in this section of the report was compiled from responses to the Commission’s questionnaires. Two firms, which accounted for all known U.S. production of silicomanganese during 2017, supplied information on their operations in these reviews.

Table III-1 presents important industry events since January 2012. Effective June 30, 2015 the U.S. Environmental Protection Agency set new National Emission Standards for Hazardous Air Pollutants (NESHAP) regulating ferromanganese and silicomanganese production.<sup>1</sup> Both Eramet and Felman have taken measures to be in compliance with the new NESHAP standards, including capital investments.<sup>2</sup> In addition, \*\*\*.<sup>3</sup>

**Table III-1**  
**Silicomanganese: Important industry events, since 2012**

Date		Company / Item	Action
Year	Month		
2012	March	***	*** <sup>1</sup>
2013	April	Georgian American Alloys, Inc. acquires Georgian Manganese, LLC	Georgian American Alloys, Inc. (Miami, FL), the parent company of Felman, a manufacturer, supplier and trader of ferroalloys, announced that it has acquired 100 percent ownership interest in Georgia-based Georgian Manganese, LLC and Vartsikhe 2005 LLC (collectively “GM”), the country’s top producer and exporter of standard and high-grade silicomanganese. GM consists of three separate divisions including Chiatura Manganese Mine, a manganese ore mining operation; Zestafoni Ferroalloy Plant, a silicomanganese processing plant; and Vartsikhe, the hydroelectric facility which powers the Zestafoni plant and Chiatura mine. <sup>2</sup>
2013	June	Felman stops production at WV silicomanganese plant	Felman announced that it would immediately cease operations at its New Haven, West Virginia facility for an expected period of three months due to continuous challenging silicomanganese market conditions. <sup>3</sup>

Table continued on next page

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<sup>1</sup> *National Emissions Standards for Hazardous Air Pollutants: Ferroalloys Production*, 80 FR 37366, June 30, 2015; and *National Emissions Standards for Hazardous Air Pollutants: Ferroalloys Production*, 82 FR 5401, January 18, 2017.

<sup>2</sup> Hearing transcript, pp. 35 (Fell) and 95 (Hart).

<sup>3</sup> \*\*\*.

**Table III-1—Continued**  
**Silicomanganese: Important industry events, since 2012**

2014	July	Felman restarts furnace and resumes silicomanganese production	Felman announced that it would immediately begin to resume plant operations following an agreement reached with the Appalachian Power Company regarding a market variable electrical rate. Felman claimed that the rate was a necessary component in enabling the ongoing economic viability of its New Haven manufacturing site. By August 6, 2014, Felman had resumed silicomanganese production in two of its three furnaces. <sup>4 5</sup>
2014	July	Georgian American Alloys shifts production to ferromanganese from silicomanganese	Georgian American Alloys, Inc., the parent company of Felman, CC Metals and Alloys, LLC, Felman Trading, Inc. and Georgian Manganese, LLC, announced that Georgian Manganese will shift production at three of its furnaces from silicomanganese to ferromanganese beginning in August 2014. As a result of the shift, Georgian Manganese planned to produce approximately 3,500 tons of ferromanganese per month, resulting in a reduction of silicomanganese production by approximately 3,000 tons per month. <sup>6</sup>
2017	July	Felman shuts down production temporarily	On July 25, 2017, Felman temporarily shut down its New Haven, West Virginia facility after a transformer failure occurred at one of the company's two operational electric arc furnaces. Felman estimated it would remain shut for approximately three weeks as the necessary repairs are conducted. The furnace was restarted on August 20, 2017. <sup>7 8</sup>

<sup>1</sup> \*\*\*

<sup>2</sup> "Georgian American Alloys, Inc. acquires Georgian Manganese, LLC," Georgian American Alloys news release, April 22, 2013, <http://www.gaalloys.com/index.php/news/press-releases/34-news/press-releases/97-gaa-acquires-gm>, retrieved August 17, 2018.

<sup>3</sup> "Felman Production, the largest US producer of silicomanganese, to cease plant operations for an expected period of three months, effective immediately," Georgian American Alloys news release, June 28, 2013, <http://www.gaalloys.com/index.php/news/press-releases/34-news/press-releases/103-fp-ceases-plant-operations>, retrieved August 17, 2018.

<sup>4</sup> "Felman production to restart one furnace, effective immediately." Georgian American Alloys news release, July 1, 2014, <http://www.gaalloys.com/index.php/news/press-releases/34-news/press-releases/225-felman-production-to-restart-one-furnace-effective-immediately>, retrieved August 17, 2018.

<sup>5</sup> "Felman confirms second SiMn WV furnace started." Georgian American Alloys news release, August 6, 2014, [www.gaalloys.com/index.php/news/press-releases/58-news/archive/251-felman-confirms-second-simn-wv-furnace-started](http://www.gaalloys.com/index.php/news/press-releases/58-news/archive/251-felman-confirms-second-simn-wv-furnace-started), retrieved August 17, 2018.

<sup>6</sup> "Georgian American Alloys, Inc. announces shift in furnace production", Georgian American Alloys news release, July 7, 2014, <http://www.gaalloys.com/index.php/news/press-releases/34-news/press-releases/230-georgian-american-alloys-inc-announces-shift-in-furnace-production>, retrieved August 17, 2018.

<sup>7</sup> "Felman Production reports on temporary shut down of its New Haven, W. VA. Facility," Georgian American Alloys news release, July 25, 2017, <http://www.gaalloys.com/index.php/news/press-releases/34-news/press-releases/339-felman-production-reports-on-temporary-shut-down-of-its-new-haven-w-va-facility>, retrieved August 17, 2018.

<sup>8</sup> "Felman's West Virginia silicomanganese plant resumes operations," Georgian American Alloys news release, August 25, 2017, [www.gaalloys.com/index.php/news/press-releases/33-news/354-felman-s-west-virginia-silicomanganese-plant-resumes-operations](http://www.gaalloys.com/index.php/news/press-releases/33-news/354-felman-s-west-virginia-silicomanganese-plant-resumes-operations), retrieved October 15, 2018.

### Changes experienced by the industry

Domestic producers were asked to indicate whether their firm had experienced any plant openings, relocations, expansions, acquisitions, consolidations, closures, or prolonged shutdowns because of strikes or equipment failure; curtailment of production because of shortages of materials or other reasons, including revision of labor agreements; or any other change in the character of their operations or organization relating to the production of silicomanganese since 2012. Both domestic producers (which provided responses in these reviews) indicated that they had experienced such changes; their responses are presented in table III-2.

**Table III-2**  
**Silicomanganese: Changes experienced by the industry, since January 1, 2012**

\* \* \* \* \*

### Anticipated changes in operations

The Commission asked domestic producers to report anticipated changes in the character of their operations relating to the production of silicomanganese. In their questionnaire response Felman noted:

\*\*\*. 4 5

### U.S. PRODUCTION, CAPACITY, AND CAPACITY UTILIZATION

Table III-3 and figure III-1 present U.S. producers' production, capacity, and capacity utilization. In 2015 both U.S. producers experienced \*\*\*.<sup>6</sup> Overall production decreased by \*\*\* percent from 2015 to 2016. However, from 2016 to 2017 overall production increased by \*\*\* percent, resulting in a net increase of \*\*\* percent from 2015 to 2017. From 2015 to 2017 Eramet's production \*\*\* and Felman's production \*\*\*.

From 2015 to 2017, U.S. producers' combined capacity \*\*\* by \*\*\* percent from \*\*\* short tons in 2015 to \*\*\* short tons in 2017. From 2015 to 2017, Eramet's capacity \*\*\*, whereas Felman's capacity \*\*\* percent.<sup>7</sup> From 2015 to 2017 Eramet's capacity utilization was \*\*\*. From 2015 to 2017 Felman's capacity utilization was \*\*\*. Eramet's capacity utilization was \*\*\*. Felman's capacity utilization \*\*\*. During 2017-18, Felman \*\*\*.<sup>8</sup> Felman expects \*\*\*.<sup>9</sup>

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4 \*\*\*.

5 \*\*\* U.S. producer questionnaire response, section II-2b.

6 \*\*\* U.S. producer questionnaire response, section II-2a; \*\*\* U.S. producer questionnaire response, section II-2a.

7 \*\*\*.

8 \*\*\*.

9 \*\*\*.

**Table III-3**  
**Silicomanganese: U.S. producers' production, capacity, and capacity utilization, 2015-17, January to June 2017, and January to June 2018**

\* \* \* \* \*

**Figure III-1**  
**Silicomanganese: U.S. producers' capacity, production, and capacity utilization, 2015-17, January to June 2017, and January to June 2018**

\* \* \* \* \*

Table III-4 presents data on U.S. producers' overall capacity and production of products on the same machinery for silicomanganese. Eramet \*\*\*. Felman \*\*\*.<sup>10</sup>

**Table III-4**  
**Silicomanganese: U.S. producers' overall capacity and production of products on the same machinery as silicomanganese, 2015-17, January to June 2017, and January to June 2018**

\* \* \* \* \*

**Constraints on capacity**

Producers were also asked to describe constraints that set limits on their production capacity. Both responding U.S. producers reported constraints in the manufacturing process. Eramet noted constraints in regards to \*\*\*. Felman indicated production constraints due to \*\*\*.<sup>11</sup>

**U.S. PRODUCERS' U.S. SHIPMENTS AND EXPORTS**

Table III-5 presents U.S. producers' U.S. shipments, export shipments, and total shipments. Total shipments quantities fluctuated modestly, and consisted principally of sales in the U.S. market. Total shipment values exhibited larger period-to-period changes, and reflected noticeably higher average unit values after 2016. As shown in Part IV, \*\*\* U.S. producers reported that \*\*\* shipments were ASTM grade B.<sup>12</sup>

**Table III-5**  
**Silicomanganese: U.S. producers' U.S. shipments, exports shipments, and total shipments, 2015-17, January to June 2017, and January to June 2018**

\* \* \* \* \*

<sup>10</sup> \*\*\* U.S. producer questionnaire response, sections II-2 and II-3f.

<sup>11</sup> U.S. producer questionnaire responses, section II-3d.

<sup>12</sup> U.S. producer questionnaire responses, section II-5.

## U.S. PRODUCERS' INVENTORIES

Table III-6 presents U.S. producers' end-of-period inventories and the ratio of these inventories to U.S. producers' production, U.S. shipments, and total shipments. U.S. producers' inventories were \*\*\* after 2015, both in \*\*\*.

**Table III-6**  
**Silicomanganese: U.S. producers' inventories, 2015-17, January to June 2017, and January to June 2018**

\* \* \* \* \*

## U.S. PRODUCERS' IMPORTS AND PURCHASES

Table III-7 presents data on Eramet's U.S. production and U.S imports of silicomanganese and Table III-8 presents data on Felman's U.S. production and U.S. imports of silicomanganese.

**Table III-7**  
**Silicomanganese: Eramet's production and U.S. imports, 2015-17, January to June 2017, and January to June 2018**

\* \* \* \* \*

**Table III-8**  
**Silicomanganese: Felman's production and U.S. imports, 2015-17, January to June 2017, and January to June 2018**

\* \* \* \* \*

In 2017, Felman Trading was the \*\*\* U.S. importer of silicomanganese and accounted for \*\*\* percent of all U.S. imports reported in the U.S. importer questionnaires.<sup>13</sup> Eramet was the \*\*\* largest importer of silicomanganese in 2017, accounting for \*\*\* percent of all U.S. imports reported in the U.S. importer questionnaires.<sup>14</sup> Eramet and Felman \*\*\* reported imports from subject counties during the period in which data were collected.

Eramet and Felman reported \*\*\*. In 2017, \*\*\*.<sup>15</sup> In 2015 and 2016, Eramet imported an \*\*\*.<sup>16</sup> In 2017, \*\*\*.<sup>17</sup> Both Eramet and Felman \*\*\*.<sup>18</sup>

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<sup>13</sup> See table 1-7.

<sup>14</sup> Ibid.

<sup>15</sup> \*\*\* importer questionnaire response, section II-7c.

<sup>16</sup> Ibid.

<sup>17</sup> \*\*\* importer questionnaire response, section II-7c.

<sup>18</sup> \*\*\* U.S. producer questionnaire, section II-5.

## U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

Table III-9 shows U.S. producers' employment-related data. Employment at Eramet \*\*\*. In its U.S. producer questionnaire, Eramet noted manufacturing of \*\*\*.<sup>19</sup> During \*\*\*, Eramet indicated it experienced \*\*\*.<sup>20</sup> Employment at Felman \*\*\*.<sup>21</sup> However, employment at Felman \*\*\*.<sup>22</sup> Additionally, employment at Felman was \*\*\*.<sup>23</sup>

**Table III-9**  
**Silicomanganese: U.S. producers' employment related data, 2015-17, January to June 2017, and January to June 2018**

\* \* \* \* \*

Both Eramet and Felman negotiated new labor agreements \*\*\*.<sup>24</sup> Additionally, a representative from the United Steel Workers ("USW") noted that the labor agreement on behalf of Eramet's USW members "increased wages, benefits, and productivity".<sup>25</sup> Felman's new labor agreement was described as the "first non-concessionary agreement in a long time" which included a wage increase.<sup>26</sup>

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<sup>19</sup> \*\*\* U.S. producer questionnaire response, section II-7.

<sup>20</sup> \*\*\*.

<sup>21</sup> \*\*\* U.S. producer questionnaire response, section II-7.

<sup>22</sup> \*\*\* U.S. producer questionnaire response, section II-7.

<sup>23</sup> Ibid.

<sup>24</sup> \*\*\* U.S. producer questionnaire response, section II-2a.

<sup>25</sup> Hearing transcript, p. 39 (Hart).

<sup>26</sup> Hearing transcript, pp. 40 and 95 (Hart).

## FINANCIAL EXPERIENCE OF U.S. PRODUCERS

### Background

Two U.S. producers, Eramet<sup>27</sup> and Felman,<sup>28</sup> provided usable financial data and reported on a calendar year basis. Eramet provided data \*\*\*, while Felman reported \*\*\*.<sup>29</sup>

### Operations on silicomanganese

For the two firms together, total sales rose from 2015 to 2017 but were lower in January-June (interim) 2018 compared with interim 2017. The average unit value of sales increased between 2015 and 2017 but was lower in interim 2018 than in interim 2017. Sales value increased, due to high quantity and unit value, more than total COGS and the industry reported a gross profit in 2017 compared with the losses reported in 2015 and 2016; sales values declined more than total COGS and gross profit was less in interim 2018 than in interim 2017. Eramet and Felman \*\*\* reported \*\*\* in 2015 and 2016, as well as \*\*\*, but these items \*\*\*. Table III-10 presents aggregated data on U.S. producers' operations in relation to silicomanganese, while table III-11 presents changes in average unit values.

**Table III-10**

**Silicomanganese: Results of operations of U.S. producers, 2015-17, January-June 2017, and January-June 2018**

\* \* \* \* \*

**Table III-11**

**Silicomanganese: Changes in average unit values between calendar years 2015-17 and between partial year periods January-June 2017-2018**

\* \* \* \* \*

Table III-12 presents selected company-specific financial data.

**Table III-12**

**Silicomanganese: Selected results of operations of U.S. producers, by firm, 2015-17, January-June 2017, and January-June 2018**

\* \* \* \* \*

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<sup>27</sup> Commission staff examined the questionnaire response of Eramet \*\*\*.

<sup>28</sup> Commission staff examined the questionnaire response of Felman \*\*\*.

<sup>29</sup> \*\*\*. Emails to Commission staff from \*\*\*.

## Net sales quantity and value

Total net sales of silicomanganese consisted of commercial sales and exports. \*\*\*. The aggregate net sales unit value fell between 2015 and 2016, from \$\*\*\* per short ton to \$\*\*\* but then increased to \$\*\*\* in 2017 (the increase from 2015 to 2017 was approximately \*\*\* percent). The sales unit value was \*\*\* percent lower in interim 2018 (\$\*\*\*) than in interim 2017 (\$\*\*\*). The firm-by-firm data in table III-12 shows \*\*\*.

## Cost of goods sold and gross profit or (loss)

As depicted in table III-10, raw materials comprised the single largest component of overall COGS, accounting for between \*\*\* percent (in 2015) and \*\*\* percent (in interim 2017). The value of raw material costs increased between 2015 and 2017 (from \$\*\*\* to \$\*\*\*) and was higher in interim 2017 (\$\*\*\*) than in interim 2018 (\$\*\*\*). Raw material costs represented a declining share of net sales value during 2015 to interim 2018, from \*\*\*. \*\*\* as well as there were certain \*\*\*.<sup>30</sup> Raw material costs are composed of manganese, coking coal, and other items, including silicon, flux, electrode paste, and iron.<sup>31</sup>

Other factory costs, which are composed of both variable and fixed facility overhead costs,<sup>32</sup> are the second largest component of total COGS. These costs fell from 2015 to 2017 (\$\*\*\* to \$\*\*\*) but were higher in interim 2018 (\$\*\*\*) than in interim 2017 (\$\*\*\*). \*\*\*. Other factory costs declined on a per-unit basis and as a share of sales between 2015 and 2017 but were higher in interim 2018 than in interim 2017. The last component of COGS, direct labor (wages and salaries of plant personnel), \*\*\*. As a share of COGS, direct labor ranged between \*\*\* percent (in 2017) and \*\*\* percent (in 2015) and was nearly the same in both interim periods.

The COGS to sales ratio fell from 2015 (\*\*\* percent) to 2017 (\*\*\* percent), and was lower in interim 2017 (\*\*\* percent) than in interim 2018 (\*\*\* percent).

Gross profit increased from a loss of \$\*\*\* in 2015, equivalent to \*\*\* percent of sales, to a positive \$\*\*\* in 2017, equivalent to \*\*\* percent of sales. Gross profit was lower but positive in interim 2018 (\$\*\*\* or \*\*\* percent of sales) compared with the period one year earlier (\$\*\*\* or \*\*\* percent of sales). \*\*\*. \*\*\*.

## SG&A expenses and operating income or (loss)

As shown in table III-10, the industry's total SG&A expenses \*\*\*.<sup>33</sup> The industry's SG&A expense ratios \*\*\*. Operating income for the two reporting firms together increased from \*\*\*; it fell from \*\*\*. The ratio of operating income to total net sales followed a similar trend. Changes in firm-by-firm profitability are shown in table III-12.

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<sup>30</sup> \*\*\*.

<sup>31</sup> Furnace power also is an important component of costs. Felman \*\*\*. Eramet \*\*\*.

<sup>32</sup> Other factory costs include \*\*\*.

<sup>33</sup> \*\*\*.

## Other expenses and net income or (loss)

Interest charges and other expenses were \*\*\*.The industry's net income followed a trend similar to that of operating income: net income \*\*\*. The two firms together were \*\*\*. Cash flows followed the trend of net income.

## Variance analysis

A variance analysis for the operations of U.S. producers of silicomanganese is presented in table III-13.<sup>34</sup> The information for this variance analysis is derived from table III-10.

### Table III-13

**Silicomanganese: Variance analysis on the operations of U.S. producers, 2015-17, January-June 2017, and January-June 2018**

\* \* \* \* \*

The discussion of COGS, gross profit, SG&A expenses, and operating income, as shown in tables III-10 and III-12, mirrors the results of a variance analysis in these review. That is, the increase in operating income from 2015 to 2017 reflects a greater increase in average revenue (unit values increased) compared to average operating costs and expenses (total COGS and total SG&A expenses combined) with an increase in volume. The decrease in operating income between the interim periods reflects lower unit sales values combined with higher unit costs and a decrease in volume.

## Capital expenditures and research and development expenses

Table III-14 presents capital expenditures and research and development ("R&D") expenses by firm. It also presents the firms' narrative responses on the nature and focus of their capital expenditures and R&D expenses.

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<sup>34</sup> The Commission's variance analysis is calculated in three parts: Sales variance, cost of sales variance (COGS variance), and SG&A expense variance. Each part consists of a price variance (in the case of the sales variance) or a cost or expense variance (in the case of the COGS and SG&A expense variance), and a volume variance. The sales or cost/expense variance is calculated as the change in unit price or per-unit cost/expense times the new volume, while the volume variance is calculated as the change in volume times the old unit price or per-unit cost/expense. Summarized at the bottom of the table, the price variance is from sales; the cost/expense variance is the sum of those items from COGS and SG&A variances, respectively, and the volume variance is the sum of the volume components of the net sales, COGS, and SG&A expense variances. The overall volume component of the variance analysis is generally small.

**Table III-14**  
**Silicomanganese: Capital expenditures and R&D expenses of U.S. producers, by firm, 2015-17, January-June 2017, and January-June 2018, and narrative responses**

\* \* \* \* \*

Both firms have undertaken measures to \*\*\*, as required under National Emissions Standards for Hazardous Air Pollutants (NESHAP) regulations issued by the U.S. Environmental Protection Agency.<sup>35</sup> The Federal government has delegated the authority to administer these requirements to the states; as noted in the posthearing brief of Eramet, \*\*\*.<sup>36</sup>

**Assets and return on assets**

Table III-15 presents data on the U.S. producers' total assets and their return on assets.

**Table III-15**  
**Silicomanganese: U.S. producers' total assets and return on assets, 2015-17**

\* \* \* \* \*

\*\*\*. Changes between the full annual periods, particularly the \*\*\* were mostly in \*\*\*.

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<sup>35</sup> See tables III-1 and III-14. See also Posthearing brief of Eramet Marietta, p. 13.

<sup>36</sup> Posthearing brief of Eramet Marietta, answers to Commissioners' questions, p. 50. \*\*\*.

## PART IV: U.S. IMPORTS AND THE FOREIGN INDUSTRIES

### U.S. IMPORTS

#### Overview

The Commission issued questionnaires to 38 firms believed to have imported silicomanganese since January 2012. Eighteen firms provided data and information in response to the questionnaires, while six firms indicated that they had not imported the product since 2012. Based on official Commerce statistics for imports of silicomanganese, importers' questionnaire data accounted for more than 95 percent of total U.S. imports, based on quantity, during 2017. Firms responding to the Commission's questionnaire accounted for the following shares of individual subject country's subject imports (as a share of official import statistics, by value) during 2015.<sup>1</sup>

- 80 percent of the subject imports from China during 2015 and
- 0<sup>2</sup> percent of the subject imports from Ukraine during 2015

In order to provide detailed public import data, the quantity and value of U.S. imports in this report are based on official Commerce statistics for silicomanganese.<sup>3</sup>

#### Imports from subject and nonsubject countries

Table IV-1 and figure IV-1 present information on U.S. imports of silicomanganese from China, Ukraine, and all other sources. Table IV-2 presents data on U.S. imports of silicomanganese from nonsubject sources including countries currently or previously subject to orders or investigations regarding silicomanganese. In 2015, imports from China and Ukraine accounted for .003 percent and .007 percent of total imports, respectively. Since 2015, there have not been any imports of silicomanganese from China or Ukraine. The total quantity of total U.S. imports of silicomanganese decreased by 12.2 percent from 2015 to 2016, but increased by 33.0 percent from 2016 to 2017, resulting in an overall increase of 16.8 percent from 2015 to 2017. In 2017, the largest sources for U.S. imports of silicomanganese were Georgia, followed by South Africa and Australia.<sup>4</sup>

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<sup>1</sup> Official import statistics show no imports of silicomanganese into the United States from subject countries during 2016 to 2018.

<sup>2</sup> Proprietary customs data shows a small amount of imports from Ukraine in 2015 believed to have been imported by \*\*\*. \*\*\*.

<sup>3</sup> Official U.S. import statistics using HTS statistical reporting number 7202.30.0000, accessed August 10, 2018.

<sup>4</sup> \*\*\*.

U.S. imports on a contained manganese basis for 2017 are presented in figure IV-2. In 2015, the contained manganese content for U.S. imports of silicomanganese from China and Ukraine were 67.5 percent and 67.9 percent, respectively.<sup>5</sup> U.S. imports from Georgia had the highest contained manganese content of 74.0 percent and U.S. imports from Norway had the lowest contained manganese content of 60.2 percent. In terms of manganese content, Georgian silicomanganese is similar to Ukrainian silicomanganese, but the silicomanganese from these two countries contains different levels of phosphorus.<sup>6</sup>

**Table IV-1**  
**Silicomanganese: U.S. imports by source, 2015-17, January to June 2017, and January to June 2018**

Item	Calendar year			January to June	
	2015	2016	2017	2017	2018
	<b>Quantity (short tons)</b>				
U.S. imports from.--					
China	11	---	---	---	---
Ukraine	22	---	---	---	---
Subject sources	33	---	---	---	---
Nonsubject sources	331,428	291,188	387,199	188,639	221,484
All import sources	331,461	291,188	387,199	188,639	221,484
	<b>Value (1,000 dollars)</b>				
U.S. imports from.--					
China	24	---	---	---	---
Ukraine	20	---	---	---	---
Subject sources	44	---	---	---	---
Nonsubject sources	318,770	203,929	421,111	198,826	199,690
All import sources	318,814	203,929	421,111	198,826	199,690
	<b>Unit value (dollars per short ton)</b>				
U.S. imports from.--					
China	2,216	---	---	---	---
Ukraine	892	---	---	---	---
Subject sources	1,333	---	---	---	---
Nonsubject sources	962	700	1,088	1,054	902
All import sources	962	700	1,088	1,054	902

Table continued on next page.

<sup>5</sup> As noted above, 2015 was the last year in which the United States imported silicomanganese from China and Ukraine.

<sup>6</sup> Ukrainian respondents' posthearing brief, attachment C.

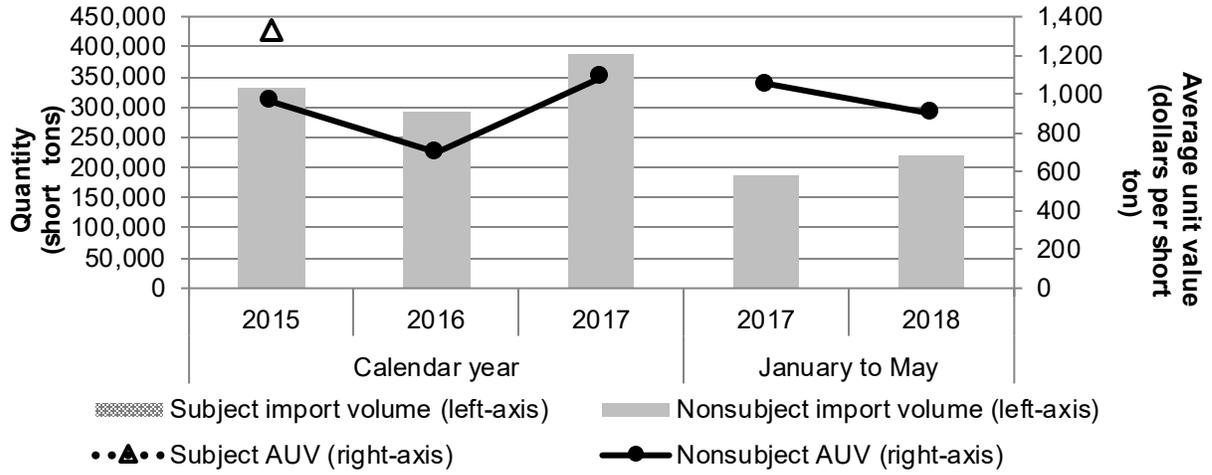
**Table IV-1—Continued**  
**Silicomanganese: U.S. imports by source, 2015-17, January to June 2017, and January to June 2018**

Item	Calendar year			January to June	
	2015	2016	2017	2017	2018
<b>Share of quantity (percent)</b>					
U.S. imports from.-- China	0.0	---	---	---	---
Ukraine	0.0	---	---	---	---
Subject sources	0.0	---	---	---	---
Nonsubject sources	100.0	100.0	100.0	100.0	100.0
All import sources	100.0	100.0	100.0	100.0	100.0
<b>Share of value (percent)</b>					
U.S. imports from.-- China	0.0	---	---	---	---
Ukraine	0.0	---	---	---	---
Subject sources	0.0	---	---	---	---
Nonsubject sources	100.0	100.0	100.0	100.0	100.0
All import sources	100.0	100.0	100.0	100.0	100.0
<b>Ratio to U.S. production (percent)</b>					
U.S. imports from.-- China	***	***	***	***	***
Ukraine	***	***	***	***	***
Subject sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***

Note.--Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent.

Source: Official U.S. import statistics using HTS statistical reporting number 7202.30.0000, accessed August 10, 2018.

**Figure IV-1**  
**Silicomanganese: U.S. import volumes and prices, 2015-17, January to June 2017, and January to June 2018**



Source: Official U.S. import statistics using HTS statistical reporting number 7202.30.0000, accessed August 10, 2018.

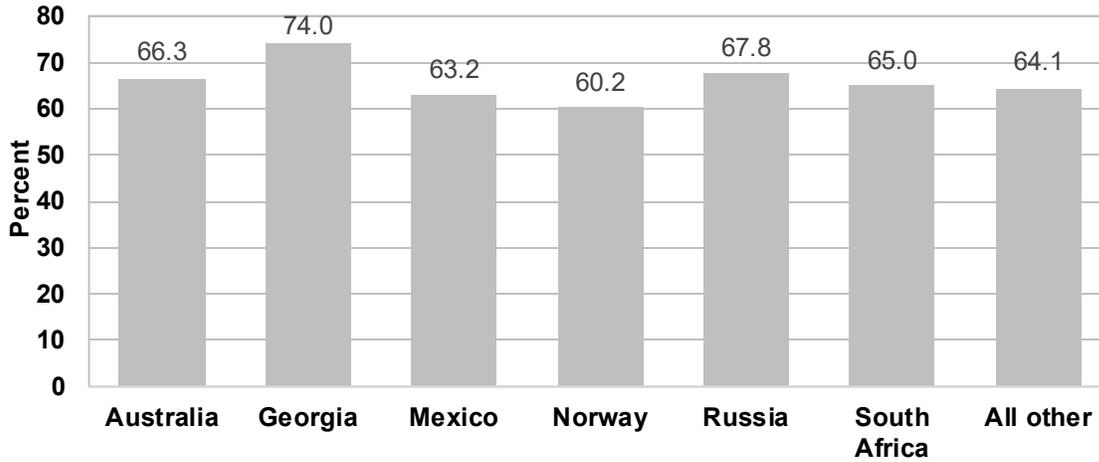
**Table IV-2**  
**Silicomanganese: U.S. imports, by notable source, 2015-17, January to June 2017, and January to June 2018**

Item	Calendar year			January to June	
	2015	2016	2017	2017	2018
	<b>Quantity (short tons)</b>				
U.S. imports from notable nonsubject sources--					
India (under existing orders)	3,207	1,317	6,438	3,343	1,733
Kazakhstan (under existing order)	---	---	---	---	---
Venezuela (under existing order)	---	---	---	---	---
Australia (previously under investigation)	68,189	57,588	72,766	31,088	50,048
Brazil (previously under order)	948	7,761	2,596	446	3,274
Georgia	93,691	79,926	99,459	44,603	70,562
South Africa	93,292	78,874	86,079	53,120	32,019
Mexico	27,444	30,544	29,588	20,712	15,372
Norway	20,070	29,428	20,031	9,026	14,572
Russia	39	15	19,949	9,820	6,614
All other sources	24,549	5,736	50,293	16,482	27,291
Nonsubject sources	331,428	291,188	387,199	188,639	221,484
	<b>Share of total U.S. imports (percent)</b>				
U.S. imports from notable nonsubject sources--					
India (under existing orders)	1.0	0.5	1.7	1.8	0.8
Kazakhstan (under existing orders)	---	---	---	---	---
Venezuela (under existing orders)	---	---	---	---	---
Australia (previously under investigation)	20.6	19.8	18.8	16.5	22.6
Brazil (previously under orders)	0.3	2.7	0.7	0.2	1.5
Georgia	28.3	27.4	25.7	23.6	31.9
South Africa	28.1	27.1	22.2	28.2	14.5
Mexico	8.3	10.5	7.6	11.0	6.9
Norway	6.1	10.1	5.2	4.8	6.6
Russia	0.0	0.0	5.2	5.2	3.0
All other sources	7.4	2.0	13.0	8.7	12.3
Nonsubject sources	100.0	100.0	100.0	100.0	100.0

Note.--Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent.

Source: Official U.S. import statistics using HTS statistical reporting number 7202.30.0000, accessed August 10, 2018.

**Figure IV-2**  
**Silicomanganese: U.S. imports, contained manganese content, 2017**



Source: Official U.S. import statistics using HTS statistical reporting numbers 7202.30.0000, accessed August 10, 2018.

**U.S. IMPORTERS' IMPORTS SUBSEQUENT TO JUNE 30, 2018**

The Commission requested importers to indicate whether they had imported or arranged for the importation of silicomanganese from China and Ukraine for delivery after June 30, 2018. Table IV-3 presents U.S. importers' responses regarding arranged imports from July 2018 to June 2019. No importer reported arranged imports of silicomanganese from China or Ukraine.

**Table IV-3**  
**Silicomanganese: U.S. importers' arranged imports**

\* \* \* \* \*

## U.S. IMPORTERS' INVENTORIES

Table IV-4 presents data for inventories of U.S. imports of silicomanganese held in the United States. There were no recorded end-of-period inventories of silicomanganese from China or Ukraine. Imports inventories from nonsubject sources have decreased by 27.8 percent from 2015 to 2017. In addition, the ratio of inventories from nonsubject sources decreased 13.6 percentage points from 2015 to 2017. In order of magnitude, \*\*\* held the greatest amount of silicomanganese inventories in 2017.

**Table IV-4**  
**Silicomanganese: U.S. importers' end-of-period inventories of imports, by source, 2015-17, January to June 2017, and January to June 2018**

Item	Calendar year			January to June	
	2015	2016	2017	2017	2018
	<b>Inventories (short tons); Ratios (percent)</b>				
Imports from subject sources: Inventories	---	---	---	---	---
Ratio to U.S. imports	---	---	---	---	---
Ratio to U.S. shipments of imports	---	---	---	---	---
Ratio to total shipments of imports	---	---	---	---	---
Imports from nonsubject sources: Inventories	145,454	119,744	104,999	97,260	103,174
Ratio to U.S. imports	40.3	35.0	26.5	27.2	22.7
Ratio to U.S. shipments of imports	40.0	34.2	26.4	25.2	22.0
Ratio to total shipments of imports	35.9	31.8	25.4	24.0	21.2
Imports from all import sources: Inventories	145,454	119,744	104,999	97,260	103,174
Ratio to U.S. imports	40.2	35.0	26.5	27.2	22.7
Ratio to U.S. shipments of imports	39.9	34.2	26.4	25.2	22.0
Ratio to total shipments of imports	35.9	31.8	25.4	24.0	21.2

Note.-- \*\*\*.

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

## CUMULATION CONSIDERATIONS

In assessing whether U.S. imports from the subject countries are likely to compete with each other and with the domestic like product, the Commission has generally considered four factors: (1) fungibility, (2) presence of sales or offers to sell in the same geographical markets, (3) common or similar channels of distribution, and (4) simultaneous presence in the market. Interchangeability and channels of distribution are discussed in Part II. Additional information concerning fungibility, geographical markets, and simultaneous presence in the market is presented below.

### Fungibility

Table IV-5 provides data on U.S. producers and U.S. importers' shipments by ASTM grade. U.S. producers produced and shipped \*\*\* ASTM B silicomanganese in 2017 and (throughout the period for which data were collected). In 2017, \*\*\* percent of U.S. importers' shipments were ASTM B silicomanganese, followed by \*\*\* percent high phosphorus, \*\*\* percent classified as "other,"<sup>7</sup> and \*\*\* percent ASTM A silicomanganese. There were no U.S. shipments of ASTM C silicomanganese in 2017. In 2015, the most recent year in which there were imports of silicomanganese from China, there was a small U.S. shipment of \*\*\* silicomanganese from China accounting for substantially less than one percent of U.S. importers' U.S. shipments.

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<sup>7</sup> In their questionnaire responses U.S. importers defined "other" as: off grade silicomanganese chip and low-carbon silicomanganese.

**Table IV-5**  
**Silicomanganese: U.S. producers' U.S. shipments by product type, 2015-17, January to June 2017,**  
**and January to June 2018**

Item	Calendar year			January to June	
	2015	2016	2017	2017	2018
	<b>Quantity (short tons)</b>				
U.S. producers' U.S. shipments.--					
ASTM A	***	***	***	***	***
ASTM B	***	***	***	***	***
ASTM C	***	***	***	***	***
High phosphorus	***	***	***	***	***
Other	***	***	***	***	***
All U.S.shipments	***	***	***	***	***
U.S. importers U.S. shipments: All sources.--					
ASTM A	***	***	***	***	***
ASTM B	***	***	***	***	***
ASTM C	***	***	***	***	***
High phosphorus	***	***	***	***	***
Other	***	***	***	***	***
All U.S.shipments	364,430	350,621	417,944	192,976	241,511
	<b>Share of quantity (percent)</b>				
U.S. producers' U.S. shipments.--					
ASTM A	***	***	***	***	***
ASTM B	***	***	***	***	***
ASTM C	***	***	***	***	***
High phosphorus	***	***	***	***	***
Other	***	***	***	***	***
All U.S.shipments	100.0	100.0	100.0	100.0	100.0
U.S. importers U.S. shipments: All sources.--					
ASTM A	***	***	***	***	***
ASTM B	***	***	***	***	***
ASTM C	***	***	***	***	***
High phosphorus	***	***	***	***	***
Other	***	***	***	***	***
All U.S.shipments	100.0	100.0	100.0	100.0	100.0

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

## Geographical markets

In the first, second, and third five-year reviews the Commission found that domestic and imported silicomanganese is likely to serve overlapping geographical markets.<sup>8</sup> Combined, U.S. producers reported serving every geographical market of the contiguous United States.<sup>9</sup> <sup>10</sup> In 2015,<sup>11</sup> imports of silicomanganese from China entered the U.S. through New Orleans, Louisiana and imports of silicomanganese from Ukraine entered the U.S. through Norfolk, Virginia.<sup>12</sup>

## Presence in the market

Imports of silicomanganese from China and Ukraine were each reported for only one out of the 42 months between January 2015 and June 2018. Imports from China entered in April 2015, and imports from Ukraine entered in August 2015.<sup>13</sup>

## SUBJECT COUNTRY PRODUCERS

The silicomanganese industry in China is larger than the industry in Ukraine. In 2016, Chinese silicomanganese producers had a recorded capacity of \*\*\* short tons and the Ukrainian producers had a capacity of \*\*\* short tons.<sup>14</sup> In 2016, China produced \*\*\* short tons of silicomanganese and Ukraine produced \*\*\* short tons.<sup>15</sup> Chinese producers' capacity utilization was \*\*\* percent and Ukrainian producers' capacity utilization was \*\*\* percent in 2016.

According to GTA data, in 2017, China exported 7,382 short tons of silicomanganese and Ukraine exported 719,926 short tons of silicomanganese. Most of the top export destination of

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<sup>8</sup> *Silicomanganese from Brazil, China, and Ukraine: Investigations Nos. 731-TA-671-673 (Review)*, USITC Publication 3386, January 2001, pp. 9-10; *Silicomanganese from Brazil, China, and Ukraine: Investigations Nos. 731-TA-671-673 (Second Review)*, USITC Publication 3879, August 2006, p. 11; and *Silicomanganese from Brazil, China and Ukraine Inv. Nos. 731-TA-671-673 (Third Review)*, USITC Publication 4354, October 2012, pp. 10 – 11.

<sup>9</sup> U.S. producers' questionnaire responses, section IV-9.

<sup>10</sup> There were no imports of silicomanganese from subject sources in 2017.

<sup>11</sup> 2015 was the only year during the period for which data were collected that silicomanganese from China or Ukraine entered the United States.

<sup>12</sup> Official U.S. import statistics using HTS statistical reporting number 7202.30.0000, accessed August 10, 2018.

<sup>13</sup> Official U.S. import statistics using HTS statistical reporting number 7202.30.0000, accessed August 10, 2018.

<sup>14</sup> Domestic interested party response to notice of institution, table 3, p. 20 \*\*\*. Foreign producers questionnaire response, section II3-a.

<sup>15</sup> *Ibid.*

Chinese silicomanganese were in the Middle East and South East Asia whereas a majority of the top export destinations for Ukrainian silicomanganese were in Europe.

## THE INDUSTRY IN CHINA

### Overview

No Chinese producers of silicomanganese provided questionnaire responses in these current reviews. According to published reports, Chinese silicomanganese producers \*\*\* their silicomanganese production capacity to \*\*\*. Chinese capacity utilization was \*\*\* in 2013. During 2014-17, however, capacity has declined and capacity utilization rates have risen. Table IV-6 presents information on silicomanganese capacity, production, and capacity utilization in China.<sup>16</sup>

**Table IV-6**

**Silicomanganese: Capacity, production, capacity utilization, and unused capacity in China 2012–17**

\* \* \* \* \*

### Changes in operations

As presented in table IV-7, producers in China experienced several operational and organizational changes since January 1, 2012. The declines in silicomanganese capacity in 2014 and 2015 corresponded to government actions in China that were aimed at reducing ferroalloys capacity and consolidating production. According to industry sources, in 2014 China began to phase out about 2.58 million short tons of obsolete ferroalloys production capacity. The Chinese central government tightened environmental regulations on ferroalloy producers. The intention was to control capacity and force smelters with smaller, obsolete furnaces to either upgrade or close. According to the International Manganese institute, at yearend 2015, there were 71 silicomanganese smelters operating in China compared to 382 smelters at the beginning of 2015. It was not certain if all of the plant closings were permanent or if some of the smelters intended to reopen after inspections were completed.<sup>17 18</sup>

\*\*\*<sup>19</sup>

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<sup>16</sup> Staff notes that production levels shown in tables IV-6 and IV-15 are according to different sources.

<sup>17</sup> \*\*\*.

<sup>18</sup> “Overview of the Global Manganese Industry with a special focus on China”, Metal Bulletin Conference, March 24, 2016, <https://www.metalbulletin.com/events/download.ashx/document/speaker/8479/a0ID000000ZP1jZMAT/Presentation>, retrieved October 15, 2018.

<sup>19</sup> \*\*\*.

**Table IV-7**  
**Silicomanganese: Known Chinese producers and capacities, since January 1, 2012**

Location	Ownership	Plant type	Product(s)	Annual capacity, total (short tons)
Ordos City	***	Ferroalloys plant	Ferrosilicon, silicomanganese, ferromanganese	*** Estimated annual silicomanganese capacity: 165,000 short tons.
Jilin City	***	Ferroalloys plant	Ferro-chrome, ferromanganese, ferromolybdenum, ferronickel, ferro-silicon, ferro-tungsten, silico-chrome and silicomanganese	***
Jinzhou City	***	Ferroalloys plant	Ferro-chrome, ferromanganese, ferromolybdenum, ferro-titanium, ferro-vanadium and Silicomanganese	***
Emeishan City	***	Ferroalloys plant	Ferro-chrome, ferromanganese, ferro-silicon, ferro-titanium, ferro-tungsten, ferro-vanadium and silicomanganese	***

Table continued on next page.

**Table IV-7—Continued**

**Silicomanganese: Known Chinese producers and capacities, since January 1, 2012**

Location	Ownership	Plant type	Product(s)	Annual capacity, total (short tons)
Leshan Town	***	Ferroalloys plant	Ferro-chrome, ferromanganese, silico-chrome and silicomanganese	***
Nanning	***	Ferroalloys plant	Silicomanganese	***
Leshan Town	***	Ferroalloys plant	Ferro-chrome, ferromanganese, silico-chrome and silicomanganese	***
Xinzhen	***	Ferroalloys plant	Carbon ferromanganese, silicomanganese alloys	***
Dongfeng	***	Ferroalloys plant	Ferro-boron, ferro-chrome, ferromanganese, ferro-molybdenum, ferro-silicon, silico-chrome and silicomanganese	***
Hunan Province	***	Ferroalloys plant	Ferromanganese and silicomanganese	***
Qinzhou	***	Ferroalloys plant	Ferromanganese and silicomanganese	***
Jingxi	***	Ferroalloys plant	Silicomanganese	***
Anyang City	***	Ferroalloys plant	De-oxidants & inoculants - CaSi; Ferro-chrome; Ferromanganese; Ferro-molybdenum; Ferro-silicon; Ferro-titanium; Silicomanganese	***
Xialei	***	Ferroalloys plant	Silicomanganese	***
Longmen	***	Ferroalloys plant	Silicomanganese	***
Guizhou	***	Ferroalloys plant	Ferromanganese, ferro-molybdenum, ferro-silicon, ferro-vanadium and silicomanganese	***
Erdos City	***	Ferroalloys plant	Ferromanganese, silicon manganese	***
Guiyang City	***	Ferroalloys plant	Silicomanganese	***

<sup>1</sup> Mitsui increases investment in Erdos Electrical Power & Metallurgical Company Limited, China, Mitsui news release, July 2, 2010, [https://www.mitsui.com/jp/en/release/2010/1205213\\_6469.html](https://www.mitsui.com/jp/en/release/2010/1205213_6469.html). Retrieved August 16, 2018.

Note.—Company names, locations, and capacity estimates are as they appear in original source. List might not be comprehensive.

Source: \*\*\*.

## Exports

According to GTA data, the leading export markets for silicomanganese from China are Bahrain, Indonesia, and Kuwait (table IV-8). Exports of silicomanganese from China increased from 2016 to 2017, and expanded into new markets. Overall, exports from China increased by 329.7 percent from 2015 to 2017. The unit value of these exports decreased by \$173 dollars per short ton from 2015 to 2017.

During the third reviews, a Chinese producer indicated that a 20 percent export tax affects Chinese silicomanganese exports. The Chinese export tax on silicomanganese was five percent at the beginning of 2006, and increased three times in five percent increments, reaching 20 percent on January 1, 2008.<sup>20</sup> Eramet noted that despite China's export tax on silicomanganese, there were exports from China to destinations (other than the U.S.) in 2015 and 2016, and that exports increased by eight-fold from 2016 to 2017. Eramet claimed that the increase in Chinese silicomanganese exports coincided with China's reduction of the export tax on ferroalloys, although they were unclear if that reduction applied to silicomanganese.<sup>21</sup>

In the most recently available announcement on export taxes for 2018, the Government of China reported that it is reducing or eliminating export taxes on several products. The announcement does not specify the export tax applicable to exports of silicomanganese from China, instead identifying the 2017 rate for silicomanganese as 20 percent and including a blank box for the rate applicable to silicomanganese exports from China as of January 1, 2018. The export commodity tax rate table (a table that lists export tariffs imposed on 202 commodities in 2017 and provisional export tax rates for 2018) that was published by the Ministry of Finance of the People's Republic of China (MOFCOM) on December 12, 2017, listed a 20 percent export tariff on silicomanganese for 2017 and had a blank space in the 2018 temporary tariff column.<sup>22</sup> The meaning of the blank space in the table was not defined in the table, although "0" was used in other cases for where the provisional 2018 export tariff rate was zero. \*\*\*.<sup>23</sup> Staff also attempted to confirm the 2018 export tariff rate with MOFCOM but did not receive a response to a request for clarification.<sup>24</sup>

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<sup>20</sup> Silicomanganese from Brazil, China and Ukraine, Inv. Nos. 731-TA-671-673 (Third Review), USITC Publication 4354, October 2012, p. 13.

<sup>21</sup> Domestic interested party prehearing brief, p. 19.

<sup>22</sup> Ministry of Finance of the People's Republic of China webpage, [http://gss.mof.gov.cn/zhengwuxinxi/zhengcefabu/201712/t20171215\\_2777552.html](http://gss.mof.gov.cn/zhengwuxinxi/zhengcefabu/201712/t20171215_2777552.html), and "Schedule 4: Export commodity tax rate table", <http://gss.mof.gov.cn/zhengwuxinxi/zhengcefabu/201712/P020171215531852388756.pdf>, accessed October 4, 2018.

<sup>23</sup> \*\*\*.

<sup>24</sup> \*\*\*.

**Table IV-8**  
**Silicomanganese: Exports from China by destination market, 2015-17**

Destination market	Calendar year		
	2015	2016	2017
	<b>Quantity (short tons)</b>		
Exports from China to the United States	---	---	---
Exports from China to other major destination markets.--			
Bahrain	---	---	1,138
Indonesia	34	11	807
Kuwait	---	---	764
Peru	---	---	565
Japan	---	---	551
Iran	---	---	500
United Arab Emirates	---	---	487
Sudan	---	---	477
All other destination markets	1,684	862	2,091
Total exports from China	1,718	873	7,382
	<b>Value (1,000 dollars)</b>		
Exports from China to the United States	---	---	---
Exports from China to other major destination markets.--			
Bahrain	---	---	1,136
Indonesia	66	20	838
Kuwait	---	---	763
Peru	---	---	564
Japan	---	---	530
Iran	---	---	375
United Arab Emirates	---	---	486
Sudan	---	---	476
All other destination markets	1,953	1,083	2,230
Total exports from China	2,019	1,103	7,398

Table continued on next page.

**Table IV-8--Continued**  
**Silicomanganese: Exports from China by destination market, 2015-17**

Destination Market	Calendar year		
	2015	2016	2017
	<b>Unit value (dollars per short ton)</b>		
Exports from China to the United States	---	---	---
Exports from China to other major destination markets.--			
Bahrain	---	---	998
Indonesia	1,973	1,798	1,038
Kuwait	---	---	998
Peru	---	---	998
Japan	---	---	962
Iran	---	---	749
United Arab Emirates	---	---	998
Sudan	---	---	998
All other destination markets	1,159	1,257	1,067
Total exports from China	1,175	1,263	1,002
	<b>Share of quantity (percent)</b>		
Exports from China to the United States	---	---	---
Exports from China to other major destination markets.--			
Bahrain	---	---	15.4
Indonesia	2.0	1.3	10.9
Kuwait	---	---	10.4
Peru	---	---	7.7
Japan	---	---	7.5
Iran	---	---	6.8
United Arab Emirates	---	---	6.6
Sudan	---	---	6.5
All other destination markets	98.0	98.7	28.3
Total exports from China	100.0	100.0	100.0

Source: Official exports statistics under HS subheading 7202.30 as reported by China Customs in the IHS/GTA database, accessed July 16, 2018.

## THE INDUSTRY IN UKRAINE

### Overview

The two firms confirmed to have produced all silicomanganese in Ukraine during the period in which data were collected submitted foreign producer questionnaires. Public Joint Stock Company Nikopol Ferroalloy Plant (“NFP”) was privatized between 2003 and 2005 and Joint Stock Company Zaporozhsky Ferroalloy Plant (“ZFP”) was privatized in 2000.<sup>25</sup> Management control in both firms is exercised according to the Ukrainian corporate governance legislation.<sup>26</sup> Table IV-9 presents information on the silicomanganese operations of the responding producers and exporters in Ukraine.

A third Ukrainian ferroalloy plant, Public Joint Stock Company Stakhanov Ferroalloy Plant (“Stakhanov”), is reported to not have produced any goods since 2014.<sup>27</sup> <sup>28</sup> The Stakhanov plant is located in the Luhansk region in the city of Kadiivka. On November 7, 2014, the government of Ukraine issued Resolution No. 1085, which identified a list of towns and cities over which Ukrainian public authorities temporarily do not exercise power.<sup>29</sup> Included in Resolution No. 1085 is the city Kadiivka where the Stakhanov facility is located.<sup>30</sup> Furthermore, on March 15, 2017 the President of Ukraine issued decree No. 62/2017, which stopped the movement of goods through the collision line of the Dunetsk and Luhansk regions with the exception of humanitarian goods.<sup>31</sup>

In addition, the Ministry of Economic Development and Trade of Ukraine Department of Trade Defense notes, “according to the State Fiscal Service of Ukraine, the last customs clearance of export operation with silicomanganese was made of Stakhanov on July 18, 2014, and its last payment of taxes and fees to the budget of Ukraine was recorded in January 2015.”<sup>32</sup> Moreover, the Ukrainian respondents note that military action taken in 2014 has severely damaged the facility’s infrastructure including damage to the factory’s main power transformer and transportation lines.<sup>33</sup> Lastly, reports indicate that militants are currently using the facility

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<sup>25</sup> Ukrainian respondent interested parties’ response to additional questions, August 8, 2018, pp. 2-3.

<sup>26</sup> Ibid.

<sup>27</sup> Ukrainian respondent interested parties’ response to the Notice of Institution, p. 3.

<sup>28</sup> Staff made multiple attempts to issue Stakhanov a foreign producer questionnaire. All emails were undeliverable.

<sup>29</sup> Ministry of Economic Development and Trade of Ukraine, Department of Trade Defense’s posthearing brief, p. 8; and Ukrainian respondent interested parties’ posthearing brief, p. 10.

<sup>30</sup> Ibid.

<sup>31</sup> Ministry of Economic Development and Trade of Ukraine, Department of Trade Defense’s posthearing brief, p. 8 and attachment A; and Ukrainian respondent interested parties’ posthearing brief, attachment B.

<sup>32</sup> Ministry of Economic Development and Trade of Ukraine, Department of Trade Defense’s posthearing brief, p. 9; and Ukrainian respondent interested parties’ posthearing brief, attachment B.

<sup>33</sup> Ukrainian respondent interested parties’ posthearing brief, pp. 11-13 and attachment C.

as a repair shop and storage facility.<sup>34</sup> According to the Ukrainian Association of Ferroalloys, as of January 2018 the Stakhanov plant was still idle.<sup>35</sup>

In contrast, Eramet asserts that public source articles indicate that the Stakhanov facility has begun trial runs back as early as November 2017 and may begin full operations at the end of 2018.<sup>36</sup> Public source information provided by Eramet also reports that workers have restored the previously damaged power bridge and transmission lines to the Stakhanov facility and it has enough power to produce both ferrosilicon and silicomanganese.<sup>37</sup> Moreover, management at the Stakhanov facility has spent time working to create sales agreements for its ferroalloy products outside of the Dunetsk and Luhansk regions.<sup>38</sup>

**Table IV-9**  
**Silicomanganese: Summary data for producers in Ukraine, 2017**

\* \* \* \* \*

**Changes in operations**

As presented in table IV-10 producers in Ukraine reported several operational and organizational changes since January 1, 2012.

**Table IV-10**  
**Silicomanganese: Ukraine producers' reported changes in operations, since January 1, 2012**

\* \* \* \* \*

**Operations on silicomanganese**

Table IV-11 presents data on Ukrainian producers' capacity, production, shipments and inventories. During the period in which data were collected, Ukrainian capacity to produce silicomanganese increased \*\*\* percent although, overall production increased by \*\*\* percent from 2015 to 2017. The respondent interested parties note \*\*\*.<sup>39</sup> In 2017, about \*\*\* percent of silicomanganese produced was internally consumed and \*\*\* percent of shipments were to the commercial home market.

Table IV-12 presents Ukrainian producers total shipments by grade. In 2017, \*\*\* percent on Ukrainian silicomanganese shipments were classified as "high phosphorus not meeting

<sup>34</sup> Ukrainian respondent interested parties' posthearing brief, p. 12.

<sup>35</sup> "The production of ferroalloys in Ukraine remained at the level of 1 million tons." Business Censor, January 19, 2016, [https://biz.censor.net.ua/news/3045457/proizvodstvo\\_ferrosplavov\\_v\\_ukraine\\_sohranilos\\_na\\_urovne\\_1\\_milliona\\_tonn](https://biz.censor.net.ua/news/3045457/proizvodstvo_ferrosplavov_v_ukraine_sohranilos_na_urovne_1_milliona_tonn), accessed October 4, 2018.

<sup>36</sup> Eramet's posthearing brief, Response to Commissioners Questions, p. 18.

<sup>37</sup> Ibid.

<sup>38</sup> Ibid.

<sup>39</sup> Ukrainian respondent interested parties' response to additional questions, August 8, 2018, p. 3.

ASTM standard” and \*\*\* percent were classified as ASTM B. To produce silicomanganese, NFP uses Ukrainian manganese ore \*\*\*.<sup>40</sup> The Ukrainian interested parties argue that \*\*\*.<sup>41</sup> Moreover, the conflict in the Crimean Peninsula reportedly has caused ports along the Black Sea to reach capacity thus decreasing imports of low-phosphorous ore and forcing Ukrainian producers to use more local high phosphorus manganese ore.<sup>42</sup>

**Table IV-11**  
**Silicomanganese: Ukrainian capacity, production, shipments, and inventories, 2015-17, January to June 2017, and January to June 2018**

\* \* \* \* \*

**Table IV-12**  
**Silicomanganese: Foreign producers’ production by product type, 2015-17, January to June 2017, and January to June 2018**

\* \* \* \* \*

**Alternative products**

As shown in table IV-13, responding Ukraine firms produced other products on the same equipment and machinery used to produce silicomanganese. In 2017, \*\*\*.

**Table IV-13**  
**Silicomanganese: Ukrainian producers’ overall capacity and production on the same equipment as subject production, 2015-17, January to June 2017, and January to June 2018**

\* \* \* \* \*

**Exports**

According to GTA data, the leading export markets for silicomanganese from Ukraine, in order of magnitude, are Turkey, Italy, and the Netherlands (table IV-14). From 2015 to 2017 overall exports of silicomanganese from Ukraine increased by 18.9 percent. In 2017, exports of silicomanganese from reached 49 countries including three Latin American countries (Argentina, Colombia, and Peru).

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<sup>40</sup> Respondent interested parties’ response to the Notice of Institution, p. 3.

<sup>41</sup> Ibid.

<sup>42</sup> Ukrainian respondent interested parties’ posthearing brief, attachment A, p.7; but see Eramet’s posthearing brief, response to Commissioners’ questions 8 and exhibit B, \*\*\*.

**Table IV-14**  
**Silicomanganese: Exports from Ukraine by destination market, 2015-17**

Destination market	Calendar year		
	2015	2016	2017
	<b>Quantity (short tons)</b>		
Exports from Ukraine to the United States	22	0	---
Exports from Ukraine to other major destination markets.--			
Turkey	172,992	181,060	230,083
Italy	22,791	70,047	87,374
Netherlands	50,069	44,687	80,196
Poland	41,085	48,372	66,087
Egypt	17,011	17,152	28,343
Romania	14,895	14,780	22,819
Taiwan	8,600	33,616	17,678
United Kingdom	2,581	4,326	15,937
All other destination markets	275,211	265,500	171,408
Total exports from Ukraine	605,257	679,541	719,926
	<b>Value (1,000 dollars)</b>		
Exports from Ukraine to the United States	20	0	---
Exports from Ukraine to other major destination markets.--			
Turkey	132,636	109,382	219,922
Italy	16,957	40,831	84,370
Netherlands	37,982	26,733	82,256
Poland	30,875	29,578	67,262
Egypt	14,745	10,127	26,500
Romania	11,118	9,362	23,233
Taiwan	5,733	20,443	16,720
United Kingdom	1,690	2,507	16,107
All other destination markets	211,739	157,184	166,333
Total exports from Ukraine	463,495	406,148	702,702

Table continued on next page.

**Table IV-14--Continued**  
**Silicomanganese: Exports from Ukraine by destination market, 2015-17**

Destination market	Calendar year		
	2015	2016	2017
	<b>Unit value (dollars per short ton)</b>		
Exports from Ukraine to the United States	889	708	---
Exports from Ukraine to other major destination markets.--			
Turkey	767	604	956
Italy	744	583	966
Netherlands	759	598	1,026
Poland	751	611	1,018
Egypt	867	590	935
Romania	746	633	1,018
Taiwan	667	608	946
United Kingdom	655	580	1,011
All other destination markets	769	592	970
Total Ukraine exports	766	598	976
	<b>Share of quantity (percent)</b>		
Exports from Ukraine to the United States	0.0	0.0	---
Exports from Ukraine to other major destination markets.--			
Turkey	28.6	26.6	32.0
Italy	3.8	10.3	12.1
Netherlands	8.3	6.6	11.1
Poland	6.8	7.1	9.2
Egypt	2.8	2.5	3.9
Romania	2.5	2.2	3.2
Taiwan	1.4	4.9	2.5
United Kingdom	0.4	0.6	2.2
All other destination markets	45.5	39.1	23.8
Total exports from Ukraine	100.0	100.0	100.0

Source: Official exports statistics under HS subheading 7202.30, as reported by State Customs Committee of the Ukraine in the IHS/GTA database, accessed July 16, 2018.

## ANTIDUMPING OR COUNTERVAILING DUTY ORDERS IN THIRD-COUNTRY MARKETS

In October 2016, Mexico imposed antidumping duties of 40.25 percent on imports of silicomanganese from India.<sup>43</sup> On July 2, 2016, the Eurasian Economic Commission<sup>44</sup> imposed antidumping duties of 26.35 percent on imports of silicomanganese from Ukraine.<sup>45</sup> In November 2017, Korea imposed definitive antidumping duties on imports of silicomanganese from India (6.08 to 32.21 percent), Vietnam (7.48 percent), and Ukraine (22.83 percent).<sup>46</sup>

### GLOBAL MARKET

#### Production

According to the International Manganese Institute, global production of silicomanganese increased for the second consecutive year in 2017, reaching a record high of 15.2 million short tons, although global crude steel production remained stable during that time period. In 2017, global silicomanganese smelters increased output by 1.4 million short tons (or 10.5 percent), with almost one-half of this extra production from China (656,000 tons). Smelters in India and Malaysia increased silicomanganese production by 232,000 tons and 281,000 tons, respectively, from 2016 levels. The top 10 global producers of silicomanganese in 2017, by quantity, were: China (62 percent), India (14 percent), Ukraine (6 percent), Russia (2 percent), Norway (2 percent), Malaysia (2 percent), Georgia (2 percent), South Korea (1 percent), South Africa (1 percent), Brazil (1 percent), and the rest of the world (7 percent).<sup>47</sup> According to the most recent production data available from the U.S. Geological Survey (Table IV-15), China, India, Ukraine, and Norway were the leading silicomanganese producers in 2015.

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<sup>43</sup> "Mexico puts definitive anti-dumping duties on Indian ferro-silico-manganese," Metal Bulletin, October 16, 2016, <https://www.metalbulletin.com/Article/3594298/Mexico-puts-definitive-anti-dumping-duties-on-Indian-ferro-silico-manganese.html>, retrieved August 16, 2018.

<sup>44</sup> The Eurasian Economic Commission is the Executive Body of the Eurasian Economic Union which includes the following member countries: Armenia, Belarus, Kazakhstan, Kyrgyzstan, and Russia.

<sup>45</sup> "Eurasian Economic Union: Imposed anti-dumping investigation AD 20 on imports of ferrosilicon manganese from Ukraine," Global Trade Alert website, <https://www.globaltradealert.org/intervention/20133/anti-dumping/eurasian-economic-union-imposed-anti-dumping-investigation-ad-20-on-imports-of-ferrosilicon-manganese-from-ukraine>, retrieved August 16, 2018.

<sup>46</sup> "Republic of Korea: Definitive antidumping duty on imports of Ferro-silico-manganese from India, Viet Nam and Ukraine", Global Trade Alert website, <https://www.globaltradealert.org/state-act/26848/republic-of-korea-definitive-antidumping-duty-on-imports-of-ferro-silico-manganese-from-india-viet-nam-and-ukraine>, retrieved August 16, 2018.

<sup>47</sup> *IMNI Statistics 2018*, International Manganese Institute, [http://cn.manganese.org/images/uploads/market-research-docs/IMNI\\_statistics\\_Booklet\\_2018.pdf](http://cn.manganese.org/images/uploads/market-research-docs/IMNI_statistics_Booklet_2018.pdf), retrieved August 14, 2018.

**Table IV-15**  
**Silicomanganese: Global production by countries, 2011-15**

Country	2011	2012	2013	2014	2015
	<b>Quantity (short tons)</b>				
Australia	104,000	56,000	121,000	132,000	144,000
Brazil	236,000	235,000	240,000	226,000	154,000
China	7,383,000	8,155,000	8,485,000	8,706,000	6,171,000
France	69,000	76,000	72,000	72,000	72,000
Georgia	268,000	288,000	279,000	283,000	232,000
India	1,580,000	1,866,000	2,113,000	1,968,000	1,864,000
Japan	55,000	58,000	27,000	29,000	25,000
Kazakhstan	256,000	277,000	225,000	221,000	181,000
Mexico	153,000	178,000	168,000	182,000	154,000
Norway	293,000	299,000	332,000	246,000	342,000
Russia	165,000	181,000	186,000	197,000	190,000
Slovakia	28,000	55,000	30,000	33,000	30,000
South Africa	346,000	164,000	147,000	251,000	232,000
South Korea	216,000	204,000	238,000	225,000	220,000
Spain	156,000	163,000	150,000	142,000	148,000
Ukraine	930,000	907,000	799,000	927,000	770,000
Venezuela	26,000	64,000	69,000	43,000	39,000
World	12,453,000	13,334,000	13,775,000	14,106,000	11,020,000

Note.-- Because of rounding, figures may not add to total shown.

Source: U.S. Geological Survey, "Ferroalloys (Advance Release)," 2015 Minerals Yearbook, May 2018, pp. 25.10–25.14.

## Global exports

Table IV-16 presents the leading exporting countries of silicomanganese during 2015-17. Total world exports increased by 4.4 percent by quantity and 33.3 percent by value from 2015 to 2017. Exports from Ukraine were 719,926 tons in 2017, 18.9 percent more than in 2015. India accounted for the largest share of global exports by quantity in 2017 (28.5 percent), followed by Ukraine (23.0 percent), and Norway (9.6 percent).

**Table IV-16**  
**Silicomanganese: Global exports by country, 2015-17**

Item	Calendar year		
	2015	2016	2017
	<b>Quantity (short tons)</b>		
United States	11,711	18,868	25,445
India	853,063	682,605	889,494
Ukraine	605,257	679,541	719,926
Norway	330,382	343,016	301,202
Netherlands	204,434	195,889	271,432
Malaysia	744	7,418	218,253
South Africa	179,966	162,771	137,694
Spain	58,960	54,771	80,050
Brazil	13,175	52,989	60,732
All other exporters	737,476	807,004	422,109
Total global exports	2,995,169	3,004,871	3,126,336
	<b>Value (1,000 dollars)</b>		
United States	12,762	16,958	30,600
India	603,661	462,649	813,795
Ukraine	463,495	406,148	702,702
Norway	280,287	244,276	334,846
Netherlands	175,752	134,691	295,011
Malaysia	557	5,648	206,917
South Africa	141,896	105,649	135,084
Spain	52,978	42,810	89,217
Brazil	10,680	33,909	61,134
All other exporters	584,257	530,081	430,765
Total global exports	2,326,327	1,982,817	3,100,071

Table continued.

**Table IV-16—Continued**  
**Silicomanganese: Global exports by country, 2015-17**

Item	Calendar year		
	2015	2016	2017
	<b>Unit value (dollars per short ton)</b>		
United States	1,090	899	1,203
India	708	678	915
Ukraine	766	598	976
Norway	848	712	1,112
Netherlands	860	688	1,087
Malaysia	749	761	948
South Africa	788	649	981
Spain	899	782	1,115
Brazil	811	640	1,007
All other exporters	792	657	1,021
Total global exports	777	660	992
	<b>Share of quantity (percent)</b>		
United States	0.4	0.6	0.8
India	28.5	22.7	28.5
Ukraine	20.2	22.6	23.0
Norway	11.0	11.4	9.6
Netherlands	6.8	6.5	8.7
Malaysia	0.0	0.2	7.0
South Africa	6.0	5.4	4.4
Spain	2.0	1.8	2.6
Brazil	0.4	1.8	1.9
All other exporters	24.6	26.9	13.5
Total global exports	100.0	100.0	100.0

Source: Official exports statistics under HTS subheading 7202.30, as reported by State Customs Committee of the Ukraine in the IHS/GTA database, accessed July 16, 2018.

### Consumption

According to the most recent reports available from the U.S. Geological Survey, the International Manganese Institute estimated that world apparent consumption of manganese ferroalloys (gross weight) decreased slightly to about 22.0 million short tons in 2014 compared with 22.2 million short tons in 2013. Of the amount in 2014, 14.4 million short tons was silicomanganese, 5.5 million short tons was high-carbon ferromanganese, and 2.1 million short tons was refined (medium- and low-carbon) ferromanganese.<sup>48</sup> Table IV-17 represents global apparent consumption of silicomanganese from 2013–16. In 2016, China (63.0 percent), India (9.8 percent), and Russia (3.2 percent) were the leading consumers of silicomanganese.

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<sup>48</sup> Corathers, Lisa A., "Manganese (Advance Release)," *2014 Minerals Yearbook*, March 2017, pp. 47.1–2.

**Table IV-17**  
**Silicomanganese: Global consumption by countries, 2013-16**

\* \* \* \* \*

**Prices**

U.S. producers, U.S. importers, and foreign producers were asked to compare prices of silicomanganese in the U.S. market to non-U.S. markets. U.S. producer and importer \*\*\* reported that foreign silicomanganese prices were significantly lower than U.S. prices.<sup>49</sup> Producer and importer \*\*\* stated that since 2017, prices in the United States have been higher than prices in China and Europe. Importer \*\*\* stated that U.S. silicomanganese prices tend to be slightly higher given that the logistics costs are higher as manganese ore needs to be imported for the U.S. producers, and U.S. importers need to ship material to the U.S. market from other markets.

Global silicomanganese price movements reflect the price of manganese ore used for silicomanganese production and demand from the steel industry. Global silicomanganese prices declined sharply from 2008 to 2009 owing to the global recession and remained at those lower levels from 2010 to 2016. Towards the end of 2016, manganese ore prices increased in response to a drawdown of industry stock levels. This drawdown reflected substantial production cutbacks brought about by low prices over the previous year, logistical problems in South Africa, and a resurgence of demand from the steel industry China. In 2017, ore prices remained high which, in turn, supported elevated global silicomanganese prices.<sup>50</sup>

**Country-specific summaries**

**Australia<sup>51</sup>**

The Tasmanian Electro Metallurgical Company (“TEMCO”) is the only firm believed to produce and/or export silicomanganese from Australia. This firm’s exports to the United States accounted for all U.S. imports of silicomanganese from Australia during the review period. TEMCO accounts for all production of silicomanganese in Australia. According to the \*\*\*, total silicomanganese production capacity in Australia was \*\*\* short tons in 2017.<sup>52</sup>

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<sup>49</sup> \*\*\*.

<sup>50</sup> Roskill Information Services, “Manganese Global Industry, Markets & Outlook 2018”, <https://roskill.com/market-report/manganese/>, retrieved August 27, 2018.

<sup>51</sup> Unless otherwise noted, this information is based on *Silicomanganese from Australia, Investigation No. 731-TA-1269 (Final)*, USITC Publication 4600, April 2016, pp. VII-2–VII-3.

<sup>52</sup> \*\*\*.

## Gabon

Production at the Moanda Metallurgical Complex, with 65,000 metric tons (71,650 short tons) capacity commenced on June 5, 2015.<sup>53 54</sup>

## Georgia<sup>55</sup>

The industry producing silicomanganese in Georgia comprises at least three producers: one large and two small, more recently established ones. The main producer is the Zestafoni Ferroalloy Plant, owned by Georgian Manganese, an affiliated company to domestic producer Felman (both are owned by GAA). Georgian Manganese is an integrated producer of silicomanganese, having its own manganese ore mines and a hydroelectric power plant that supplies power to its mines and the ferroalloy plant. Zestafoni Ferroalloy Plant has 11 electric-arc furnaces and produced over 206,000 short tons of silicomanganese in 2012.<sup>56</sup> In July 2014, GAA announced that Georgian Manganese would switch production at three of its furnaces from silicomanganese to ferromanganese, reducing its silicomanganese production by approximately 3,300 short tons per month.<sup>57</sup> Georgian Manganese has the capability to produce standard grade silicomanganese (65-68 percent manganese, 0.20 (max) percent phosphorous) and high grade silicomanganese (72 percent manganese and 0.20-0.35 percent phosphorous).<sup>58</sup> According to domestic producer, Eramet, almost all of the silicomanganese exported to the United States from Georgia is the high grade material.<sup>59</sup>

The other two Georgian producers are relatively small when compared to the GAA owned operations. Chiaturmanganum Georgia has three electric furnaces with total ferroalloy production capacity of about 33,000 short tons per year.<sup>60</sup> In February 2013, it announced plans to reconstruct a second plant with two furnaces. More recently, in December 2015, a newly established trading firm, Helvetia Resources AG, announced that it has an off-take agreement with Chiaturmanganum to distribute ferroalloy products to the United States and

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<sup>53</sup> Corathers, Lisa A., "Manganese (Advance Release)," *2014 Minerals Yearbook*, March 2017, p. 47.17.

<sup>54</sup> *Eramet Group: Inauguration of Moanda Metallurgical Complex in Gabon*, <http://www.eramet.com/en/presse-release/eramet-inauguration-moanda-metallurgical-complex-gabon-ali-bongo-ondimba-president>, accessed October 4, 2018.

<sup>55</sup> Unless otherwise noted, this information is based on *Silicomanganese from Australia, Investigation No. 731-TA-1269 (Final)*, USITC Publication 4600, April 2016, p. VII-8.

<sup>56</sup> Georgian American Alloys, <http://gaalloys.com/index.php/about-gaa/gm/zestafoni>, accessed October 4, 2018.

<sup>57</sup> *Georgian American Alloys Inc. announces shift in furnace production*, press release July 7, 2014.

<sup>58</sup> Georgian American Alloys, <http://gaalloys.com/index.php/products/simn>, accessed October 4, 2018.

<sup>59</sup> Hearing transcript, p. 43 (Levy).

<sup>60</sup> Chiaturmanganum Georgia webpage, <http://chmg.ge/>, accessed September 28, 2018.

other markets. Rusmetali LTD has a factory where it claims the ability to produce several ferroalloys including silicomanganese.<sup>61</sup> According to the \*\*\*, total silicomanganese production capacity in Georgia was \*\*\* short tons in 2017.<sup>62</sup>

## India

Production at the Shri Girija Vizag Ferro-Alloys plant, with 79,366 short tons per year of silicomanganese production capacity, commenced in 2013.<sup>63 64</sup>

## Malaysia

Malaysia is poised to increase silicomanganese production during the next several years owing to the construction of several new ferroalloys plants. Commercial production at the Petama Ferroalloy Plant, with 120,000 metric tons (132,277 short tons) of production capacity, commenced in November 2016.<sup>65 66 \*\*\* .67</sup>

## Norway<sup>68</sup>

The industry producing silicomanganese in Norway comprises two firms: Eramet Norway and Glencore. The production of manganese ferroalloys in Norway benefits from the availability of low-cost hydroelectricity and proximity to the major markets in Europe and the former Soviet Union. Manganese ore for the Norway operations is imported.

Eramet Norway, a related company to U.S. producer Eramet, produces silicomanganese at two plants. The Kvinesdal smelting plant was established in 1974. It has three modern 30 mega-watt (MW) furnaces and an annual output of 198,000 short tons of silicomanganese. Much of the output is of low-carbon silicomanganese, however, and the main customers are European and North American producers of stainless steel. This is low-carbon silicomanganese has a lower manganese content, higher silicon content, and significantly lower carbon content,

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<sup>61</sup> Rusmetali LTD, *Company profile*. <https://www.gmdu.net/corp-577960.html>, accessed October 4, 2018.

<sup>62</sup> \*\*\*.

<sup>63</sup> Corathers, Lisa A., "Manganese (Advance Release)," *2013 Minerals Yearbook*, February 2016, p. 47.18.

<sup>64</sup> Srinivasa Ferro Alloy Limited webpages, <http://www.srinivasaferro.com/profile.htm>, accessed October 4, 2018.

<sup>65</sup> Corathers, Lisa A., "Manganese (Advance Release)," *2014 Minerals Yearbook*, March 2017, p. 47.17.

<sup>66</sup> *Pertama Ferroalloys Sdn. Bhd. webpage*, <http://pertama-fa.com/key-milestones>, October 4, 2018.

<sup>67</sup> \*\*\*.

<sup>68</sup> Unless otherwise noted, this information is based on *Silicomanganese from Australia, Investigation No. 731-TA-1269 (Final)*, USITC Publication 4600, April 2016, pp. VII-20–VII-21.

(around 0.1 percent carbon or lower compared to the 2 percent carbon level) than “standard-grade” silicomanganese. The low-carbon silicomanganese from Norway that Eramet Marietta imports and sells in the U.S. market is predominantly used for stainless and specialty steel applications. According to Eramet, low-carbon silicomanganese is not used in the production of carbon steel.<sup>69</sup>

### **South Africa<sup>70</sup>**

The industry producing silicomanganese in South Africa comprises two firms: Transalloys and Mogale Alloys. Transalloys is owned by Renova Mining Industries, a Russian company. It has five furnaces producing silicomanganese: two 48 mega-volt-ampere (MVA) furnaces and three smaller, 18 MVA furnaces. The annual capacity is approximately 187,000 short tons of silicomanganese. Mogale Alloys is owned by Afarak Group Oyj, a Finnish company. The Mogale plant produces both silicomanganese and ferrochromium alloys. It has two submerged-arc furnaces and two direct-current (DC) furnaces with a total capacity of 121,000 short tons.

A third firm, Samancor Manganese is owned by the same South32/Anglo joint venture that owns TEMCO, the Australian producer of silicomanganese. Samancor Manganese ceased production of silicomanganese in February 2012, and has demolished the furnaces and plant where it was produced. Samancor Manganese continues as a major producer of ferromanganese, but states that its remaining furnaces are large and not technically suited to the production of silicomanganese.

### **Zambia**

Production at the Taurian Manganese Ltd. Ferroalloys Plant, with 2.4 million metric tons (2.6 million short tons) of production capacity, was scheduled to commence production by year-end 2015. Industry updates indicating if the plant had started production were not available.<sup>71</sup>

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<sup>69</sup> Hearing transcript, pp. 54, 56 (Rochussen).

<sup>70</sup> Unless otherwise noted, this information is based on *Silicomanganese from Australia, Investigation No. 731-TA-1269 (Final)*, USITC Publication 4600, April 2016, pp. VII-16–VII-18.

<sup>71</sup> Corathers, Lisa A., "Manganese (Advance Release)," *2013 Minerals Yearbook*, February 2016, p. 47.20.



## PART V: PRICING DATA

### FACTORS AFFECTING PRICES

#### Raw material costs

The principal raw materials used in the production of silicomanganese include manganese ore, silicon, and coke.<sup>1</sup> Prices for imported manganese ore fluctuated during 2012-17, decreasing by 31 percent from 2012 to 2016, and then increasing by 29 percent in 2017 (figure V-1).<sup>2</sup> U.S. producers use silicon dross, a byproduct of silicon and ferrosilicon production that contains less silicon than silicon metal, as a source of silicon.<sup>3</sup> Quartz in the form of gravel is also used as a source of silicon in production of silicomanganese. U.S. producers' total raw material costs accounted for \*\*\* percent to \*\*\* percent of the cost of goods sold during 2015-17.

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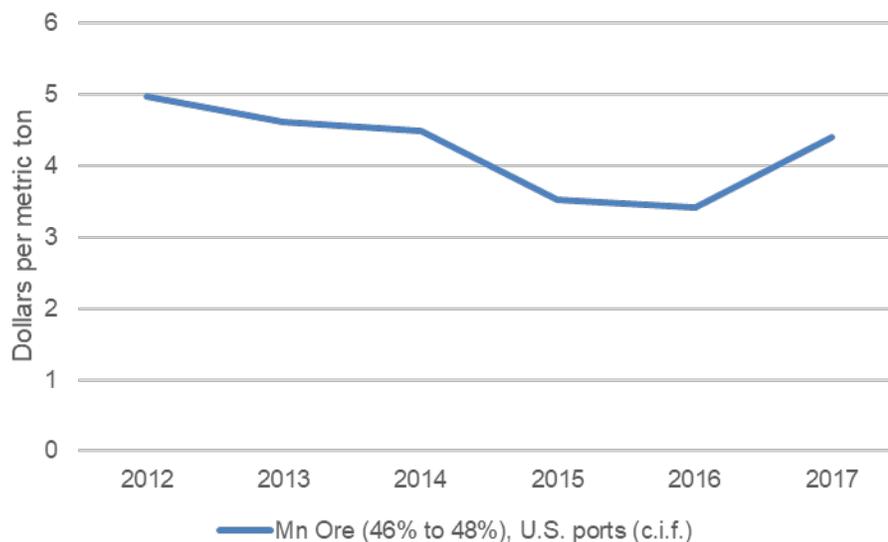
<sup>1</sup> Domestic production of manganese ore containing 20 percent or more manganese ended in 1970. U.S. Geological Survey, *Mineral Commodity Summaries: Manganese*, January 2018. According to the ASTM standard specification, each of the three grades must contain 65 to 68 percent manganese. See ASTM A 483-04 (approved 2004), *Standard Specification for Silicomanganese*, tables 1 and 2 (chemical requirements).

<sup>2</sup> In late 2015, prices of manganese ore were below production costs leading to production cuts for 2016. Demand for manganese ore in China increased during 2016, and combined with the production cuts led to a shortage of supply and increasing prices. Metal Bulletin, *2016 REVIEW: Producers caught out by shock manganese ore price rally*, December 22, 2016  
<https://www.metalbulletin.com/Article/3648824/2016-REVIEW-Producers-caught-out-by-shock-manganese-ore-price-rally.html>.

<sup>3</sup> Staff fieldwork and interview with \*\*\*.

**Figure V-1**

**Manganese ore: Annual average prices of manganese ore with 46 to 48 percent manganese content, CIF U.S. ports, 2012-17**



Source: U.S. Geological Survey, Mineral Commodity Summaries: Manganese, January 2017/2018.

\*\*\* U.S. producers, \*\*\* foreign producers, and most importers (7 of 10) reported that raw material costs had fluctuated since January 1, 2012, and \*\*\* U.S. producers and the vast majority importers (9 of 10) expect costs to continue to fluctuate in the future. \*\*\* reported that global prices of manganese ore have been increasing since 2017. U.S. importer \*\*\* stated that increasing costs of manganese ore, and transportation has put upward pressure on prices for silicomanganese, as had rising electricity costs.

### Energy costs

Electricity is also a major input cost in the production of silicomanganese. Average national industrial electricity prices fluctuated moderately between May 2012 (\$6.67 per Kilowatt hour) and May 2018 (\$6.91 per Kilowatt hour), hitting a high of \$7.10 per Kilowatt hour in 2014.<sup>4</sup> \*\*\* U.S. producers and most importers (5 of 11) reported that energy costs had fluctuated since January 1, 2012, and both U.S. producers and the majority importers (6 of 11) expect costs to continue to fluctuate in the future. Three importers reported energy costs increasing since January 1, 2012, with \*\*\* stating that increases in energy costs have placed upward pressure on the selling price of silicomanganese. \*\*\*, stated that it has almost no ability to change prices in response to changes in energy costs.

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<sup>4</sup> EIA, *Electric Power Monthly*, July 24, 2018, [https://www.eia.gov/electricity/monthly/epm\\_table\\_grapher.php?t=epmt\\_5\\_3](https://www.eia.gov/electricity/monthly/epm_table_grapher.php?t=epmt_5_3).

## U.S. inland transportation costs

\*\*\* responding U.S. producers and all importers reported that they typically arrange transportation to their customers.<sup>5</sup> U.S. producers reported that U.S. inland transportation costs ranged from \*\*\* percent.

### PRICING PRACTICES

#### Price indices

\*\*\* U.S. producers reported that contracts are indexed to raw material costs, while the vast majority of responding importers (5 of 6) reported that they do not index contracts to raw material costs. Silicomanganese spot prices are published in American Metal Market, Platts Metals Week, and CRU Ryan's Notes. Purchaser \*\*\* reported that when purchasing silicomanganese, it negotiates with suppliers on fixed price versus index prices and requests discounts to the index. Purchaser \*\*\* uses current market intelligence, along with short- and long-term market outlook, when negotiating contracts.

As shown in figure V-2, silicomanganese prices published by \*\*\* fluctuated the beginning of 2012 to the end of 2015. Price increased slightly during the first nine months of 2016, then sharply increased between September-December 2016. Since the beginning of 2017, prices have fluctuated between \*\*\* and \*\*\* cents per pound (\*\*\* and \*\*\* dollars per short ton).

#### Figure V-2

##### Silicomanganese: U.S. prices, monthly, January 2012-June 2018

\* \* \* \* \*

As shown in figure V-3, silicomanganese prices published by CRU Ryan's Notes (available for a more limited time period) fluctuated between September 2017 and August 2018. At the end of the period, prices in the EU and India were decreasing while prices in the United States were increasing per ton.

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<sup>5</sup> Commission questionnaires requested importers to report transportation costs for all U.S. shipments of imported silicomanganese.

**Figure V-3**  
**Silicomanganese: U.S., EU, and Indian prices, monthly, September 2017-August 2018**

\* \* \* \* \*

**Pricing methods**

U.S. producers and importers reported using transaction-by-transaction negotiations, contracts, and other methods (e.g., liquidation). As presented in table V-1, U.S. producers and importers sell primarily on a transaction-by-transaction negotiations and contracts.

**Table V-1**  
**Silicomanganese: U.S. producers' and importers' reported price setting methods, by number of responding firms**

\* \* \* \* \*

U.S. producers reported selling the majority of their silicomanganese under annual contracts, with some sales under long-term and short-term contracts (table V-2). Both U.S. producers reported offering price renegotiation on annual contracts. \*\*\* offers price renegotiation on long-term contracts but not short-term contracts, fixed price and quantity on all contracts, and does not offer meet-or-release on any contracts.<sup>6</sup> \*\*\* U.S. producers reported indexing contracts to raw material prices. Ukrainian producers have long-term contractual relationships with customers outside the United States, many of which require high-phosphorus silicomanganese.<sup>7</sup>

**Table V-2**  
**Silicomanganese: U.S. producers' and importers' shares of U.S. commercial shipments by type of sale, 2017**

\* \* \* \* \*

Three purchasers reported that they purchase silicomanganese monthly, five purchase quarterly, and four purchase annually.<sup>8</sup> All responding purchasers reported that they did not expect their purchasing patterns to change in the next two years. Most (10 of 14) purchasers contact 1 to 6 suppliers before making a purchase.

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<sup>6</sup> Foreign producers did not report any contract provisions.

<sup>7</sup> Hearing transcript, pp. 143 (Syseuv), 160 (Mowry).

<sup>8</sup> Six purchasers reported "Other" purchasing frequencies, which includes semi-annual purchases and as-needed spot purchases.

## Sales terms and discounts

U.S. producers typically quote prices on a delivered basis. One U.S. producer offers quantity and volume discounts, and the vast majority of importers (10 of 15) do not offer discounts.

### Price leadership

Purchasers most often reported that Felman and Minerais were price leaders.

### PRICE DATA

The Commission requested U.S. producers and importers to provide quarterly data for the total quantity and f.o.b. value of the following silicomanganese products shipped to unrelated U.S. customers during January 2015 to June 2018.

**Product 1.**-- ASTM grade B bulk silicomanganese sold to steel producers under contracts.

**Product 2.**-- ASTM grade B bulk silicomanganese sold to distributors under contracts.

**Product 3.**-- ASTM grade B bulk silicomanganese sold to steel producers as spot sales.

**Product 4.**-- ASTM grade B bulk silicomanganese sold to distributors as spot sales.

Two U.S. producers and no importers provided usable pricing data for sales of the requested products, although not all firms reported pricing for all products for all quarters.<sup>9</sup> Pricing data reported by these firms accounted for approximately 100 percent of U.S. producers' shipments of silicomanganese in 2017. Price data for products 1-4 are presented in table V-3 and figure V-4.

#### Table V-3

**Silicomanganese: Weighted-average f.o.b. prices and quantities of domestic products 1-4, by quarters, January 2015 through June 2018**

\* \* \* \* \*

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<sup>9</sup> Per-unit pricing data are calculated from total quantity and total value data provided by U.S. producers and importers. The precision and variation of these figures may be affected by rounding, limited quantities, and producer or importer estimates.

**Figure V-4**  
**Silicomanganese: Weighted-average prices and quantities of domestic products 1-4, by quarters, January 2015 through June 2018**

\* \* \* \* \*

**Price trends**

Table V-4 summarizes the price trends in the United States during January 2015 to June 2018 by product. As shown in the table, domestic price increases ranged from \*\*\* percent. Prices for all products fluctuated over the period, initially decreasing during 2015, staying relatively constant during 2016, and sharply increasing at the beginning of 2017. These price trends track closely to the fluctuations seen in the manganese ore market (figure V-1).

**Table V-4**  
**Silicomanganese: Summary of weighted-average f.o.b. prices for products 1-4 from the United States**

\* \* \* \* \*

**Price comparisons**

Importers did not report any pricing data during January 2015 – June 2018, therefore, Commission staff cannot provide underselling and overselling margins.<sup>10</sup> Both Ukrainian producers reported prices being higher in the U.S. market than the Ukrainian market by about \*\*\*.

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<sup>10</sup> In the original investigations, price data showed a mixed pattern of underselling and overselling by subject imports. *Silicomanganese from Brazil, China, Ukraine, and Venezuela, Inv. Nos. 731-TA-671-674 (Final)*, USITC Publication 2836, December 1994, pp. I-8, I-83. During the first review, no subject product price data was reported for China and only one data point was received for Ukraine in the second quarter of 2000 for product 1. *Silicomanganese from Brazil, China, Ukraine, Inv. Nos. 731-TA-671-673 (Review)*, USITC Publication 3386, January 2001, pp. V-4-5. During the second review, the Commission determined to conduct an expedited review and no price data was gathered. *Silicomanganese from Brazil, China, Ukraine, Inv. Nos. 731-TA-671-673 (Second Review)*, USITC Publication 3879, August 2006, p.1. During the third review, no subject product price data was reported. *Silicomanganese from Brazil, China, Ukraine, Inv. Nos. 731-TA-671-673 (Third Review)*, USITC Publication 4354, October 2012, p. V-5.

### **Purchasers' perceptions of relative price trends**

Purchasers were asked how the prices of silicomanganese from the United States had changed relative to the prices of silicomanganese from China and Ukraine since 2012. Five purchasers reported that prices in each country changed by the same amount over the period and two purchasers reported no changes in prices. Of the two purchasers that reported U.S. prices changing relative to Chinese prices, one reported U.S. prices being relatively higher than those from China and one reporting lower U.S. prices. Of the two purchasers that reported U.S. prices changing relative to Ukrainian prices, one reported U.S. prices being relatively higher than those from Ukraine and one reporting lower U.S. prices.



**APPENDIX A**

***FEDERAL REGISTER NOTICES***



The Commission makes available notices relevant to its investigations and reviews on its website, [www.usitc.gov](http://www.usitc.gov). In addition, the following tabulation presents, in chronological order, *Federal Register* notices issued by the Commission and Commerce during the current proceeding.

Citation	Title	Link
82 FR 45892 October 2, 2017	<i>Silicomanganese From China and Ukraine: Institution of Five-Year Reviews</i>	<a href="https://www.usitc.gov/trade_remedy/731_ad_701_cvd/investigations/2017/Silicomanganese%20From%20China%20and%20Ukraine/Adequacy/institution_notice.pdf">https://www.usitc.gov/trade_remedy/731_ad_701_cvd/investigations/2017/Silicomanganese%20From%20China%20and%20Ukraine/Adequacy/institution_notice.pdf</a>
82 FR 46221 October 4, 2017	<i>Initiation of Five-Year (Sunset) Reviews</i>	<a href="https://www.usitc.gov/trade_remedy/731_ad_701_cvd/investigations/2017/Silicomanganese%20From%20China%20and%20Ukraine/Adequacy/fr_initiation_notice.pdf">https://www.usitc.gov/trade_remedy/731_ad_701_cvd/investigations/2017/Silicomanganese%20From%20China%20and%20Ukraine/Adequacy/fr_initiation_notice.pdf</a>
83 FR 3025 January 22, 2018	<i>Silicomanganese From China and Ukraine; Notice of Commission Determinations To Conduct Full Five-Year Reviews</i>	<a href="https://www.gpo.gov/fdsys/pkg/FR-2018-01-22/pdf/2018-00982.pdf">https://www.gpo.gov/fdsys/pkg/FR-2018-01-22/pdf/2018-00982.pdf</a>
83 FR 5609 February 8, 2018	<i>Silicomanganese From the People's Republic of China and Ukraine: Final Results of Expedited Fourth Sunset Reviews of the Antidumping Duty Orders</i>	<a href="https://www.usitc.gov/trade_remedy/731_ad_701_cvd/investigations/2017/Silicomanganese%20From%20China%20and%20Ukraine/Adequacy/fr_notice_ita_final_results_ad.pdf">https://www.usitc.gov/trade_remedy/731_ad_701_cvd/investigations/2017/Silicomanganese%20From%20China%20and%20Ukraine/Adequacy/fr_notice_ita_final_results_ad.pdf</a>
83 FR 24346 May 25, 2018	<i>Silicomanganese From China and Ukraine; Scheduling of Full Five-Year Reviews</i>	<a href="https://www.usitc.gov/trade_remedy/731_ad_701_cvd/investigations/2017/Silicomanganese%20From%20China%20and%20Ukraine/Full%20Review/fr_notice-itc-schedule.pdf">https://www.usitc.gov/trade_remedy/731_ad_701_cvd/investigations/2017/Silicomanganese%20From%20China%20and%20Ukraine/Full%20Review/fr_notice-itc-schedule.pdf</a>

Note.—The press release announcing the Commission's determinations concerning adequacy and the conduct of a full or expedited review can be found at:

[http://wwwadmin.usitc.gov/press\\_room/news\\_release/2018/er0105ll889.htm](http://wwwadmin.usitc.gov/press_room/news_release/2018/er0105ll889.htm)

A summary of the Commission's votes concerning adequacy and the conduct of a full or expedited review can be found at:

<http://pubapps2.usitc.gov/sunset/caseProf/list?sort=caseTitle&order=asc>

The Commission's explanation of its determinations can be found at:

{[https://www.usitc.gov/sites/default/files/trade\\_remedy/731\\_ad\\_701\\_cvd/investigations/silicomanganese\\_adequacy\\_explanation.pdf](https://www.usitc.gov/sites/default/files/trade_remedy/731_ad_701_cvd/investigations/silicomanganese_adequacy_explanation.pdf).



**APPENDIX B**

**LIST OF HEARING WITNESSES**



## CALENDAR OF PUBLIC HEARING

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

**Subject:** Silicomanganese from China and Ukraine  
**Inv. Nos.:** 731-TA-672 and 673 (Fourth Review)  
**Date and Time:** September 25, 2018 - 9:30 a.m.

Sessions were held in connection with these investigations in the Main Hearing Room (Room 101), 500 E Street, SW., Washington, DC.

### **EMBASSY APPEARANCES:**

**The Embassy of the Ukraine  
Washington, DC**

**Nataliya Sydoruk, Director General of the Trade Protection  
Department of the Ministry of Economic Development and Trade**

**Olena Yushchuk, Head of the Protection on Foreign Markets Unit,  
Trade Protection Department of the Ministry of Economic  
Development and Trade of Ukraine**

**Pavlo Moiseichenko, First Secretary of the Embassy**

**Timur Baudarbekov, Second Secretary of the Embassy**

### **OPENING REMARKS:**

In Support of Continuation of Orders (**Mary Jane Alves**, Cassidy Levy Kent (USA) LLP)  
In Opposition to Continuation of Orders (**Kristin H. Mowry**, Mowry & Grimson, PLLC)

**In Support of the Continuation of  
Antidumping Duty Orders:**

Cassidy Levy Kent (USA) LLP  
Washington, DC  
on behalf of

Eramet Marietta, Inc. (“Eramet Marietta”)

**Peter Rochussen**, Vice President, Eramet Comilog Manganese

**Nicholas Fell**, Counsel-Americas, Eramet North America

**Dan Thieman**, Representative, USW Local 0639

**Holly Hart**, Assistant to the President, United Steel,  
Paper and Forestry, Rubber, Manufacturing,  
Energy, Allied Industrial and Service Workers  
International Union

**Mary Jane Alves**        )  
**Myles Getlan**         ) – OF COUNSEL  
**Jack Levy**             )

**In Opposition to the Continuation of  
Antidumping Duty Orders:**

Mowry & Grimson, PLLC  
Washington, DC  
on behalf of

Nikopol Ferroalloy Plant (“NFP”)  
Zaporozhye Ferroalloy Plant (“ZFP”)

**Katerina Vatutina**, General Consultant of ZFP and NFP

**Denys Sysuyev**, Consultant of ZFP

**Kristin H. Mowry**       ) – OF COUNSEL

**In Opposition to the Continuation of  
Antidumping Duty Orders (continued):**

Ilyashev & Partners Law Firm  
Kyiv, Ukraine  
on behalf of

Ukrainian Association of Producers of  
Ferroalloys and other Electrometallurgy Products

**Sergii Kudriavtsev**, Executive Director, Ukrainian Association of  
Producers of Ferroalloys and other Electrometallurgy Products

**Olena Omelchenko** ) – OF COUNSEL

**REBUTTAL/CLOSING REMARKS:**

In Support of Continuation of Orders (**Jack Levy**, Cassidy Levy Kent (USA) LLP)  
In Opposition to Continuation of Orders (**Kristin H. Mowry**, Mowry & Grimson, PLLC)

**-END-**



**APPENDIX C**  
**SUMMARY DATA**



**Table C-1**  
**Silicomanganese: Summary data concerning the U.S. market, 2015-17, January to June 2017, and January to June 2018**

(Quantity=short tons; Value=1,000 dollars; Unit values, unit labor costs, and unit expenses=dollars per short ton; Period changes=percent--exceptions noted)

	Reported data					Period changes			
	2015	Calendar year 2016	2017	January to June 2017	2018	2015-17	Comparison years 2015-16	2016-17	Jan-Jun 2017-18
<b>U.S. consumption quantity:</b>									
Amount.....	***	***	***	***	***	***	***	***	***
Producers' share (fn1).....	***	***	***	***	***	***	***	***	***
Importers' share (fn1):									
China.....	***	***	***	***	***	***	***	***	***
Ukraine.....	***	***	***	***	***	***	***	***	***
Subject sources.....	***	***	***	***	***	***	***	***	***
Nonsubject sources.....	***	***	***	***	***	***	***	***	***
All import sources.....	***	***	***	***	***	***	***	***	***
<b>U.S. consumption value:</b>									
Amount.....	***	***	***	***	***	***	***	***	***
Producers' share (fn1).....	***	***	***	***	***	***	***	***	***
Importers' share (fn1):									
China.....	***	***	***	***	***	***	***	***	***
Ukraine.....	***	***	***	***	***	***	***	***	***
Subject sources.....	***	***	***	***	***	***	***	***	***
Nonsubject sources.....	***	***	***	***	***	***	***	***	***
All import sources.....	***	***	***	***	***	***	***	***	***
<b>U.S. imports from:</b>									
<b>China:</b>									
Quantity.....	11	---	---	---	---	(100.0)	(100.0)	fn2	fn2
Value.....	24	---	---	---	---	(100.0)	(100.0)	fn2	fn2
Unit value.....	\$2,216	---	---	---	---	(100.0)	(100.0)	fn2	fn2
Ending inventory quantity.....	---	---	---	---	---	fn2	fn2	fn2	fn2
<b>Ukraine:</b>									
Quantity.....	22	---	---	---	---	(100.0)	(100.0)	fn2	fn2
Value.....	20	---	---	---	---	(100.0)	(100.0)	fn2	fn2
Unit value.....	\$892	---	---	---	---	(100.0)	(100.0)	fn2	fn2
Ending inventory quantity.....	---	---	---	---	---	fn2	fn2	fn2	fn2
<b>Subject sources:</b>									
Quantity.....	33	---	---	---	---	(100.0)	(100.0)	fn2	fn2
Value.....	44	---	---	---	---	(100.0)	(100.0)	fn2	fn2
Unit value.....	\$1,333	---	---	---	---	(100.0)	(100.0)	fn2	fn2
Ending inventory quantity.....	---	---	---	---	---	fn2	fn2	fn2	fn2
<b>Nonsubject sources:</b>									
Quantity.....	331,428	291,188	387,199	188,639	221,484	16.8	(12.1)	33.0	17.4
Value.....	318,770	203,929	421,111	198,826	199,690	32.1	(36.0)	106.5	0.4
Unit value.....	\$962	\$700	\$1,088	\$1,054	\$902	13.1	(27.2)	55.3	(14.5)
Ending inventory quantity.....	145,454	119,744	104,999	97,260	103,174	27.8	17.7	12.3	6.1
<b>All import sources:</b>									
Quantity.....	331,461	291,188	387,199	188,639	221,484	16.8	(12.2)	33.0	17.4
Value.....	318,814	203,929	421,111	198,826	199,690	32.1	(36.0)	106.5	0.4
Unit value.....	\$962	\$700	\$1,088	\$1,054	\$902	13.1	(27.2)	55.3	(14.5)
Ending inventory quantity.....	145,454	119,744	104,999	97,260	103,174	27.8	17.7	12.3	6.1
<b>U.S. producers:</b>									
Average capacity quantity.....	***	***	***	***	***	***	***	***	***
Production quantity.....	***	***	***	***	***	***	***	***	***
Capacity utilization (fn1).....	***	***	***	***	***	***	***	***	***
<b>U.S. shipments:</b>									
Quantity.....	***	***	***	***	***	***	***	***	***
Value.....	***	***	***	***	***	***	***	***	***
Unit value.....	***	***	***	***	***	***	***	***	***
<b>Export shipments:</b>									
Quantity.....	***	***	***	***	***	***	***	***	***
Value.....	***	***	***	***	***	***	***	***	***
Unit value.....	***	***	***	***	***	***	***	***	***
Ending inventory quantity.....	***	***	***	***	***	***	***	***	***
Inventories/total shipments (fn1).....	***	***	***	***	***	***	***	***	***
Production workers.....	***	***	***	***	***	***	***	***	***
Hours worked (1,000s).....	***	***	***	***	***	***	***	***	***
Wages paid (\$1,000).....	***	***	***	***	***	***	***	***	***
Hourly wages.....	***	***	***	***	***	***	***	***	***
Productivity (short tons per hour).....	***	***	***	***	***	***	***	***	***
Unit labor costs.....	***	***	***	***	***	***	***	***	***
<b>Net sales:</b>									
Quantity.....	***	***	***	***	***	***	***	***	***
Value.....	***	***	***	***	***	***	***	***	***
Unit value.....	***	***	***	***	***	***	***	***	***
Cost of goods sold (COGS).....	***	***	***	***	***	***	***	***	***
Gross profit of (loss).....	***	***	***	***	***	***	***	***	***
SG&A expenses.....	***	***	***	***	***	***	***	***	***
Operating income or (loss).....	***	***	***	***	***	***	***	***	***
Net income or (loss).....	***	***	***	***	***	***	***	***	***
Capital expenditures.....	***	***	***	***	***	***	***	***	***
Unit COGS.....	***	***	***	***	***	***	***	***	***
Unit SG&A expenses.....	***	***	***	***	***	***	***	***	***
Unit operating income or (loss).....	***	***	***	***	***	***	***	***	***
Unit net income or (loss).....	***	***	***	***	***	***	***	***	***
COGS/sales (fn1).....	***	***	***	***	***	***	***	***	***
Operating income or (loss)/sales (fn1).....	***	***	***	***	***	***	***	***	***
Net income or (loss)/sales (fn1).....	***	***	***	***	***	***	***	***	***

Note.--Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent.

fn1.--Reported data are in percent and period changes are in percentage points.

fn2.--Undefined.

Source: Compiled from data submitted in response to Commission questionnaires, and from official U.S. import statistics using HTS statistical reporting numbers 7202.30.0000, accessed July 23, 2018.

**Table C-2**  
**Silicomanganese: Summary data from the original investigations and subsequent five-year reviews, 1991-1993, 1997-1999, 2005-2011, January to March 2011, and January to March 2012**

Item	Calendar year							Second reviews
	Original investigations		First reviews			1999	2005	
	1991	1992	1993	1997	1998			
Apparent U.S. consumption	***	***	***	***	***	***	***	***
<b>Share of quantity (percent)</b>								
Share of apparent U.S. consumption.-- U.S. producers	***	***	***	***	***	***	***	***
U.S. imports from.-- <sup>1</sup> Brazil	***	***	***	***	***	***	***	***
China	***	***	***	***	***	***	***	***
Ukraine	***	***	***	***	***	***	***	***
Subject sources	***	***	***	***	***	***	***	***
Nonsubject sources	***	***	***	***	***	***	***	***
All sources	***	***	***	***	***	***	***	***
<b>Value (1,000 dollars)</b>								
Apparent U.S. consumption	***	***	***	***	***	***	***	***
<b>Share of value (percent)</b>								
Share of apparent U.S. consumption.-- U.S. producers	***	***	***	***	***	***	***	***
U.S. imports from.-- <sup>1</sup> Brazil	***	***	***	***	***	***	***	***
China	***	***	***	***	***	***	***	***
Ukraine	***	***	***	***	***	***	***	***
Subject sources	***	***	***	***	***	***	***	***
Nonsubject sources	***	***	***	***	***	***	***	***
All sources	***	***	***	***	***	***	***	***

Table continued next page. Footnotes at the end of the table.

**Table C-2--Continued**  
**Silicomanganese: Summary data from the original investigations and subsequent five-year reviews, 1991-1993, 1997-1999, 2005-2011, January to March 2011, and January to March 2012**

Item	Calendar year						January to March	
	2006	2007	2008	2009	2010	2011	2011	2012
	Third (current) reviews						2011	2012
Apparent U.S. consumption	***	***	***	***	***	***	***	***
Share of apparent U.S. consumption.-- U.S. producers	***	***	***	***	***	***	***	***
U.S. imports from.-- <sup>1</sup> Brazil	***	***	***	***	***	***	***	***
China	***	***	***	***	***	***	***	***
Ukraine	***	***	***	***	***	***	***	***
Subject sources	***	***	***	***	***	***	***	***
Nonsubject sources	***	***	***	***	***	***	***	***
All sources	***	***	***	***	***	***	***	***
<b>Value (1,000 dollars)</b>								
Apparent U.S. consumption	***	***	***	***	***	***	***	***
Share of apparent U.S. consumption.-- U.S. producers	***	***	***	***	***	***	***	***
U.S. imports from.-- <sup>1</sup> Brazil	***	***	***	***	***	***	***	***
China	***	***	***	***	***	***	***	***
Ukraine	***	***	***	***	***	***	***	***
Subject sources	***	***	***	***	***	***	***	***
Nonsubject sources	***	***	***	***	***	***	***	***
All sources	***	***	***	***	***	***	***	***

Table continued next page. Footnotes at the end of the table.

**Table C-2--Continued**  
**Silicomanganese: Summary data from the original investigations and subsequent five-year reviews, 1991-1993, 1997-1999, 2005-2011, January to March 2011, and January to March 2012**

Item	Calendar year							Second reviews
	Original investigations			First reviews				
	1991	1992	1993	1997	1998	1999	2005	
	<b>Quantity (short tons)</b>							
U.S. imports from.-- <sup>3</sup>								
Brazil	47,613	55,494	63,614	0	0	22	0	0
China	6,064	3,670	24,092	0	0	0	0	0
Ukraine	0	0	29,468	8,259	0	9,025	0	0
Subject sources	53,677	59,164	117,174	8,259	0	9,047	0	0
Nonsubject sources	180,577	203,555	201,286	328,653	381,886	322,301	360,920	360,920
All sources	234,254	262,719	318,460	336,911	381,886	331,348	360,920	360,920
	<b>Value (1,000 dollars)</b>							
U.S. imports from.-- <sup>3</sup>								
Brazil	25,183	26,578	29,750	0	0	20	0	0
China	2,923	1,760	10,637	0	0	0	0	0
Ukraine	0	0	14,253	4,570	0	3,317	0	0
Subject sources	28,106	28,338	54,640	4,570	0	3,337	0	0
Nonsubject sources	102,134	103,592	93,831	157,543	171,976	128,789	249,364	249,364
All sources	130,240	131,930	148,471	162,114	171,976	132,126	249,364	249,364
	<b>Unit value (dollars per short ton)</b>							
U.S. imports from.-- <sup>3</sup>								
Brazil	\$529	\$479	\$468	( <sup>4</sup> )	( <sup>4</sup> )	909	( <sup>4</sup> )	( <sup>4</sup> )
China	482	480	442	( <sup>4</sup> )				
Ukraine	( <sup>4</sup> )	( <sup>4</sup> )	484	553	( <sup>4</sup> )	368	( <sup>4</sup> )	( <sup>4</sup> )
Subject sources	524	479	466	553	( <sup>4</sup> )	369	( <sup>4</sup> )	( <sup>4</sup> )
Nonsubject sources	566	509	466	479	450	400	691	691
All sources	556	502	466	481	450	399	691	691

Table continued next page. Footnotes at the end of the table.

**Table C-2--Continued**  
**Silicomanganese: Summary data from the original investigations and subsequent five-year reviews, 1991-1993, 1997-1999, 2005-2011, January to March 2011, and January to March 2012**

Item	Calendar year						January to March
	Third (current) reviews						
	2006	2007	2008	2009	2010	2011	
	<b>Quantity (short tons)</b>						
U.S. importers' U.S. shipments of U.S. imports from.--							
Brazil	0	0	0	0	0	0	0
China	0	38	2	591	38	1	0
Ukraine	0	0	0	0	22	0	0
Subject sources	0	38	2	591	60	1	0
Nonsubject sources	442,300	457,204	368,123	204,323	316,524	347,497	105,363
All sources	442,300	457,242	368,125	204,915	316,584	347,498	105,363
	<b>Value (1,000 dollars)</b>						
U.S. importers' U.S. shipments of U.S. imports from.--							
Brazil	0	0	0	0	0	0	0
China	0	120	7	999	56	3	0
Ukraine	0	0	0	0	24	0	0
Subject sources	0	120	7	999	80	3	0
Nonsubject sources	345,131	587,059	730,524	217,327	406,542	426,712	123,716
All sources	345,131	587,179	730,531	218,326	406,622	426,715	123,716
	<b>Unit value (dollars per short ton)</b>						
U.S. importers' U.S. shipments of U.S. imports from.--							
Brazil	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )
China	( <sup>4</sup> )	3,170	3,134	1,690	1,467	2,196	( <sup>4</sup> )
Ukraine	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	1,082	( <sup>4</sup> )	( <sup>4</sup> )
Subject sources	( <sup>4</sup> )	3,170	3,134	1,690	1,326	2,196	( <sup>4</sup> )
Nonsubject sources	780	1,284	1,984	1,064	1,284	1,228	1,174
All sources	780	1,284	1,984	1,065	1,284	1,228	1,174

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Table C-2--Continued  
 Silicomanganese: Summary data from the original investigations and subsequent five-year reviews, 1991-1993, 1997-1999, 2005-2011, January to March 2011, and January to March 2012

Item	Calendar year									
	Original investigations			First reviews			Second reviews			
	1991	1992	1993	1997	1998	1999	2005			
	Quantity (short tons)									
U.S. producers' capacity (quantity)	***	***	***	***	***	***	***	***	***	( <sup>4</sup> )
Production (quantity)	***	***	***	***	***	***	***	***	***	***
Capacity utilization (ratio)	***	***	***	***	***	***	***	***	***	( <sup>4</sup> )
U.S. shipments (quantity)	***	***	***	***	***	***	***	***	***	***
(value)	***	***	***	***	***	***	***	***	***	***
(unit value)	***	***	***	***	***	***	***	***	***	***
Ending inventories (quantity)	***	***	***	***	***	***	***	***	***	( <sup>4</sup> )
Ending inventories to total shipments (ratio)	***	***	***	***	***	***	***	***	***	( <sup>4</sup> )
Production-related workers (individuals)	***	***	***	***	***	***	***	***	***	( <sup>4</sup> )
Hours worked (1,000 hours)	***	***	***	***	***	***	***	***	***	( <sup>4</sup> )
Wages paid (value)	***	***	***	***	***	***	***	***	***	( <sup>4</sup> )
Hourly wages (dollars)	***	***	***	***	***	***	***	***	***	( <sup>4</sup> )
Productivity (short tons per 1,000 hours)	***	***	***	***	***	***	***	***	***	( <sup>4</sup> )

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**Table C-2--Continued**  
**Silicomanganese: Summary data from the original investigations and subsequent five-year reviews, 1991-1993, 1997-1999, 2005-2011, January to March 2011, and January to March 2012**

Item	Calendar year										January to March		
	Third (current) reviews												
	2006	2007	2008	2009	2010	2011	2011	2011	2011	2012	2011	2012	
	Quantity (short tons); Value (1,000 dollars); Unit value (dollars per short ton); and Ratio (percent)												
U.S. producers' Capacity (quantity)	***	***	***	***	***	***	***	***	***	***	***	***	***
Production (quantity)	***	***	***	***	***	***	***	***	***	***	***	***	***
Capacity utilization (ratio)	***	***	***	***	***	***	***	***	***	***	***	***	***
U.S. shipments (quantity)	***	***	***	***	***	***	***	***	***	***	***	***	***
(value)	***	***	***	***	***	***	***	***	***	***	***	***	***
(unit value)	***	***	***	***	***	***	***	***	***	***	***	***	***
Ending inventories (quantity)	***	***	***	***	***	***	***	***	***	***	***	***	***
Ending inventories to total shipments (ratio)	***	***	***	***	***	***	***	***	***	***	***	***	***
Production-related workers (individuals)	***	***	***	***	***	***	***	***	***	***	***	***	***
Hours worked (1,000 hours)	***	***	***	***	***	***	***	***	***	***	***	***	***
Wages paid (value)	***	***	***	***	***	***	***	***	***	***	***	***	***
Hourly wages (dollars)	***	***	***	***	***	***	***	***	***	***	***	***	***
Productivity (short tons per 1,000 hours)	***	***	***	***	***	***	***	***	***	***	***	***	***

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**Table C-2--Continued**  
**Silicomanganese: Summary data from the original investigations and subsequent five-year reviews, 1991-1993, 1997-1999, 2005-2011, January to March 2011, and January to March 2012**

Item	Calendar year							Second reviews
	Original investigations			First reviews			2005	
	1991	1992	1993	1997	1998	1999		
	Quantity (short tons); Value (1,000 dollars); Unit value (dollars per short ton); and Ratio (percent)							
U.S. producers' Net sales: (quantity)	***	***	***	***	***	***	***	( <sup>4</sup> )
(value)	***	***	***	***	***	***	***	( <sup>4</sup> )
(unit value)	***	***	***	***	***	***	***	( <sup>4</sup> )
Cost of goods sold ("COGS") (value)	***	***	***	***	***	***	***	( <sup>4</sup> )
Gross profit (or loss) (value)	***	***	***	***	***	***	***	( <sup>4</sup> )
Operating income (or loss) (value)	***	***	***	***	***	***	***	( <sup>4</sup> )
Unit COGS (unit value)	***	***	***	***	***	***	***	( <sup>4</sup> )
Unit operating income (or loss) (unit value)	***	***	***	***	***	***	***	( <sup>4</sup> )
COGS to net sales (ratio)	***	***	***	***	***	***	***	( <sup>4</sup> )
Operating income (or loss) to net sales (ratio)	***	***	***	***	***	***	***	( <sup>4</sup> )

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**Table C-2--Continued**  
**Silicomanganese: Summary data from the original investigations and subsequent five-year reviews, 1991-1993, 1997-1999, 2005-2011, January to March 2011, and January to March 2012**

Item	Calendar year							January to March	
	Third (current) reviews							2011	2012
	2006	2007	2008	2009	2010	2011	2011	2012	
	<b>Quantity (short tons); Value (1,000 dollars); Unit value (dollars per short ton); and Ratio (percent)</b>								
U.S. Producers' Net sales: (quantity)	***	***	***	***	***	***	***	***	***
(value)	***	***	***	***	***	***	***	***	***
(unit value)	***	***	***	***	***	***	***	***	***
Cost of goods sold ("COGS") (value)	***	***	***	***	***	***	***	***	***
Gross profit (or loss) (value)	***	***	***	***	***	***	***	***	***
Operating income (or loss) (value)	***	***	***	***	***	***	***	***	***
Unit COGS (unit value)	***	***	***	***	***	***	***	***	***
Unit operating income (or loss) (unit value)	***	***	***	***	***	***	***	***	***
COGS to net sales (ratio)	***	***	***	***	***	***	***	***	***
Operating income (or loss) to net sales (ratio)	***	***	***	***	***	***	***	***	***
<p><sup>1</sup> Share of apparent U.S. consumption was calculated using U.S. importers' U.S. shipments of imports in both the original investigations (i.e., 1991-1993) and in these third five-year reviews (i.e., 2006-2011), while U.S. imports were used for the first and second five-year reviews (i.e., 1997-1999 and 2005). Also note that data relating to Venezuela from the original investigations (i.e., 1991-1993) presented here are reclassified as "nonsubject" to reflect the Commission's negative final determination.</p> <p><sup>2</sup> Less than 0.05 percent.</p> <p><sup>3</sup> For the original investigations (i.e., 1991-1993), the data labeled U.S. imports actually represent U.S. importers' U.S. shipments of imports from the specified source. Data relating to Venezuela from the original investigations (i.e., 1991-1993) presented here are reclassified as "nonsubject" to reflect the Commission's negative final determination.</p> <p><sup>4</sup> Not applicable.</p> <p>Source: Investigations Nos. 731-TA-671 through 674 (Final): Silicomanganese from Brazil, the People's Republic of China, Ukraine, and Venezuela--Staff Report, Office of Investigation Memo INV-R-187, November 29, 1994; ; Investigation Nos. 731-TA-671-673 (Second Review): Silicomanganese from Brazil, China, and Ukraine --Staff Report, Office of Investigation Memo INV-DD-074, June 1, 2006; and information compiled from responses to Commission questionnaires.</p>									



**APPENDIX D**

**COMMENTS ON THE EFFECTS OF ORDERS AND THE LIKELY EFFECTS OF REVOCATION**



Appendix D presents data on firms' narratives on the impact of the order and the likely impact of revocation.

**Table D-1**  
**Silicomanganese: Firms' narratives on the impact of the orders and the likely impact of revocation**

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