Silicon Metal From Russia

Investigation No. 731-TA-991 (Final)

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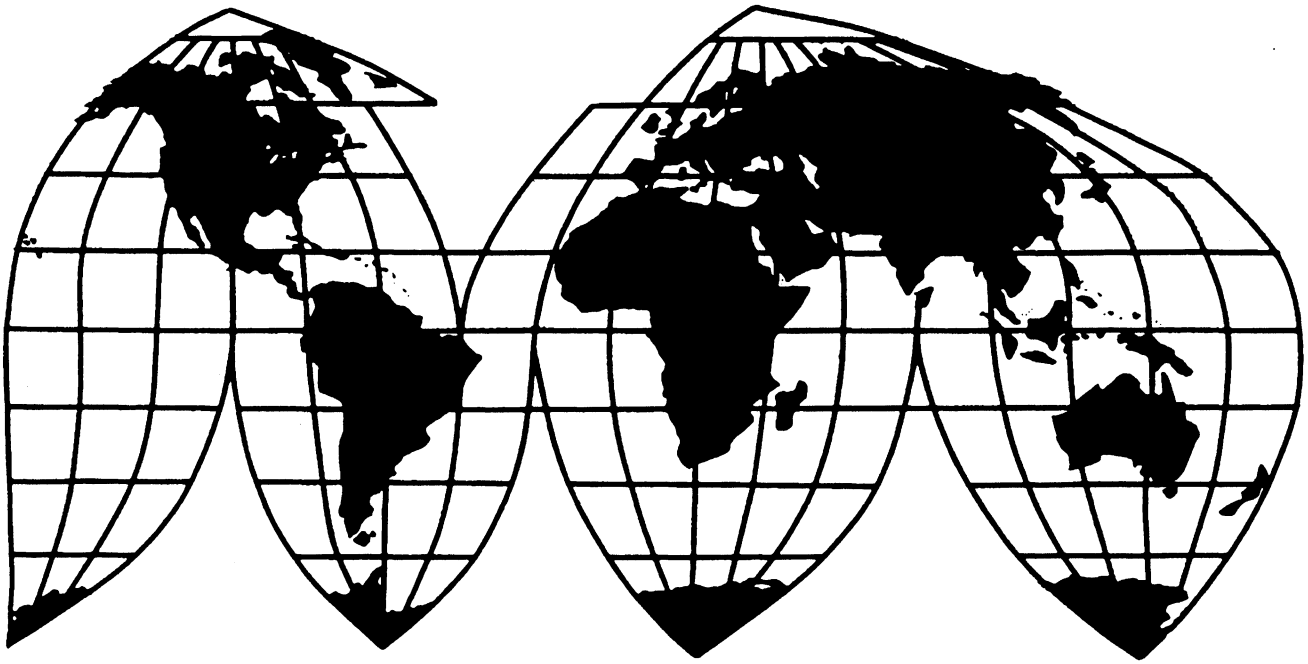
U.S. International Trade Commission



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U.S. International Trade Commission

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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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UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-991 (Final)

SILICON METAL FROM RUSSIA

DETERMINATION

On the basis of the record[1] developed in the subject investigation, the United States International Trade Commission (Commission) determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from Russia of silicon metal,[3] provided for in subheadings 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value (LTFV). The Commission further determines that critical circumstances do not exist with regard to imports of silicon metal from Russia that are subject to Commerce's affirmative critical circumstances determination.

BACKGROUND

The Commission instituted this investigation effective March 7, 2002, following receipt of a petition filed with the Commission and Commerce by Globe Metallurgical Inc., Cleveland, OH; SIMCALA, Inc., Mt. Meigs, AL; the International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers (I.U.E.-C.W.A, AFL-CIO, C.L.C., Local 693), Selma, AL; the Paper, Allied-Industrial Chemical and Energy Workers International Union (Local 5-89), Boomer, WV; and the United Steel Workers of America (AFL-CIO, Local 9436), Niagara Falls, NY. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by Commerce that imports of silicon metal from Russia were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of September 30, 2002 (*67 FR 61351*). The hearing was held in Washington, DC, on February 5, 2003, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

[2] Chairman Okun did not participate in this investigation.

[3] For purposes of this investigation, the Department of Commerce has defined the subject merchandise as "silicon metal, which generally contains at least 96.00 percent but less than 99.99 percent silicon by weight. The merchandise covered by this investigation also includes silicon metal from Russia containing between 89.00 and 96.00 percent silicon by weight, but containing more aluminum than the silicon metal which contains at least 96.00 percent but less than 99.99 percent silicon by weight."

VIEWS OF THE COMMISSION

Based on the record in this investigation, we determine that an industry in the United States is materially injured by reason of imports of silicon metal from Russia that are sold in the United States at less than fair value ("LTFV").[1]

I. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. In General

In determining whether an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the "domestic like product" and the "industry."[2] Section 771(4)(A) of the Tariff Act of 1930, as amended ("the Act"), defines the relevant domestic industry as the "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[3] In turn, the Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation . . . ."[4]

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[5] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[6] The Commission looks for clear dividing lines among possible like products and disregards minor variations.[7] Although the Commission must accept the determination of the Department of Commerce ("Commerce") as to the scope of the imported merchandise that has been found to be subsidized or sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.[8]

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[1] Chairman Okun did not participate in this final determination.

[2] 19 U.S.C. §1677(4)(A).

[3] 19 U.S.C. § 1677(4)(A).

[4] 19 U.S.C. § 1677(10).

[5] See, e.g., NEC Corp. v. Department of Commerce, 36 F. Supp.2d 380, 383 (Ct. Int'l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991) ("every like product determination 'must be made on the particular record at issue' and the 'unique facts of each case' "). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455 n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996).

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

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

[8] Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at

(continued...)

B. Product Description

Commerce's final determination defines the imported merchandise within the scope of this investigation as:

> silicon metal, which generally contains at least 96.00 percent but less than 99.99 percent silicon by weight. The merchandise covered by this investigation also includes silicon metal from Russia containing between 89.00 and 96.00 percent silicon by weight, but containing more aluminum than the silicon metal which contains at least 96.00 percent but less than 99.99 percent silicon by weight. Silicon metal currently is classifiable under subheadings 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule of the United States ("HTSUS"). This investigation covers all silicon metal meeting the above specification, regardless of tariff classification.[9]

A small percentage of silicon metal is used in the production of solar and electronic silicon and generally contains over 99.999 percent silicon. This type of silicon metal, which is also known as semiconductor-grade silicon metal, is not within the scope of this investigation.[10]

C. Domestic Like Product

Petitioners[11] argue that the Commission should find a single domestic like product comprised of silicon metal, consistent with the scope of this investigation.[12] Respondents[13] did not make any domestic like product arguments in their briefs or at the hearing.

Silicon metal is usually sold in lump form typically ranging from 6 inches x ½ inch to 4 inches x 1/4 inch.[14] The three categories, or grades, of silicon metal covered by the scope of this investigation are ranked in generally descending order of purity as: (1) chemical grade; (2) a metallurgical grade used to produce primary aluminum; and (3) a metallurgical grade used to produce secondary aluminum. The silicon metal content for all three grades of silicon metal is typically at least 98.5 percent.[15]

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[8] (...continued)
748-752 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

[9] 68 Fed. Reg. 6885, 6886 (February 11, 2003).

[10] CR at I-7, n.12; PR at I-6, n.12.

[11] Petitioners are Globe Metallurgical Inc. ("Globe"); SIMCALA, Inc. ("SIMCALA"); the International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers, I.U.E.-C.W.A., AFL-CIO, C.L.C., Local 693 ("I.U.E.-C.W.A."); the Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5-89 ("PACEWIU"); and the United Steel Workers of America, AFL-CIO, Local 9436 ("USWA") (hereinafter collectively called "Petitioners").

[12] Petitioners' Prehearing Brief at 4-5.

[13] Respondents are SUAL Holding ("SKU"), ZAO Kremny ("ZAO Kremny"), General Electric Silicones LLC ("GE Silicones"), and Bratsk Aluminum Smelter/RUAL Trading Limited ("Bratsk") (hereinafter collectively called "Respondents").

[14] CR/PR at I-6.

[15] CR at I-7 to I-8; PR at I-6 to I-7.

Silicon metal is used in the chemical industry to produce silanes and in the primary and secondary aluminum industries as an alloying agent.[16] Silicon metal of the same grade is considered interchangeable.[17] Higher grade silicon metal is sometimes shipped to a purchaser with a lower specification requirement because of market factors such as excess product availability and low shipping costs.[18] The vast majority of U.S.-produced silicon metal is sold directly to end users in all customer segments.[19] Silicon metal is produced from mined quartzite, which is washed, crushed and screened.[20] Although the more refined grades of silicon metal call for an oxidative refining step that is not required to produce secondary aluminum, in practice, U.S. producers usually subject all the silicon metal they produce to oxidative refining and "sell down" the higher-grade silicon metal to secondary aluminum customers even though they have less stringent purity specifications.[21] Silicon metal prices in all segments are adjusted based on the secondary aluminum price.[22]

In light of the record evidence, petitioners' arguments that we should find only one like product, and respondents' lack of objection, we do not find any basis for separating the silicon metal covered by Commerce's scope into two or more domestic like products. Therefore, based on shared physical characteristics, some overlapping uses, similar channels of distribution, some interchangeability, the same production processes and employees, and relatively minor differences in pricing between the grades of silicon metal, we define the domestic like product as all silicon metal, regardless of grade, consistent with Commerce's scope.[23]

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[16] CR at I-8; PR at I-7.

[17] CR at I-11; PR at I-9.

[18] CR at I-7 to I-8; PR at I-6 to I-7.

[19] CR at I-13; PR at I-11; Petitioners' Prehearing Brief at 11.

[20] CR at I-8; PR at I-7.

[21] CR at I-9; PR at I-8.

[22] Petitioners' Prehearing Brief at 12. Based on U.S. producer price data for the period examined, silicon metal sold primarily to chemical producers was on average $0.10 per pound more expensive than silicon metal sold primarily to primary aluminum producers, and silicon metal sold primarily to primary aluminum producers was on average $0.05 per pound more expensive than silicon metal sold primarily to secondary aluminum producers. CR at V-7; PR at V-4.

[23] In its prior silicon metal investigations, the Commission has defined the domestic like product to be "all silicon metal, regardless of grade, having a silicon metal content of at least 96.00 percent but less than 99.99 percent of silicon by weight, and excluding semiconductor grade silicon." The Commission based its finding on similarities in physical characteristics, production processes, common manufacturing facilities and employees, and channels of distribution, as well as the complete substitutability of the higher grade product for the lower grades and the minor differences in price for all grades of silicon metal as well as in the overall pricing of the end product. Silicon Metal from the People's Republic of China, Inv. No. 731-TA-472 (Final), USITC Pub. 2385 at 10 (June 1991); Silicon Metal from Brazil, Inv. No. 731-TA-471 (Final), USITC Pub. 2404 at 6-9 (July 1991); Silicon Metal from Argentina, Inv. No. 731-TA-470 (Final), USITC Pub. 2429 at 5-8 (Sept. 1991); and Silicon Metal from Argentina, Brazil and China, Inv. Nos. 731-TA-470-472 (Review), USITC Pub. 3385 at 5 (January 2001).

D. Domestic Industry

In defining the domestic industry, the Commission's general practice has been to include in the industry all of the domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.[24]

Based on our finding that the domestic like product consists of all grades of silicon metal, consistent with the scope of the investigation, we find that the domestic industry consists of all domestic producers of silicon metal.

II. MATERIAL INJURY BY REASON OF LESS THAN FAIR VALUE IMPORTS[25]

In the final phase of antidumping duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the imports under investigation.[26] In making this determination, the Commission must consider the volume of imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[27] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[28] In assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[29] No single factor is dispositive, and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[30]

For the reasons discussed below, we determine that the domestic industry is materially injured by reason of subject imports from Russia found to be sold in the United States at LTFV.

A. Conditions of Competition

The following conditions of competition are pertinent to our analysis in this investigation.

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[24] See United States Steel Group v. United States, 873 F. Supp. 673, 681-84 (CIT 1994), aff'd, 96 F.3d 1352 (Fed. Cir.1996).

[25] The statutory provision for negligible imports, 19 U.S.C. § 1677(24), does not apply in this investigation because imports from Russia account for more than three percent of the volume of all silicon metal imported into the United States in the most recent twelve-month period for which data are available preceding the filing of the petition. See CR/PR at Table IV-2.

[26] 19 U.S.C. § 1673d(b).

[27] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each [such] factor . . . [a]nd explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B). See also, Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

[28] 19 U.S.C. § 1677(7)(A).

[29] 19 U.S.C. § 1677(7)(C)(iii).

[30] Id.

1. Demand and Supply

Demand for silicon metal is dependent on the demand for the products in which it is used, specifically aluminum products and certain chemical products.[31] The three major markets for silicon metal in the United States are chemical producers, primary aluminum producers, and secondary aluminum producers.[32] The largest customer market for silicon metal produced by the domestic industry is the chemical market, which represented *** percent of U.S. producers' domestic shipments in 2001, followed by 20.4 percent for the secondary aluminum market and *** percent for the primary aluminum market.[33]

U.S. importers of the subject product also sell silicon metal from Russia to all three customer groups, but in different proportions than the domestic industry. In 2001, the chemical market accounted for *** percent of U.S. shipments of subject imports, the secondary aluminum market, *** percent, and the primary aluminum market, *** percent. During the POI, the largest market for silicon metal from Russia was the secondary aluminum market. However, the percentage of domestic shipments of silicon metal from Russia made to chemical customers has increased substantially, from *** percent in 1999 to *** percent in 2001.[34] [35]

Apparent U.S. consumption increased slightly from 324,202 short tons in 1999 to 329,502 short tons in 2000 before declining to 278,197 short tons in 2001. Apparent U.S. consumption was 208,615 short tons in interim (Jan.-Sept.) 2001 and 204,876 short tons in interim 2002.[36] U.S. producers reported that demand generally decreased during 1999-2002. According to U.S. producers, the decline in demand has been evident in both the aluminum and chemical sectors of the market, although not necessarily at the same time. *** reported that overall demand was very strong through 1997 but that the trend reversed in 1998. Six of ten importers that provided usable comments on demand changes reported that the demand for silicon metal in the U.S. market has remained flat or decreased throughout the POI, while the remaining four importers reported that demand has improved primarily because of new aluminum applications in the automotive industry. In general, both U.S. producers and importers agreed that the declines in demand were due to poor economic conditions in the United States.[37]

Three firms, Elkem, Globe, and SIMCALA, currently produce silicon metal in the United States. A fourth producer, American Silicon Technologies (AST), ceased production operations in September

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[31] CR at II-4; PR at II-2.

[32] CR at I-13; PR at I-11.

[33] CR/PR at Table I-2.

[34] CR/PR at Table I-2.

[35] According to petitioners, silicon metal produced in Russia was historically of lower purity than domestic material, and was principally used in metallurgical applications. However, because of quality improvements, imported silicon metal from Russia and U.S.-produced silicon metal currently compete directly in all three major markets for silicon metal, including chemicals, and are interchangeable. According to respondents, Russian producers are excluded, however, from a significant segment of the U.S. primary aluminum market because no Russian producer is qualified to manufacture low-iron silicon metal due to the composition of quartzite deposits in Russia. However, counsel for SKU and ZAO stated that except for those applications that require low-iron grades of silicon, the various grades of silicon metal produced in Russia are of sufficient variety and purity that the Russian material is competitive in virtually all U.S. markets and applications. CR at I-11 to I-13; PR at I-9 to I-10. In addition, reports provided by the respondents confirm that the quality of the Russian product has improved. Respondents' Posthearing Brief, Vol. II, Exhibit 1, pp.v, 34.

[36] CR/PR at Table IV-5.

[37] CR at II-4 to II-5; PR at II-2 to II-3.

1999.[38] Aggregate capacity of the domestic industry decreased from 243,667 short tons in 1999 to 215,245 short tons in 2000 and 198,363 short tons in 2001; it was 148,123 short tons in interim 2001 and 144,450 short tons in interim 2002.[39] Given the level of apparent U.S. consumption during the POI, it appears that the domestic industry was able to satisfy only a portion of U.S. silicon metal demand, with the balance of demand satisfied by subject and nonsubject imports.

Two U.S. silicon metal producers, Elkem and Globe, also produce ferrosilicon, which is used in the production of steel, especially stainless and heat-resisting steel and cast iron. Producers can switch production between ferrosilicon and silicon metal with varying degrees of cost, downtime, and efficiency loss. It generally is easier for firms to switch from silicon metal production to ferrosilicon production than the reverse because ferrosilicon contains more impurities than silicon metal and tends to contaminate the furnace lining with impurities intolerable in silicon metal production. Typically, when production is switched from ferrosilicon to silicon metal, the furnace must, at a minimum, be relined.[40]

2. Commodity Product/Interchangeability

Silicon metal is generally considered to be a commodity product in that materials of the same grade are interchangeable.[41] All parties agree that silicon metal is interchangeable, whether produced in the United States, Russia, or nonsubject countries.[42] All responding U.S. producers and purchasers reported that silicon metal from different countries, including Russia, is used interchangeably in the same applications. The majority of responding U.S. importers also reported that domestic and Russian silicon metal are interchangeable.[43]

3. Factors Affecting Pricing

The parties agree that price is a primary consideration for purchasers.[44] In their questionnaire responses, purchasers cited price as one of the top three factors in their purchasing decisions.[45]

Questionnaire responses indicated that sales of silicon metal in the U.S. market are made on both a contract and spot basis. All three responding U.S. producers reported that over 95 percent of their sales are made on a contract basis. Importers and purchasers' sales were mixed, with some firms reporting that all or the majority of sales are done on a spot basis and others reporting that all or a majority of sales are on a contract basis. Available information indicates that contracts are somewhat more common in the chemical market segment. While contracts in the chemical segment are likely to be at least one year in duration, contracts in the primary and secondary aluminum markets are often one year or less in duration.[46]

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[38] CR/PR at III-1.

[39] CR/PR at Table III-2.

[40] CR at I-10 to I-11, n.23; PR at I-8, n.23.

[41] CR at I-11; PR at I-9.

[42] Hearing Transcript ("Tr.") at 16 (Perkins); Respondents' Prehearing Brief at 5-7; Hearing Tr. at 100 (Haynes).

[43] CR at II-7; PR at II-5.

[44] Hearing Tr. at 16-17 (Perkins) and 30 (Lutz); Respondents' Prehearing Brief at 9.

[45] CR at II-6; PR at II-4.

[46] CR at V-3; PR at V-2.

Annual contracts are usually negotiated during the fourth quarter of the prior year and often contain approximate, but not fixed, volumes.[47] Petitioners stated that the existence of contracts in the silicon metal market does not necessarily protect the U.S. industry from the effect of subject imports.[48] Producers reported variations in price terms within a contract. *** reported that its contracts fix both price and quantity but that they also contain a pricing mechanism to adjust prices quarterly, semi-annually, or annually based on a published price like *Metals Week* or *Ryan's Notes*. *** reported that its contracts usually contain meet-or-release clauses. *** stated that its contract terms are generally fixed or indexed to prices published in *Metals Week* or *Ryan's Notes* depending on the customer and the duration of the contract. *** also noted that its contracts are negotiated in the fourth quarter and that they generally contain estimated volumes and fixed prices.[49] *** reported having no contracts containing meet-or-release clauses. Importers and purchasers reported that price and quantity are fixed in their contracts, with an average duration of three to 12 months.[50]

The Commission gathered information from purchasers on whether prices were adjusted during the term of contracts. The majority of responding purchasers responded in the negative when asked if prices vary within the duration of a contract in response to changes in spot prices. Five out of five responding purchasers responded in the negative when asked if any suppliers had actually changed prices during the period in which a contract with a meet-or-release clause was in place. When purchasers were asked to describe the relationship between contract and spot prices for silicon metal, three of seven responding purchasers stated that spot prices are a factor in determining contract prices, and that formula prices can change due to fluctuations in spot prices but that there may not be a direct relationship between spot and contract prices.[51]

4. Nonsubject Imports

Nonsubject imports are an important factor in the U.S. market. The level of nonsubject imports, by quantity, decreased overall from 1999 to 2001, from 97,499 short tons to 92,279 short tons, and was higher in interim 2002, at 90,875 short tons, than in interim 2001, at 72,226 short tons.[52] Nonsubject import market shares, by quantity, were 30.1 percent in 1999, 35.5 percent in 2000, 33.2 percent in 2001, 34.6 percent in interim 2001, and 44.4 percent in interim 2002.[53]

Major nonsubject import sources include Brazil, Canada and South Africa.[54] As a result of previous Commerce and Commission investigations, there are currently antidumping duty orders on imports of silicon metal from Brazil and China.[55]

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[47] CR at V-3; PR at V-2.
[48] Hearing Tr. at 24 (Boardwine).
[49] CR at V-3; PR at V-2.
[50] CR at V-3 to V-4; PR at V-2 to V-3.
[51] CR at V-4; PR at V-3.
[52] CR/PR at Table IV-2.
[53] CR/PR at Table IV-5.
[54] CR/PR at Figure I-3.
[55] CR/PR at I-3.

B. Volume of Subject Imports

Section 771(7)(C)(i) of the Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[56]

The quantity of subject imports increased overall by 35.8 percent from 1999 to 2001 and by 38.6 percent from 2000 to 2001, after showing a slight decrease from 1999 to 2000.[57] The continued increase in subject import volume by 57.6 percent between the interim periods resulted in Russia being the largest single source of silicon metal imports in interim 2002.[58] The record shows that the proportion of subject imports destined for the chemical industry sector, where the majority of U.S. product competes, increased sharply from *** percent in 1999 to *** percent in 2001; it was *** percent in interim 2001 and *** percent in interim 2002.[59] It appears that this increase is attributable, at least in part, to quality improvements in Russian silicon metal,[60] which have resulted in more widespread competition between subject imports and domestically produced silicon metal in all three major markets for silicon metal.[61] Moreover, we note that subject import volume increased during the POI despite the inability of Russian producers to manufacture low-iron silicon metal due to the composition of quartzite deposits in Russia.[62]

Subject imports' U.S. market share, by quantity, followed a trend similar to absolute import levels: it increased by 4.5 percentage points, from 7.8 percent to 12.3 percent, between 1999 and 2001, and by 6.0 percentage points from interim 2001 to interim 2002.[63] Subject imports gained market share at the same time that apparent U.S. consumption declined and domestic producers lost market share.[64] Domestic producers' U.S. market share declined from 62.2 percent in 1999 to 57.0 percent in 2000 and 54.6 percent in 2001, and was 39.7 percent in interim 2002 compared to 55.4 percent in interim 2001.[65] We attribute the U.S. producers' loss of market share in significant part to the subject imports, particularly from 1999 to 2001 and from 2000 to 2001, when subject imports outpaced all other imports in gaining U.S. market share. When the interim periods are compared, the U.S. industry continued to lose market share in significant part to subject imports, while losing additional market share to nonsubject imports as well.

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[56] 19 U.S.C. § 1677(7)(C)(i).

[57] By quantity, subject import volume was 25,158 short tons in 1999, 24,643 short tons in 2000, and 34,153 short tons in 2001. The total value of subject imports was $26.2 million in 1999, $25.5 million in 2000, and $35.3 million in 2001. CR/PR at Table C-1.

[58] By quantity, subject imports totaled 32,643 short tons in interim 2002 compared to 20,718 short tons in interim 2001. By value, subject imports were $30.3 million in interim 2002 compared to $22.9 million in interim 2001. CR/PR at Tables C-1 and IV-2.

[59] CR/PR at Tables I-2 and IV-3.

[60] See Respondents' Posthearing Brief, Vol. II, at Exhibit 1, pp.v, 34.

[61] CR at I-11; PR at I-9; Petition at 17-18; Conference Tr. at 11 (Perkins).

[62] See supra n.35.

[63] CR/PR at Table C-1. Subject imports' market share, by quantity, was 7.8 percent in 1999, 7.5 percent in 2000, and 12.3 percent in 2001. Subject imports' market share was 15.9 percent in interim 2002 compared to 9.9 percent in interim 2001. CR/PR at Table IV-5.

[64] Apparent U.S. consumption increased slightly from 324,202 short tons in 1999 to 329,502 short tons in 2000 but then decreased sharply to 278,197 short tons in 2001; between the interim periods, apparent U.S. consumption declined from 208,615 short tons to 204,876 short tons. CR/PR at Table IV-5.

[65] CR/PR at Table IV-5.

The quantity of subject imports relative to domestic production increased from 12.0 percent in 1999 to 12.6 percent in 2000 and 23.5 percent in 2001, and was 38.0 percent in interim 2002 compared to 18.4 percent in interim 2001.[66]

Respondents argue that although subject imports increased over the period examined, they are still below historical levels, citing subject import levels from 1993 to 1998.[67] However, consistent with Commission practice, we analyze the most recent three calendar years of data plus any interim periods, if applicable, in reaching our determination.[68] The record indicates that, for this period, subject import volume was significant.[69] Further, to take into account subject import volume levels during the years preceding the POI without also obtaining relevant data regarding prices and market conditions during the same period would not yield a complete analysis for purposes of our determination.

In this final determination, we find the volume and increase in volume of subject imports, both in absolute terms and relative to apparent domestic consumption and production in the United States, to be significant.

C. Price Effects of the Subject Imports

Section 771(7)(C)(ii) of the Act provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether –

> (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and
>
> (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.[70]

The record in this investigation indicates that domestically produced silicon metal and subject imports are generally substitutable, and that price is a key factor in purchasing decisions.[71] The parties agree that price is very important in purchasing decisions, given the commodity-like nature of the subject

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[66] CR/PR at Tables III-2, IV-2, and C-1.

[67] CR/PR at IV-1, n.3; Hearing Tr. at 108 (Noellert).

[68] The period of investigation consists of the most recent three calendar years, plus interim periods where applicable. See Kenda Rubber Industrial Co. v. United States, 630 F. Supp. 354, 359 (Ct. Int'l Trade 1986). The three year period achieves a balance between the burden on questionnaire recipients and the Commission's need for sufficient information for its analysis of material injury by reason of LTFV imports. Certain Carbon Steel Butt-Weld Pipe Fittings from China and Thailand, Invs. Nos. 731-TA-520 and 521 (Final), USITC 2528 at 18, n.57 (June 1992). Moreover, respondents, in their comments on the draft questionnaires, did not request that the Commission collect subject import volume data for the years prior to the POI. See Dewey Ballantine LLP's Comments to Draft Questionnaires dated September 13, 2002; Holland and Knight LLP's Comments to Draft Questionnaires dated September 13, 2002. Respondents also testified at the hearing that they did not expect the Commission to change the period of investigation. Hearing Tr. at 159 (Stein).

[69] Evidence submitted by the respondents themselves confirms the significance of subject import volume during the POI. Respondents' Posthearing Brief, Vol. II, at Exhibit 1, pp. 19, 22, Exhibit 2, p. 30.

[70] 19 U.S.C. § 1677(7)(C)(ii).

[71] CR at I-11, II-6 to II-7; PR at I-9, II-4 to II-5.

product.[72] In addition, silicon metal prices in all three segments key off the secondary aluminum price and exhibit similar trends.[73]

Based on the pricing data, we find underselling to be significant in this investigation.[74] The sales price data collected in this investigation show that Russian silicon metal destined for the primary and secondary aluminum markets undersold domestic product in the vast majority of pricing comparisons.[75] For primary aluminum grade silicon metal (pricing product 1), out of 15 quarterly comparisons, the Russian product was priced below the U.S. product in 13 quarters, with margins ranging from *** to *** percent and averaging 5.2 percent. In the other two quarters, the Russian product was priced above the U.S. product, with margins of *** and *** percent.[76] For secondary aluminum grade silicon metal (pricing product 2), out of 15 quarterly comparisons, the Russian product was priced below the U.S. product in 11 quarters, with margins ranging from *** to *** percent and averaging 5.1 percent. In the other four quarters, the Russian product was priced above the U.S. product, with margins ranging from *** to *** percent and averaging 3.6 percent.[77] There is no pricing data for sales of chemical grade silicon metal because it is internally consumed by the responding importers.[78]

Purchaser price data show underselling by Russian imports in all quarterly comparisons. For primary aluminum grade silicon metal (pricing product 1), Russian product undersold U.S. product in all 11 quarters, with margins ranging from *** to *** percent and averaging 7.5 percent.[79] For secondary aluminum grade silicon metal (pricing product 2), Russian product undersold U.S. product in all 11 quarters, with margins ranging from *** to *** percent and averaging 4.2 percent.[80] For chemical grade silicon metal (pricing product 3), Russian product undersold U.S. product in all 11 quarters, with margins ranging from *** to *** percent and averaging 17.4 percent.[81] All responding purchasers reported that,

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[72] Hearing Tr. at 16-17 (Perkins) and 30 (Lutz); Respondents' Prehearing Brief at 9.

[73] Petitioners' Prehearing Brief at 12.

[74] In this final phase investigation, the Commission collected sales price data for pricing product 1 (primary aluminum grade silicon metal) and pricing product 2 (secondary aluminum grade silicon metal) from domestic producers and importers for pricing comparisons. CR/PR at Tables V-1 and V-2, Figures V-2 and V-3. The reported price data accounted for virtually all of the quantity of domestically produced commercial shipments of silicon metal in 2001 and 56.2 percent of the quantity of subject imports in 2001. CR at V-6; PR at V-4. Although the Commission collected substantial sales price data for pricing product 3 (chemical grade silicon metal) from domestic producers, the pricing data that it collected for subject imports of that product is more appropriately classified as purchaser price data because the principal importers *** and *** internally consume reported imports. Thus, sales price comparisons for pricing product 3 between the United States and Russia were not possible in this investigation. CR at V-6 to V-7, n.9; PR at V-4, n.9. The Commission also collected substantial purchaser price data for all three pricing products. CR/PR at Tables V-4, V-5, and V-6. Purchaser pricing data accounted for approximately *** percent of the quantity of domestically produced commercial shipments of silicon metal in 2001, *** percent of the quantity of imports of silicon metal from Russia in 2001, and *** percent of the quantity of nonsubject imports of silicon metal in 2001. CR at V-6, n.10; PR at V-4, n.10.

[75] Sales price data were reported as weighted-average f.o.b. selling prices. CR/PR at Tables V-1 to V-2.

[76] Domestic silicon metal undersold Russian silicon metal by *** percent in the first quarter of 1999 and by *** percent in the second quarter of 2002. CR at V-7; PR at V-5; CR/PR at Table V-1 and Figure V-2.

[77] CR at V-7; PR at V-5; CR/PR at Table V-2 and Figure V-3.

[78] CR at V-7; PR at V-5.

[79] CR at V-12; PR at V-7; CR/PR at Table V-4.

[80] CR at V-16; PR at V-7; CR/PR at Table V-5.

[81] CR at V-16; PR at V-8; CR/PR at Table V-6.

although U.S.-produced silicon metal is generally comparable to Russian silicon metal, it is inferior to Russian product in terms of lowest price.[82]

Respondents contend that all imports, not just subject imports, undersell the domestic product, and that imports from Russia have never been the lowest-priced product in the U.S. market.[83] However, purchaser price data for nonsubject imports show that imports from Russia have been priced at lower levels than nonsubject imports.[84] For pricing product 1, imports from Russia undersold Canadian silicon metal in all 10 quarters.[85] For pricing product 2, imports from Russia undersold imports from South Africa in five out of 10 quarters.[86] For pricing product 3, imports from Russia undersold South African silicon metal in all 11 quarters, undersold Brazilian silicon metal in 10 out of 11 quarters, and undersold Canadian silicon metal in five out of 11 quarters.[87]

We find the pricing data collected by Commission staff in this investigation to be the most probative for purposes of our determination, particularly in light of the high coverage of shipments accounted for by that data.[88] Nevertheless, the average unit value (AUV) data reveal that the AUVs of imports from Russia were lower than the aggregate AUVs of nonsubject imports during the POI and were lower than the AUVs of imports from the individual nonsubject countries during each full year of the POI and the interim periods as well.[89]

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[82] CR at II-7 to II-8; PR at II-5.

[83] Respondents' Prehearing Brief at 27; Hearing Tr. at 108-109 (Noellert); Respondents' Posthearing Brief at 1-2, 9. Respondents point in particular to imports from South Africa and Brazil. Respondents' Prehearing Brief at 27-29. Respondents' Posthearing Brief, Responses to Commission Questions at B-15 to B-20.

[84] The top three nonsubject import sources of silicon metal are Canada, South Africa, and Brazil. CR/PR at Figure I-3.

[85] Only two quarters of purchaser price data for South African pricing product 1 were available. In one quarter, South African product undersold U.S.-produced and Canadian silicon metal, but oversold Russian product. In the other quarter, South African product undersold Russian, U.S., and Canadian silicon metal. Only one quarter of purchaser price data for Saudi Arabian pricing product 1 was available. In that quarter, Saudi Arabian product undersold U.S. and Canadian silicon metal but was priced the same as Russian product. CR/PR at Table V-4.

[86] CR/PR at Table V-5.

[87] CR/PR at Table V-6.

[88] See supra n.74.

[89] CR/PR at Table IV-2. The AUVs of imports from Russia during the POI are as follows: $1,036 per short ton in 1999; $1,003 per short ton in 2000; $980 per short ton in 2001; $1,018 per short ton in interim 2001; and $928 per short ton in interim 2002. Comparatively, the AUVs of nonsubject imports, in aggregate, during the POI are as follows: $1,232 per short ton in 1999; $1,145 per short ton in 2000; $1,139 per short ton in 2001; $1,146 per short ton in interim 2001; and $1,129 per short ton in interim 2002. CR/PR at Table IV-2. The AUVs of imports from the individual nonsubject countries were always higher on a full-year and interim year basis than the AUVs of imports from Russia. On a quarterly basis, subject import AUVs were also lower than AUVs for all nonsubject imports except for three quarters when South African AUVs were lower and one quarter when all other nonsubject import AUVs were lower. CR/PR at Table E-1.

Respondents argue that the Commission should have segregated the AUV data of subject and nonsubject imports into two HTS categories in the Staff Report because the AUVs for low content and high content silicon metal vary significantly and imports from Russia are concentrated in the low-content HTS category (i.e., HTS #2804695000). See Final Comments of GE Silicones at 9-10. We note that respondents did not request that the Commission separate AUV data for subject and nonsubject imports into two HTS categories in their comments on the draft questionnaires, choosing instead to raise this issue for the first time after the prehearing report. See Dewey Ballantine LLP's Comments to Draft Questionnaires dated September 13, 2002; Holland and Knight LLP's Comments to Draft Questionnaires dated September 13, 2002; Respondents' Prehearing Brief at 34-36. Moreover,

(continued...)

The record evidence in this final investigation indicates that U.S. and subject import prices of silicon metal sold to all three groups of customers (i.e., chemical, primary and secondary aluminum customers) generally have declined during the POI.[90] In light of subject imports' increasing volumes and their significant underselling of, and high substitutability with, both domestic and nonsubject silicon metal, we find significant price depression by the subject imports.

Consistent with our finding of adverse price effects by reason of the subject imports, there are a number of confirmed lost sales, ***.[91] However, as described previously, prices and price movements in the secondary aluminum sector have an effect on all three sectors.[92] Two sales of silicon metal to *** of *** pounds of silicon metal and *** pounds of silicon metal were lost to subject imports in *** and ***, respectively. A sale to *** of *** pounds of silicon metal lost to subject imports in *** was also confirmed. Three lost revenue allegations were confirmed, including one involving a sale of *** pounds of silicon metal to *** in ***.[93]

Respondents argue that domestic prices declined the most from 1999 to 2000, at the same time that Russian import volume was at its lowest and nonsubject imports were gaining in market share and

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[89] (...continued)
the record of this investigation, including importer questionnaire responses, indicates that separately analyzing imports by HTS categories is a somewhat artificial division. The level of impurities rather than silicon content primarily distinguishes products and it thus cannot be assumed that silicon metal imports under HTS subheading 2804.69.10 are necessarily purer than silicon metal imported under HTS subheading 2804.69.50. In addition, product from both HTS categories is sold to chemical, primary aluminum and secondary aluminum purchasers. CR at I-13, n.36; PR at I-11, n.36.

While we find combined HTS data most appropriate, we note that the segregated AUV data regarding subject and nonsubject imports are mixed with respect to relative prices of subject and nonsubject imports. The adjusted unit values for HTS #2804691000 show that imports from Russia had the lowest AUVs compared to nonsubject imports in 1999 and interim 2002. The adjusted unit values for HTS #2804695000 show that imports from Russia had the lowest AUVs compared to nonsubject imports in 2001, interim 2001, and interim 2002. See Memorandum INV-AA-023 (March 5, 2003).

[90] As the sales price data for pricing product 1 show, U.S. product was $***/lb and subject imports were $***/lb in the first quarter of 1999, but by the third quarter of 2002, U.S. product was $***/lb and subject imports were $***/lb. CR/PR at Table V-1. Sales price data for pricing product 2 indicate that U.S. product was $0.62/lb and subject imports were $***/lb in the first quarter of 1999, but by the third quarter of 2002, U.S. product was $0.50/lb and subject imports were $***/lb. CR/PR at Table V-2. Sales price data for pricing product 3 show that U.S. product declined from $***/lb in first quarter of 1999 to $***/lb in the third quarter of 2002. As discussed above, the Commission did not have sufficient sales price data for subject imports of pricing product 3 (chemical grade silicon metal). CR/PR at Table V-3; CR at V-6, n.9; PR at V-4, n.9.

Purchaser price data for pricing product 1 show that U.S. product was $***/lb and subject imports were $***/lb in the first quarter of 2000, but by the third quarter of 2002, U.S. product was $***/lb and subject imports were $***/lb. CR/PR at Table V-4. Purchaser price data for pricing product 2 show that U.S. product was $***/lb and subject imports were $***/lb in the first quarter of 2000, but by the third quarter of 2002, U.S. product was $***/lb and subject imports were $***/lb. CR/PR at Table V-5. Purchaser price data for pricing product 3 show that U.S. product was $***/lb and subject imports were $***/lb in the first quarter of 2000, but by the third quarter of 2002, U.S. product was $***/lb and subject imports were $***/lb. CR/PR at Table V-6.

[91] Respondents' Posthearing Brief at 2.

[92] Petitioners' Prehearing Brief at 11-12.

[93] CR at V-19 to V-23; PR at V-9 to V-10; CR/PR at Tables V-8 and V-9. In any event, confirmation of lost sales and lost revenue is not required for an affirmative determination. See, e.g., Acciai Speciali Terni, S.P.A. v. United States, 19 CIT 1051, 1056 (Ct. Int'l Trade 1995).

volume.[94] We recognize that nonsubject imports may have had an independent price depressive effect on domestic silicon metal prices. However, given the significant underselling by subject imports, subject import volume surges during the POI, and the high degree of substitutability between subject imports and the domestic product, we find that subject imports themselves have significantly depressed domestic silicon metal prices in all three customer segments (i.e., chemical, primary and secondary aluminum customers).[95] Silicon metal prices continued to fall after 2000, when subject imports increased the most and nonsubject imports declined (between 2000 and 2001) or increased at a slower rate than subject imports (between the interim periods).[96] The underselling margins of subject imports (based on purchaser data compared to U.S. product), were the highest for chemical grade silicon metal (pricing product 3), the segment where most U.S. product is sold. Further, imports from Russia undersold South African chemical grade product in all 11 purchaser price comparisons and undersold Brazilian chemical grade product in 10 of 11 purchaser price comparisons.[97]

Respondents point to internet auctions for silicon metal as evidence of the absence of price effects by subject imports. GE Silicones contends that, in its internet reverse auctions, the winning bids were nearly identical, regardless of whether Russian suppliers participated or not, and that nonsubject import bids were also below those of domestic producers.[98]

A total of four internet auctions for silicon metal were reported by purchasers for the POI, involving *** short tons valued at $*** in winning bid values. Three of the four auctions were held by GE Silicones for chemical grade silicon metal.[99] The other auction was held by *** for metallurgical

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[94] Respondents' Posthearing Brief at 3, 7.

[95] Evidence submitted by the respondents themselves indicate the effects on the U.S. market of Russian silicon metal prices. Respondents' Posthearing Brief, Vol. II, at Exhibit 2, p. 44.

[96] CR/PR at Tables V-1, V-2, V-3, V-4, V-5, V-6 and C-1. Respondents argue that, if Russian suppliers were targeting the chemical sector, as alleged by petitioners, then prices in the chemical sector should have declined more steeply than secondary aluminum prices. However, according to respondents, silicon metal prices in the chemical sector fell by only one-third of the price declines in the secondary aluminum market. Respondents' Posthearing Brief, Responses to Commission Questions at B-11 to B-13. We do not find this argument to be persuasive because, according to the purchaser price data, although Russian silicon metal sold to chemical producers declined by about $***/lb from its highest price in 2000 ($***/lb in second, third and fourth quarters of 2000) to the lowest price in interim 2002 ($***/lb in all three quarters of interim 2002), U.S. product declined by $***/lb from its highest price in 2000 ($***/lb in second quarter 2000) to the lowest price in interim 2002 ($***/lb in second and third quarters of 2002). For purchaser price data of secondary aluminum grade silicon metal, Russian product declined by $***/lb from its highest price in 2000 ($***/lb in third quarter 2000) to the lowest price in interim 2002 ($***/lb in first and second quarters 2002). Comparatively, U.S. product declined by $***/lb from its highest price in 2000 ($***/lb in all four quarters of 2000) to its lowest price in interim 2002 ($***/lb in all three quarters of interim 2002). CR/PR at Tables V-5 and V-6.

[97] CR at V-16; PR at V-8; CR/PR at Table V-6.

[98] Respondents' Posthearing Brief at 2-3; Hearing Tr. at 103 (Haynes).

[99] GE Silicones conducted three auctions in the fall of 2001 for the purchase of just over *** tons of silicon metal, or approximately *** percent of its 2002 requirements. GE Silicones reported that the silicon metal grade specification and commercial terms were established prior to the auctions and firms that were qualified to supply GE Silicones were invited to bid. GE Silicones reported that the duration of these contracts was ***. The auctions were "reverse" auctions where GE Silicones set maximum and target prices; once the auction was opened, qualified bidders could continue to make bids as long as their bid was below the last one made. The auction was closed when no new qualifying bid was received for two minutes.

Petitioners stated that GE Silicones' internet auctions were ***. *** reported that GE Silicones' contract requirements were very rigid and difficult and that GE also wanted a ***. ***. CR at V-4 to V-5; PR at V-3 to V-4.

grade silicon metal.[100] Of these contracts, *** percent (*** short tons valued at $***) was awarded to imports from Russia, *** percent (*** short tons valued at $***) was awarded to nonsubject imports, and *** percent (*** short tons valued at $***) was awarded to U.S. suppliers. For all four auctions, the firms submitting the lowest final bids won the contracts.[101] Subject import suppliers won the majority of the silicon metal lots offered in these four auctions.

We note that while GE Silicones and *** are substantial purchasers of silicon metal, there are several other purchasers. The total volume at stake in these two purchasers' internet auctions, *** short tons, was only *** percent of total apparent consumption from 1999 to 2001, and only *** percent of apparent domestic consumption in 2001, the year that the auctions in question took place.[102] Thus, the data related to these auctions does not outweigh the other substantial record evidence on price effects. Moreover, the auction results present a mixed picture. ***.[103] Although subject imports did not win every auction, they won a substantial percentage. They also participated in all but one auction, contributing to the lower prices. We cannot conclude that ending prices would have been the same absent Russian participation. Given the significant volume of subject imports, their underselling, and high substitutability, we conclude that they did have a significant effect on prevailing market prices as well as the results of particular auctions.

In sum, we find significant underselling by the subject imports, and given the significant volumes and high substitutability with the domestic like product of the low-priced subject imports, we find that prices have been depressed to a significant degree by the subject imports.

D. Impact of the Subject Imports

In examining the impact of the subject imports on the domestic industry, we consider all relevant economic factors that bear on the state of the industry in the United States.[104] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is

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[100] ***. *** also reported participating in the *** auction but dropped out of the bidding when the bid price approached ***'s cash costs. CR at V-4 to V-5; PR at V-3 to V-4.

[101] CR at V-16 to V-17; PR at V-8. A Brazilian supplier submitted the winning bid in the first internet reverse auction held by GE Silicones, in which Russian suppliers did not participate. The Brazilian supplier's winning bid was $*** for *** short tons. *** and a Russian supplier won the second internet reverse auction held by GE Silicones. *** final bid was $*** for *** short tons. The Russian supplier's final bid was $*** for *** short tons. A Russian and Canadian supplier won the third internet reverse auction held by GE Silicones. In that auction, the Russian supplier's final bid was $*** for *** short tons (*** short tons). The Canadian supplier's final bid was $*** for *** short tons. A Russian supplier also submitted the winning bid in the *** auction. CR/PR at Table V-7.

According to petitioners, the Russian supplier caused the U.S. supplier to lose the second GE Silicones auction by undercutting the U.S. supplier's bid. The Russian supplier then forced the U.S. supplier to submit a very low bid in the third auction, as a result of the Russian supplier's competing bids and its bid history in the second auction. Petitioners' Prehearing Brief at 31-33; Petitioners' Posthearing Brief, Response to Commission Questions at 1-2.

[102] CR at V-16 to V-17; PR at V-8. Total apparent domestic consumption from 1999 to 2001 was 931,901 short tons. Apparent domestic consumption in 2001 was 278,197 short tons. CR/PR at Table IV-5.

[103] CR at V-5; PR at V-3; Petitioners' Postconference Brief at 31-32.

[104] 19 U.S.C. § 1677(7)(C)(iii). See also SAA at 851, 885 ("In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." Id. at 885.).

dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[105] [106]

We find that, as subject import volume increased, particularly from 2000 to 2001, at prices that undersold and depressed U.S. prices, subject imports had a significant adverse impact on the domestic industry. As subject import volume increased and domestic silicon metal prices dropped, the domestic industry suffered declines in prices, sales volume, and most performance and financial indicators. The deterioration in the industry's condition was evidenced by its loss of market share due to declining U.S. shipments, which fell by 24.7 percent from 1999 to 2001 and by 29.7 percent between the interim periods.[107] Declines in the domestic industry's U.S. commercial shipments outpaced declines in U.S. apparent consumption during the POI.[108]

Reduced sales in turn led domestic producers to curtail silicon metal production and capacity.[109] As a result of its losses related to silicon metal production, Globe converted two silicon metal furnaces to ferrosilicon production and idled another silicon metal furnace in 2000. Globe converted one silicon metal furnace at its facility in Niagara Falls, NY, to ferrosilicon production in August 2001, and shut down the remaining silicon metal furnace in December 2001. Globe idled its Selma, Alabama, silicon metal plant in July and August 2001 in exchange for a reduced power rate for the remainder of the year. In all, Globe either shut down or converted four of its seven silicon metal furnaces and periodically idled the remaining three furnaces during the POI.[110] SIMCALA shut down one of its three silicon metal furnaces in August 2001 due to lower volume requirements in a renegotiated contract with a long-term customer and laid off one-half of its work force.[111] In August 2001, Elkem shut down one of its five silicon metal furnaces at its Alloy, WV, facility.[112] Due to these furnace closures, the average number of production and related workers and productivity declined throughout the POI.[113] The majority of these

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[105] 19 U.S.C. § 1677(7)(C)(iii). See also SAA at 851, 885; Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386, 731-TA-812-813 (Preliminary), USITC Pub. 3155 (Feb. 1999) at 25 n.148.

[106] The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii) (V). In its final determination, Commerce calculated the following dumping margins: 54.77 percent for Kremny/SKU, 77.51 percent for BAS, and a Russia-wide rate of 77.51 percent. Notice of Final Determination of Sales at Less Than Fair Value: Silicon Metal from Russia, 68 Fed. Reg. 6885, 6888 (February 11, 2003). Commerce subsequently issued amended dumping margins of 56.11 percent for Kremny/SKU and 79.42 percent for BAS due to ministerial errors in the original final determination. Amended Notice of Final Determination of Sales at Less Than Fair Value: Silicon Metal from Russia, 68 Fed. Reg. 12037, 12039 (March 13, 2003).

[107] Tables IV-5 and C-1. Domestic producers' commercial shipments fell from *** short tons in 1999 to *** short tons in 2000 to *** short tons in 2001 and were *** short tons in interim 2001 and *** short tons in interim 2002. CR/PR at Table III-4.

[108] The domestic industry's U.S. shipments, by quantity, declined by 24.7 percent from 1999 to 2001 and by 29.7 percent between interim periods. Apparent U.S. consumption fell by 14.2 percent from 1999 to 2001 and by 1.8 percent between interim periods. CR/PR at Table C-1.

[109] Domestic production of silicon metal fell from 209,376 short tons in 1999 to 195,660 short tons in 2000 and 145,324 short tons in 2001 and was 112,638 short tons in interim 2001 and 85,824 short tons in interim 2002. Production capacity dropped from 243,667 short tons in 1999 to 215,245 short tons in 2000 and 198,363 short tons in 2001 and was 148,123 short tons in interim 2001 and 144,450 short tons in interim 2002. CR/PR at Table III-2.

[110] CR/PR at Table III-2, n.3; Petitioners' Prehearing Brief at 17-18. Petitioners' Posthearing Brief at 6.

[111] CR/PR at Table III-2, n.4; Petitioners' Prehearing Brief at 15.

[112] CR/PR at Table III-2, n.2.

[113] The average number of production workers fell from 719 in 1999 to 637 in 2000 and 523 in 2001 and was 531 in interim 2001 and 407 in interim 2002. Productivity, measured by short tons per 1,000 hours, increased slightly

(continued...)

closures or conversions took place in 2001, the same year that subject imports registered a 38.6 percentage point increase in volume.[114]

Even as domestic production capacity declined by 18.6 percentage points from 1999 to 2001, domestic producers' average capacity utilization levels, which had increased slightly from 85.9 percent in 1999 to 90.2 percent in 2000, declined to 73.3 percent in 2001.[115] The decline in capacity utilization is significant and adverse for this industry, which has high fixed costs.[116] The ratio of the domestic industry's cost of goods to net sales increased by 12.3 percent from 1999 to 2001 and by 2.1 percent between interim periods, placing the industry in a cost-price squeeze.[117]

Declining sales and increasing costs adversely affected most major financial indicators of the domestic industry. Specifically, the domestic industry's operating income and operating margin declined throughout the POI, with the industry registering a loss in 2001, when subject imports reached their highest volume level during the POI.[118] Domestic producers' operating income, which was $25.2 million in 1999 and $9.2 million in 2000, fell to losses of $10.3 million in 2001, $12.8 million in interim 2001, and $11.8 million in interim 2002. The industry's operating margin declined from 8.6 percent in 1999 to 3.5 percent in 2000 to negative 4.7 percent in 2001 and was negative 8.5 percent in interim 2001 and negative 11.4 percent in interim 2002.[119] SIMCALA states that, after failing to make interest payments due on its bonds in October 2001, it ***.[120] Similarly, Globe's financial losses forced Globe to put itself up for sale in December 2002.[121]

Due to declines in cash flow,[122] the domestic industry's capital expenditures decreased from *** in 1999 to $7.8 million in 2001 and were $5.4 million in interim 2001 and $8.9 million in interim 2002.[123] Domestic producers also indicated that they have had to cancel or delay capital improvement projects and research and development programs as a result of the presence of subject imports.[124]

Given the significant volume of subject imports and their adverse effect on domestic prices, we find that low-priced subject imports have had a significant adverse impact on the domestic industry, as reflected in the number of declining financial and performance indicators during the POI.

Respondents argue that there is no causal nexus between subject imports and the injury suffered by the domestic industry because of the presence of interchangeable and readily available nonsubject

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[113] (...continued)
from 128.3 short tons in 1999 to 133.0 short tons in 2000, but then declined to 120.1 short tons in 2001; it was 116.1 short tons in interim 2001 and 108.2 short tons in interim 2002. CR/PR at Table C-1.

[114] CR/PR at Table C-1.

[115] CR/PR at Tables C-1 and III-2.

[116] CR at VI-5 to VI-6; PR at VI-1.

[117] The domestic industry's cost of goods sold rose in proportion to net sales during the period of investigation. U.S. producers' ratio of cost of goods sold to net sales was 85.7 percent in 1999, 90.6 percent in 2000, 98.0 percent in 2001, 100.9 percent in interim 2001, and 103.0 percent in interim 2002 CR/PR at Tables VI-1 and C-1.

[118] CR/PR at Tables VI-1 and IV-2.

[119] CR/PR at Table C-1.

[120] Petitioners' Prehearing Brief at 16; Hearing Tr. at 25-26 (Boardwine).

[121] Hearing Tr. at 18-19 (Perkins).

[122] The domestic industry's cash flow fell dramatically from $23.2 million in 1999 to $7.8 million in 2000 to negative $14.2 million in 2001; it was negative $14.5 million in interim 2001 and negative $5.1 million in interim 2002. CR/PR at Table VI-1.

[123] CR/PR at Table VI-3. According to petitioners, the slight rise in capital expenditures from interim 2001 to interim 2002 was due to replacement of existing equipment, not new capital projects. Research and development expenditures continued to fall from interim 2001 to interim 2002. Petitioners' Prehearing Brief at 44-45.

[124] CR at F-3 to F-4; PR at F-3.

imports.[125] However, subject imports gained more market share than nonsubject imports from 1999 to 2001 and the industry's loss in market share from 1999 to 2001 is attributable to the subject imports.[126] Subject imports registered a 4.8 percentage point market share gain while nonsubject imports lost 2.3 percentage points in market share from 2000 to 2001, the same year that the domestic industry suffered an operating loss for the first time during the POI and idled, closed, or converted many of its silicon metal production facilities. Subject imports continued to capture additional market share between the interim periods, with Russia as the largest single source of silicon metal imports in interim 2002, although we acknowledge that the domestic industry lost market share to nonsubject imports as well, particularly in interim 2002. However, the fact that nonsubject imports may have contributed to the domestic industry's continued deterioration toward the end of the period, along with subject imports, does not negate our finding that subject imports themselves had a material adverse impact on the domestic industry.[127]

We find respondents' arguments that Gerald Metals[128] precludes an affirmative determination in this investigation to be unpersuasive.[129] Regardless of the impact of nonsubject imports on the domestic industry, we find, in this investigation, that the surges in subject import volume at prices that undersold and depressed domestic silicon metal prices to a significant degree during the POI had a material adverse impact on the domestic industry.[130]

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[125] Respondents' Posthearing Brief, Response to Commission Questions at A-1 to A-2, B-1. Evidence submitted by the respondents themselves indicates that imports from Russia have had an impact on U.S. production levels. Respondents' Posthearing Brief, Vol. II, at Exhibit 2, p. 17, Exhibit 3, p. ii.

[126] Domestic producers' market share declined by 7.6 percent from 1999 to 2001 and by 15.7 percent from interim 2001 to interim 2002. Russian imports' market share increased by 4.5 percent from 1999 to 2001 and by 6.0 percent between interim periods. Nonsubject imports increased by 3.1 percent from 1999 to 2001 and by 9.7 percent between interim periods. CR/PR at Table C-1.

The quarterly import data show an even more compelling picture of subject import volume compared to nonsubject import volume during 2001 and interim 2002. Russian imports' share of total imports increased dramatically from 7.3 percent in first quarter 2001 to 26.2 percent in second quarter 2001 to 31.4 percent in third quarter 2001 to 40.1 percent in fourth quarter 2001. Russian imports' share of total imports was 31.5 percent in first quarter 2002 and 36.9 percent in second quarter 2002, before declining to 11.6 percent in third quarter 2002. The drop in imports from Russia in the third quarter of 2002 was after the Commission's and Commerce's preliminary determinations in this investigation. CR/PR at Table E-1.

[127] By quantity, nonsubject import volume increased by 25.8 percentage points from interim 2001 to interim 2002 whereas subject import volume increased by 57.6 percentage points during the same period. CR/PR at Table C-1. The quantity of silicon metal imports from the top four import sources in interim 2002 are as follows: Russia, 32,643 short tons; Brazil, 27,953 short tons; Canada, 13,046 short tons; and South Africa, 26,731 short tons. Other nonsubject import sources totaled 23,144 short tons during the same period. CR/PR at Table IV-2.

[128] Gerald Metals v. United States, 132 F.3d 716 (Fed. Cir. 1997).

[129] We have considered the evidence on nonsubject imports in this investigation and find, notwithstanding the presence of nonsubject imports, that subject imports themselves caused material injury to the domestic industry and did not simply contribute to the injury in a "tangential or minimal way." Gerald Metals, 132 F.3d at 722; Taiwan Semiconductor Industry Assoc. v. United States, 266 F.3d 1339, 1344 (Fed. Cir. 2001).

[130] The respondents cite cases where nonsubject imports were present and the Commission reached negative determinations, including Gerald Metals and Taiwan Semiconductor. Respondents' Prehearing Brief at 63-67. It is well established that Commission investigations are *sui generis* and that prior investigations, even if they involve the same product, do not establish "precedents." e.g., Torrington Co. v. United States, 790 F. Supp. 1161, 1169 (Ct. Int'l Trade 1992), aff'd without opinion, 991 F.2d 809 (Fed. Cir. 1993). We nonetheless observe that the prior Commission investigations cited by respondents are factually distinguishable from the instant investigation.

The Gerald Metals case involved the Commission's affirmative determination that imports of pure magnesium at less than fair value from Russia, Ukraine, and China injured the domestic industry. See Magnesium

(continued...)

The link between subject imports and injury to the U.S. industry is borne out by evidence that, following Commerce's preliminary determination in September 2002 and the subsequent withdrawal of imports from Russia from the domestic market, silicon metal spot prices, as reported by *Metals Week*, have begun to increase.[131] [132] [133] According to petitioners, the improvement in spot prices has allowed

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[130] (...continued)
from the People's Republic of China, Russia, and Ukraine, Inv. Nos. 731-TA-696-698 (Final), USITC Pub. 2885 (May 1995). With respect to imports from Russia, the Department of Commerce had found dumping margins of 100.25 percent against certain trading companies while finding zero percent dumping margins against other trading companies. 60 Fed. Reg. 16440, 16449 (March 30, 1995). The determination with respect to Ukraine was appealed to the U.S. Court of International Trade, which affirmed the Commission's determination. See Gerald Metals, Inc. v. United States, 937 F.Supp. 930, 942 (Ct. Int'l Trade 1996). It was then appealed to the Court of Appeals for the Federal Circuit, which found that the Commission had failed to adequately consider undisputed facts about fairly-traded imports from Russia given that "other than differences in the trading company, Russian imports, both fairly traded and less than fair value imports, were perfect substitutes for each other, if not the exact same product." Gerald Metals, 132 F.3d at 716, 720. On remand from the U.S. Court of International Trade (Gerald Metals, Inc. v. United States, 8 F.Supp.2d 861 (Ct. Int'l Trade 1998), the Commission found that a domestic industry in the United States was not materially injured or threatened with material injury by reason of pure magnesium imports from Ukraine due in part to the high substitutability of fairly traded imports from Russia for LTFV imports from Russia or Ukraine. Although the volume of fairly traded imports from Russia was ***. Subject import volume had decreased, both in absolute terms and relative to domestic consumption, during the last full year of the POI. These volume trends indicated that the significance of LTFV imports diminished during the POI. Magnesium from Ukraine, Inv. No. 731-TA-698 (Remand), USITC Pub. No. 3113 at 4-5 (June 1998).

In Taiwan Semiconductor, the Court of Appeals for the Federal Circuit affirmed the Commission's redetermination in Static Random Access Memory Semiconductors from Taiwan, Inv. No. 731-TA-762 (Final), USITC Pub. No. 3319 (June 2000) ("SRAMS from Taiwan") that imports from Taiwan of SRAMs had a minimal or tangential, injurious effect on the domestic industry over the period of investigation. Id. at 1339. In SRAMs from Taiwan, the Commission had determined that, throughout the period of investigation, Taiwanese SRAM market share, both by value and by quantity, had remained relatively flat. The domestic industry's market share, by quantity, declined by about 15 percentage points while the market share of nonsubject imports increased by almost *** percentage points. During 1996 and 1997, the years in which the domestic industry suffered its greatest injury, imports from Taiwan frequently oversold U.S. product. SRAMS from Taiwan, USITC Pub. at 2, 3 (See Dissenting Views of Chairman Marcia E. Miller, Static Random Access Memory Semiconductors from the Republic of Korea and Taiwan, Invs. No. 731-TA-761 and 762 (Final), USITC Pub. 3098 at 32-34 (April 1998).

In Saccharin from China, although subject import market share increased by 3.6 percent from 1991 to 1993, this gain was at the expense of nonsubject imports' market share, which declined by 3.8 percent during the same period. The domestic industry's market share, by quantity and value, had increased by 0.2 percent from 1991 to 1993. Further, despite an increase in subject import volume between interim periods, subject imports' market share, by quantity, declined. Saccharin from China, Inv. No. 731-TA-675 (Final), USITC Pub. No. 2842 at 16 (Dec. 1994).

In Certain Expandable Polystyrene Resins from Indonesia, the Commission determined that subject import volume was very small throughout the POI, whether viewed in absolute or relative terms. Subject imports' market share of the U.S. market rose from 0.2 percent in 1997 to 1.8 percent in 1998, but then fell to 1.3 percent in 1999. Subject imports' market share was 1.3 percent in interim 2000, compared to 0.8 percent in interim 1999. Certain Expandable Polystyrene Resins from Indonesia, Inv. No. 731-TA-961 (Final), USITC Pub. No. 3377 at 9 (Dec. 2000).

[131] Although the Commission is required to consider whether changes in volume, price effects, or impact are related to the pendency of the investigation, it is not required to reduce the weight accorded to such information. 19 U.S.C. § 1677(7)(I).

[132] See correspondence (e-mail) from *** dated February 13, 2003, ***--Metals Week and Ryan's Notes prices.

[133] The quantity of imports from Russia increased dramatically from 9,898 short tons in the first quarter of 2002 (continued...)

domestic producers to negotiate higher prices for at least 11 contracts during the fourth quarter of 2002 for 2003 shipments.[134] Both SIMCALA and Globe restarted idled furnaces in October 2002. [135] [136]

Respondents argue that the domestic industry has shunned the secondary market in favor of higher prices in the other two sectors, that competition in this sector occurs primarily among imports, and that imports from Russia are not the lowest-priced product.[137] We do not find this argument to be persuasive. U.S. producers' share of the secondary aluminum market segment was 47.7 percent in 1999, 45.5 percent in 2000, 37.6 percent in 2001, 44.2 percent in interim 2001, and 19.7 percent in interim 2002, shares which indicate significant participation by the domestic industry in that segment.[138] [139]

Accordingly, for the above-stated reasons, we find that the subject imports have had a significant adverse impact on the domestic industry.

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[133] (...continued)
to 17,573 short tons in the second quarter of 2002, but then declined substantially to 5,173 short tons in the third quarter of 2002. CR/PR at Table E-1. The parties agree that subject imports have completely withdrawn from the domestic market subsequent to Commerce's preliminary determination in September 2002. See Petitioners' Posthearing Brief, Exhibit 2; Respondents' Prehearing Brief at 22, Figure 7.

[134] We ***. Hearing Tr. at 101 (Haynes); Respondents' Posthearing Brief at 12.

[135] Petitioners' Posthearing Brief at 11-12.

[136] As for GE Silicones' claim that the Commission never acted on its request to collect information on 2003 contracts, we note that respondents filed their request in December 2002. See Letter dated December 16, 2002, from Michael H. Stein of Dewey Ballantine LLP to Marilyn R. Abbott. As contracts are usually negotiated during the fourth quarter of the prior year, Commission staff determined that sending out supplemental questionnaires in mid-December 2002 for 2003 contracts would not yield accurate and complete data on 2003 contracts, given that contract negotiations in the fourth quarter of 2002 may not result in finalized contracts until mid- to late January 2003. CR at V-3; PR at V-2. Additionally, Commission staff's collection of the requested data, in light of the schedule of this investigation, may not have been completed prior to the Commission hearing on February 5, 2003. As discussed above, we observe that ***.

[137] Respondents' Posthearing Brief, Responses to Commission Questions at B-18 to B-20.

[138] CR/PR at Table I-2.

[139] GE Silicones argues that it was unable to purchase domestic silicon metal and had to turn to subject imports during the POI in part because it had disqualified *** as a supplier in 1999 due to quality problems. GE Silicones also argues that *** to GE Silicones. Respondents' Prehearing Brief at 47-50; Respondents' Posthearing Brief at 2, 9. SIMCALA disputes GE Silicones' statements, claiming that, although ***. Petitioners' Posthearing Brief, Responses to Commission Questions at 16-17. We find the record evidence on this issue to be inconclusive but note that GE Silicones' purchases of silicon metal comprised *** during the POI. GE Silicones' purchaser questionnaire response dated November 14, 2002, p. 3, Section II-1.

E. Critical Circumstances

In its final determination, Commerce found that critical circumstances do not exist for Russian producers Bratsk, SKU and ZAO Kremny, based on the lack of "massive imports" as shown by six-month shipment data; however, Commerce found that critical circumstances exist for the Russia-wide entity.[140] Because we have determined that the domestic silicon metal industry is materially injured by reason of subject imports, we must further determine "whether the imports subject to the affirmative *** determination . . . are likely to undermine seriously the remedial effect of the antidumping duty order to be issued."[141] The SAA indicates that the Commission is to determine "whether, by massively increasing imports prior to the effective date of relief, the importers have seriously undermined the remedial effect of the order."[142]

The statute further provides that in making this determination the Commission shall consider, among other factors it considers relevant:

> (I) the timing and the volume of the imports,
> (II) a rapid increase in inventories of the imports, and
> (III) any other circumstances indicating that the remedial effect of the antidumping order will be seriously undermined.[143]

Consistent with Commission practice,[144] in considering the timing and volume of subject imports, we consider import quantities prior to the filing of the petition with those subsequent to the filing of the petition using monthly statistics on the record regarding subject import producers other than Bratsk, SKU and Zao Kremny. We do not find any significant increase in import volume after the filing of the petition by any entity subject to Commerce's critical circumstances finding because there are no known subject imports from Russian producers other than Bratsk, SKU and ZAO Kremny.[145]

Because the record indicates that there were no subject imports from Russia subject to Commerce's affirmative critical circumstances findings immediately following the filing of the petition, we conclude that the remedial effect of the forthcoming antidumping duty order will not be undermined. Accordingly, we determine that critical circumstances do not exist with respect to the subject imports.[146]

CONCLUSION

For the foregoing reasons, we determine that an industry in the United States is materially injured by reason of imports of silicon metal from Russia that are sold in the United States at less than fair value.

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[140] 68 Fed. Reg. 6885, 6888 (February 11, 2003).

[141] 19 U.S.C. § 1673d(b)(4)(A)(i).

[142] SAA at 877.

[143] 19 U.S.C. § 1673d(b)(4)(A)(ii).

[144] See, e.g., Certain Ammonium Nitrate from Russia, Inv. No. 731-TA-856 (Final), USITC Pub. 3338, at 12-13 (Aug. 2000); Certain Preserved Mushrooms from China, India, and Indonesia, Invs. Nos. 731-TA-777 to 79 (Final), USITC Pub. 3159, at 24 (Feb. 1999).

[145] CR/PR at VII-2; CR/PR at Table VII-1.

[146] We note that petitioners stated at the hearing that, given Commerce's finding, critical circumstances were no longer an issue in this investigation. Hearing Tr. at 82-83 (Kramer).

PART I: INTRODUCTION

BACKGROUND

This investigation results from a petition filed on March 7, 2002, with the U.S. International Trade Commission (Commission) and the U.S. Department of Commerce (Commerce), by Globe Metallurgical Inc. (Globe), Cleveland, OH; SIMCALA, Inc., Mt. Meigs, AL; the International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers (I.U.E.-C.W.A, AFL-CIO, C.L.C., Local 693), Selma, AL; the Paper, Allied-Industrial Chemical and Energy Workers International Union (Local 5-89), Boomer, WV; and the United Steel Workers of America (AFL-CIO, Local 9436), Niagara Falls, NY, alleging that an industry in the United States is materially injured and threatened with material injury by reason of imports of silicon metal from Russia that are alleged to be sold in the United States at less than fair value (LTFV).[1] Information relating to the background of this investigation is presented below:[2]

Effective date	Action	*Federal Register* citation
March 7, 2002	Petition filed with Commerce and the Commission; institution of Commission's investigation	67 FR 11710, March 15, 2002
April 3, 2002	Initiation of investigation by Commerce	67 FR 15791
April 24, 2002	Commission's preliminary determination	67 FR 20993, April 29, 2002
September 20, 2002	Commerce's preliminary affirmative antidumping duty determination and postponement of final determination	67 FR 59253
September 20, 2002	Scheduling of final phase of Commission's investigation	67 FR 61351, September 30, 2002
February 5, 2003	Commission's public hearing[1]	NA
February 11, 2003	Commerce's final antidumping duty determination	68 FR 6885
March 7, 2003	Commission's vote	NA
March 19, 2003	Commission's determination transmitted to Commerce	NA
[1] A list of witnesses that appeared at the hearing is presented in app. B.		

STATUTORY CRITERIA AND ORGANIZATION OF THIS REPORT

Section 771(7)(B) of the Tariff Act of 1930 (the "Act") (19 U.S.C. § 1677(7)(B)) provides that in making its determinations of injury to an industry in the United States, the Commission--

> *shall consider (I) the volume of imports of the subject merchandise, (II) the effect of imports of that merchandise on prices in the United States for domestic like products, and (III) the impact of imports of such merchandise on domestic producers of domestic like products, but only*

[1] The imported product subject to this investigation is silicon metal from Russia, which is classified in subheadings 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule of the United States (HTS). For a more complete description of the subject product, see the section of the report titled *The Subject Product.*

[2] *Federal Register* notices cited in the tabulation since the Commission's preliminary determination are presented in app. A.

in the context of production operations within the United States; and. . . may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.

Section 771(7)(C) of the Act (19 U.S.C. § 1677(7)(C)) further provides that--

In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States is significant.

. . .

In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether. . .(I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.

. . .

In examining the impact required to be considered under subparagraph (B)(i)(III), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to . . . (I) actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, (IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and (V) in [an antidumping investigation], the magnitude of the margin of dumping.

Information on the subject merchandise, margins of dumping, and the domestic like product is presented in *Part I.* Information on conditions of competition and certain economic factors is presented in *Part II. Part III* presents information on the condition of the U.S. industry, including data on capacity, production, shipments, inventories, and employment. The volume and pricing of imports of the subject merchandise are presented in *Parts IV* and *V*, respectively. *Part VI* presents information on the financial condition of U.S. producers.

The statutory requirements and information obtained for use in the Commission's consideration of the question of threat of material injury are presented in *Part VII.*

SUMMARY DATA

A summary of data collected in the investigation is presented in appendix C. U.S. industry data on silicon metal are based on the questionnaire responses of firms accounting for all known U.S. production during 1999-2001 and January-September 2002. U.S. import data are based on official statistics and U.S. importer inventory data are based on the questionnaire responses of firms accounting for approximately *** percent of U.S. imports from Russia during this period.[3] Data on the foreign producers in Russia are based on the questionnaire responses of firms believed to account for all known production of the subject merchandise in Russia.

PREVIOUS INVESTIGATIONS

The Commission has conducted three original antidumping investigations and three 5-year reviews concerning silicon metal from Argentina, Brazil, and China. As a result of these investigations, there are currently antidumping duty orders on imports of silicon metal from Brazil and China. Information relating to the original investigations and the sunset reviews is presented in table I-1.

Table I-1
Silicon metal: Previous investigations under Title VII of the Act

Source	Investigation number	Result	Dates		USITC report number
			Institution	Order	
Argentina	731-TA-470 (Final)	Affirmative	8/24/1990	9/26/1991	2429, Sept. 1991
	731-TA-470 (Review)	Negative	2/3/2000	Revoked–2/16/2001	3385, Jan. 2001
Brazil[1]	731-TA-471 (Final)	Affirmative	8/24/1990	7/31/1991	2404, July 1991
	731-TA-471 (Review)	Affirmative	2/3/2000	2/16/2001	3385, Jan. 2001
China[2]	731-TA-472 (Final)	Affirmative	8/24/1990	6/10/1991	2385, June 1991
	731-TA-472 (Review)	Affirmative	2/3/2000	2/16/2001	3385, Jan. 2001

[1] The current AD duty rates (in percent *ad valorem*), by exporter are: CBCC; 0.0; Minasligas, 0.74; Rima, 0.0; and all others, 91.08. Commerce revoked the order in part for Rima because the firm demonstrated three consecutive years of sales at not less than normal value, and aggregate sales to the United States were made in commercial quantities. *See* 67 FR 77226, December 17, 2002.
[2] The current AD duty rate is a country-wide rate of 139.49 percent *ad valorem*.

Source: Cited Commission publications.

[3] Based on a comparison of official statistics of Commerce and responses of importers to questionnaires of the Commission.

THE NATURE AND EXTENT OF SALES AT LTFV

Commerce has determined that silicon metal from Russia is being, or is likely to be, sold in the United States at LTFV.[4] The following tabulation provides the amended final weighted-average dumping margins (in percent *ad valorem*) determined by Commerce for companies subject to this investigation:[5]

Exporter	Dumping margins[1] [2] (percent *ad valorem*)
ZAO Kremny/SKU	56.11
Bratsk	79.42
Russia-wide rate	79.42

[1] Commerce's period of investigation was July 1, 2001-December 31, 2001.
[2] Commerce utilized its non-market economy (NME) methodology for the investigation, because the petition pre-dated Commerce's revocation of Russia's status as an NME (effective April 1, 2002). Egypt was used as the primary surrogate country for valuing the factors of production.

With respect to petitioners' allegations of critical circumstances, Commerce found that critical circumstances do not exist for Bratsk, SKU, and ZAO Kremny; and that critical circumstances exist for imports of silicon metal manufactured and/or exported by the Russia-wide entity.[6]

THE SUBJECT PRODUCT

Scope

The imported product subject to this investigation is defined by Commerce as–

...silicon metal which generally contains at least 96.00 percent but less than 99.99 percent silicon by weight. The merchandise covered by this investigation also includes silicon metal from Russia containing between 89.00 and 96.00 percent silicon by weight, but containing more aluminum than the silicon metal which contains at least 96.00 percent but less than 99.99 percent silicon by weight . . . This investigation covers all silicon metal meeting the above specification, regardless of tariff classification.[7]

[4] 68 FR 6885, February 11, 2003.

[5] 68 FR 12037, 12039, March 13, 2003.

[6] 68 FR 6885, 6888, February 11, 2003.

[7] *Id,* 6886.

U.S. Tariff Treatment

Current tariff rates (2003) for subject silicon metal are presented in the tabulation below:

HTS subheading	Article description[1]	General[2]	Special[3]	Column 2[4]
		Rates *(percent ad valorem)*		
2804.69.10	Silicon: Silicon containing by weight less than 99.99 percent but not less than 99.00 percent of silicon	5.3	Free[5]	21.0
2804.69.50	Other silicon	5.5	Free[6]	45.0

[1] An abridged description is provided for convenience; however, an unabridged description may be obtained from the respective headings, subheadings, and legal notes of the HTS. The subject product is treated for tariff purposes as a separate chemical element, rather than being classified in the metals chapters.
[2] Normal trade relations, formerly known as the most-favored-nation duty rate, applicable to imports from Russia.
[3] For eligible goods under the Generalized System of Preferences, Andean Trade Preference Act, Caribbean Basin Economic Recovery Act and Trade Partnership Act, Israel Free Trade Agreement (FTA), and NAFTA-originating goods of Canada and Mexico. Brazil and India are excluded from GSP treatment under 2804.69.10, and only the least-developed GSP beneficiaries are eligible under 2804.69.50.
[4] Applies to imports from a small number of countries that do not enjoy normal or preferential trade relations duty status.
[5] The applicable rate for eligible goods of Jordan is 1.3 percent.
[6] The applicable rate for eligible goods of Jordan is 1.3 percent.

Source: Harmonized Tariff Schedule of the United States (2003).

DOMESTIC LIKE PRODUCT

In its original 1991 antidumping determinations, the Commission found the domestic like product[8] to be "all silicon metal, regardless of grade, having a silicon content of at least 96.00 percent but less than 99.99 percent of silicon by weight, and excluding semiconductor grade silicon."[9] In its 2001 5-year review determinations, the Commission found the domestic like product to be "all silicon metal, regardless of grade, corresponding to the current scope of the orders."[10] During the preliminary phase of the current investigation the Commission found a single domestic like product consisting of "all silicon metal consistent with Commerce's scope, regardless of grade."[11]

Information gathered during this investigation concerning the Commission's domestic like product factors, for both imported and domestically produced silicon metal, is presented below.

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[8] The Commission's decision regarding the appropriate domestic products that are "like" the subject imported products is based on a number of factors, including (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and, where appropriate, (6) price. Pricing information is presented in Part V of this report.

[9] *Silicon Metal from China*, Investigation No. 731-TA-472 (Final), USITC Pub. 2385, June 1991, p. 10; *Silicon Metal from Brazil*, Investigation No. 731-TA-471 (Final), USITC Pub. 2404, July 1991, pp. 6-9; and *Silicon Metal from Argentina*, Investigation No. 731-TA-470 (Final), USITC Pub. 2429, September 1991, pp. 5-8.

[10] *Silicon Metal from Argentina, Brazil, and China*, Investigations Nos. 731-TA-470-472 (Review), USITC Pub. 3385, January 2001, pp. 4-5.

[11] *Silicon Metal from Russia*, Inv. No. 731-TA-991 (Preliminary), USITC Pub. 3502, April 2002, p. 5.

Physical Characteristics and Uses

Silicon is a chemical element, metallic in appearance, solid in mass, and steel gray in color that is commonly found in nature in combination with oxygen either as a silica (SiO_2) or in combination with both oxygen and a metal in silicate minerals. Although commonly referred to as a metal, silicon exhibits characteristics of both metals and nonmetals. Silicon metal, whether imported or domestic, is usually sold in lump form typically ranging from 6 inches x ½ inch to 4 inches x ¼ inch.[12] Silicon metal is a polycrystalline material, whose crystals have a diamond cubic structure at atmospheric pressure.

The type and level of impurities rather than the precise silicon content (assuming it is near 99 percent) is the principal factor determining whether the silicon metal product can be used in a given application. As such, it is not possible to assume that silicon metal imported under HTS subheading 2804.69.10 (silicon containing by weight less than 99.99 percent but not less than 99.00 percent silicon) is necessarily "purer" than silicon metal imported under HTS subheading 2804.69.50 (silicon containing by weight less than 99.00 percent silicon) even though the silicon content of the former is higher.

There are four broadly defined categories, or grades, for silicon metal, which are ranked in generally descending order of purity as: (1) semiconductor grade;[13] (2) chemical grade; (3) a metallurgical grade used to produce primary aluminum (aluminum produced from ore); and (4) a metallurgical grade used to produce secondary aluminum (aluminum produced from scrap).[14] However, higher grade silicon metal is sometimes shipped to a purchaser with a lower specification requirement

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[12] Petition, p. 10. The dimensions refer to the maximum and minimum dimensions of the silicon metal lumps. If the specification is 6 inches x ½ inch, no dimension of a lump can be larger than 6 inches or smaller than ½ inch.

[13] As previously mentioned, semiconductor grade silicon used in the electronics industry is not covered in this investigation. It is a high-purity product generally containing over 99.99 percent silicon. Petition, pp. 10-11. *See also*, Commerce's scope definition, 67 FR 15791, April 3, 2002.

[14] Although silicon metal has been described in terms of different grades, there is, in fact, no uniformly accepted grade classification system. Silicon metal "grades" actually refer to ranges of specifications that are typically sold to particular groups of customers. These specifications, which exist within very narrow ranges and are often proprietary, establish the minimum amounts of silicon and the maximum amounts of impurities, such as iron, calcium, aluminum, or titanium, that the silicon metal may contain. Specifications for chemical-use silicon metal typically require silicon that contains less than 0.4 percent iron, less than 0.025 percent calcium, and less than 0.25 percent aluminum. Specifications for the metallurgical primary-aluminum use silicon metal typically require silicon that contains less than 0.5 percent iron (although some low-iron specifications call for less than 0.35 percent iron) and less than 0.07 percent calcium (although some specifications call for less than 0.015 percent). Specifications for silicon used in metallurgical secondary-aluminum use typically allow for no more than 1 percent iron and no more than 0.35 percent calcium (petition, p. 11, and conference transcript, p. 68). Chemical customers each have their own detailed specifications. Requirements also vary widely among primary-aluminum customers. Even some secondary-aluminum customers, whose product comes closest to representing a commodity, have differences in tolerances with regard to impurities.

because of market factors such as excess product availability and low shipping costs.[15] The silicon metal content for all three grades of silicon metal is typically at least 98.5 percent.[16]

According to *** there are no known substitutes for silicon metal.[17] Silicon metal is used in the chemical industry to produce silanes which are, in turn, used to produce a family of organic chemicals known as silicones. Silicones are used in a wide variety of applications including resins, lubricants, plastomers, anti-foaming agents, and water-repellent compounds which are employed in the chemical, pharmaceutical, automotive, and aerospace industries.[18] Silicon metal employed in the production of primary and secondary aluminum is used as an alloying agent (it is a required component in aluminum casting alloys) because the silicon increases fluidity and reduces shrinkage while it enhances strength, castability, and weldability.[19] Primary aluminum applications include the manufacture of components that require higher purity aluminum, such as automobile wheels. Secondary-aluminum applications apply primarily to the automotive castings industry. Other applications for silicon metal include the production of brass and bronzes, steel, copper alloys, ceramic powders, and refractory coatings.

Manufacturing Process

Silicon metal is produced from mined quartzite (a rock consisting principally of quartz, a natural crystallized silica) which is washed, crushed, and screened. Only material containing a high percentage of silica (over 99 percent) and a low iron content (less than one percent) can be used to produce silicon metal. The quartzite is combined with a carbon-containing reducing agent (low-ash coal, petroleum coke, charcoal, or coal char) and a bulking agent (such as wood chips) in a submerged-arc electric furnace[20] to produce molten silica, which is reduced to silicon metal. The overall chemical reaction is summarized below:

$$SiO_2 \text{ (silica)} + 2C \text{ (carbon)} \rightarrow Si \text{ (silicon metal)} + 2CO \text{ (carbon monoxide)}$$

[15] According to petitioners, in general producers "make the best quality silicon metal they can possibly make and sell it down into the various chemical and aluminum applications" and "to the knowledge of domestic producers, no producer purposely sets out to produce a secondary aluminum product." Petitioners' *Answers to Questions from Staff Conference*, April 5, 2002, p. 3. Counsel for petitioners reported that all three domestic producers of silicon metal produce a single metal product (which is not necessarily identical to the silicon metal produced by the other producers) whose specifications are designed to meet the most stringent requirements of their customers. Occasionally, an adjustment may be made which simply involves the change of an input (e.g., the type of coal used to achieve a lower iron content) to meet the special needs of an established or new customer. February 13, 2003, e-mail from Jessie Brooks, Piper Rudnick.

[16] Petition, p. 11.

[17] Responses of *** to the Commission's U.S. producers' questionnaire, question IV-B.8.

[18] Petition, p. 10.

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

[20] The process relies on electricity from a transformer system and is extremely energy intensive.

The hot metal is poured into iron molds or onto beds of silicon metal fines for cooling, and is then shaped into ingots or crushed to the desired size for shipping.[21] A schematic diagram of the silicon metal production process is shown in figure I-1.[22]

Lumps of the chemical-grade silicon are manufactured to be of smaller size (about 1 inch maximum) compared with the metallurgical grades. Also, the more refined grades of silicon metal require an oxidative refining step that is not required to produce secondary aluminum. However, as previously noted, in practice U.S. producers usually subject all the silicon metal that they produce to oxidative refining and "sell down" the higher-grade silicon metal to secondary aluminum customers even though these have less stringent purity specifications. The estimated difference in cost between the more refined grades and the secondary aluminum grade, assuming the oxidative refining step was eliminated in producing the latter, is ***. Differences in costs also arise because some forms of silicon (e.g., the low-iron grades), require higher raw material expenditures; the difference in raw materials costs between the low-iron grade and other forms of silicon amounts to about *** per pound.[23]

Two U.S. silicon metal producers also produce ferrosilicon,[24] which is used in the production of steel, especially stainless and heat-resisting steel and cast iron.[25] Producers can switch production between ferrosilicon and silicon metal with varying degrees of cost, downtime, and efficiency loss.[26] [27] It is generally easier for firms to switch from silicon metal production to ferrosilicon production than the reverse. Ferrosilicon contains more impurities than silicon metal and tends to contaminate the furnace lining with impurities intolerable in silicon metal production. Typically, when production is switched from ferrosilicon to silicon metal, the furnace must, at a minimum, be relined. In addition, certain furnace designs are more efficient at producing one product than another, leading to a consideration of an efficiency loss when switching production.[28]

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[21] *Silicon Metal from China*, Investigation No. 731-TA-472 (Final), USITC Pub. 2385, June 1991, pp. A-1-9.

[22] Petition, exh. 8.

[23] Petitioners' *Answers to Questions from Staff Conference*, April 5, 2002, pp. 3-4.

[24] According to table 3 of the *Mineral Industry Surveys, Silicon: 2001 Annual Review* published by the U.S. Geological Survey (August 2002), Elkem and Globe produce both silicon metal and ferrosilicon.

[25] Ferrosilicon is a product used by the steel industry as an alloying agent. Ferrosilicon differs from silicon metal in that it has a much lower silicon content, ranging from 50 to 96 percent, and greater levels of impurities, including iron.

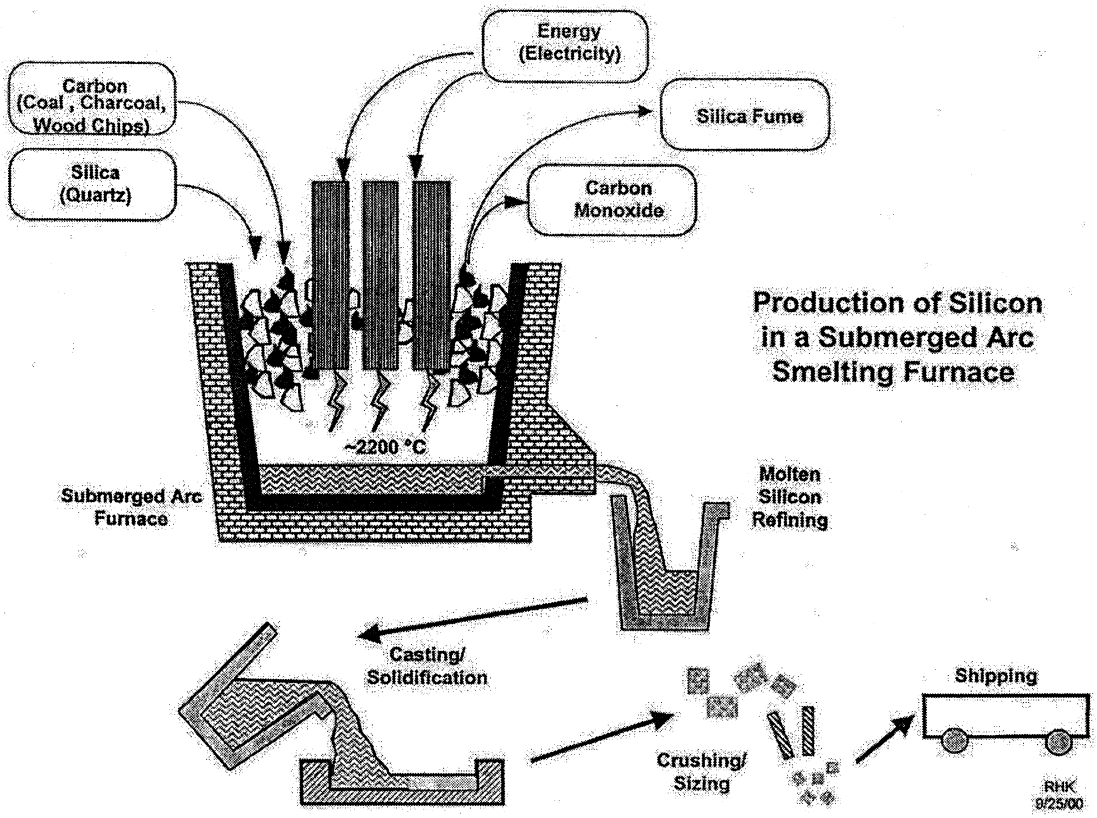
[26] Globe converted two silicon metal furnaces at its facility in Beverly, OH, to ferrosilicon production in 2000 and converted one silicon metal furnace at its facility in Niagara Falls, NY, to ferrosilicon production in August 2001; the latter was subsequently shut down.

According to industry sources, no ferrosilicon furnace in the United States was converted to silicon metal production during the period examined; however, a ferrosilicon furnace was reported to have been converted to silicon production outside the United States. The conversion of ferrosilicon to silicon metal is technically possible for smaller ferrosilicon furnaces but may be technically impossible if the ferrosilicon furnace is large. Petitioners' *Answers to Questions from Staff*, April 5, 2002, pp. 27-31 and exh. 8.

[27] A U.S. producer of silicon metal testified that the company would strongly consider reconverting ferrosilicon production facilities back to silicon metal production with a market recovery, as it is more profitable to produce silicon metal than ferrosilicon (hearing transcript, *Perkins*, pp. 74-75).

[28] *Silicon Metal from China*, Investigation No. 731-TA-472 (Final), USITC Pub. 2385, June 1991, p. A-9.

Figure I-1
Silicon metal: Schematic diagram of the production process



Source: Petition, exh. 8.

Interchangeability and Customer and Producer Perceptions

Silicon metal is generally considered to be a commodity product in that materials of the same grade are considered interchangeable. As stated by a representative from Globe, "Competing suppliers produce essentially the same product using the same raw materials and the same production process. They sell it on the same basis and to the same customers."[29] According to the petitioners, the silicon metal produced in Russia was historically of lower purity than the domestic material, and was principally used in metallurgical applications. However, because of quality improvements, imported silicon metal from Russia and domestically produced silicon metal currently compete directly in all three major markets for silicon metal (including chemicals) and are interchangeable.[30] [31] Conversely, according to the respondents, Russian producers are excluded from a significant segment of the U.S. primary

[29] Conference transcript, p. 11.

[30] Petition, pp. 17-18, and conference transcript, p. 11.

[31] Chemical producers may require qualification of silicon metal suppliers. GE Silicones first qualified silicon metal from Russia in 1999. Because of improvements in methodology by GE Silicones, the duration of the qualification process declined from two years or longer to about one year (hearing transcript (*Haynes*), pp. 154-159).

aluminum market[32] because no Russian producer is qualified to manufacture low-iron silicon metal (less than 0.35 percent iron) due to the composition of quartzite deposits in Russia. [33] [34] However, counsel for SUAL Holding and ZAO Kremny stated that except for those applications that require low-iron grades of silicon, the various grades of silicon metal produced in Russia are of sufficient variety and purity that the Russian material is competitive in virtually all U.S. markets and applications.[35]

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[32] Principally producers of low-iron foundry alloys for applications such as alloy wheel rims used in the automotive industry.

[33] Conference transcript, pp. 68 and 76-77. Counsel for Bratsk reported that the firm did not plan to produce low-iron silicon metal in the foreseeable future (April 10, 2002, staff interview with Quentin Baird). ZAO Kremny *** (February 20 and 21, 2003, e-mails from F. Waite and K. Young, Holland & Knight).

[34] Respondents estimated that the total annual apparent consumption of low-iron silicon metal during 2001 was approximately 47,000 tons used by primary aluminum producers (Respondents' postconference brief, exh. 1). During the final phase of this investigation, the Commission's questionnaires sought information on U.S. shipments of low-iron silicon metal. No imports of such product from Russia were reported. Information on U.S. shipments of U.S.-produced product and imports from other sources of low-iron silicon metal for the primary aluminum market is presented below:

Item	1999	2000	2001	January-September	
				2001	2002
U.S. producers U.S. shipments: Quantity (*short tons of contained silicon*)	***	***	***	***	***
Share of total U.S. shipments (*percent*)	***	***	***	***	***
Share of primary aluminum market (*percent*)	***	***	***	***	***
U.S. shipments of imports from other sources: Quantity (*short tons of contained silicon*)	***	***	***	***	***
Share of total U.S. shipments (*percent*)	***	***	***	***	***
Share of primary aluminum market (*percent*)	***	***	***	***	***

***:

Item	1999	2000	2001	January-September	
				2001	2002
Quantity (*short tons of contained silicon*)	***	***	***	***	***
Share of total U.S. shipments (*percent*)	***	***	***	***	***
Share of *** market (*percent*)	***	***	***	***	***

[35] April 11, 2002, staff interview with Frederick Waite, counsel for SUAL Holding and ZAO Kremny. *See also*, petitioners' prehearbrief, p. 9; respondents' prehearing brief, p. 5; and hearing transcript (*Perkins*), p. 16.

Channels of Distribution and Market Segments

The vast majority of U.S.-produced and imported silicon metal is sold directly to end users. During the period of investigation, U.S. shipments of domestically produced silicon metal sold to end users accounted for 97-99 percent of shipments, U.S. shipments of imports from Russia to end users accounted for 84-100 percent of shipments, and U.S. shipments of imports from all other sources to end users accounted for 98-100 percent of shipments.

The three major markets for silicon metal in the United States are chemical producers, primary aluminum producers, and secondary aluminum producers. Other purchasers include solar and electronic silicon producers, die casters, refractory producers, copper producers, and steel producers.[36] Data concerning U.S. shipments of U.S.-produced and imported silicon metal, by market segment, are presented in tables I-2 and D-1 (appendix D).

Prices

Information with respect to pricing of specific silicon metal products from Russia and the United States is presented in *Part V* of this report, *Pricing and Related Information.* Additional information regarding available average unit values of silicon metal from the United States, Russian, and nonsubject sources is presented in table I-3 and figures I-2-I-4.[37] Principal nonsubject sources of silicon metal are South Africa, Brazil, and Canada.

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[36] Petition, p. 14.

[37] Data and graphic presentations regarding average unit values are based on combined silicon metal types and HTS categories. As previously reported, the level of impurities rather than silicon content primarily distinguishes products, and as such, it is not possible to assume that silicon metal imported under HTS subheading 2804.69.10 is necessarily purer than silicon metal imported under HTS subheading 2804.69.50 (p. I-7). In addition, both HTS categories are sold to chemical, primary aluminum, and secondary aluminum purchasers (*compare*, Customs Net Import File and importer questionnaire responses).

Table I-2
Silicon metal: Shares of U.S. producers' and importers' U.S. shipments, by end uses, 1999-2001, January-September 2001, and January-September 2002

Item	Calendar year			January-September	
	1999	2000	2001	2001	2002
	Shares of total U.S. shipments (*percent*, based on quantity)				
U.S.-produced: Chemical producers	***	***	***	***	***
Primary aluminum producers	***	***	***	***	***
Secondary aluminum producers	20.9	22.8	20.4	21.2	15.4
Other producers	***	***	***	***	***
Imports from Russia: Chemical producers	***	***	***	***	***
Primary aluminum producers	***	***	***	***	***
Secondary aluminum producers	84.4	75.6	65.9	58.3	70.8
Other producers	***	***	***	***	***
Imports from all other sources: Chemical producers	***	***	***	***	***
Primary aluminum producers	***	***	***	***	***
Secondary aluminum producers	32.7	34.7	36.4	30.6	35.2
Other producers	(1)	(1)	(1)	(1)	(1)
	Shares of market segment and total (*percent*, based on quantity)				
Chemical producers: U.S.-produced	***	***	***	***	***
Imports from-- Russia	***	***	***	***	***
All other sources	***	***	***	***	***
Chemical market	***	***	***	***	***
Primary aluminum producers: U.S.-produced	***	***	***	***	***
Imports from-- Russia	***	***	***	***	***
All other sources	***	***	***	***	***
Primary aluminum market	***	***	***	***	***
Secondary aluminum producers: U.S.-produced	47.7	45.5	37.6	44.2	19.7
Imports from-- Russia	23.3	19.3	25.9	21.7	39.4
All other sources	29.0	35.3	36.6	34.1	40.9
Secondary aluminum market	29.0	30.6	30.8	28.0	33.4
Other producers: U.S.-produced	***	***	***	***	***
Imports from-- Russia	***	***	***	***	***
All other sources	(1)	(1)	(1)	(1)	(1)
Other markets	***	***	***	***	***

[1] Not applicable; none reported.

Source: Table D-1.

Table I-3
Silicon metal: Average unit values of U.S. producers' and importers' U.S. shipments, by end uses, 1999-2001, January-September 2001, and January-September 2002

Unit value (*per short ton of contained silicon*)

Item	Calendar year			January-September	
	1999	2000	2001	2001	2002
Chemical producers:					
U.S.-produced	$***	***	***	***	***
Imports from-- Russia	***	***	***	***	***
All other sources	***	***	***	***	***
Primary aluminum producers:					
U.S.-produced	***	***	***	***	***
Imports from-- Russia	***	***	***	***	***
All other sources	***	***	***	***	***
Secondary aluminum producers:					
U.S.-produced	1,233	1,148	1,093	1,089	1,038
Imports from-- Russia	1,107	1,090	1,046	1,058	940
All other sources	1,090	1,035	1,055	1,063	1,016
Other producers:					
U.S.-produced[1]	***	***	***	***	***
Imports from-- Russia[2]	***	***	***	***	***
All other sources	([3])	([3])	([3])	([3])	([3])

[1] Other producers include solar and electronic silicon producers, die casters, refractory producers, copper producers, and steel producers (petition, p. 14).
[2] The product sold to other producers during 2001, consisted ***.
[3] Not applicable; none reported.

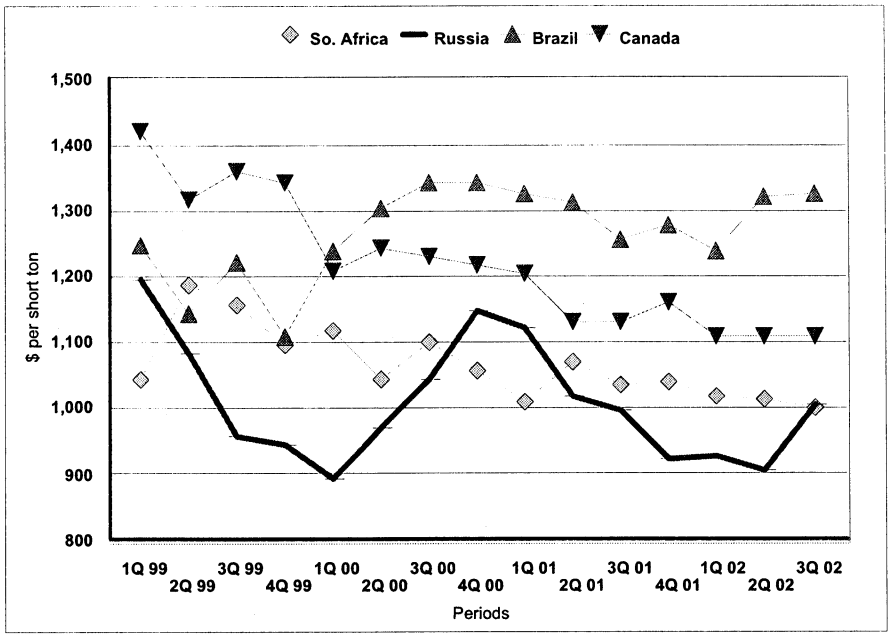
Source: Table D-1.

Figure I-2
Silicon metal: Average unit values of U.S. producers' and importers' U.S. shipments, by end uses, 1999-2001, and January-September 2002

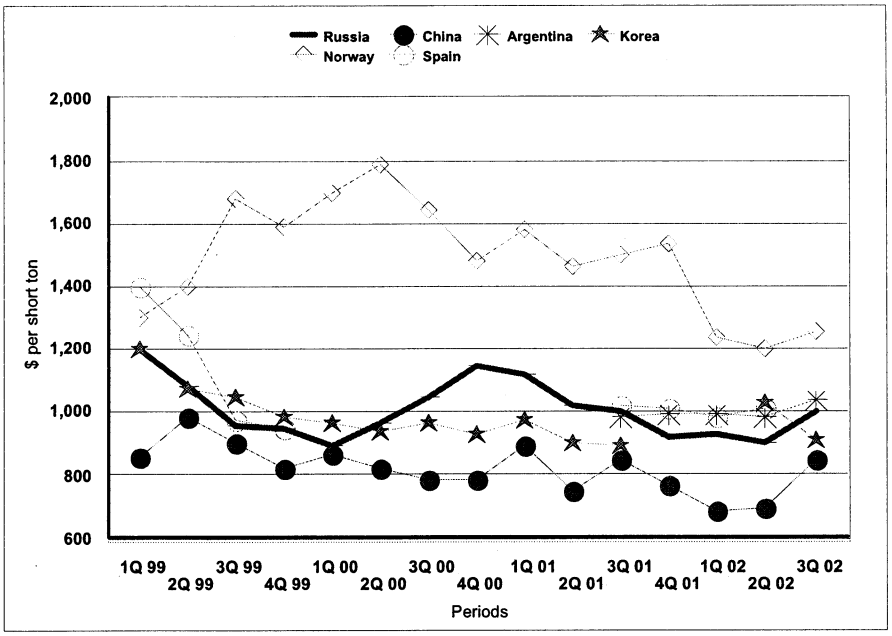
* * * * * * *

Figure I-3
Silicon metal: Quarterly import average unit values, January 1999-September 2002

Top 4 sources[1]



Russia and next 5 sources[2] [3]



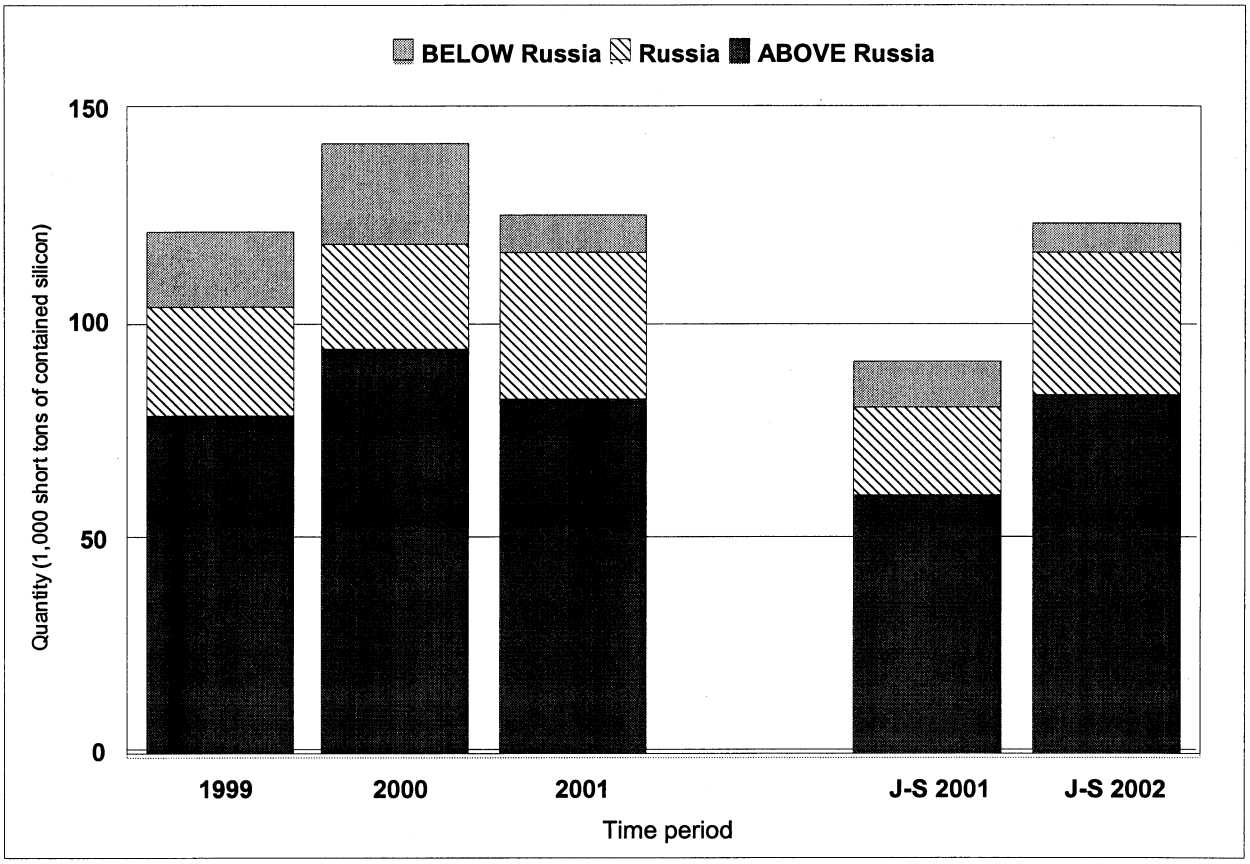
[1] Shares (*percent*) of total imports accounted for by the top 4 sources during 2001 are: South Africa, 27.9; Russia, 27.0; Brazil, 13.7; Canada, 13.7; for a total of 82.3 percent.

[2] Shares (*percent*) of total imports accounted for by the next 5 sources during 2001 are: Norway, 4.0; China, 3.4; Spain, 2.7; Argentina, 2.4; Korea, 1.9; for a total of 14.5 percent.

[3] Imports from Norway principally consisted of ***. The imported product is produced through an "acid leach" (vs. mechanical crush) process which lowers impurities such as iron and boron, and is considered a premium product. January 16, 2003, telephone interview with ***.

Source: Compiled from official Commerce statistics, adjusted using data from the Customs Net Import File (see table E-1 (appendix E), fn. 1, for a description of adjustments).

Figure I-4
Silicon metal: Import volumes, arrayed on the basis of average unit values that are above and below those of Russia, 1999-2001, January-September 2001, and January-September 2002[1] [2] [3]



[1] See table E-1 (appendix E), fn. 1, for a description of adjustments.

[2] Respective shares (percent) of nonsubject imports with average unit values above and below imports from Russia during the five periods are: ABOVE–83.2, 81.3, 91.5, 86.0, and 93.1 percent; BELOW–16.8, 18.7, 8.5, 14.0, and 6.9 percent.

[3] If average unit values were not adjusted, there is a significant difference in respective shares of nonsubject imports with average unit values above and below imports from Russia during 2001, and January-September 2001: ABOVE–45.0 and 44.8 percent; BELOW–55.0 and 55.2 percent.

Source: Compiled from official Commerce statistics, adjusted using data from the Customs Net Import File.

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

MARKET CHARACTERISTICS

Silicon metal is sold primarily to end users with limited amounts sold to distributors. During the period examined, virtually all shipments of U.S.-produced silicon metal and the overwhelming majority of U.S. importers' shipments of subject merchandise were made directly to end users.

There are three main customer groups for silicon metal in the U.S. market: primary aluminum producers, secondary aluminum producers, and chemical producers. During the period examined, the largest market for U.S. producers of silicon metal was the chemical market, while the majority of imports of silicon metal from Russia was sold to the secondary aluminum market in each year of the period examined. From January 1999 to September 2002, the amount of Russian silicon metal sold to the chemical market increased significantly. In 1999, shipments of Russian silicon metal sold to the chemical market accounted for *** percent of total shipments of imports from Russia; however, by 2001, this amount rose to *** percent and accounted for *** and *** percent of total shipments during the first nine months of 2001 and 2002, respectively.[1]

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Based on available information, U.S. producers of silicon metal have the ability to respond to changes in price with moderate to large changes in the quantity of shipments of U.S.-produced silicon metal to the U.S. market. The main factors contributing to this degree of responsiveness are unused capacity and production flexibilities.

Industry Capacity

Data reported by U.S. producers indicate that there is excess capacity with which to expand production in the event of price changes. Domestic capacity utilization declined irregularly over the period, rising from 85.9 percent in 1999 to 90.9 percent in 2000 and then falling to 73.3 percent in 2001 and 59.4 percent in interim 2002.

Inventory Levels

Inventories of domestically produced silicon metal, as a ratio to total shipments, were relatively low and declined irregularly over the period. Domestic producers' inventories (relative to total shipments) increased from *** percent in 1999 to *** percent in 2000 and then fell sharply to *** percent in 2001. Inventories increased somewhat to *** percent in interim 2002. These data indicate that U.S. producers are likely to be constrained in their ability to use inventories as a means to increase supply to the U.S. market.

Export Markets

Exports of domestic silicon metal accounted for a small share of total shipments over the period examined. Exports (relative to total shipments) declined from *** percent in 1999 to *** percent in 2000 and to *** percent in 2001. Exports increased somewhat to *** percent in interim 2002. These data

[1] *See,* table I-2 in this report.

indicate that U.S. producers have limited flexibility to use exports to alter supply in response to price changes in the U.S. market.

Production Alternatives

U.S. producers have the ability to shift production from the production of silicon metal to the production of other products, such as ferrosilicon. In their responses to Commission staff questions during the preliminary phase of this investigation, petitioners reported that "it is fairly easy, rather quick and relatively inexpensive to convert a furnace from silicon metal production to ferrosilicon production." However, it is harder, takes longer and costs more to convert a furnace from the production of ferrosilicon to the production of silicon metal. Thus, while there is some time and expense involved in switching, the flexibility to do so enhances domestic silicon metal producers' ability to alter production levels of silicon metal.

Import Supply

Based on available information, Russian producers of silicon metal have the ability to respond to changes in price with moderate to large changes in the quantity of shipments of Russian silicon metal to the U.S. market. The main factors contributing to this degree of responsiveness are unused capacity and the existence of alternate markets.

Industry Capacity

Data reported by Russian producers indicate that there is excess capacity with which to expand production in the event of price changes in the U.S. market. Capacity utilization for Russian producers was at its highest level in 2001 but was still below *** percent.

Export Markets

Russian producers sell silicon metal in the Russian home market, the U.S. market, and other non-U.S. export markets.[2] From January 1999 to September 2002, commercial shipments to the Russian home market accounted for between *** and *** percent of total shipments. Exports to the U.S. market accounted for between *** and *** percent of total shipments while exports to alternate markets accounted for *** to *** percent of total shipments. These data indicate that Russian producers have the flexibility to use exports to alternate markets to increase or decrease shipments to the U.S. market in response to price changes in the U.S. market.

U.S. Demand

Based on available information, the overall demand for silicon metal is unlikely to change significantly in response to changes in price. The main factor contributing to the low degree of price sensitivity is the reported lack of substitute products.

Demand Characteristics

The demand for silicon metal follows the demand of the products in which it is used, specifically aluminum products and certain chemical products. U.S. producers reported that demand generally decreased during 1999-2002. According to the producers, the decline in demand has been evident in both

[2] Other export markets include: ***.

the aluminum and chemical sectors of the market, although not necessarily at the same time. *** reported that overall demand was very strong throughout the decade which ended in 1997 and that beginning in 1998, the trend reversed. According to ***, the increases in silicon metal demand during the 1990s were fueled by increases in the chemical sector; however, demand in this sector started to decrease around 1998. *** stated that while demand for silicon metal in the chemical sector improved slightly in 1999 and 2000, it fell by over 15 percent in 2001 and showed further declines in the first quarter of 2002. According to ***, overall silicon metal demand in the second quarter of 2002 improved somewhat and remained stable in the third quarter.[3] Six of ten importers that provided usable responses to the question on demand changes reported that the demand for silicon metal in the U.S. market has remained flat or decreased, while the remaining four importers reported that demand has improved primarily because of new aluminum applications in the automotive industry.[4] [5] In general, both U.S. producers and importers agreed that the declines in demand were due to poor economic conditions in the United States.

Substitute Products

All three U.S. producers reported that there are no products that could be substituted for silicon metal. Similarly, nine of 10 responding importers and 19 of 20 responding purchasers reported that there are no substitutes for silicon metal; the one importer noted that aluminum silicon alloy made up of 50 percent aluminum and 50 percent silicon may be a possible substitute, while the one purchaser noted that scrap may be a possible substitute.

Cost Share

Most responding producers and importers did not provide information on the cost share of silicon metal relative to the total cost of the end products in which it is used. *** estimated that the cost of silicon metal in aluminum applications generally ranges from 5 to 9 percent while the cost share for chemical applications ranges from 30 to 50 percent. Similarly, two importers estimated that the cost share of silicon metal in aluminum applications ranges from 7 to 10 percent.

Purchasers were also asked to provide information on the percentage of the total cost accounted for by silicon metal in their end-use products for which silicon metal is a material input. Of the 16 purchasers that responded to this question, 14 reported that silicon metal used in aluminum applications accounts for 1 to 8 percent of total cost, while the other two purchasers reported that silicon metal used in chemical applications accounts for 15 to 43 percent of total cost.

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported silicon metal depends upon such factors as relative prices, quality, and conditions of sale. Based on available data, staff believes that there is a relatively high degree of substitution between domestic silicon metal and subject imports from Russia.

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[3] In their prehearing brief, petitioners state that the demand for metallurgical grade silicon metal was relatively weak in 2001, while chemical grade silicon metal experienced relatively strong demand in 2001 despite weak U.S. economic performance (petitioners' prehearing brief, p. 12).

[4] In their prehearing brief, respondents state that silicon metal is a commodity product whose price is determined by trends in world supply and demand. Respondents state that demand peaked in 1996, then began to fall in 1997 and 1998 due to the effects of the Asian economic crisis. Demand continued to fall through 2001 due to reduced consumption of silicon metal in both the aluminum and chemical sectors (respondents' prehearing brief, pp. 9-11).

[5] At the hearing, Marcia Haynes of GE Silicones stated that demand for silicon metal in the chemical industry has been flat in the recent past, and the general strength of the U.S. economy will determine future demand for chemical grade silicon metal (hearing transcript, p. 121).

Factors Affecting Sales

Table II-1 summarizes purchasers' responses concerning their top three factors in purchase decisions. As indicated in the table, quality was cited most frequently as purchasers' primary factor in buying decisions, and price was the most frequently cited factor among the top three factors.[6]

Table II-1
Silicon metal: Ranking factors used in purchasing decisions, as reported by U.S. purchasers

Factor	Number of firms reporting		
	Number one factor	Number two factor	Number three factor
Availability	4	4	4
Price	6	6	8
Quality	9	6	4
Other[1]	1	4	4

[1] Other factors include credit terms, stability of supplier, and traditional supplier.

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

When asked how often their firm purchases silicon metal that is offered at the lowest price, one of 22 responding purchasers indicated "always," 11 indicated "usually," nine indicated "sometimes," and one indicated "never." Questions concerning purchasers' awareness of the country of origin and the manufacturer of silicon metal reveal that 17 of 22 responding purchasers "always" or "usually" know whether the silicon metal they are purchasing is U.S.-produced or imported, three purchasers "sometimes" know the origin, and two purchasers "never" know the origin.[7] Regarding the manufacturer, 14 of 22 responding purchasers "always" or "usually" know this information, while five reported they "sometimes" know and three reported they "never" know the manufacturer of the silicon metal they purchase.

[6] Purchasers were asked if they require their suppliers to become certified or prequalified in order to sell silicon metal to their firms. Of the 21 responding purchasers, 12 stated that they do require purchasers to become certified or prequalified.

[7] While all of its purchases of silicon metal during the period of investigation were of Russian origin, the purchaser *** reported that it typically does not know the country of origin until the silicon metal arrives. *** does not care where the silicon metal originated as long as it meets the required specifications (voice mail response from *** of ***, January 15, 2003).

Comparison of Domestic and Imported Silicon Metal

Questionnaire responses reveal general agreement on the issue of interchangeability between U.S.-produced and subject silicon metal (table II-2). All responding U.S. producers reported that silicon metal from different countries is used interchangeably.[8] [9]

Table II-2
Silicon metal: Perceived degree of interchangeability of silicon metal produced in the United States and in other countries

Country pair	Number of U.S. producers reporting		Number of U.S. importers reporting	
	Yes	No	Yes	No
U.S. vs. Russia	3	0	8	2
U.S. vs. other	3	0	13	0
Russia vs. other	3	0	11	0
Source: Compiled from data submitted in response to Commission questionnaires.				

Importers were in agreement when comparing U.S.-produced silicon metal and silicon metal from nonsubject import sources and when comparing Russian and the nonsubject product. However, two of the 10 responding importers reported that the Russian and U.S.-produced silicon metal are not interchangeable due to differences in iron content.

Purchasers were asked to rate domestically produced silicon metal against silicon metal imported from subject and nonsubject countries using a number of factors, such as availability, delivery time, discounts, price, minimum quantity requirements, packaging, product consistency, product quality, product range, reliability of supply, and technical support. Available information reveals that the U.S.-produced product is generally considered comparable to subject imports.[10] However, 11 of 11 responding purchasers noted that the U.S.-produced product is inferior to the Russian product in terms of lowest price.[11]

ELASTICITY ESTIMATES

U.S. Supply Elasticity

The domestic supply elasticity for silicon metal measures the sensitivity of the quantity supplied by the U.S. producers to changes in the U.S. market price for silicon metal. The elasticity of domestic supply depends on several factors, including the level of excess capacity, the existence of inventories, and

[8] Nonsubject imports include silicon metal from Brazil, Canada, China, and South Africa.

[9] Purchasers were asked if imported and domestically produced silicon metal are used in the same applications. Of the 13 responding purchasers, all 13 reported that silicon metal from the United States, Russia, and nonsubject countries is used in the same applications.

[10] Seven purchasers provided comparisons between domestic and nonsubject imported silicon metal, which included six comparisons of silicon metal imports from South Africa and one comparison each of silicon metal imports from Canada, Brazil, and Spain. In general, purchasers view imports from South Africa as comparable to the U.S.-produced product, however four purchasers believe the domestic product is inferior with respect to lowest price and three purchasers believe the domestic product is superior with respect to technical support. ***.

[11] Purchasers were split with respect to comparisons of technical support, with five of ten responding purchasers stating that the U.S. product is superior to the Russian product, and the other five stating that silicon metal from both countries is comparable.

the availability of alternate markets for U.S.-produced silicon metal. Previous analysis of these factors indicates that the U.S. industry is likely to have some ability to increase or decrease shipments to the U.S. market based on unused capacity and production flexibilities, yet may be somewhat constrained by a lack of alternative markets and relatively low inventory levels. An estimate in the range of 2 to 5 is suggested. No parties commented on this estimate.

U.S. Demand Elasticity

The U.S. demand elasticity for silicon metal measures the sensitivity of the overall quantity demanded to a change in the U.S. market price for silicon metal. This estimate depends on the factors discussed earlier, such as the existence, availability, and commercial viability of substitute products. As noted earlier, virtually all responding U.S. producers, importers, and purchasers of silicon metal stated that there are no substitute products for silicon metal. Based on available information, the aggregate demand for silicon metal is likely to be low. An estimate in the range of -0.25 to -0.50 is suggested. No parties commented on this estimate.

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products. Product differentiation, in turn, depends upon such factors as quality and conditions of sale. Based on available information, the elasticity of substitution between U.S.-produced silicon metal and silicon metal from Russia is likely to be in the range of 3 to 5. No parties commented on this estimate.

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

Information on capacity, production, shipments, inventories, and employment is presented in this section of the report, and is based on the questionnaire responses of four U.S. producers of silicon metal representing all known U.S. production during January 1999-September 2002. A summary of U.S. producer data is presented in appendix C.

U.S. PRODUCERS

Table III-1 presents U.S. producers responding to the Commission's questionnaires, including information on the location of production facilities and the share of reported U.S. production in 2001.

Three firms, Elkem, Globe,[1] and SIMCALA, currently produce silicon metal in the United States. A fourth producer, American Silicon Technologies (AST), ceased production operations in September 1999.[2] [3]

During the original silicon metal investigations in 1990-91, eight firms produced silicon metal: American Alloys,[4] Dow Corning,[5] Elkem, Globe, Reynolds,[6] Silicon Metaltech,[7] SiMETCO,[8] and SKW.[9]

---

[1] During the review investigations, Globe ***.

[2] AST ceased production in September 1999 ***.

[3] ***.

[4] American Alloys closed its production facility in 1998, and in January 2000 American Alloys filed for bankruptcy protection. In December 2001, the production assets of American Alloys were purchased out of bankruptcy by Highlander Core Industries, which plans to use the assets to produce silicomanganese. Petitioners' *Answers to Questions from Staff*, April 5, 2002, p. 7.

[5] Dow Corning sold its silicon metal production facility to Globe in 1993.

[6] Reynolds closed its plant in 1990. The Reynolds plant has never reopened.

[7] Silicon Metaltech declared bankruptcy and its assets were acquired by AST in 1993. By September 1999, AST had shut its facilities.

[8] SiMETCO declared bankruptcy in 1995 and its assets were acquired by SIMCALA.

[9] Globe acquired SKW's production facility in 1994.

Table III-1
Silicon metal: U.S. producers, location of production facilities, position with respect to the petition, U.S. production, and U.S. shipments, 2001

Firm	Location of production facilities	Position with respect to the petition	Production	Share of production	U.S. shipments	Share of U.S. shipments
			Short tons[1]	*Percent*	*Short tons*[1]	*Percent*
AST[2]	Rock Island, WA	***[3]	0	0	0	0
Elkem[4]	Alloy, WV	***[5]	***	***	***	***
Globe[6]	Beverly, OH Niagara Falls, NY Selma, AL Springfield, OR	Petitioner	***	***	***	***
SIMCALA[7]	Mt. Meigs, AL	Petitioner[8]	***	***	***	***
Total			145,324	100.0	151,766	100.0

[1] Quantity in short tons of contained silicon.
[2] AST ceased production in September 1999 ***.
[3] ***.
[4] Elkem is a ***.
[5] Elkem ***.
[6] Lee Capital Holdings, Boston, MA, owns ***.
[7] SIMCALA is a *** subsidiary of SIMCALA Holdings, Inc., Mt. Meigs, AL, which in turn is owned *** by ***.
[8] ***.

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

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

U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

U.S. producers' capacity, production, and capacity utilization data for silicon metal are presented in table III-2 and figure III-1. U.S. production capacity decreased by 18.6 percent from 1999 to 2001. U.S. production decreased by 30.6 percent from 1999 to 2001. Industry capacity utilization was 85.9 percent in 1999, 90.9 percent in 2000, and 73.3 percent in 2001.

Elkem increased its production capacity *** percent from 1999 to 2001.[10] Globe reduced capacity.[11] SIMCALA reported ***.[12] AST ceased production in September 1999.[13]

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[10] Elkem currently operates *** silicon metal furnaces. ***. Despite an overall increase in its production capacity, on August 26, 2001, Elkem shut down a furnace at its Alloy, WV, facility "***." *See*, Elkem's response to Commission's producers' questionnaire, question II-2. Petitioners' *Answers to Questions from Staff*, April 5, 2002, exh. 8.

[11] Globe indicated that it ""***." Globe's response to Commission's producers' questionnaire, question II-2. ***.

[12] SIMCALA indicated that ***." *See*, SIMCALA's response to Commission's producers' questionnaire, question II-2.

[13] Subsequent to AST's suspension of operations, the company relinquished its environmental permits, many of which had "grandfather" clauses allowing it to operate under substantially relaxed environmental guidelines. Any future start up of operations again at the Rock Island facility would require a substantial investment to upgrade its furnaces to meet current air quality standards. Petitioners' postconference brief, p. 16.

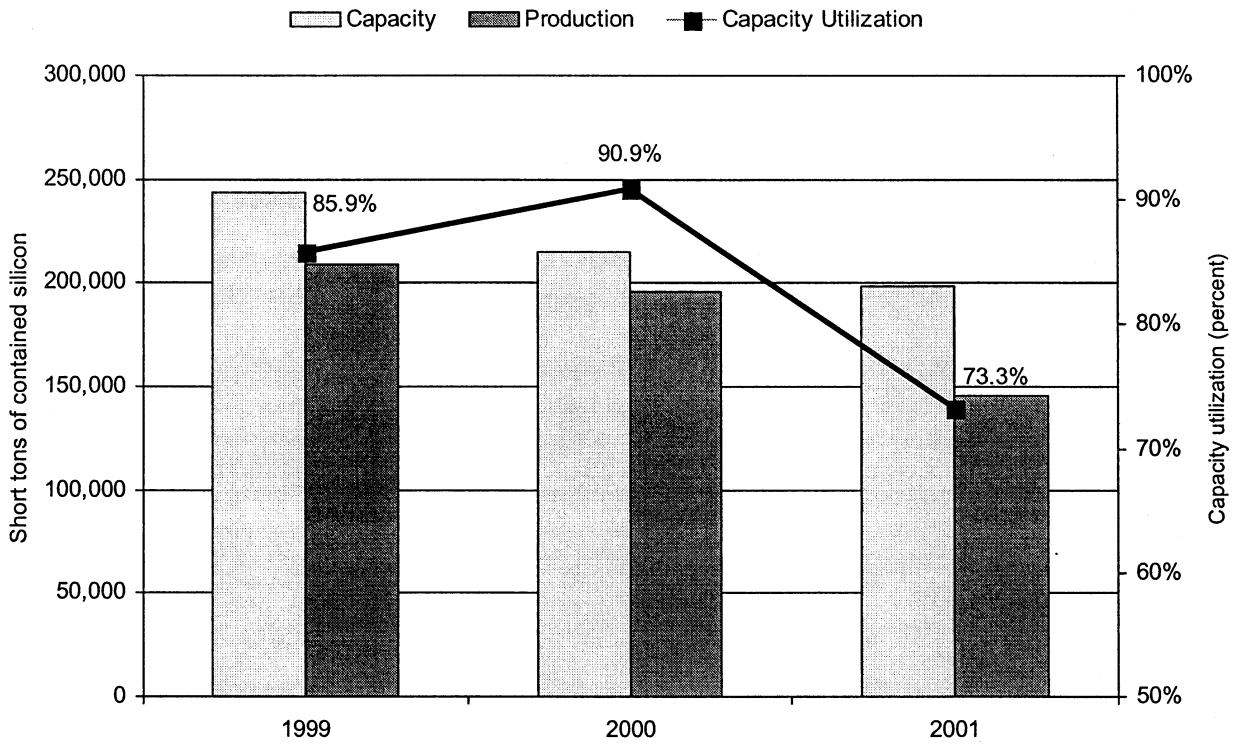
Table III-2
Silicon metal: U.S. producers' capacity, production, and capacity utilization, by firms, 1999-2001, January-September 2001, and January-September 2002

Item	Calendar year			January-September	
	1999	2000	2001	2001	2002
	Quantity *(short tons of contained silicon)*				
Capacity:					
AST[1]	***	***	***	***	***
Elkem[2]	***	***	***	***	***
Globe[3]	***	***	***	***	***
SIMCALA[4]	***	***	***	***	***
Total	243,667	215,245	198,363	148,123	144,450
Production:					
AST	***	***	***	***	***
Elkem	***	***	***	***	***
Globe	***	***	***	***	***
SIMCALA	***	***	***	***	***
Total	209,376	195,660	145,324	112,638	85,824
	Capacity utilization (*percent*)				
AST	***	***	***	***	***
Elkem	***	***	***	***	***
Globe	***	***	***	***	***
SIMCALA	***	***	***	***	***
Average	85.9	90.9	73.3	76.0	59.4

[1] In September 1999, AST shut down its three-furnace facility in Rock Island, WA.
[2] In August 2001, Elkem shut down one of its five silicon metal furnaces at its Alloy, WV, facility, scheduled for upgrade later in the year.
[3] During 2000, Globe converted both silicon metal furnaces at its Beverly, OH, plant to ferrosilicon production. Globe's single-furnace facility in Springfield, OR, has been idled since December 2000. In August 2001, Globe converted one of the two silicon metal furnaces at its Niagara Falls, NY, plant to ferrosilicon production; in December 2001, Globe shut down the remaining silicon metal furnace and closed the converted ferrosilicon furnace at the same plant; on July 1, 2002, one furnace was restarted. As a condition of a power agreement, Globe idled its Selma, AL, plant during July and August 2001; pursuant to an agreement with Alabama Power, the firm idled the two furnaces on June 30, 2002, one was restarted on September 1, 2002, and the second was restarted in late October 2002.
[4] SIMCALA idled one of its three furnaces in August 2001 for routine maintenance work. The furnace has not been restarted.

Source: Compiled from data submitted in response to Commission questionnaires; petitioners' *Answers to Questions from Staff*, April 5, 2002, exh. 8; conference transcript, pp. 16, 23, 45-46; and hearing transcript, pp. 26-28, and 50-51.

Figure III-1
Silicon metal: U.S. producers' capacity and production, 1999-2001



Source: Table III-2.

During the final phase of this investigation, the Commission requested information on the ability of U.S. producers to manufacture other ferroalloy products in the same furnaces used to produce silicon metal. During the period of investigation, U.S. producers of silicon metal operated 17 metal furnaces: four were idled in 2000, one has been idle since August 2001, five have been intermittently idled, one was converted to ferrosilicon production in August 2000 (at minimal time and cost), and 6 have been operational except for scheduled maintenance. Data regarding such metal furnace capacity, production, and capacity utilization are presented in table III-3.

Table III-3
Metal furnaces: U.S. producers' capacity, production, and capacity utilization, by products, 1999-2001, January-September 2001, and January-September 2002

* * * * * * *

U.S. PRODUCERS' SHIPMENTS

Data on U.S. producers' shipments are presented in table III-4. U.S. shipments decreased by 24.7 percent from 1999 to 2001. Export shipments decreased by *** percent from 1999 to 2001, and accounted for *** percent of total shipments in 1999, *** percent in 2000, and *** percent in 2001.[14] Data on U.S. producers' shipments by market segments and by end uses are presented in table III-5.

U.S. PRODUCERS' IMPORTS AND PURCHASES

*** purchased silicon metal from other sources during 1999-2001. Data on U.S. producers' purchases (other than direct imports), by sources, are presented in table III-6. *** reported purchasing silicon metal from other domestic producers. *** reported purchasing silicon metal from Russia during this period, while *** reported importing nonsubject silicon metal.

U.S. PRODUCERS' INVENTORIES

Data on U.S. producers' inventories of silicon metal are presented in table III-7.

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

U.S. producers' employment data are presented in table III-8.

[14] ***.

Table III-4
Silicon metal: U.S. producers' shipments, by types, 1999-2001, January-September 2001, and January-September 2002

Item	Calendar year			January-September	
	1999	2000	2001	2001	2002
	Quantity (*short tons*)				
Commercial shipments	***	***	***	***	***
Internal consumption[1] [2]	***	***	***	***	***
Subtotal, U.S. shipments	201,545	187,951	151,766	115,670	81,357
Export shipments	***	***	***	***	***
Total	***	***	***	***	***
	Value (*$1,000*)				
Commercial shipments	***	***	***	***	***
Internal consumption	***	***	***	***	***
Subtotal, U.S. shipments	275,812	245,142	196,244	149,431	101,250
Export shipments	***	***	***	***	***
Total	***	***	***	***	***
	Unit value (*per short ton*)				
Commercial shipments	***	***	***	***	***
Internal consumption	***	***	***	***	***
Subtotal, U.S. shipments	$1,368	$1,304	$1,293	$1,292	$1,245
Export shipments	***	***	***	***	***
Average	***	***	***	***	***
	Share of quantity (*percent*)				
Commercial shipments	***	***	***	***	***
Internal consumption	***	***	***	***	***
Subtotal, U.S. shipments	***	***	***	***	***
Export shipments	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0

[1] Internal consumption was reported by *** (January 10, 2003, e-mail from Jessie Brooks, counsel for petitioners).

[2] Internal consumption reported by *** during the preliminary phase of this investigation consisted of ***, and were removed from the data during the final phase of the investigation (January 10, 2003, e-mail from Jessie Brooks, counsel for petitioners).

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

Table III-5
Silicon metal: U.S. producers' U.S. shipments, by market segments and by end users, 1999-2001, January-September 2001, and January-September 2002[1]

Item	Calendar year			January-September	
	1999	2000	2001	2001	2002
	Quantity *(short tons of contained silicon)*				
Chemical producers	***	***	***	***	***
Primary aluminum producers	***	***	***	***	***
Secondary aluminum producers	40,876	42,664	30,923	24,593	12,447
Other producers	***	***	***	***	***
Total	195,500	187,152	151,881	116,099	81,033
	Value *($1,000)*				
Chemical producers	***	***	***	***	***
Primary aluminum producers	***	***	***	***	***
Secondary aluminum producers	50,400	48,986	33,786	26,793	12,921
Other producers	***	***	***	***	***
Total	270,246	247,107	198,658	151,345	101,517
	Unit value *(per short ton)*				
Chemical producers	***	***	***	***	***
Primary aluminum producers	***	***	***	***	***
Secondary aluminum producers	$1,233	$1,148	$1,093	$1,089	$1,038
Other producers	***	***	***	***	***
Average	1,382	1,320	1,308	1,304	1,253
	Shares of total U.S. shipments (*percent*, based on quantity)				
U.S. shipments to distributors	***	***	***	***	***
U.S. shipments to end users	***	***	***	***	***
U.S. shipments to:					
Chemical producers	***	***	***	***	***
Primary aluminum producers	***	***	***	***	***
Secondary aluminum producers	20.9	22.8	20.4	21.2	15.4
Other producers	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0

[1] ***.

Note.–Shipment data in this table may not equal shipment data in table III-4 because of reporting differences by firms.

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

Table III-6
Silicon metal: U.S. producers' imports and purchases, by sources, 1999-2001, January-September 2001, and January-September 2002

* * * * * * *

Table III-7
Silicon metal: U.S. producers' end-of-period-inventories, 1999-2001, January-September 2001, and January-September 2002

Item	Calendar year			January-September	
	1999	2000	2001	2001	2002
End-of-period inventories *(short tons of contained silicon)*	9,135	11,110	2,306	5,462	3,940
Ratio of end-of-period inventories to:					
Production *(percent)*	4.4	5.7	1.6	3.6	3.4
U.S. shipments *(percent)*	4.5	5.9	1.5	3.5	3.6
Total shipments *(percent)*	***	***	***	***	***
Note.–Due to certain inconsistencies in reporting, production, shipments, and inventories do not reconcile.					
Source: Compiled from data submitted in response to Commission questionnaires.					

Table III-8
Average number of production and related workers producing silicon metal, hours worked, wages paid to such employees, and hourly wages, productivity, and unit labor costs, 1999-2001, January-September 2001, and January-September 2002

Item	Calendar year			January-September	
	1999	2000	2001	2001	2002
Production and related workers	719	637	523	531	407
Hours worked *(1,000 hours)*	1,632	1,471	1,210	970	793
Wages paid *($1,000)*	32,438	29,055	23,675	17,692	13,979
Hourly wages *(per hour)*	$19.88	$19.75	$19.57	$18.24	$17.63
Productivity *(short tons of contained silicon per 1,000 hours)*	128.3	133.0	120.1	116.1	108.2
Unit labor costs *(per short ton of contained silicon)*	$155	$148	$163	$157	$163
Source: Compiled from data submitted in response to Commission questionnaires.					

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

U.S. IMPORTERS

The Commission sent questionnaires to approximately 32 firms believed to import silicon metal from Russia and other sources during 1999-2001. Responses were received from 12 firms importing from Russia and 11 firms importing from all other sources.[1] [2] Table IV-1 presents a list of these 12 U.S. importers of the subject merchandise including their location, sources of imports, and the quantity of subject imports during 1999-2001.

Table IV-1
Silicon metal: U.S. importers of the subject merchandise from Russia, company locations, sources of imports, and subject U.S. imports, 1999-2001

* * * * * * *

U.S. IMPORTS

Table IV-2 and figure IV-1 present data on U.S. imports of silicon metal based on official statistics of Commerce. The quantity of U.S. imports of silicon metal from Russia decreased by 2.0 percent from 1999 to 2000, but increased by 38.6 percent in 2001.[3] The quantity of U.S. imports of silicon metal from nonsubject sources increased by 19.9 percent from 1999 to 2000 but decreased by 21.1 percent in 2001. Overall, U.S. imports of all silicon metal increased by 15.4 percent from 1999 to 2000 but decreased by 10.7 percent in 2001.

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[1] Although the Commission did not receive a completed response from ***. However, data for *** are presented in this report based on the firm's earlier response to the Commission's questionnaire in the five-year review investigations and data compiled from the Customs net import file. In addition, data for ***.

[2] Questionnaire data do not include information from ***, which responded during the preliminary phase of the investigation, but provided no usable data other than imports. The firm is currently in bankruptcy. Because of the lack of data from ***, official Commerce statistics, rather than questionnaire data are presented for imports and also used for apparent consumption; with the exception of table IV-1, data of *** are not included in this report.

[3] Respondents argue that subject imports from Russia in 1999 and 2000 were substantially below the level of Russian imports in 1998, and although imports increased in 2001, imports from Russia remained below historical levels. Postconference brief of SUAL Holding and ZAO Kremny, p. 18 and exh. 4. Historical Russian imports of silicon metal (based on official statistics of Commerce) are presented in the following tabulation and appendix E:

Item	1993	1994	1995	1996	1997	1998	1999	2000	2001
Quantity *(short tons contained silicon)*	33,502	62,990	40,005	28,794	33,878	36,794	25,158	24,643	34,153
Share of total imports *(percent)*	43.5	53.4	40.0	33.8	25.8	34.0	20.5	17.4	27.0
Unit value (*per short ton*)	$1,014	$909	$1,222	$1,528	$1,408	$1,282	$1,041	$1,036	$1,034

Table IV-2
Silicon metal: U.S. imports, by sources, 1999-2001, January-September 2001, and January-September 2002[1]

Source	Calendar year			January-September	
	1999	2000	2001	2001	2002
	Quantity *(short tons of contained silicon)*				
Russia	25,158	24,643	34,153	20,718	32,643
Brazil	12,429	22,385	17,309	14,722	27,953
Canada	25,044	27,347	17,281	12,931	13,046
South Africa	28,184	40,329	35,305	29,690	26,731
Other	31,842	26,847	22,384	14,883	23,144
Subtotal, nonsubject sources	97,499	116,908	92,279	72,226	90,875
Total	122,657	141,551	126,431	92,945	123,519
	Value *($1,000)*[2]				
Russia	26,201	25,529	35,325	22,936	30,272
Brazil	17,203	29,535	22,650	19,348	36,428
Canada	34,064	33,516	19,987	14,943	13,481
South Africa	32,195	43,583	36,120	30,278	26,976
Other	38,770	28,185	25,663	17,495	24,723
Subtotal, nonsubject sources	122,231	134,819	104,420	82,064	101,608
Total	148,432	160,349	139,745	105,000	131,881
	Unit value *(per short ton of contained silicon)*[3]				
Russia	$1,036	$1,003	$980	$1,018	$928
Brazil	1,253	1,306	1,309	1,314	1,303
Canada	1,360	1,226	1,157	1,156	1,108
South Africa	1,118	1,065	1,039	1,039	1,009
Other	1,218	1,050	1,146	1,176	1,068
Average, nonsubject sources	1,232	1,145	1,139	1,146	1,129
Average	1,191	1,120	1,096	1,117	1,076
	Share of quantity *(percent)*				
Russia	20.5	17.4	27.0	22.3	26.4
Brazil	10.1	15.8	13.7	15.8	22.6
Canada	20.4	19.3	13.7	13.9	10.6
South Africa	23.0	28.5	27.9	31.9	21.6
Other	26.0	19.0	17.7	16.0	18.7
Subtotal, nonsubject sources	79.5	82.6	73.0	77.7	73.6
Total	100.0	100.0	100.0	100.0	100.0

Table continued on next page.

Table IV-2--*Continued*
Silicon metal: U.S. imports, by sources, 1999-2001, January-September 2001, and January-September 2002[1]

Source	Calendar year			January-September	
	1999	2000	2001	2001	2002
	Share of value *(percent)*				
Russia	17.7	15.9	25.3	21.8	23.0
Brazil	11.6	18.4	16.2	18.4	27.6
Canada	22.9	20.9	14.3	14.2	10.2
South Africa	21.7	27.2	25.8	28.8	20.5
Other	26.1	17.6	18.4	16.7	18.7
Subtotal, nonsubject sources	82.3	84.1	74.7	78.2	77.0
Total	100.0	100.0	100.0	100.0	100.0

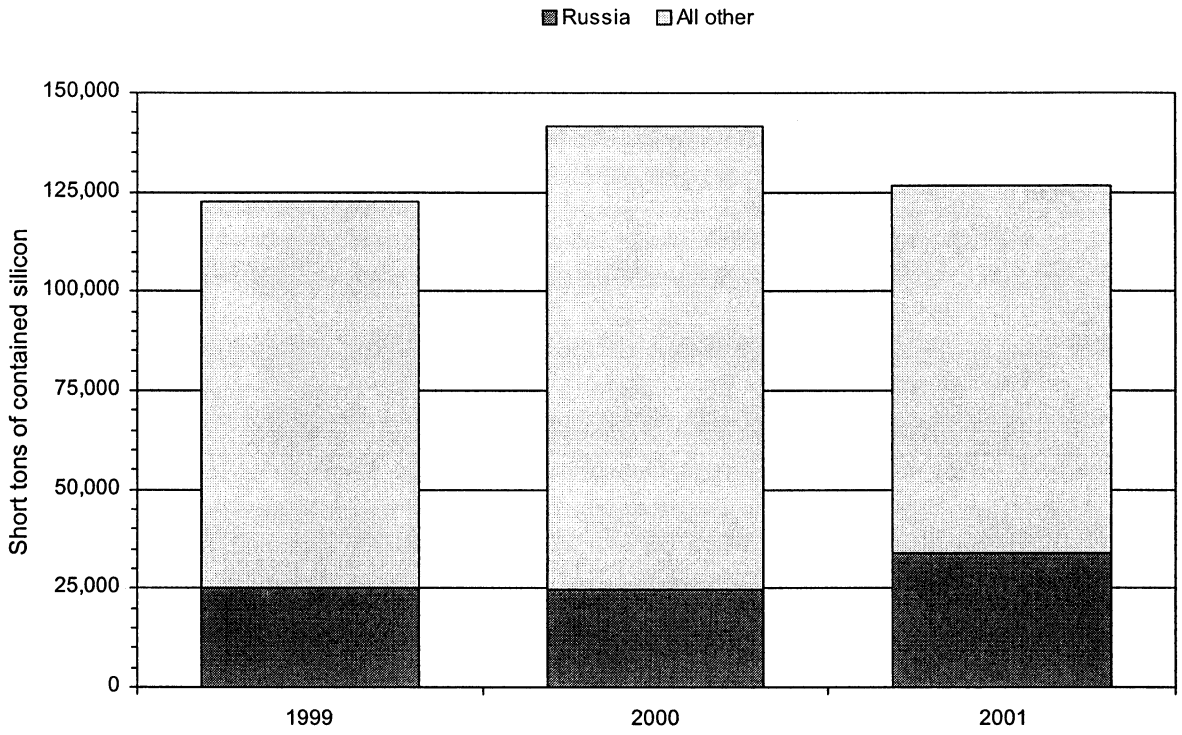
[1] In the 12-month period preceding the filing of the petition (i.e., March 2001-February 2002), imports of silicon metal from Russia accounted for 31.1 percent of total imports. Imports from Russia during this period were 40,632 short tons of contained silicon while total imports were 130,554 short tons of contained silicon.
[2] Landed, duty-paid.
[3] Average unit values have been adjusted using data from the Customs Net Import File to remove certain anomalous entries for Brazil, Canada, Russia, and South Africa. Anomalies included ***.
[4] Average unit values derived from official Commerce statistics, unadjusted for anomalies listed in footnote 3 above, are:

	1999	2000	2001	J-S 2001	J-S 2002
Russia	$1,041	$1,036	$1,034	$1,107	$927
Brazil	1,384	1,319	1,309	1,314	1,303
Canada	1,360	1,226	1,157	1,156	1,033
South Africa	1,142	1,081	1,023	1,020	1,009
All other	1,218	1,050	1,146	1,176	1,068
Subtotal, nonsubject	1,254	1,153	1,132	1,136	1,118
Total	1,210	1,133	1,105	1,130	1,068

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

Source: Compiled from official Commerce statistics.

Figure IV-1
Silicon metal: U.S. imports, by sources, 1999-2001



Source: Table IV-2.

Table IV-3 presents U.S. importers' shipments of subject imports from Russia by market segments and by end users. With respect to channels of distribution, the overwhelming majority of subject imports were sold directly to end users, with shipments to end users accounting for *** percent of importers' shipments in 1999, *** percent in 2000, and *** percent in 2001. With respect to market segments, the majority of U.S. importers' U.S. shipments of silicon metal from Russia have gone to the secondary aluminum market. However, since 1999, sales to chemical producers have increased substantially.

Table IV-3
Silicon metal: U.S. importers' U.S. shipments of subject imports from Russia, by market segments and by end users, 1999-2001, January-September 2001, and January-September 2002

Item	Calendar year			January-September	
	1999	2000	2001	2001	2002
	Quantity *(short tons of contained silicon)*				
U.S. shipments to distributors:					
Chemical producers	***	***	***	***	***
Primary aluminum producers	***	***	***	***	***
Secondary aluminum producers	***	***	***	***	***
Other producers	***	***	***	***	***
Subtotal	***	***	***	***	***
U.S. shipments to end users:					
Chemical producers	***	***	***	***	***
Primary aluminum producers	***	***	***	***	***
Secondary aluminum producers	***	***	***	***	***
Other producers	***	***	***	***	***
Subtotal	***	***	***	***	***
Total U.S. shipments:					
Chemical producers	***	***	***	***	***
Primary aluminum producers	***	***	***	***	***
Secondary aluminum producers	19,993	18,064	21,287	12,079	24,955
Other producers	***	***	***	***	***
Total	23,695	23,894	32,296	20,715	35,230
	Shares of total U.S. shipments *(percent)*				
U.S. shipments to distributors	***	***	***	***	***
U.S. shipments to end users	***	***	***	***	***
U.S. shipments to:					
Chemical producers	***	***	***	***	***
Primary aluminum producers	***	***	***	***	***
Secondary aluminum producers	84.4	75.6	65.9	58.3	70.8
Other producers	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0

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

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

CRITICAL CIRCUMSTANCES

On July 31, 2002, petitioners submitted an allegation of critical circumstances to Commerce with respect to imports of silicon metal from Russia.[4] Commerce has determined that critical circumstances do not exist with respect to Bratsk, SKU, and ZAO Kremny, but do exist with respect to the Russia-wide entity. In response to the Commission's questionnaires, no U.S. importer reported imports of silicon metal from producers in Russia other than Bratsk, SKU, and ZAO Kremny.[5]

U.S. IMPORTERS' CURRENT ORDERS

Based on responses to the Commission's importers' questionnaire, no U.S. importer has arranged for the importation of silicon metal from Russia for delivery after September 30, 2002.

APPARENT U.S. CONSUMPTION

Table IV-4 and figure IV-2 present data on apparent U.S. consumption of silicon metal. Based on quantity, apparent U.S. consumption increased by 1.7 percent from 1999 to 2000 but decreased by 15.7 percent during 2001.

U.S. MARKET SHARES

Table IV-5 presents data on U.S. market shares based on apparent U.S. consumption of silicon metal.

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[4] Under section 733(e)(1) of the Act, critical circumstances exist if there is a reasonable basis to believe or suspect that–

(A) (i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or
(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at LTFV and that there was likely to be material injury by reason of such sales, and

(B) there have been massive imports of the subject merchandise over a relatively short period.

[5] 68 FR 6885, February 11, 2003.

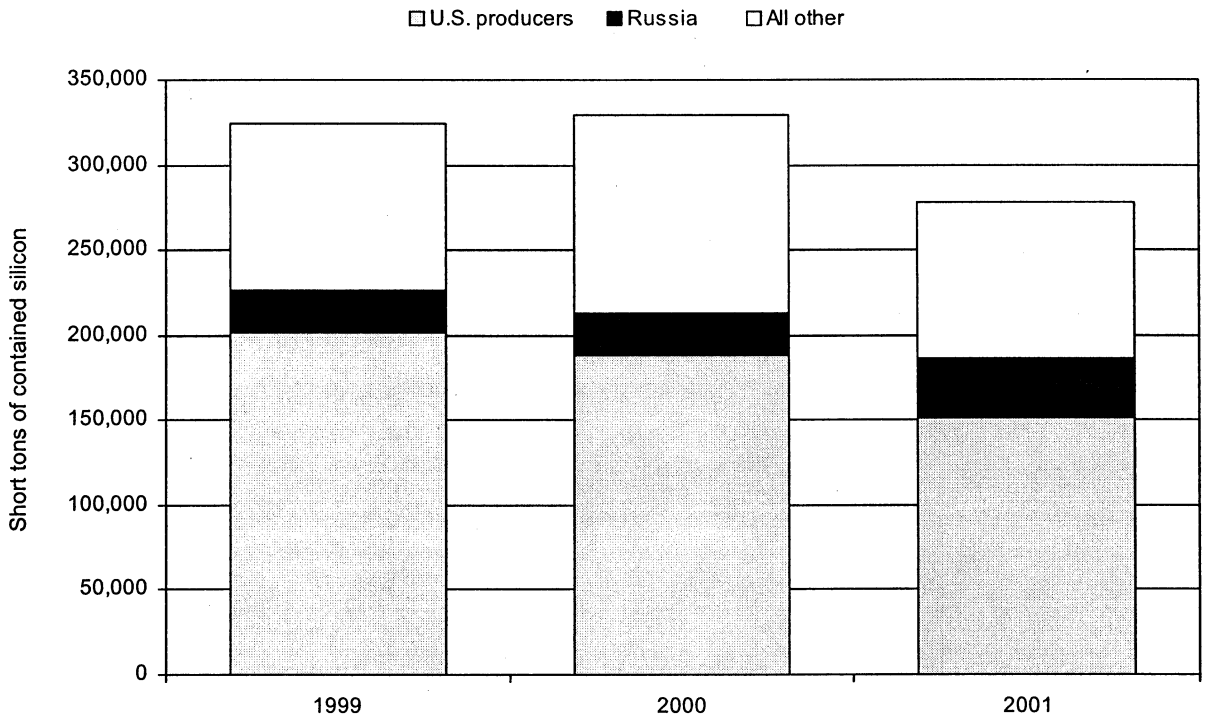
Table IV-4
Silicon metal: U.S. shipments of domestic product, U.S. imports, by sources, and apparent U.S. consumption, 1999-2001, January-September 2001, and January-September 2002

Source	Calendar year			January-September	
	1999	2000	2001	2001	2002
	Quantity *(short tons of contained silicon)*				
U.S. producers' U.S. shipments:	201,545	187,951	151,766	115,670	81,357
U.S. imports from–					
Russia	25,158	24,643	34,153	20,718	32,643
Brazil	12,429	22,385	17,309	14,722	27,953
Canada	25,044	27,347	17,281	12,931	13,046
South Africa	28,184	40,329	35,305	29,690	26,731
Other	31,842	26,847	22,384	14,883	23,144
Subtotal, nonsubject sources	97,499	116,908	92,279	72,226	90,875
Total U.S. imports	122,657	141,551	126,431	92,945	123,519
Apparent U.S. consumption	324,202	329,502	278,197	208,615	204,876
	Value *($1,000)*				
U.S. producers' U.S. shipments:	275,812	245,142	196,244	149,431	101,250
U.S. imports from–					
Russia	26,201	25,529	35,325	22,936	30,272
Brazil	17,203	29,535	22,650	19,348	36,428
Canada	34,064	33,516	19,987	14,943	13,481
South Africa	32,195	43,583	36,120	30,278	26,976
Other	38,770	28,185	25,663	17,495	24,723
Subtotal, nonsubject sources	122,231	134,819	104,420	82,064	101,608
Total U.S. imports	148,432	160,349	139,745	105,000	131,881
Apparent U.S. consumption	424,244	405,491	335,989	254,431	233,131

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

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

Figure IV-2
Silicon metal: Apparent U.S. consumption, by sources, 1999-2001



Source: Table IV-4.

Table IV-5
Silicon metal: Apparent U.S. consumption and market shares, by sources, 1999-2001, January-September 2001, and January-September 2002

Source	Calendar year			January-September	
	1999	2000	2001	2001	2002
	Quantity *(short tons of contained silicon)*				
Apparent U.S. consumption	324,202	329,502	278,197	208,615	204,876
	Value *($1,000)*				
Apparent U.S. consumption	424,244	405,491	335,989	254,431	233,131
	Share of quantity *(percent)*				
U.S. producers' shipments:	62.2	57.0	54.6	55.4	39.7
U.S. imports from–					
Russia	7.8	7.5	12.3	9.9	15.9
Brazil	3.8	6.8	6.2	7.1	13.6
Canada	7.7	8.3	6.2	6.2	6.4
South Africa	8.7	12.2	12.7	14.2	13.0
Other	9.8	8.1	8.0	7.1	11.3
Subtotal, nonsubject sources	30.1	35.5	33.2	34.6	44.4
Total U.S. imports	37.8	43.0	45.4	44.6	60.3
	Share of value *(percent)*				
U.S. producers' shipments:	65.0	60.5	58.4	58.7	43.4
U.S. imports from–					
Russia	6.2	6.3	10.5	9.0	13.0
Brazil	4.1	7.3	6.7	7.6	15.6
Canada	8.0	8.3	5.9	5.9	5.8
South Africa	7.6	10.7	10.8	11.9	11.6
Other	9.1	7.0	7.6	6.9	10.6
Subtotal, nonsubject sources	28.8	33.2	31.1	32.3	43.6
Total U.S. imports	35.0	39.5	41.6	41.3	56.6

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

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

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Transportation Costs to the U.S. Market

Transportation costs for silicon metal from Russia to the United States (excluding U.S. inland costs) are estimated to be 4.1 percent of the cost of the silicon metal during 2001 and the first nine months of 2002. These estimates are derived from official import data for HTS subheadings 2804.69.10 and 2804.69.50, and represent the transportation and other charges on imports valued on a c.i.f. basis, as compared with customs value.

U.S. Inland Transportation Costs and Geographic Markets

Three U.S. producers reported that U.S.-inland transportation costs accounted for between 2 and 3.5 percent of the total cost of the silicon metal. These firms also reported that they generally arrange the transportation from their facility to their customers' location. Importers that provided estimates indicated that U.S.-inland transportation costs accounted for between 2.5 and 15 percent of the total delivered cost of the silicon metal. Ten of 11 responding firms stated that they arrange transportation, while the remaining firm reported that its customers usually make such arrangements.

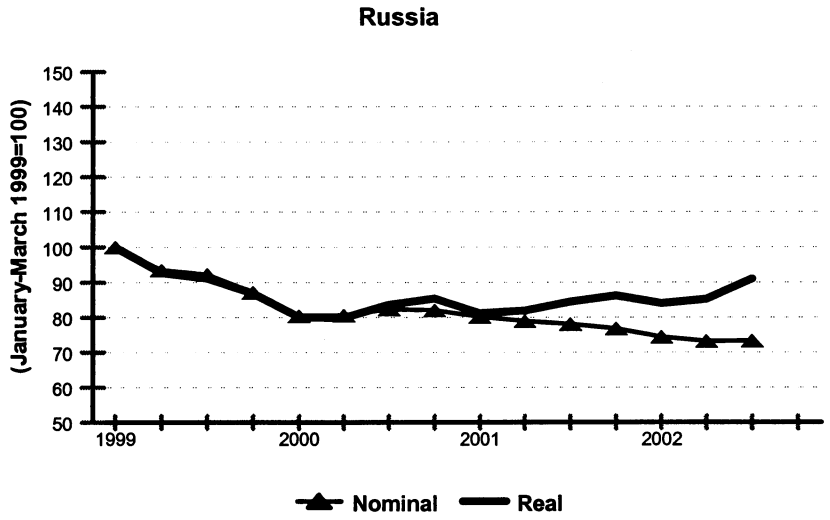
Producers reported very similar shipping distances, with all three responding producers stating that the vast majority (i.e., over 90 percent) of the silicon metal that they sell is shipped to customers within 101 and 1,000 miles. There was more variation in the responses from the importers. On average, importers reported shipping approximately 25 percent of their silicon metal within 100 miles, 66 percent within 101-1,000 miles, and 9 percent over 1,000 miles.

With regard to geographic market areas served by U.S. producers of silicon metal, all three responding producers reported that they serve the entire U.S. market. While one responding importer reported that it sells to all parts of the United States, the remaining seven responding importers reported selling to specific markets, such as the East Coast, Mid-West, and West Coast.

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that the nominal value of the Russian ruble depreciated 26.7 percentage points relative to the U.S. dollar from January 1999 through September 2002. The real value of the Russian ruble depreciated 20.1 percentage points relative to the U.S. dollar during the period January 1999 through June 2000, then appreciated irregularly by 11.0 percentage points through the third quarter of 2002 (figure V-1).

Figure V-1
Exchange rates: Indices of the nominal and real values of the Russian ruble relative to the U.S. dollar, by quarters, January 1999-September 2002



Source: International Monetary Fund, *International Financial Statistics*, http://www.imfstatistics.org.

PRICING PRACTICES

Pricing Methods

Available information from questionnaires indicates that sales of silicon metal in the U.S. market are made on both a contract and spot basis. All three responding U.S. producers reported that over 95 percent of their sales are made on a contract basis. Importers and purchasers were mixed, with some firms reporting that all or the majority of sales are done on a spot basis and others reporting that all or a majority of sales are on a contract basis. Available information indicates that contracts are somewhat more likely to be used in the chemical market segment. While contracts in the chemical segment are likely to be at least one year in duration, contracts in the primary and secondary aluminum markets are often one year or less in duration.

Annual contracts are usually negotiated during the fourth quarter of the prior year and often contain approximate volumes but not necessarily firm numbers. Producers reported variations in price terms within a contract. *** reported that its contracts fix both price and quantity but its contracts contain a pricing mechanism to adjust prices quarterly, semi-annually, or annually based on a published price (e.g., Metals Week or Ryan's Notes[1]). *** reported that its contracts usually contain meet-or-release clauses. *** stated that its contracts can generally be fixed or indexed to prices published in

[1] Metals Week prices reflect spot sales prices for imported silicon metal. These prices are based on contacts with buyers and sellers known to be reliable sources (staff interview with *** of Metals Week, February 12, 2003). At the hearing, petitioners stated that Metals Week price data are viewed as a measure of prevailing market prices. While the Metals Week prices reflect product closest to secondary aluminum specifications, the price data are used as a measure of prevailing market prices by buyers and sellers in all industry segments (hearing transcript, pp. 79-80). Petitioners' exhibit 5 (hearing transcript, pp. 41-42) utilized Metals Week price data to show that silicon metal prices have increased since the filing of the petition. According to ***, independent industry sources attribute the recovery in silicon metal prices to the exit of Russian imports from the U.S. market (voice mail response of ***, February 12, 2003).

release clauses. *** stated that its contracts can generally be fixed or indexed to prices published in Metals Week or Ryan's Notes depending on the customer and the duration of the contract. *** also noted that its contracts are negotiated in the fourth quarter and that they generally contain estimated volumes and fixed prices. *** reported having no contracts containing meet-or-release clauses.[2] Those importers and purchasers that reported using contracts frequently reported that the average duration varies from 3 to 12 months. Generally, these importers and purchasers reported that both price and quantity are fixed.

Petitioners stated at the hearing that the existence of contracts in the silicon metal industry does not necessarily provide protection to the U.S. industry.[3] As noted earlier, petitioners have stated that contract prices are frequently based on formulas tied to reference prices or they contain meet-or-release clauses. Petitioners stated that contracts with such pricing formulas make the supplier highly vulnerable to the effects of an overall declining market price level.[4]

Purchasers were asked several questions regarding the association between contract and spot prices for silicon metal. When asked if prices vary within the duration of a contract in response to changes in spot prices, 12 of 15 responding purchasers stated no. When asked if any suppliers had actually changed prices during the period in which a contract with a meet-or-release clause was in place, five of five responding purchasers stated no. Finally, when purchasers were asked to describe the relationship between contract and spot prices for silicon metal, three of seven responding purchasers stated that spot prices are a factor in determining contract prices, and that formula prices can change due to changes in spot prices but that it may not be a direct relationship between spot and contract prices. One purchaser stated that spot prices have generally been $0.05 to $0.10 per pound lower than contract prices, while the remaining three responding purchasers stated that there is no relationship between contract and spot prices.

In their questionnaire responses and/or during the preliminary phase of this investigation, both GE Silicones and *** reported purchasing silicon metal over the internet via internet auctions. GE Silicones conducted three auctions in the fall of 2001 for the purchase of just over *** tons of silicon metal, or approximately *** percent of its 2002 requirements. GE Silicones reported that the silicon metal grade specification and commercial terms were established prior to the auctions and firms that were qualified (or in the process of obtaining qualification) to supply GE Silicones were invited to bid. GE Silicones reported that the duration of these contracts was ***. The auctions were "reverse" auctions where GE Silicones set maximum and target prices and once the auction was opened qualified bidders could continue to make bids as long as their bid was below the last one made. The auction was closed if no new qualifying bid was received for two minutes.[5]

***.[6]

Petitioners also provided information on internet auctions during the preliminary phase of this investigation as well as in their questionnaire responses during the final phase. With regard to GE Silicones' internet auctions, petitioners noted that these were ***. *** reported that GE Silicones' contract requirements were very rigid and difficult and that GE also wanted a ***. ***. *** also reported participating in the *** auction but dropped out of the bidding when the bid price approached ***'s "cash costs."[7]

---

[1] (...continued)
February 12, 2003).

[2] In its questionnaire response, ***.

[3] Hearing transcript, p. 24.

[4] Petitioners' postconference brief, p. 12.

[5] GE Silicones' postconference brief, p. 11.

[6] ***.

[7] Petitioners' postconference brief, pp. 13-14 and petitioners' questionnaire responses.

Sales Terms and Discounts

In general, U.S. producers and importers reported that they have no specific discount policies for their sales of silicon metal. Some firms stated that discounts (in the form of lower prices) may arise in the course of negotiations but they are not formal policies. Firms also reported that sales terms are generally net 30.

PRICE DATA

The Commission requested quarterly data for the total quantity and value of three silicon metal products. Data were requested for the period January 1999 through September 2002. The products for which pricing data were requested are as follows:

> ***Product 1.*** **– For sales to primary aluminum producers–silicon metal less than 99.99% pure that contains a minimum of 98.5% silicon, a maximum of 1.00% iron, a maximum of 0.07% calcium, and no restriction of the aluminum content.**
>
> ***Product 2.*** **– For sales to secondary aluminum producers–silicon metal less than 99.99% pure that contains a minimum of 98.0% silicon, a maximum of 1.00% iron, a maximum of 0.4% calcium, and no restriction of the aluminum content.**
>
> ***Product 3.*** **– For sales to chemical manufacturers–silicon metal less than 99.99% pure that contains a minimum of 98.5% silicon, a maximum of 0.65% iron, a maximum of .02% calcium, and a maximum of .035% aluminum.**

Three U.S. producers, seven importers,[8] and 20 purchasers provided usable pricing data for sales of the requested products in the U.S. market, although not all firms reported pricing data for all products for all quarters. The reported price data accounted for virtually all of the quantity of domestically produced commercial shipments of silicon metal in 2001 and 56.2 percent of the quantity of imports of silicon metal from Russia in 2001.[9] [10] While all three products showed similar overall trends during the period examined, each is priced somewhat differently based on the type and level of impurities. Based on U.S. producer price data for the period examined, silicon metal sold primarily to chemical producers was on average $0.10 per pound more expensive than silicon metal sold primarily to primary aluminum producers, and silicon metal sold primarily to primary aluminum producers was on average $0.05 per pound more expensive than silicon metal sold primarily to secondary aluminum producers.

As shown in table V-1 and figure V-2, price comparisons for product 1 between the United States and Russia were possible in 15 quarters. In two quarters, the Russian product was priced above the U.S. product, with margins of *** and *** percent. In the other 13 quarters, the Russian product was priced below the U.S. product, with margins ranging from *** to *** percent and averaging 5.2 percent.

As shown in table V-2 and figure V-3, price comparisons for product 2 between the United States and Russia were possible in 15 quarters. In four quarters, the Russian product was priced above the U.S.

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[8] Import price data provided by *** during the preliminary phase of this investigation have been included in the data for the final investigation.

[9] Price data coverage for Russian imports is somewhat low because reported imports by *** and *** are internally consumed, and *** reported that approximately half of its 2001 imports of silicon metal from Russia remained in end-of-period inventories.

[10] Purchaser data accounted for approximately *** percent of the quantity of domestically produced commercial shipments of silicon metal in 2001, *** percent of the quantity of imports of silicon metal from Russia in 2001, and *** percent of the quantity of nonsubject imports of silicon metal in 2001. Some purchasers could not provide country-specific purchase price data.

product, with margins ranging from *** to *** percent and averaging 3.6 percent. In the other 11 quarters, the Russian product was priced below the U.S. product, with margins ranging from *** to *** percent and averaging 5.1 percent.

As shown in table V-3 and figure V-4, price comparisons for product 3 between the United States and Russia were not possible for the period examined because the responding importers of this product import for internal use.

Table V-1
Silicon metal: Weighted-average f.o.b. selling prices and quantities for product 1, and margins of underselling/(overselling), by quarters, January 1999-September 2002

* * * * * * *

Table V-2
Silicon metal: Weighted-average f.o.b. selling prices and quantities for product 2, and margins of underselling/(overselling), by quarters, January 1999-September 2002

Period	United States		Russia		
	Price	Quantity	Price	Quantity	Margin
	Per pound	*Short tons*	*Per pound*	*Short tons*	*Percent*
1999:					
January-March	$0.62	11,187	$***	***	***
April-June	0.61	10,514	***	***	***
July-September	0.58	9,314	***	***	***
October-December	0.58	8,771	***	***	***
2000:					
January-March	0.56	9,683	***	***	***
April-June	0.56	9,990	***	***	***
July-September	0.57	11,478	***	***	***
October-December	0.56	10,490	***	***	***
2001:					
January-March	0.54	9,218	***	***	***
April-June	0.52	8,638	***	***	***
July-September	0.54	5,899	***	***	***
October-December	0.54	6,084	***	***	***
2002:					
January-March	0.50	4,181	***	***	***
April-June	0.51	4,246	***	***	***
July-September	0.50	3,193	***	***	***

Product 2 – For sales to secondary aluminum producers–silicon metal less than 99.99% pure that contains a minimum of 98.0% silicon, a maximum of 1.00% iron, a maximum of 0.4% calcium, and no restriction of the aluminum content.

Note.--Margins are calculated from unrounded data and may not be directly calculated from the price data presented in this table.

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

Table V-3
Silicon metal: Weighted-average f.o.b. selling prices and quantities for product 3, by quarters, January 1999-September 2002

* * * * * * *

Figure V-2
Silicon metal: Weighted-average f.o.b. selling prices for product 1, by quarters, January 1999-September 2002

* * * * * * *

Figure V-3
Silicon metal: Weighted-average f.o.b. selling prices for product 2, by quarters, January 1999-September 2002

* * * * * * *

Figure V-4
Silicon metal: Weighted-average f.o.b. selling prices for product 3, by quarters, January 1999-September 2002

* * * * * * *

As shown in table V-4, purchase price comparisons for product 1 between the United States and Russia were possible in 11 quarters. In all 11 quarters the Russian product was priced below the U.S. product, with margins ranging from *** to *** percent and averaging 7.5 percent. Purchase price comparisons for product 1 between the United States and Canada were possible in 10 quarters. In all 10 quarters the Canadian product was priced above the U.S. product, with margins ranging from *** to *** percent and averaging 11.4 percent. Purchase price data for product 1 imported from Saudi Arabia and South Africa revealed that the Saudi Arabian product was priced *** percent below the U.S. product in the only available quarter of data, and the South African product was priced below the U.S. product in the two quarters of available data with margins of *** and *** percent.

Table V-4
Silicon metal: Weighted-average delivered purchase prices and quantities for product 1, and margins of underselling/(overselling), by quarters, January 2000-September 2002

* * * * * * *

As shown in table V-5, purchase price comparisons for product 2 between the United States and Russia were possible in 11 quarters. In all 11 quarters the Russian product was priced below the U.S. product, with margins ranging from *** to *** percent and averaging 4.2 percent. Purchase price data for product 2 imported from South Africa revealed that the South African product was priced above the U.S. product in two of 10 quarters, with margins of *** and *** percent. In the other eight quarters, the South African product was priced below the U.S. product, with margins ranging from *** to *** percent and averaging 5.3 percent.

Table V-5
Silicon metal: Weighted-average delivered purchase prices and quantities for product 2, and margins of underselling/(overselling), by quarters, January 2000-September 2002

* * * * * * *

As shown in table V-6, purchase price comparisons for product 3 between the United States and Russia were possible in 11 quarters. In all 11 quarters the Russian product was priced below the U.S. product, with margins ranging from *** to *** percent and averaging 17.4 percent. Purchase price comparisons for product 3 between the United States and Brazil, Canada, and South Africa were possible in 11 quarters for each country combination. In all quarters the Brazilian, Canadian, and South African products were priced below the U.S. product, with Brazilian margins ranging from *** to *** percent and averaging 13.5 percent, Canadian margins ranging from *** to *** percent and averaging 16.5 percent,[11] and South African margins ranging from *** to *** percent and averaging 13.7 percent.

Table V-6
Silicon metal: Weighted-average delivered purchase prices and quantities for product 3, and margins of underselling/(overselling), by quarters, January 2000-September 2002

* * * * * * *

INTERNET AUCTION BID DATA

U.S. producers, importers, and purchasers were requested to report details of their participation in internet auctions since January 1999. Responses from U.S. purchasers are provided in table V-7.[12] For each reported contract in table V-7, data related to the winning bid are presented in boxes with bold outlines. A total of four internet auctions for silicon metal were reported by purchasers for the period examined, involving *** short tons valued at $*** (in winning bid values).[13] Of these contracts, *** percent (*** short tons valued at $***) was awarded to U.S. suppliers, *** percent (*** short tons valued at $***) was awarded to Russian imports, and *** percent (*** short tons valued at $***) was awarded to nonsubject imports. For all four auctions, the firms submitting the lowest final bids won the contracts.[14] [15]

Table V-7
Silicon metal: Internet auction bid information on contracts awarded by purchasers for shipment during 1999 or later

* * * * * * *

[11] ***.

[12] Data supplied by purchasers provide the most consistent comparison of bids for specific contracts. Bid data provided by purchasers and suppliers are often difficult to reconcile due to differences in bid or shipment dates, and different ways of reporting quantities and values.

[13] Alcoa and Spectro Alloys conducted internet auctions during the period examined, ***.

[14] *** could not provide all of the requested data on its internet auction. However, *** of *** believes the Russian product was the lowest priced product during the internet auction (staff interview with *** of ***, January 2, 2003). Where possible, staff has used data supplied by U.S. producers to fill in missing information.

[15] In their prehearing briefs, both petitioners and respondents analyzed the flow of bidding for the internet auctions held by GE Silicones. The petitioners' analysis is available at pp. 31-34 of their prehearing brief. The respondents' analysis is available at exhibit J of their prehearing brief.

LOST SALES AND LOST REVENUES

Petitioners submitted 22 allegations of lost sales and 13 allegations of lost revenues due to competition from imports of silicon metal from Russia. The lost sales allegations totaled $*** and involved *** short tons of silicon metal. The lost revenue allegations totaled $*** and involved *** short tons of silicon metal.[16] Tables V-8 and V-9 provide a summary of the information obtained by staff. Additional comments from purchasers are provided next.

Table V-8
Silicon metal: U.S. producers' allegations of lost sales due to imports from Russia

* * * * * * *

Table V-9
Silicon metal: U.S. producers' allegations of lost revenue due to imports from Russia

* * * * * * *

*** corrected the data provided in the allegations. It stated that it purchased material from Russia, South Africa, and France during this time period.

*** agreed with one lost sales allegation but disagreed with the remaining three lost sales, stating that the source was South Africa, not Russia, and that the accepted import values for the 2001 allegations were higher than those stated in the allegation.

For the allegations involving lost sales and lost revenues in 2001, *** stated that it did not receive a quotation from a U.S. producer for deliveries in ***. *** received a quotation from a U.S. producer during *** at ***. ***. *** subsequently accepted import pricing at ***. With regard to the lost revenue allegation, *** denied the allegation and stated that it only purchased material from a U.S. producer during ***. *** did not agree with the allegations of lost sales in 2002, and stated that for the second half of 2002 it purchased the Russian product for one-third of its requirements and the domestic product for two-thirds of its requirements.[17]

*** stated that it did not purchase Russian silicon metal during the times in question. In ***, *** had no silicon metal delivered. In ***, its entire delivery was from ***. In *** purchased *** loads from *** and the balance from non-Russian sources.

*** stated that, with regard to the April 2001 lost sale allegation, the purchase was made at a lower price from a domestic producer. Regarding the ***, *** agreed with the allegation but stated that "other imported material was priced at similar levels." It disagreed with *** stating, "material was purchased at higher prices than indicated." It further stated that the Russians have been very competitive in their pricing as have a lot of other countries, but they also offer continuity of supply which was often not provided by domestic producers. Regarding the lost sales and lost revenue allegations for 2002, *** stated that only domestic purchases were made during the time frame in question, thus "...the complainant either lost sales to a domestic producer or did not, in fact, lose sales at all."

*** stated "the true cost of Russian silicon was even less. I still bought U.S. silicon because I believe in buying USA products. I did use Russian quote to get price reduction."

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[16] Respondents' note that petitioners did not allege any lost sales or lost revenue due to subject imports in the chemical segment despite petitioners' argument that Russian imports dramatically increased in the chemical segment (respondents' posthearing brief, p. 2). ***.

[17] Since *** reported purchasing some Russian silicon metal during the second half of 2002, staff interpreted the firm's answer as a partial confirmation.

*** stated the following regarding the 1999 and 2001 lost sales and lost revenues allegations: "I cannot agree or disagree with information on the form you have faxed to me without knowing how you have arrived at the figures you are showing on the form."

"*** does purchase material from suppliers in Russia for our United States plants. The price we pay for the silicon coming out of Russia is eight to eleven percent lower than the silicon we purchase from the United States producers. The quality of the silicon coming from Russia is not as good as the silicon that is produced in the United States and therefore the value is less. The recovery on the Russian silicon is lower than the United States silicon with irons being higher and thus lessening its value." ***.[18]

Regarding the allegation of lost sales in 2002, *** reported that it was only buying from domestic producers during this time frame.[19]

[18] Since *** reported purchasing some Russian silicon metal during 1999-2001, staff interpreted the firm's answer as a partial confirmation. *** of *** also stated that U.S. producers lost business to Russian producers "to some degree" during the 1999-2001 time frame (staff interview with *** of ***, February 4, 2003).

[19] In its questionnaire response, *** reported purchase price data for silicon metal imported from Russia in 2002. In a request for further clarification, *** of *** stated that *** lost the business to ***, and that ongoing shipments of Russian silicon metal during this time frame did not affect ***'s lost business to *** (staff interview with *** of ***, January 15, 2003).

PART VI: FINANCIAL EXPERIENCE OF THE U.S. INDUSTRY

BACKGROUND

Four U.S. producers, AST, Elkem, Globe, and SIMCALA, representing all known U.S. production during the period of investigation, provided usable financial data on their silicon metal operations.[1] Three of these firms, Elkem, Globe, and SIMCALA, currently produce silicon metal while one firm, AST, ceased production in September 1999. Detailed data regarding furnaces in operation, shut downs, and conversions to ferrosilicon by each responding firm during the period examined are presented in Part III of this report, entitled *U.S. Producers' Production, Shipments, and Employment.*

OPERATIONS ON SILICON METAL

Income-and-loss data for the U.S. producers on their silicon metal operations are presented in table VI-1 and selected financial data, by firm, are presented in table VI-2. The operating income margin declined throughout the period of investigation, from 8.6 percent of total net sales in 1999 to negative margins as high as 11.4 percent in the period January-September 2002. From 1999 to 2001 the quantity of net sales fell by 18.2 percent, and interim data indicate a further decline of 28.5 percent in the first nine months of 2002 as compared to the first nine months of 2001. Unit value data reveal that the decline in average selling prices, coupled with average cost of goods sold (COGS) and selling, general, and administrative (SG&A) expenses that either increased or declined at a slower rate than average selling prices, resulted in decreased operating income or operating losses throughout the period examined.

Per-unit COGS and SG&A expenses increased irregularly during the period of investigation. According to ***, such increases primarily reflect the fact that fixed costs were allocated over reduced sales volumes.[2] [3]

***. With respect to its ***, *** stated that: ***.

***.[4]

---

[1] AST, Elkem, and SIMCALA's fiscal years end on December 31. Globe's fiscal year ends on the Saturday nearest to June 30.

[2] ***.

[3] ***.

[4] ***. *** was also characterized as due to the negative price and volume effects of subject imports (***).

Table VI-1
Results of operations of U.S. producers in the production of silicon metal, fiscal years 1999-2001, January-September 2001, and January-September 2002

Item	Fiscal year			January-September	
	1999	2000	2001	2001	2002
	Quantity *(short tons of contained silicon)*				
Net sales[1]	207,173	202,463	169,520	116,758	83,426
	Value *($1,000)*				
Net sales[1]	293,831	267,227	219,034	150,763	103,496
Cost of goods sold	251,913	242,020	214,672	152,054	106,554
Gross profit	41,918	25,207	4,362	(1,291)	(3,058)
SG&A expenses	16,743	15,964	14,703	11,459	8,703
Operating income or (loss)	25,175	9,243	(10,341)	(12,750)	(11,761)
Interest expense	14,150	13,759	13,693	9,811	4,015
Other expense[2]	7,404	8,103	72,363	70,070	4,933
Other income items[3]	2,377	3,160	3,224	2,845	68,412
Net income or (loss)	5,998	(9,459)	(93,173)	(89,786)	47,703
Depreciation/amortization	17,175	17,225	17,153	13,488	8,546
Cash flow[2 3]	23,173	7,766	(14,228)	(14,506)	(5,107)
	Ratio to net sales (*percent*)				
Cost of goods sold	85.7	90.6	98.0	100.9	103.0
Gross profit	14.3	9.4	2.0	(0.9)	(3.0)
SG&A expenses	5.7	6.0	6.7	7.6	8.4
Operating income or (loss)	8.6	3.5	(4.7)	(8.5)	(11.4)
Net income or (loss)	2.0	(3.5)	(42.5)	(59.6)	46.1
	Unit value *(per short ton of contained silicon)*				
Net sales	$1,418	$1,320	$1,292	$1,291	$1,241
Cost of goods sold	1,216	1,195	1,266	1,302	1,277
Gross profit	202	125	26	(11)	(37)
SG&A expenses	81	79	87	98	104
Operating income or (loss)	122	46	(61)	(109)	(141)

[1] Net sales quantity and value include internal consumption, which accounted for less than *** percent of total net sales.
[2] ***.
[3] ***.

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

Table VI-2
Results of operations of U.S. producers of silicon metal, by firms, fiscal years 1999-2001, January-September 2001, and January-September 2002

* * * * * * *

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

The responding firms' data on capital expenditures, research and development (R&D) expenses, and the value of their property, plant, and equipment for their silicon metal operations are shown in table VI-3. Capital expenditures, by firm, are presented in table VI-4.

Table VI-3
Capital expenditures, research and development expenses, and value of assets of U.S. producers of silicon metal, fiscal years 1999-2001, January-September 2001, and January-September 2002

Item	Fiscal year			January-September	
	1999	2000	2001	2001	2002
	Value (*$1,000*)				
Capital expenditures	***	9,457	7,773	5,411	8,930
R&D expenses	2,746	1,888	1,434	1,101	526
Fixed assets:					
Original cost	261,265	269,734	212,677	200,927	201,986
Book value	172,205	167,980	111,424	104,153	99,582

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

Table VI-4
Capital expenditures of U.S. producers of silicon metal, by firms, fiscal years 1999-2001, January-September 2001, and January-September 2002

* * * * * * *

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of silicon metal from Russia on their firms' growth, investment, and ability to raise capital or development and production efforts (including efforts to develop a derivative or more advanced version of the product). Their responses are shown in appendix F.

PART VII: THREAT CONSIDERATIONS

Section 771(7)(F)(i) of the Act (19 U.S.C. § 1677(7)(F)(i)) provides that--

> *In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the subject merchandise, the Commission shall consider, among other relevant economic factors*[1]*--*
>
> *(I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement), and whether imports of the subject merchandise are likely to increase,*
>
> *(II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,*
>
> *(III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,*
>
> *(IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports,*
>
> *(V) inventories of the subject merchandise,*
>
> *(VI) 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,*
>
> *(VII) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw*

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[1] Section 771(7)(F)(ii) of the Act (19 U.S.C. § 1677(7)(F)(ii)) provides that "The Commission shall consider [these factors] . . . as a whole in making a determination of whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted under this title. The presence or absence of any factor which the Commission is required to consider . . . shall not necessarily give decisive guidance with respect to the determination. Such a determination may not be made on the basis of mere conjecture or supposition."

agricultural product or the processed agricultural product (but not both),

(VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and

(IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).[2]

Information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V, and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in appendix F. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" dumping findings/remedies in third-country markets; and any other threat indicators, if applicable, follows.

THE INDUSTRY IN RUSSIA

The Commission received questionnaire responses from three producers of silicon metal that are believed to account for all known production of silicon metal in Russia during 1999-2001: Bratsk Aluminum Smelter (Bratsk Aluminum), Irkutsk, Russia;[3] SUAL-Kremniy-Ural (SKU), Sverdlovsk, Russia;[4] and ZAO Kremny, Irkutsk, Russia.[5] SKU and ZAO Kremny share common ownership through SUAL Holding.[6] Table VII-1 and figure VII-1 present data on Russian producers' capacity, production, and capacity utilization. Table VII-2 presents data on furnace capacity, production, and capacity utilization in Russia. Table VII-3 presents aggregated Russian industry data.

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[2] Section 771(7)(F)(iii) of the Act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other WTO member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

[3] Bratsk Aluminum is a primary aluminum producer ***. Silicon metal accounted for *** percent of Bratsk Aluminum's sales in its most recent fiscal year. The firm was *** Russian producer during 1999-2001. Bratsk produces only secondary aluminum-grade silicon metal. Respondents' postconference brief, p. 1.

[4] SKU was *** Russian producer during the period examined. Silicon metal accounted for *** percent of SKU's sales in its most recent fiscal year. SKU produces only metallurgical-grade silicon metal.

[5] ZAO Kremny was *** Russian producer during the period examined. Silicon metal accounted for *** percent of ZAO Kremny's sales in its most recent fiscal year. ZAO Kremny produces metallurgical- and chemical-grade silicon metal.

[6] ZAO Kremny estimated that it accounted for *** percent of silicon metal production in Russia in 2000; Bratsk Aluminum estimated that it accounted for *** percent; and SKU estimated that it accounted for *** percent. Responses to the Commission's foreign producers' questionnaire, p. 5.

Table VII-1
Silicon metal: Russian producers' capacity, production, and capacity utilization, by firms, 1999-2001, January-September 2001, January-September 2002, and projections for 2002-03

* * * * * * *

Figure VII-1
Silicon metal: Russian producers' capacity, production, and capacity utilization, 1999-2001, and projections for 2002-03

* * * * * * *

Table VII-2
Metal furnaces: Russian producers' capacity, production, and capacity utilization, by products, 1999-2001, January-September 2001, and January-September 2002

* * * * * * *

Table VII-3
Silicon metal: Data on the industry in Russia, 1999-2001, January-September 2001, January-September 2002, and projections for 2002-03

* * * * * * *

All of the Russian manufacturers produce metallurgical-grade silicon metal for the secondary and primary aluminum markets.[7] However, only one manufacturer, ZAO Kremny, produced chemical-grade silicon metal.[8] [9] Petitioners have asserted that the quality and purity of imported silicon metal from Russia has improved over time and that imports from Russia are accepted for use by customers in all segments of the U.S. market.[10] Respondents agree that subject imports are generally interchangeable with domestically produced silicon metal and silicon metal imported from nonsubject sources.[11]

Russian capacity increased by *** percent from 1999 to 2001, but is projected to decrease by *** percent by 2003. Russian production increased by *** percent from 1999 to 2001, but is projected to decrease by *** percent by 2003. Industry capacity utilization was *** percent in 1999, *** percent in 2000, and *** percent in 2001, and is projected to be *** percent in 2002 and *** percent in 2003.

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[7] Russian producers are unable to produce low-iron silicon metal (i.e., 0.35 percent or less iron content) for use in certain applications in the primary aluminum market (mainly in the production of automotive alloy wheels) because of the relatively high levels of iron and calcium impurities in the quartzite deposits in Russia. Respondents' postconference brief, p. 1; postconference brief of GE Silicones, p. 19; and testimony of Mr. Appleby, conference transcript, p. 77. ZAO Kremny *** (February 20 and 21, 2003, e-mails from F. Waite and K. Young, Holland & Knight).

[8] Only ZAO Kremny has the refining equipment to produce chemical-grade silicon metal. Testimony of Mr. Appleby and Mr. Wilner, conference transcript, pp. 88-89.

[9] ***.

[10] Petitioners' *Answers to Questions from Staff*, April 5, 2002, pp. 18-19.

[11] Respondents' postconference brief, pp. 10-11; and testimony of Mr. Appleby, conference transcript, p. 76.

During the final phase of this investigation, the Commission requested information on the ability of producers in Russia to manufacture other ferroalloy products in the same furnaces used to produce silicon metal. During the period of investigation, producers of silicon metal in Russia operated 17 metal furnaces: two have been out of operation, one was converted to ferrosilicon production in October 2002 (at a cost of 2 months production and $130,000), two were intermittently idled during 2001 for reconstruction, and 12 were operational except for scheduled maintenance. Data regarding such metal furnace capacity, production, and capacity utilization are presented in table VII-2.

U.S. IMPORTERS' INVENTORIES

Table VII-4 presents data on U.S. importers' end-of-period inventories of imported silicon metal from Russia.

Table VII-4
Silicon metal: U.S. importers' end-of-period inventories of imports from Russia, 1999-2001, January-September 2001, and January-September 2002

Item	Calendar year			January-September	
	1999	2000	2001	2001	2002
Inventories[1] *(short tons of contained silicon)*	8,871	5,516	9,814	3,518	7,296
Ratio to imports *(percent)*	39.0	26.9	26.7	12.9	15.8
Ratio to U.S. shipments of imports *(percent)*	37.4	23.1	30.3	12.7	15.5

[1] Inventories of imports from Russia were reported by ***. Inventories were reportedly committed to purchasers under contract (hearing transcript, p. 116, (McGrath); and February 10, 2003, e-mail from ***).

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

ANTIDUMPING DUTY ORDERS IN THIRD COUNTRY MARKETS

There are no known antidumping orders or other trade restraints in third countries concerning silicon metal from Russia.[12] On August 30, 2002, a dumping complaint was filed by the Liaison Committee of the Ferro-Alloy Industry of the European Communities against silicon metal (HTS number 2804.69.00) originating in Russia. Under the EC investigation schedule, provisional duties may be imposed by July 12, 2003, and final duties may be imposed by January 12, 2004.[13] [14]

[12] Respondents' postconference brief , p. 38, and foreign producer questionnaire responses, p. 3.

[13] *Notice of initiation of an anti-dumping proceeding concerning imports of silicon metal originating in Russia,* Official Journal of the European Communities, C 246/12, October 12, 2002.

[14] On February 6, 2003, the European Commission granted market economy status to SKU and ZAO Kremny, and indicated that the EC antidumping investigation of those companies' prices and costs will take place in Russia (respondents' posthearing brief, exh. B-3).

WORLD PRODUCTION

Estimated world production of silicon metal during 2001 is presented in the following tabulation:

Source	Short tons (gross weight)	Share of total (*percent*)
China	331	32.3
United States	144	14.1
Brazil	123	12.0
Norway	110	10.8
France	83	8.1
Russia	44	4.3
South Africa	44	4.3
Australia	33	3.2
Canada	33	3.2
Spain	33	3.2
Germany	28	2.7
Other	19	1.8
Total	1,025	100.0

Source: U.S. Geological Survey *Minerals Yearbook 2001*.

APPENDIX A

FEDERAL REGISTER NOTICES

instance, to comply with the Department's filing requirements. Consequently, we are not rejecting these companies' requests solely on the basis that they did not properly file their submissions by the June 21, 2002, deadline. Moreover, we disagree with petitioners' contention that the Department should not initiate any additional reviews until the final determinations regarding all requests in Round 1 are issued. In order to reach our dual goals of providing company-specific rates and excluding from the order companies that receive zero or de minimis subsidies during the period of investigation and completing these reviews in the most expeditious manner possible, it is necessary to initiate expedited reviews on the 31 companies that have perfected their submissions at this time.

Initiation

At this time, we are initiating expedited reviews of the following companies:

2859–8936 Quebec Inc. Les Cedre Basques
9027–7971 Quebec Inc.
Antrim Cedar Corporation
Bridgeside Higa Forest Industries Ltd.
Carson Lake Lumber Ltd.
Central Cedar Ltd.
Doman Forest Products Limited
Forstex Industries Inc.
Goldwood Industries Ltd.
Hollcan Millworks Ltd.
Hudson Mitchell & Sons Lumber Inc.
Indian River Lumber
Les Scieries Jocelyn Lavoie Inc.
Leslie Forest Products Ltd.
Lukwa Mills Ltd.
Lyle Forest Products Ltd.
Power Wood Corp.
Precision Moulding Products
Ram. Co. Lumber Ltd.
Rielly Industrial Lumber Inc.
Shawood Lumber Inc.
South East Forest Products Ltd.
St. Jean Lumber (1984) Ltd.
Sylvanex Lumber Products Inc.
Teal Cedar Products Ltd.
United Wood Frames Inc.
W.I. Woodtone Industries
Westwood Wholesale Lumber Ltd.
Williamsburg Woods & Garden Inc.
Winnipeg Forest Products, Inc.
Wynndel Box & Lumber Co. Ltd.

Request for Pass-Through Analysis

Under the Department's proposed methodology for these expedited reviews, all Crown inputs (logs and lumber) into subject merchandise are included in the subsidy calculations. Because of the expedited nature of these reviews, we originally proposed not to consider whether subsidies pass through in the context of alleged arm's-length transactions. In comments on the methodology, parties requested and proposed several alternative methodologies to measure whether or not subsidies to crown inputs pass through as a result of an arm's-length transaction. *See Preliminary Results of Countervailing Duty Expedited Reviews: Certain Softwood Lumber Products from Canada* (67 FR 52945, 52948–52949, August 14, 2002). Petitioners also commented that the proposed methodology underestimates the benefits for entities that are highly subsidized. *See id.* at 52947. After consideration of the comments received on the Department's proposed methodology, in the notice of preliminary results of countervailing duty expedited reviews we noted that the complexities of the pass-through analysis that were brought to light by parties' proposed methodologies did not lend themselves to an expeditious analysis in the context of these reviews. We invited those companies that nonetheless wished the Department to conduct a pass-through analysis, to advise the Department in writing. Companies whose expedited reviews are initiated in this notice may thus also request in writing that the Department conduct a pass-through analysis. Such requests must be received by the Department within 14 days from the date of publication of this notice.

We will determine, based on the total number of pass-through requests received, how many companies it is practicable to consider for such an analysis, as well as the amount of time that will be necessary for this aspect of the reviews. If a company requests a pass-through analysis and the Department determines that it is not practicable to conduct that analysis, the Department will conduct an expedited review of the company using the streamlined methodology outlined in the notices of initiation and preliminary results, either with Group 1 or with Group 2, based on the Group that was previously identified for the company. (*See Notice of Initiation of Expedited Reviews of the Countervailing Duty Order: Certain Softwood Lumber Products From Canada* (67 FR 46955, 46956–46957, July 17, 2002) and *Preliminary Results of Countervailing Duty Expedited Reviews: Certain Softwood Lumber Products from Canada* (67 FR 52945, 52947–52950, August 14, 2002).

Procedure to withdraw requests for expedited review

As indicated in the notice of preliminary results of expedited reviews (67 FR 52950), requests for recission of a respondent's expedited review must be received by the Department no later than 30 days after the date of publication of the preliminary results of the relevant expedited review. If a company requests a pass-through analysis and the request is accepted, the company will have 30 days after the publication of the preliminary results of the relevant pass-through analysis in which to withdraw its request.

Notice of Appearance

The Expedited Reviews/Round 2 is a separate segment of the proceeding. All parties wishing to participate in this segment of the proceeding, must file a letter of appearance. Those parties wishing to receive access to business proprietary information subject to Administrative Protective Order (APO) must file an APO application for this segment.

This notice is in accordance with section 751(a) of the Tariff Act of 1930.

Dated: September 13, 2002.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–24003 Filed 9–19–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–817]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Silicon Metal From the Russian Federation

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

ACTION: Notice of preliminary determination of the less-than-fair-value investigation of silicon metal from the Russian Federation and postponement of the final determination.

SUMMARY: The Department of Commerce ("the Department") has preliminarily determined that imports of silicon metal from the Russian Federation ("Russia") are being, or are likely to be, sold in the United States at less than fair value ("LTFV").

EFFECTIVE DATE: September 20, 2002.

FOR FURTHER INFORMATION CONTACT: Carrie Blozy or Cheryl Werner, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230;

telephone: (202) 482–0409 and (202) 482–2667, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (2002).

Background

On March 27, 2002, the Department initiated an antidumping duty investigation to determine whether imports of silicon metal from Russia are being, or are likely to be, sold in the United States at LTFV. *See Notice of Initiation of Antidumping Duty Investigation: Silicon Metal from the Russian Federation,* 67 FR 15791 (April 3, 2002) ("*Notice of Initiation*"). The Department set aside a period for all interested parties to raise issues regarding product coverage. *See Notice of Initiation.* The Department received no comments on product coverage from interested parties.

On April 16, 2002, the Department requested information from the U.S. Embassy in Russia to identify producers/exporters of the subject merchandise.

On April 18, 2002, the United States International Trade Commission ("ITC") issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of the subject merchandise from the Russian Federation. *See Silicon Metal from Russia,* 67 FR 20993 (April 29, 2002) ("ITC Preliminary Determination").

On April 23, 2002, the Department issued its antidumping questionnaire to the Trade Representative of the Russian Federation to the USA with a letter requesting that it forward the questionnaire to all manufacturers and exporters in Russia of silicon metal, and stated that complete questionnaire responses were required from producers/exporters who had sales, shipments, or entries of the subject merchandise into the United States during the period of investigation ("POI"). We also sent courtesy copies of the antidumping questionnaire to the following possible producers/exporters of subject merchandise: SUAL Holding, ZAO Kremny, SUAL-Kremny-Ural Ltd ("SKU"), and Pultwen Limited ("Pultwen Ltd.") as well as Bratsk Aluminum Smelter ("BAS"). We received Section A responses from ZAO Kremny/SKU and Pultwen Ltd. as well as BAS and Rual Trade Limited ("RTL") on May 29, 2002. On June 11, 2002, we received comments from petitioners [1] on BAS and RTL's Section A response. On June 12, 2002, we received comments from petitioners on ZAO Kremny/SKU and Pultwen Ltd's Section A response. On June 17, 2002, we received Sections C and D responses from ZAO Kremny/SKU and Pultwen Ltd. and from BAS and RTL.

On June 18, 2002, we issued supplemental Section A questionnaires to ZAO Kremny/ SKU and Pultwen Ltd. and to BAS and RTL. On June 21, 2002, and June 27, 2002, we received comments from petitioners on BAS and RTL's Sections C and D responses and ZAO Kremny/SKU and Pultwen Ltd's Sections C and D responses, respectively. On June 28, 2002, we issued supplemental Sections C and D questionnaires to ZAO Kremny/SKU and Pultwen Ltd. and to BAS and RTL. On July 3, 2002, we received supplemental Section A responses from ZAO Kremny/SKU and Pultwen Ltd. and from BAS and RTL. On July 3, 2002, we issued a second supplemental Sections A and C questionnaire to ZAO Kremny/SKU and Pultwen Ltd., including a request that they report their sales through a U.S. trading company. On July 15, 2002, we received comments from petitioners on BAS and RTL's supplemental Section A response. On July 16, 2002, we issued a second supplemental Section A questionnaire to BAS and RTL. On July 19, 2002, we received supplemental Sections C and D responses from BAS and RTL and from ZAO Kremny/SKU and Pultwen Ltd. Also, on July 19, 2002, we received second supplemental Sections A and C responses from ZAO Kremny/SKU and Pultwen Ltd. On July 26, 2002, we received a section A questionnaire response from a U.S. trading company that purchased Russian silicon metal from Pultwen Ltd. during the POI.

On July 26, 2002, we received comments from petitioners on ZAO Kremny/SKU and Pultwen Ltd's responses for Sections C and D and supplemental Sections A and C. On July 29, 2002, ZAO Kremny/SKU and Pultwen Ltd. submitted a revised U.S. sales listing. On July 29, 2002, we received comments from petitioners on BAS and RTL's joint supplemental Sections C and D responses. On July 30, 2002, we issued a fourth supplemental questionnaire to ZAO Kremny/SKU and Pultwen Ltd, again requesting that they report sales through the U.S. trading company. On July 31, 2002, we received the second supplemental Section A response from BAS and RTL. On August 13, 2002, we received ZAO Kremny/ SKU and Pultwen Ltd's second supplemental Sections C and D response and on August 20, 2002, we received the second supplemental Sections C and D responses from BAS and RTL. On August 20, 2002, we issued a fifth supplemental questionnaire to ZAO Kremny/SKU and Pultwen Ltd., again requesting the U.S. trading company's sales information, and received their response on August 27, 2002. On August 22, 2002, petitioners submitted comments concerning the relationship between ZAO Kremny/SKU, Pultwen Ltd. and a U.S. trading company. On August 27, 2002, the Department determined that Pultwen Ltd. and a U.S. trading company were affiliated through a principal/agent relationship. *See Memorandum For Joseph A. Spetrini, Deputy Assistant Secretary for Import Administration, Group III: Antidumping Investigation of Silicon Metal from Russia; Affiliation Memorandum of Pultwen Limited and U.S. Trading Company,* dated August 27, 2002 ("*Affiliation Memo for Pultwen and U.S. Trading Company*"). On August 28, 2002, we again requested that ZAO Kremny/SKU and Pultwen Ltd. provide their affiliated U.S. trading company's sales and received their response on September 4, 2002. Also, on August 28, 2002, we issued a third supplemental questionnaire to BAS and RTL and received their response on September 4, 2002. On August 29, 2002, petitioners submitted comments concerning the application of adverse facts available for ZAO Kremny/SKU, Pultwen, and the affiliated U.S. trading company.

On August 2, 2002, the Department determined the investigation was extraordinarily complicated and postponed the preliminary determination by 30 days, until September 13, 2002. *See Notice of Postponement of Preliminary Determination of Antidumping Duty Investigation: Silicon Metal from the Russian Federation,* 67 FR 51834 (August 9, 2002).

[1] Globe Metallurgical Inc., Simcala Inc., the International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers, I.U.E.–C.W.A., AFL–CIO, C.L.C., Local 693, The Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5–89, and the United Steel Workers of America, AFL–CIO, Local 9436, hereinafter referred to as "petitioners."

Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Act, on September 6, 2002, ZAO Kremny/SKU and Pultwen Ltd. requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register** and extend the provisional measures to not more than six months. On September 10, 2002, BAS and RTL also requested that the Department fully postpone its final determination, in accordance with section 735(a)(2) of the Act, and agreed to the extension of provisional measures to not more than six months. In accordance with 19 CFR 351.210(b)(2)(ii) and (e), because (1) our preliminary determination is affirmative, (2) ZAO Kremny/SKU and Pultwen Ltd. and BAS and RTL account for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the respondents' request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

Period of Investigation

The POI is July 1, 2001, through December 1, 2001. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition (March 7, 2001). See 19 CFR 351.204(b)(1).

Scope of Investigation

For purposes of this investigation, the product covered is silicon metal, which generally contains at least 96.00 percent but less than 99.99 percent silicon by weight. The merchandise covered by this investigation also includes silicon metal from Russia containing between 89.00 and 96.00 percent silicon by weight, but containing more aluminum than the silicon metal which contains at least 96.00 percent but less than 99.99 percent silicon by weight. Silicon metal currently is classifiable under subheadings 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule of the United States ("HTSUS"). This investigation covers all silicon metal meeting the above specification, regardless of tariff classification.

Critical Circumstances

According to section 733(e)(1) of the Act, if critical circumstances are alleged under section 733(e) of the Act, the Department must examine whether there is a reasonable basis to believe or suspect that: (A)(i) There is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period. Section 351.206(h)(1) of the Department's regulations provides that, in determining whether imports of the subject merchandise have been "massive," the Department normally will examine: (i) The volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, section 351.206(h)(2) of the Department's regulations provides that an increase in imports during the "relatively short period" described in section 351.206(i) of over 15 percent may be considered "massive." Section 351.206(i) of the Department's regulations defines "relatively short period" normally as the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later.

On July 31, 2002, petitioners submitted an allegation of critical circumstances with respect to imports of silicon metal from Russia. On August 2, 2002, the Department requested shipment information from ZAO Kremny/SKU, and Pultwen Ltd.[2] and BAS and RTL.[3] On August 12, 2002, ZAO Kremny/SKU and Pultwen Ltd. and BAS and RTL each submitted shipment information and commented on the allegation that critical circumstances exist with respect to imports of silicon metal from Russia. On August 29, 2002, petitioners submitted additional comments on the critical circumstances determination. On September 10, 2002, BAS and RTL submitted additional shipment information for August 2002, and commented on petitioners' August 29, 2002, comments. However, because of the lateness of the September 10, 2002, submission, we are not able to analyze the data for the preliminary determination and will consider it for the final.

In their August 12, 2002, submission, BAS and RTL make several arguments as to why the criteria for a finding that critical circumstances exist are not satisfied in this case. First, BAS and RTL argue that the margin alleged in the petition cannot be considered a reliable source of information from which to impute knowledge of dumping to importers of silicon metal from Russia. BAS and RTL note that it is the Department's normal practice to rely on its own estimated dumping margins in determining whether to impute knowledge of dumping in the absence of a history of dumping and material injury with respect to silicon metal from Russia in the United States and other countries. BAS and RTL assert that the petition was filed over five months ago (on March 7, 2002), and that the initiation margin is based on aberrational surrogate values from Egypt, including the value for quartzite. BAS and RTL submit that respondents have provided information demonstrating that Egypt is not an appropriate surrogate country for Russia.

BAS and RTL also argue in their August 12, 2002, submission that since the filing of the petition imports of silicon metal from Russia have not been massive considering high market volatility and seasonality. Citing the Antidumping Manual, Chapter 10, page 4, and *Sulfanilic Acid from the People's Republic of China,* 57 FR 29705, 29708 (July 6, 1992), BAS and RTL claim that the Department's practice indicates that a six-month period from March 2002 to August 2002 should be examined in comparison to the prior six month period, rather than the three-month period proposed by petitioners. BAS and RTL provide a graph showing the average change in the level of silicon metal imports from month to month for the period 1998 to 2001, which they assert shows that the average percent change in the level of silicon metal imports from month to month was plus or minus forty-one percent. BAS and RTL conclude that based on these "dramatic" changes in silicon metal import levels, an unrepresentative comparison may result if the base period and comparison period chosen are too short. They claim that to avoid these distortions, the Department should examine the full period from the petition to the preliminary determination in comparison to an equal period prior to the petition.

[2] The Department has determined that ZAO Kremny and SKU, which are parts of SUAL-Holding Group, are affiliated with Pultwen Ltd. *See Memorandum to Joseph A. Spetrini, Deputy Assistant Secretary for Import Administration: Antidumping Investigation of Silicon Metal from Russia; Affiliation Memorandum of Pultwen Limited and ZAO Kremny and SUAL-Kremny-Ural* ("Affiliation Memo"), dated September 11, 2002.

[3] RTL is the exporter of BAS's subject merchandise.

BAS and RTL also contend in their August 12, 2002, submission that the Department should consider that imports of silicon metal from Russia have maintained a stable proportion of total silicon metal imports. Moreover, citing shipment data provided by BAS and RTL, they contend that frozen conditions at the port of St. Petersburg may cause a drop in import levels from Russia during January, February, and March, and then cause apparent surges in Russian imports in the early spring.

Respondents ZAO Kremny/SKU and Pultwen Ltd. maintain that based on a five-month comparison period, the monthly shipment data they provided shows that there has been no post-petition surge in the quantity of silicon metal shipped to the United States after the filing of the petition.

In their August 29, 2002, submission, petitioners allege that BAS and RTL and ZAO Kremny/SKU and Pultwen improperly reported their shipment data, and suggest that the Department should rely on the official import data in examining critical circumstances. Citing *Notice of Preliminary Determination of Critical Circumstances: Silicomanganese From India*, 66 FR 53207, 53208 ("October 19, 2001") (*"Silicomanganese from India"*); *Notice of Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination Certain Softwood Lumber Products from Canada*, 66 FR 43186, 43190 (August 17, 2001); and *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Steel Concrete Reinforcing Bars from Latvia*, 66 FR 8323, 8325 (January 30, 2001) (*"Rebars from Latvia"*), petitioners maintain that the Department has used a three-month pre-filing and post-filing period in numerous instances, and there is no reason to deviate from this practice in this investigation. They argue that BAS and RTL have not provided evidence to demonstrate that their seasonality argument is valid.

In determining whether the statutory criteria have been satisfied, we examined: (1) The evidence presented in petitioners' July 31, 2002, allegation of critical circumstances; (2) new evidence obtained since the initiation of the LTFV investigation (*i.e.*, additional import statistics released by the Census Bureau and company-specific shipment information); and (3) the ITC preliminary injury determination.

Because we are not aware of and there is no record evidence of any antidumping order in any country on silicon metal from Russia, we find that there is no reasonable basis to believe or suspect that there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise. Therefore, we must look to whether there was importer knowledge under section 733(e)(1)(A)(ii). In determining whether there is a reasonable basis to believe or suspect that an importer knew or should have known that the exporter was selling silicon metal at less than fair value, the Department normally considers margins of 25 percent or more for export price ("EP") sales and 15 percent or more for constructed export price ("CEP") sales sufficient to impute knowledge of dumping. *See Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China*, 62 FR 31972, 31978 (June 11, 1997). As noted by BAS and RTL, the Department generally bases its decision, with respect to knowledge, on the margins calculated in the preliminary determination. As indicated above, all sales by BAS and RTL are properly classified as EP sales. All sales from ZAO Kremny, SKU, and Pultwen Ltd. through the U.S. trading company are properly classified as CEP sales, all other sales from ZAO Kremny, SKU, and Pultwen Ltd. are properly classified as EP sales. The margins for BAS and RTL and ZAO Kremny, SKU, and Pultwen are in excess of 25 percent. Therefore, we impute knowledge of dumping in regard to exports by these companies.

Moreover, in determining whether there is a reasonable basis to believe or suspect that an importer knew or should have known that there was likely to be material injury by reason of dumped imports, the Department may look to the preliminary injury determination of the ITC. If the ITC finds a reasonable indication of present material injury to the relevant U.S. industry, the Department normally determines that a reasonable basis exists to impute importer knowledge that there was likely to be material injury by reason of dumped imports. *Id.* The ITC has found that a reasonable indication of present material injury exists in regard to Russia. *See ITC Preliminary Determination.* As a result, the Department has determined that there is a reasonable basis to believe or suspect that importers knew or should have known that there was likely to be material injury by reason of dumped imports in this case.

In determining whether there are "massive imports" over a "relatively short period," the Department ordinarily bases its analysis on import data for at least the three months preceding (the base period) and following (the comparison period) the filing of the petition. *See* 19 CFR 351.206(i). Imports normally will be considered massive when imports during the comparison period have increased by 15 percent or more compared to imports during the base period. *See* 19 CFR 351.206(h). We agree with respondents that it is our normal practice to include in our analysis data concerning the respondents' imports of subject merchandise up to the date of the preliminary determination, where such data are available. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Softwood Lumber Products from Canada*, 67 FR 15539, 15540 (April 2, 2002) (*"Lumber from Canada"*); *Aramid Fiber of Poly-Phenylene Terephthalamide From the Netherlands*, 59 FR 23684, 23687 (May 6, 1994) and *Final Determination of Sales at Less Than Fair Value; Stainless Steel Sheet and Strip in Coils From Germany*, 64 FR 30710, 30729 (June 8, 1999). Of the cases cited by petitioners, we note that in *Silicomananese from India*, we used all the company-specific shipment information available at the time of the preliminary determination, which resulted in a five-month comparison period, and in *Rebars from Latvia*, it is unclear what time period was used by the Department, although in the other rebar investigations we used an eight-month comparison period, which incorporated all of the information available at the time of the preliminary determination (*see Preliminary Determinations of Critical Circumstances: Steel Concrete Reinforcing Bars From Ukraine and Moldova*, 65 FR 70696 (November 27, 2000)). Although we used a three-month comparison period in the preliminary determination in the countervailing duty investigation of lumber from Canada, in the final determination the Department did not address whether it should use additional data because the first prong of the test was not met. In the antidumping investigation of lumber from Canada, we used a six-month period. *See Lumber from Canada.* Because we agree with BAS and RTL that a longer period is appropriate, we have not considered the other arguments presented by BAS and RTL against a finding of "massive imports" (*e.g.*, volatility in silicon metal imports and seasonality) and petitioners' counter-arguments.

In this instance, both respondents have submitted shipment data through July 2002. BAS and RTL reported its shipments data based on the "bill of lading" month, and ZAO Kremny/SKU and Pultwen Ltd. reported shipments data using two different methodologies: The first data based on the date of invoice to the U.S. customer for all sales and the second based on different shipment methodologies for the two plants. In their original Section C Response, BAS and RTL explained that the date of shipment reported in the U.S. sales listing was the date on which the merchandise was loaded onto the ocean vessel at the port. *See* June 17, 2002, submission at 5. In describing its sales process, BAS and RTL noted that after production BAS informs RTL of the amount of silicon metal produced and available for sale and then loads the silicon metal onto railcars for shipment to a bonded warehouse in St. Petersburg, where it is stored for a certain length of time until shipment. *See* May 29, 2002, submission at 15 and 18. Because BAS and RTL invoice their sales of silicon metal to the United States while the material is stored at a bonded warehouse, we disagree with petitioners that the date of shipment from BAS's plant would be the appropriate date on which to base shipment data for purposes of our critical circumstances analysis. Moreover, based on an analysis of BAS and RTL's questionnaire responses, we find that the bill of lading date is an appropriate proxy for the date of shipment of the silicon metal from the bonded warehouse. *See* June 17, 2002, submission at 9. Therefore, for BAS and RTL we determine that it is appropriate to rely on the shipment date provided. With respect to ZAO Kremny/SKU and Pultwen Ltd., petitioners specifically challenge the methodology used to report SKU's shipments. ZAO Kremny/SKU and Pultwen defined date of shipment for ZAO Kremny as the date of shipment from the plant, and defined date of shipment for SKU as the date of shipment from the port. *See* July 2, 2002, submission at 18. ZAO Kremny/SKU,and Pultwen Ltd. explained that the date of shipment was defined differently because of differences in the sales process. *See* August 13, 2002, submission at 2. Based on the information provided by ZAO Kremny/SKU and Pultwen, we determine that given the different sales processes for sales produced by the ZAO Kremny plant and the SKU plant, ZAO Kremny/SKU and Pultwen Ltd. have properly defined date of shipment for both SKU and ZAO Kremny. *See* July 2, 2002, submission at Exhibit A–9. Consequently, for purposes of our critical circumstances analysis, we have relied on the shipment data prepared by ZAO Kremny/SKU and Pultwen Ltd. based on their defined date of shipment for each plant.

Accordingly, for both respondents we have based our analysis on shipment data for the five months preceding (the base period) and following (the comparison period) the filing of the petition. Pursuant to 19 CFR 351.206(h), we analyzed respondents' shipment data and found that imports were not massive as imports in the comparison period did not increase by at least 15 percent over imports in the base period. We therefore preliminarily find that critical circumstances do not exist with respect to BAS and RTL and ZAO Kremny/SKU and Pultwen Ltd.

With respect to exporters subject to the "Russia-wide" rate, the Department has considered the traditional critical circumstances criteria to determine whether critical circumstances exist. First, the dumping margin for the Russia-wide entity, 123.62 percent, exceeds the 25 percent threshold necessary to impute knowledge of dumping. Second, based on the ITC's preliminary material injury determination, we also find that importers knew or should have known that there would be material injury from sales of the dumped merchandise by respondents other than BAS and RTL and ZAO Kremny/SKU and Pultwen. With respect to massive imports for the Russia-wide entity, U.S. Customs data do not permit the Department to analyze imports from the Russia-wide entity of the product at issue, because it is not possible to link (and therefore subtract out) individual exporter's reported shipment data with U.S. Customs import data (*e.g.*, due to time differentials between export from Russia and import into the United States, the involvement of resellers, and split shipments). Because the U.S. Customs data include imports from companies who have cooperated in this investigation, we are therefore unable to analyze whether there have been massive imports from the single Russia-wide entity using information specific to the Russia-wide entity. In addition, we found no other independent sources of information covering all exports from the Russia-wide entity. Because we have no independent means by which to determine import levels for the Russia-wide entity, we have determined, as adverse facts available, that because this entity did not provide an adequate response to our questionnaire, there were massive imports of subject merchandise. This is consistent with past Department practice. *See e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields From the People's Republic of China,* 67 FR 48233, 48239 (September 19, 2001); and *Notice of Final Determination of Sales at Less Than Fair Value; Certain Preserved Mushrooms from the People's Republic of China,* 63 FR 72255, 72263 (December 31, 1998). We further note that in the instant case, aggregate imports of silicon metal from Russia during the comparison period increased by 19 percent. Therefore, because all of the necessary criteria have been met, in accordance with section 733(e)(1) of the Act, the Department preliminarily finds that critical circumstances do exist with respect to the Russia-wide entity.

Non-Market Economy Country Status

On June 6, 2002, the Department revoked Russia's status as a non-market economy ("NME"), effective April 1, 2002. *See Memorandum from Albert Hsu, Barbara Mayer, and Christopher Smith through Jeffrey May, Director, Office of Policy, to Faryar Shirzad, Assistant Secretary, Import Administration: Inquiry into the Status of the Russian Federation as a Non-Market Economy Country under the U.S. Antidumping Law,* dated June 6, 2002. On June 20, 2002, BAS and RTL requested the Department analyze the transactions of these companies for this investigation in accordance with the antidumping rules applicable to market economies. BAS and RTL stated that the Department's analysis of Russia's economy "was based on a review of historic data that applies to the investigation period in this case, July 1 through December 31." *See* Letter from BAS and RTL, dated June 20, 2002. Because the period of investigation pre-dates the effective date of the Department's determination, we are continuing to utilize our methodology in this investigation. Should an antidumping order be issued in this case, the NME antidumping duty rates will remain in effect until they are changed as a result of a review, pursuant to section 751 of the Act, of a sufficient period of time after April 1, 2002.

Separate Rates

It is the Department's policy to assign all exporters of subject merchandise in an NME country a single rate, unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. BAS and RTL (the exporter of BAS's subject

merchandise) and ZAO Kremny/SKU have submitted separate rates information in their section A responses, have stated that there is no element of government control, and have requested a separate, company-specific rate.

The Department's separate rates test is unconcerned, in general, with macroeconomic/ border-type controls (*e.g.*, export licenses, quotas, and minimum export prices), particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. *See Certain Cut-to-Length Carbon Steel Plate from Ukraine: Final Determination of Sales at Less than Fair Value,* 62 FR 61754, 61757 (November 19, 1997); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 62 FR 61276, 61279 (November 17, 1997); and *Honey from the People's Republic of China: Preliminary Determination of Sales at Less than Fair Value,* 60 FR 14725, 14726 (March 20, 1995). To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China,* 56 FR 20588 (May 6, 1991) ("Sparklers"), as modified by *Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China,* 59 FR 22585 (May 2, 1994) (*"Silicon Carbide"*). Under the separate rates criteria, the Department assigns separate rates in NME cases only if the NME respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities. *See Silicon Carbide and Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China,* 60 FR 22545 (May 8, 1998).

1. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. *See Sparklers,* 56 FR at 20508. Respondents have placed on the record a number of documents to demonstrate absence of *de jure* control, including: (1) The Federal Law on Joint Stock Companies (November 24, 1995); (2) the Russian Federation Federal Act on State Regulation of Foreign Trade Activity (July 7, 1995) (amended as Federal Law No. 32–FZ (February 10, 1999)); (3) the President of the Russian Federation's Decree No. 721 (July 1, 1992); and (4) the Russian Federation Civil Code (October 21, 1994) at Articles 49 and 50. In prior cases, the Department has analyzed these laws and found that they establish an absence of *de jure* control. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation,* 64 FR 61261, 61268 (November 10, 1999); *see also Notice of Preliminary Determination of Sales at Less Than Fair Value: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation,* 65 FR 1139, 1142 (January 7, 2000).[4] We have no new information in this proceeding which would cause us to reconsider this determination. According to BAS and RTL and ZAO Kremny/SKU, silicon metal exports are not affected by export licensing provisions or export quotas. Based on the assertions of BAS and RTL and ZAO Kremny/SKU, we preliminarily determine that there is an absence of *de jure* government control over the pricing and marketing decisions of BAS and RTL and ZAO Kremny/SKU with respect to these companies' silicon metal export sales.

2. Absence of De Facto Control

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by, or subject to, the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts, and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of its management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. BAS and RTL and ZAO Kremny/SKU have each asserted the following: Each company

(1) establishes its own export prices; (2) negotiates contracts without guidance from any governmental entities or organizations; (3) makes its own personnel decisions; and (4) retains the proceeds of its export sales and uses profits according to its business needs although in accordance with the Law on Hard Currency Regulation and Control, they are obligated to sell 50 percent of all foreign currency earned. Additionally, respondents' questionnaire responses indicate that company-specific pricing during the POI does not suggest coordination among exporters. This information supports a preliminary finding that there is an absence of *de facto* governmental control of the export functions of these companies. Consequently, we preliminarily determine that BAS and RTL and ZAO Kremny and SKU have met the criteria for the application of separate rates.

Russia-Wide Rate

In NME cases, it is the Department's policy to assume that all exporters located in the NME comprise a single exporter under common control, the "NME entity." This presumption can be rebutted. The Department assigns a single NME rate to the NME entity unless an exporter can demonstrate eligibility for a separate rate. All exporters were given the opportunity to respond to the Department's questionnaire. As explained above, we received timely Section A responses from ZAO Kremny/SKU and Pultwen Ltd., and BAS and RTL. Our review of U.S. import statistics, however, reveals that these companies did not account for all imports of subject merchandise into the United States from Russia. We received no responses from other exporters. Accordingly, we are applying a single antidumping rate—the Russia-wide rate—to all exporters in Russia based on our presumption that those respondents who failed to respond to the initial questionnaire constitute a single enterprise under common control by the Russian government. *See, e.g., Final Determination of Sales at Less Than Fair Value: Bicycles from the People's Republic of China,* 61 FR 19026 (April 30, 1996) (*"Bicycles"*). The Russia-wide rate applies to all entries of subject merchandise except for entries from ZAO Kremny/SKU and BAS.

[4] The Department's findings in the preliminary determinations of these proceedings were unchanged in the final determinations. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation,* 65 FR 5510, 5518 (February 4, 2000) (*"Russian Cold-Rolled Final Determination"*) and *Notice of Final Determination of Sales at Less Than Fair Value; Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation,* 65 FR 42669, 42671 (July 11, 2000).

Use of Facts Otherwise Available

Section 776(a)(2) of the Act provides that, if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form or manner requested, significantly impedes a proceeding under the antidumping statute, or provides information which cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination. Thus, pursuant to section 776(a) of the Act, the Department is required to apply, subject to section 782(d), facts otherwise available. Pursuant to section 782(e), the Department shall not decline to consider such information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Facts Available

Russia-Wide Entity

Section 776(a)(2)(A) of the Act requires the Department to use facts available when a party withholds information which has been requested by the Department. As explained above, certain exporters of the subject merchandise failed to respond to the Department's request for information. Pursuant to section 776(a) of the Act, in reaching our preliminary determination, we have used total facts available for the Russia-wide rate because these entities did not respond.

ZAO Kremny/SKU

Section 776(a)(2)(A) of the Act requires the Department to use facts available when a party withholds information which has been requested by the Department. As indicated in the "Background" section above, on August 27, 2002, the Department determined that Pultwen Ltd. is affiliated with a U.S. trading company through a principal/agent relationship. *See Affiliation Memo for Pultwen and U.S. Trading Company.* Consequently, for purposes of our margin analysis for ZAO Kremny/SKU and Pultwen Ltd., it is necessary for the Department to examine the affiliated U.S. trading company's sales of Russian silicon metal rather than Pultwen's sales to the affiliated U.S. trading company. On July 3, July 30, August 20, and August 28, 2002, the Department requested that ZAO Kremny/SKU and Pultwen Ltd. report the U.S. trading company's resales of silicon metal purchased from Pultwen to unaffiliated parties during the POI and that they provide a complete Section C questionnaire response for the U.S. trading company. In the Department's July 3, 2002, questionnaire, the Department also requested that ZAO Kremny/SKU and Pultwen Ltd. provide a Section A questionnaire response for the U.S. trading company, which was submitted on July 26, 2002. However, ZAO Kremny/SKU and Pultwen Ltd. did not provide the U.S. trading company's U.S. sales of silicon metal. In their August 27, 2002, submission, ZAO Kremny/SKU and Pultwen Ltd. explained that "despite repeated requests, {the U.S. trading company□ has declined to provide this information" and thus "it is regrettably impossible to comply with the Department's request." *See* August 27, 2002, submission at 4–5; and *see also* August 13, 2002, submission at 4–5. ZAO Kremny/SKU and Pultwen Ltd. provided copies of correspondence with the U.S. trading company. As the correspondence is proprietary, the summary of this correspondence can be found in the business proprietary version of the *ZAO Kremny/SKU Analysis Memorandum for the Preliminary Determination,* dated September 13, 2002. In their July 26, August 13, and August 27, 2002, submissions, ZAO Kremny/SKU and Pultwen Ltd. argue that this data is not necessary for the Department's analysis as there can be no finding of an agency relationship based on the facts in this case and the Department's practice in other cases. In their August 29, 2002, submission, petitioners argue that the Department should apply total facts available to ZAO Kremny/SKU and Pultwen Ltd., and the affiliated trading company. Moreover, they claim that the Department should apply an adverse inference.

The Department has determined that the U.S. trading company is affiliated with Pultwen. *See Affiliation Memo.* Interested parties will have a chance to comment on this determination according to the briefing schedule outlined below. However, for purposes of the preliminary determination, the Department is required to base its analysis on the affiliated U.S. trading company's U.S. sales of silicon metal. Because these sales were not reported, we must use the facts available. Silicon metal sales by ZAO Kremny/SKU and Pultwen Ltd. to the affiliated U.S. trading company constitute a significant proportion of their total sales of silicon metal to the United States during the POI. We cannot determine the volume of U.S. sales made by the affiliated U.S. trading company because of the failure of respondents to submit the requested sales data. Therefore, based on the significant proportion of sales to the affiliated U.S. trading company, we must presume that sales of the subject merchandise by the affiliated trading company are also significant. However, we do not find that the application of total facts available is appropriate in this case. Therefore, we are only applying facts available to that quantity of U.S. sales sold to the affiliated U.S. trading company during the POI. We disagree with ZAO Kremny/SKU and Pultwen Ltd.'s argument that the Department could use the sales information on the record from the affiliated U.S. trading company. The Department does not have the starting price or quantity for the CEP sales from the affiliated U.S. trading company during the POI, and there is not complete and verifiable information for the affiliated U.S. trading company's expenses. Therefore, pursuant to section 776(a) of the Act, in reaching our preliminary determination, we have used partial facts available for ZAO Kremny/SKU.

Adverse Facts Available

Section 776(b) of the Act provides that, in selecting from among the facts available, the Department may employ adverse inferences when an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information. Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." *See* Statement of Administrative Action ("SAA") accompanying the URAA, H.R. Doc. No. 103–316, at 870 (1994). Furthermore, "affirmative evidence of bad faith on the part of the respondent is not required before the Department may make an adverse inference." *See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27340 (May 19, 1997). The statute and SAA provide that such an adverse inference may be based on secondary information, including information drawn from the petition.

Russia-Wide Rate

The complete failure of these exporters to respond to the Department's requests for information constitutes a failure to cooperate to the best of their ability. Therefore, pursuant

to section 776(b) of the Act, the Department preliminarily finds that, in selecting from among the facts available, an adverse inference is appropriate.

ZAO Kremny/SKU

ZAO Kremny/SKU and Pultwen Ltd. have explained that they repeatedly requested that the U.S. trading company submit its sales of silicon metal, but that they were unable to compel the U.S. trading company to provide this information. Nevertheless, it was also the responsibility of the affiliated U.S. trading company to provide its sales information. The sales of ZAO Kremny/SKU and Pultwen Ltd. through their affiliated U.S. trading company are CEP sales (*see* below). For purposes of the CEP transaction, in essence, "the statute treats the exporter and the U.S. affiliate collectively, rather than independently, regardless of whether the exporter controls the affiliate." *See Notice of Final Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From Japan,* 64 FR 24329, 24367–68 (May 6, 1999) ("*Hot-Rolled Steel from Japan*"). Thus, because the statute requires that the Department base its margin calculations for the affiliated U.S. trading company's sales on record information, the Department required that ZAO Kremny/SKU, Pultwen Ltd., and the affiliated U.S. trading company, *collectively,* provide the necessary price data for ZAO Kremny/SKU and Pultwen Ltd.'s U.S. sales through the affiliated U.S. trading company. *See id.* It is undisputed that ZAO Kremny/SKU and Pultwen Ltd. and the affiliated U.S. trading company failed to provide this information as requested by the Department. Moreover, ZAO Kremny/SKU, Pultwen Ltd., and the affiliated U.S. trading company have not demonstrated to the Department's satisfaction that the affiliated U.S. trading company is unable to provide the necessary sales data. Therefore, we find that the failure to report these sales constitutes a failure of respondents to cooperate to the best of their ability. Pursuant to section 776(b) of the Act, the Department preliminarily finds that with respect to ZAO Kremny and SKU, in selecting from among the facts available, an adverse inference is appropriate. However, we have not used total facts available in this case given the circumstances at hand. ZAO Kremny/SKU and Pultwen Ltd. have explained that they have made "every effort to secure the cooperation of {the affiliated U.S. trading company} in this investigation * * *" (*see* September 4, 2002, submission at 2), and have provided on the record a statement from the affiliated U.S. trading company that it is not in the company's best interests to cooperate with ZAO Kremny/SKU and Pultwen Ltd. by completing a response (*see* August 28, 2002, submission at Exhibit 2). Given these claims and the fact that ZAO Kremny/SKU and Pultwen have provided complete and verifiable U.S. sales data for their U.S. sales which were not made through the affiliated U.S. trading company as well as complete and verifiable factors of production data, we applied adverse facts available to the sales made through the affiliated U.S. trading company.

An adverse inference may include reliance on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record. *See* section 776(b) of the Act. However, section 776(c) provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, the Department shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. The SAA states that the independent sources may include published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation or review. *See* SAA at 870. The SAA clarifies that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value. *Id.* As noted in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews,* 61 FR 57391, 57392 (November 6, 1996), to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.

For our preliminary determination, as adverse facts available for both the Russia-wide entity and the quantity of unreported U.S. sales by ZAO Kremny/SKU through the affiliated U.S. trading company, we have used the highest rate calculated for a respondent, *i.e.*, the rate calculated for BAS. In an investigation, if the Department chooses as facts available a calculated dumping margin of another respondent, the Department will consider information reasonably at its disposal as to whether there are circumstances that would indicate that using that rate is appropriate. Where circumstances indicate that the selected margin may not be appropriate, the Department will attempt to find a more appropriate basis for facts available. *See, e.g., Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review,* 61 FR 6812, 6814 (February 22, 1996) (the Department disregarded the highest margin as adverse best information available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin). In this investigation, there is no indication that BAS's calculated margin is inappropriate to use as adverse facts available.

Accordingly, for the preliminary determination, the Russia-wide rate is 123.62 percent. For the preliminary determination, the margin applied to the unreported sales by ZAO Kremny/SKU is 123.62 percent. Because this is a preliminary margin, the Department will consider all margins on the record at the time of the final determination for the purpose of determining the most appropriate final Russia-wide margin and the final margin to apply to the unreported U.S. sales by ZAO Kremny/SKU.

Surrogate Country

When the Department is investigating imports from a NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production, valued in a surrogate market economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, the Department, in valuing the factors of production, shall utilize, to the extent possible, the prices or costs of factors of production in one or more market economy countries that: (1) are at a level of economic development comparable to that of the NME country; and (2) are significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the NV section below.

The Department has determined that the Philippines, Egypt, Thailand, Colombia, and Tunisia are countries comparable to Russia in terms of economic development. *See Memorandum from Jeffrey May, Director, to James C. Doyle, Program Manager: Antidumping Duty Investigation on Silicon Metal from the Russian Federation,* dated April 30, 2002 ("*Policy Memo*").

On May 2, 2002, we requested comments on surrogate country selection, significant production in the

potential counties, and surrogate values for the factors of production. On June 6, 2002, we received comments from petitioners and a joint submission from ZAO Kremny/SKU, Pultwen Ltd., BAS and RTL. On July 8, 2002, petitioners submitted comments and data to be used to value the factors of production. On July 24, 2002, we received a joint submission from ZAO Kremny/SKU, Pultwen Ltd., BAS and RTL providing comments and surrogate country factor values to be used to value the factors of production. On August 23, 2002, petitioners submitted comments on respondents' joint July 24, 2002 submission of South African surrogate data and comments. For purposes of the preliminary determination, the Department has selected Egypt as the primary surrogate country for Russia to value the factors of production for this investigation. *See Memorandum from Edward C. Yang, Office Director to Joseph A. Spetrini, Deputy Assistant Secretary: Selection of a Surrogate Country: Preliminary Determination: Antidumping Investigation on Silicon Metal from the Russian Federation* (September 13, 2002).

Therefore, we have relied, where possible, on Egyptian information in calculating NV by using Egyptian prices to value the factors of production, when available and where appropriate. We have obtained and relied upon public information wherever possible. For certain factors of production values, where we could not locate usable Egyptian prices, we used Thai import prices (for charcoal) or domestic South African prices (for quartzite and quartzite fines). *See* Memorandum from Cheryl Werner on Factors of Production Valuation for the Preliminary Determination: *Preliminary Determination of Sales at Less Than Fair Value: Silicon Metal from the Russian Federation* (September 13, 2002) ("*Factor Valuation Memorandum*").

In accordance with section 351.301(c)(3)(i) of the Department's regulations, for the final determination in an antidumping investigation, interested parties may submit publicly available information to value factors of production within 40 days after the date of publication of the preliminary determination.

Fair Value Comparisons

BAS

To determine whether sales of silicon metal to the United States by RTL were made at less than fair value, we compared EP to NV, as described in the "Export Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs.

ZAO Kremny/SKU

To determine whether sales of silicon metal to the United States by ZAO Kremny/SKU and Pultwen Ltd. were made at less than fair value, we compared EP to NV, as described in the "Export Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs.

Transactions Investigated

As stated at 19 CFR 351.401(i), the Department normally will use the respondent's invoice date as the date of sale unless another date better reflects the date upon which the exporter or producer establishes the essential terms of sale.

BAS

For all U.S. sales, BAS and RTL reported the date of invoice issued by RTL to the final customer as date of sale. BAS and RTL stated that there were no changes to the unit price between the sales contract date and invoice date of RTL's U.S. sales of subject merchandise during the POI and none of the contract quantities changed in excess of the tolerance specified in the contract during the POI. However, BAS and RTL explained that a significant percentage of contract quantities of subject merchandise changed during the POI. Therefore, the Department is using RTL's invoice date as the date of sale for the preliminary determination.

ZAO Kremny/SKU

For all U.S. sales, ZAO Kremny/SKU and Pultwen Ltd. reported date of sale as the earlier of date of shipment or the date of invoice issued by Pultwen Ltd. to the final customer. ZAO Kremny, SKU, and Pultwen Ltd. explained that in accordance with the Department's normal practice, date of sale cannot be later than date of shipment. All sales to one customer were based on long-term contracts for chemical grade silicon metal from ZAO Kremny. All other U.S. sales were made pursuant to short-term contracts.[5] In their July 26, 2002, submission, petitioners argue that for the sales made pursuant to long-term contracts, the appropriate date of sale is the date of contract. *See* July 26, 2002, submission at 6–8.

Although "the Department prefers to use invoice date as the date of sale, we are mindful that this preference does not require the use of invoice date if the facts of a case indicate a different date better reflects the time at which the material terms of sale were established." *See Circular Welded Non-Alloy Steel Pipe From the Republic of Korea; Final Results of Antidumping Duty Administrative Review,* 63 FR 32833, 32835–36 (June 16, 1998) ("*Pipe from Korea*"). For the sales made pursuant to long-term contracts, the record evidence indicates that the quantity and price were set at the time Pultwen issued its Sales Note. *See* July 22, 2002, submission at 4; *see* also August 13, 2002, submission at 1. For the preliminary determination, we find that for the sales made pursuant to long-term contracts, the date of contract is the proper date of sale in accordance with the Department's regulations at 19 CFR 351.401(i). For the U.S. sales made pursuant to short-term contracts, we have used respondents' reported date of sale (*i.e.*, the earlier of date of shipment or the date of invoice issued by Pultwen Ltd.).

Export Price and Constructed Export Price

In accordance with section 772(a) of the Act, EP is the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States. In accordance with section 772(b) of the Act, CEP is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d).

BAS

In its May 29, 2002, Section A response, BAS and RTL classified the reported sales as EP. We are using EP as defined in section 772(a) of the Act because the merchandise was sold, prior to importation, outside the United States by RTL to an unaffiliated purchaser in the United States. We calculated weighted-average EPs for RTL's U.S. sales. We based EP on prices to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign

[5] The Department has not considered the proper date of sale for the sales by the affiliated U.S. trading company since these sales were not reported.

inland freight from the plant to the port of exportation. RTL reported that it used a non-market economy carrier for foreign inland freight; therefore, we valued foreign inland freight using an appropriate surrogate value for rail transportation costs. *See Factor Valuation Memorandum.*

ZAO Kremny/SKU

In its June 17, 2002, Section C response, ZAO Kremny/SKU and Pultwen Ltd. classified the reported sales as EP. However, as explained above, the Department has determined that during the POI, Pultwen Ltd. was affiliated with a U.S. based trading company. In its July 26, 2002, Section A questionnaire response, the affiliated U.S. trading company explained that it is an importer, and that it sells to its customers in the United States after the importation of the merchandise. *See* July 26, 2002, submission at 11–12. Therefore, sales by the affiliated U.S. trading company would be properly classified as CEP sales; however, as explained above, since the U.S. sales by the affiliated U.S. trading company were not reported, the Department has applied adverse facts available.

For the U.S. sales by ZAO Kremny/SKU and Pultwen Ltd. that did not go through the affiliated U.S. trading company, we are using EP as defined in section 772(a) of the Act because the merchandise was sold, prior to importation, outside the United States by Pultwen Ltd. to unaffiliated purchasers in the United States. We calculated weighted-average EPs for Pultwen Ltd.'s U.S. sales. We based EP on prices to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight from the plant to the port of exportation, brokerage and handling expenses, ocean freight charges, and U.S. inland freight charges. ZAO Kremny/SKU and Pultwen Ltd. reported that they used a non-market economy carrier for foreign inland freight; therefore, we valued foreign inland freight using an appropriate surrogate value for rail transportation costs. *See Factor Valuation Memorandum.* ZAO Kremny/SKU and Pultwen Ltd. reported that they used market economy carriers for U.S. inland freight charges, and reported that they used both market and non-market economy carriers for brokerage and handling expenses and ocean freight charges. In accordance with 19 CFR 351.408(c)(1) and consistent with the Department's practice (*Synthetic Indigo from the People's Republic of China; Notice of Final Determination of Sales at Less Than Fair Value,* 65 FR 25706 (May 3, 2000) and accompanying Issues and Decision Memorandum (Changes from the Preliminary Determination)), we have used the weighted-average amount paid to market economy freight carriers as the basis for the adjustment for freight expenses paid to NME carriers. *See Factor Valuation Memorandum.*

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using a factors-of-production methodology if: (1) The merchandise is exported from an NME country; and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act.

Factors of production include: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. We used factors of production, reported by each producer for materials, energy, labor, by-products, and packing. We valued all the input factors using publicly available information as discussed in the "Surrogate Country" and "Factor Valuations" sections of this notice.

In accordance with 19 CFR 351.408(c)(1), where a producer sources an input from a market economy and pays for it in market economy currency, the Department employs the actual price paid for the input to calculate the factors-based NV. *See also Lasko Metal Products* v. *United States,* 437 F. 3d 1442, 1445–1446 (Fed. Cir. 1994) ("*Lasko*"). In this case, BAS and RTL did not report any market economy purchases. ZAO Kremny/SKU reported market economy purchases of certain inputs. *See* "Factor Valuation" section below.

Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV for BAS and RTL based on factors of production reported by the Russian producer BAS for the POI, and calculated NV for ZAO Kremny/SKU and Pultwen Ltd. based on factors of production reported by the Russian producer: ZAO Kremny/SKU for the POI. To calculate NV, the reported per-unit factor quantities were multiplied by publicly available surrogate values. In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. For a detailed description of all surrogate values used for each producer, *see Factor Valuation Memorandum.*

As explained above, ZAO Kremny/SKU sourced certain raw material inputs from market economy suppliers and paid for them in market economy currencies. The evidence provided by ZAO Kremny/SKU and Pultwen Ltd. indicated that its market economy purchases were significant. *See* August 28, 2002, submission at Exhibits 11 and 12. Thus, the Department has determined to use the market economy prices as reported, in accordance with 19 CFR 351.408(c)(1). Where the terms of delivery were not to the producers' plants, we have added to the market economy price, a freight cost, by applying a surrogate freight value to the reported distance from the place of shipment to the plant. *See Factor Valuation Memorandum.*

As appropriate, we adjusted input prices by including freight costs to derive delivered prices. We added to the surrogate values based on import statistics a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp.* v. *United States,* 117 F. 3d 1401 (Fed. Cir. 1997). For domestic values (*i.e.*, quartzite), we calculated a surrogate freight cost using the distance from the Russian domestic supplier to the factory.

For the raw material surrogate values, except for the surrogate values for quartzite, quartzite fines and wood charcoal, we used values for Egypt as reported in the United Nations Statistical Division CommodityTrade Database System ("UNCTS") for 1998 or 1999, deducting those values from countries previously determined by the Department to be NME countries, or aberrational data. We also did not include imports from Indonesia, Korea, and Thailand because these countries maintain non-specific export subsidies. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields From the People's Republic of China,* 67 FR 6482 (February 12, 2002). As the UNCTS data are reported in U.S. dollars, we did not need to convert these values. Since the data from this publication were not contemporaneous with the POI, we adjusted material values for inflation by using the Producer Price Index ("PPI") rate for the United States, as discussed in the "Inflation/Deflation Factor" section of the *Factor Valuation Memorandum.* Because Egypt had small

import quantities at high prices of quartzite, quartzite fines, and wood charcoal and therefore appeared aberrational relative to other information available to the Department, we used South African domestic prices for quartzite and quartzite fines, and an import value for Thailand, as reported in the UNCTS for 1998, for wood charcoal. *See Factor Valuation Memorandum.*

To value electricity, we have accepted petitioners' submitted rate of $0.0177/kWh for Egypt, which was from the Department's Trade Information Center ("TIC") website (http://www.trade.gov/td/tic). *See Factor Valuation Memorandum.*

Both of the producers reported byproducts. BAS reported silicon fines as a byproduct and provided documentation showing it reused the fines in the production process or sold them during the POI. ZAO Kremny/SKU reported gas scrubbing slurry, cyclone separator dust, refining slag, and quartzite screens as byproducts at the ZAO Kremny plant, and provided evidence that cyclone separated dust, refining slag, and quartzite screens are sold. It reported silicon fines, silicon dust, and slag as byproducts at the SKU plant, and provided documentation showing it sold them during the POI. As explained in *Bulk Aspirin,* it is the Department's practice to offset production costs with the sales revenue of the recoveries/byproducts. *See Final Determination of Sales at Less Than Fair Value: Bulk Aspirin from the People's Republic of China,* 65 FR 33805 (May 25, 2000) and accompanying *Issues and Decision Memorandum* at Comment 13. It is also the Department's practice to grant offsets for recoveries/byproducts which are re-entered into the production process. *See Notice of Final Determination of Sales at Less Than Fair Value: Antidumping Duty Investigation of Steel Concrete Reinforcing Bars From The People's Republic of China,* 66 FR 33522 (June 22, 2001) and accompanying *Issues and Decision Memorandum* at Comment 5. Therefore, we have granted an offset only for the amount of the byproduct/recovery actually sold or reused during the POI. We valued all byproducts using South African domestic prices for quartzite fines. *See Factor Valuation Memorandum.*

To determine appropriate overhead, financial expense, selling, general and administrative ("SG&A") expense, and profit percentages to be applied to the NV calculation, we used relevant data from a 1999–2000 financial statements of Sinai Manganese Company ("Sinai"), an Egyptian ferro-manganese alloys producer.

Labor was valued using the regression-based wage rate for Russia provided by the Department, which is available on the Import Administration's website, in accordance with 19 CFR 351.408(c)(3).

Verification

As provided in section 782(i)(1) of the Act, we intend to verify all company information relied upon in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all imports of subject merchandise from ZAO Kremny/SKU and BAS entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. For the Russia-wide entity, as indicated above, we have made a preliminary affirmative critical circumstances finding. Therefore, for imports of Russian silicon metal from other than ZAO Kremny/SKU or BAS, we are directing the U.S. Customs Service to suspend liquidation of such shipments entered, or withdrawn from warehouse, for consumption on or after 90 days prior to the date on which this notice is published in the **Federal Register**. We will instruct the U.S. Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

SILICON METAL

Exporter	Weighted-average margin percent)
ZAO Kremny/SKU	91.06
BAS	123.62
Russia-Wide Rate	123.62

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination of sales at LTFV. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation, of the subject merchandise.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than fifty days after the date of publication of this notice, and rebuttal briefs, limited to issues raised in case briefs, no later than fifty-five days after the date of publication of this preliminary determination. *See* 19 CFR 351.309(c)(1)(i); 19 CFR 351.309(d)(1). A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, any hearing will be held fifty-seven days after publication of this notice at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice. *See* 19 CFR 351.310(c). Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief, and may make rebuttal presentations only on arguments included in that party's rebuttal brief. *See* 19 CFR 351.310(c).

We will make our final determination no later than 135 days after the date of publication of this preliminary determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: September 13, 2002.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–24004 Filed 9–19–02; 8:45 am]

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2. This investigation is terminated with respect to the "unfair pecuniary benefits" claim.

3. The Secretary shall serve copies of this Order on the parties of record and publish notice thereof in the **Federal Register**.

Issued: September 23, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–24675 Filed 9–27–02; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–991 (Final)]

Silicon Metal From Russia

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of an antidumping investigation.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731–TA–991 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from Russia of silicon metal, provided for in subheadings 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: September 20, 2002.

FOR FURTHER INFORMATION CONTACT: Diane Mazur (202–205–3184), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION:

Background

The final phase of this investigation is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that imports of silicon metal from Russia are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on March 7, 2002, by Globe Metallurgical Inc., Cleveland, OH; SIMCALA, Inc., Mt. Meigs, AL; the International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers (I.U.E.–C.W.A, AFL–CIO, C.L.C., Local 693), Selma, AL; the Paper, Allied-Industrial Chemical and Energy Workers International Union (Local 5–89), Boomer, WV; and the United Steel Workers of America (AFL–CIO, Local 9436), Niagara Falls, NY.

Participation in the Investigation and Public Service List

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

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

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

Staff Report

The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on January 23, 2003, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on February 5, 2003, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before January 28, 2003. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on January 31, 2003, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written Submissions

Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is January 30, 2003. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline

[1] For purposes of this investigation, the Department of Commerce has defined the subject merchandise as "silicon metal, which generally contains at least 96.00 percent but less than 99.99 percent silicon by weight. The merchandise covered by this investigation also includes silicon metal from Russia containing between 89.00 and 96.00 percent silicon by weight, but containing more aluminum than the silicon metal which contains at least 96.00 percent but less than 99.99 percent silicon by weight."

for filing posthearing briefs is February 12, 2003; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before February 12, 2003. On February 28, 2003, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before March 4, 2003, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

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

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

Issued: September 24, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–24683 Filed 9–27–02; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 2231–02]

Registration and Monitoring of Certain Nonimmigrants; Notice of Ports-of-Entry for Departure of Aliens Who Are Subject to Special Registration

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: On August 12, 2002, the Attorney General published a final rule in the **Federal Register** at 67 FR 52584, revising the special registration requirements for nonimmigrant aliens whose presence in the United States requires closer monitoring. The final rule became effective on September 11, 2002. The final rule also requires that when a nonimmigrant alien subject to special registration departs from the United States, he or she must report to an inspecting officer of the Immigration and Naturalization Service (Service) at any port-of-entry (POE), unless the Service has, by publication in the **Federal Register**, specified that nonimmigrant aliens subject to special registration may not depart from specific ports. The requirement for an alien subject to special registration to report to the Service prior to departing the United States becomes effective on October 1, 2002. This notice provides the public with a list of ports through which nonimmigrant aliens who have been specially registered may depart from the United States. The list is provided in the affirmative as a list of approved ports to assist the public.

DATES: This notice is effective October 1, 2002.

FOR FURTHER INFORMATION CONTACT: Stephen M. Dearborn, Assistant Chief Inspector, Immigration and Naturalization Service, 425 I Street, NW., Room 4064, Washington, DC 20536, telephone number (202) 305–2970.

SUPPLEMENTARY INFORMATION:

Nonimmigrant Aliens Subject to Special Registration Requirements

Immigration and Naturalization Service (Service) regulations to be codified at 8 CFR 264.1(f) (see 67 FR 52584, August 12, 2002) provide that nonimmigrant aliens (other than those applying under section 101(a)(15)(A), or (G) of the Act (8 U.S.C. 1101(a)(15)(A), (G)) who meet certain criteria are subject to special registration, photographing and fingerprinting requirements upon arrival to the United States. If a nonimmigrant alien who is registered, photographed and fingerprinted, remains in the United States beyond 30 days, he or she must report in person to a Service Office to provide additional documentation that confirms that he or she is complying with the terms of his or her admission. This interview is repeated annually thereafter. Upon each change of address, the registrant must also notify the Service, educational institution, or employer, where applicable. Beginning on October 1, 2002, when a nonimmigrant alien subject to special registration departs the United States, he or she is required to report to an inspecting officer at the POE through which the alien is departing unless the Service has specified in a **Federal Register** notice that certain ports may not be used for departure by special registrants. A nonimmigrant alien, subject to special registration, who fails to report his or her departure to an inspecting officer as required, may thereafter be presumed to be inadmissible to the United States.

POEs Which Are Not Available for Departure for Nonimmigrant Aliens Subject to Special Registration

Nonimmigrant aliens who are subject to special registration may not depart the United States from any POE listed in, or regarded as designated by 8 CFR 100.4(c)(2), or (c)(3), or any other point-of-embarkation, other than those listed below.

POEs Designated for Final Registration and Departure by Nonimmigrant Aliens Subject to Special Registration

The following POEs are specifically designated for final registration and departure by nonimmigrant aliens subject to special registration:

Amistad Dam POE, Texas;
Anchorage International Airport, Alaska;
Atlanta Hartsfield International Airport, Georgia;
Bell Harbor Pier 66 Cruise Ship Terminal, Washington;
Bridge of the Americas POE, Texas;
Brownsville/Matamoras POE, Texas;
Buffalo Peace Bridge POE, New York;
Cape Vincent POE, New York;
Calexico POE, California;
Chicago O'Hare International Airport, Illinois;
Champlain POE, New York;
Chateaugay POE, New York;
Columbus POE, New Mexico;
Dallas/Fort Worth International Airport, Texas;
Del Rio International Bridge POE, Texas;
Denver International Airport, Colorado;
Detroit Canada Tunnel, Michigan;
Detroit Metro Airport, Michigan;
Douglas POE, Arizona;
Dulles International Airport, Virginia;
Eagle Pass POE, Texas;
Fort Covington POE, New York;
Galveston POE, Texas;
Guam International Airport;
Heart Island POE, New York;
Hidalgo POE, Texas;
Highgate Springs POE, Vermont;
Honolulu International Airport, Hawaii;
Honolulu Seaport, Hawaii;
Houston George Bush Intercontinental Airport, Texas;
Houston Seaport, Texas;
International Falls POE, Minnesota;
John F. Kennedy International Airport, New York;

2003.10.0037, 2003.10.0043, 2003.10.0047, 2003.10.0053, and 0711.90.4000 of the *Harmonized Tariff Schedule of the United States* (HTSUS). HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this order is dispositive.

Final Results

As we received no comments on the preliminary results, for the reasons stated in the preliminary results (67 FR 78416) and based on the facts of record, we find KICM to be the successor-in-interest to HLL. Therefore, the Department is assigning KICM the same cash deposit rate (*i.e.*, 4.29 percent) as its predecessor HHL. This cash deposit rate is effective for all shipments of the subject merchandise from KICM entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this changed-circumstances review.

We are issuing and publishing this determination and notice in accordance with sections 751(b) and 777(i)(1) of the Tariff Act of 1930, as amended ("the Act") and 19 CFR 351.216 (2002).

Dated: February 3, 2003.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 03–3404 Filed 2–10–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–878]

Saccharin from the People's Republic of China: Postponement of Final Determination of Antidumping Duty Investigation

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

EFFECTIVE DATE: February 11, 2003.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley (Suzhou Fine Chemicals Group Co., Ltd.) at (202) 482–3148, and Javier Barrientos (Shanghai Fortune Chemical Co., Ltd.) at (202) 482–2243; Office of AD/CVD Enforcement VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC.

SUPPLEMENTARY INFORMATION:

Statutory Time Limits

Section 735(a)(1) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the final determination regarding sales at less than fair value (LTFV) in an investigation within 75 days after the date of its preliminary determination. However, section 735(a)(2) of the Act states that the Department may postpone the final determination until not later than 135 days after the date of publication of the preliminary determination, if, in the case of a proceeding in which the preliminary determination was affirmative, a request in writing for such a postponement is made by exporters who account for a significant portion of the exports of subject merchandise. Section 351.210(e)(2) of the Department's regulations further states that the exporter must also request that the Department extend the provisional measures from a four-month period to a period of not more than six months.

Background

On July 31, 2002, the Department initiated an investigation to determine whether imports of saccharin are being, or are likely to be, sold in the United States at LTFV (67 FR 51536 (August 8, 2002)). On August 30, 2002, the International Trade Commission (ITC) published its preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of saccharin from the PRC. *See Saccharin from China,* 67 FR 55872 (August 30, 2002). On December 27, 2002, the Department published its preliminary determination in this investigation. *See Notice of Preliminary Determination of Sales at Less than Fair Value: Saccharin from the People's Republic of China,* 67 FR 79049 (December 27, 2002). On December 31, 2002, the two respondents selected in this investigation, Shanghai Fortune Chemicals Co., Ltd. and Suzhou Fine Chemicals Group Co., Ltd., as well as Kaifeng Xinghua Fine Chemical Factory, requested that the Department postpone the final determination. On January 7, 2003, the same parties requested that the Department extend the provisional measures period from four months to a period not longer than six months.

Postponement of Final Determination

Given the fact that the Department made an affirmative preliminary determination and exporters/producers of subject merchandise accounting for a significant portion of the exports during the period of investigation requested postponement and also asked that the Department extend the provisional measures from a four-month period to a period of not more than six months, as required by the Department's regulations, we are postponing the final determination until no later than May 12, 2003 (*i.e.*, 135 days after the publication of the preliminary determination; however, since May 11, falls on a weekend, the due date will fall on the next business day, May 12). This extension is in accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(g).

Dated: February 3, 2003.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 03–3403 Filed 2–10–03; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–817]

Notice of Final Determination of Sales at Less Than Fair Value: Silicon Metal From the Russian Federation

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

ACTION: Notice of final determination in the less-than-fair-value investigation of silicon metal from the Russian Federation.

SUMMARY: We determine that silicon metal from the Russian Federation ("Russia") is being, or is likely to be, sold in the United States at less than fair value. On September 20, 2002, the Department of Commerce published a notice of preliminary determination of sales at less than fair value in the investigation of silicon metal from Russia. *See Notice of Preliminary Determination of Sales at Not Less Than Fair Value and Postponement of Final Determination: Silicon Metal from the Russian Federation,* 67 FR 59253 (September 20, 2002) ("*Preliminary Determination*"). This investigation covers two manufacturers of the subject merchandise. The period of investigation ("POI") is July 1, 2001, through December 31, 2001.

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

EFFECTIVE DATE: February 11, 2003.

FOR FURTHER INFORMATION CONTACT: James Doyle or Cheryl Werner, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0159 and (202) 482–2667, respectively.

Background

This investigation was initiated on March 27, 2002. *See Notice of Initiation of Antidumping Duty Investigation: Silicon Metal from the Russian Federation*, 67 FR 15791 (April 3, 2002) (*"Notice of Initiation"*). The Department set aside a period for all interested parties to raise issues regarding product coverage. *See Notice of Initiation*. The Department received no comments on product coverage from interested parties.

On August 27, 2002, the Department determined that Pultwen Ltd. ("Pultwen") and a U.S. trading company were affiliated through a principal/agent relationship. *See Memorandum For Joseph A. Spetrini, Deputy Assistant Secretary for Import Administration, Group III: Antidumping Investigation of Silicon Metal from Russia; Affiliation Memorandum of Pultwen Limited and U.S. Trading Company*, dated August 27, 2002 (*"Affiliation Memo for Pultwen and U.S. Trading Company"*). On August 28, 2002, we again requested that ZAO Kremny ("Kremny")/Sual-Kremny-Ural Ltd. ("SKU") and Pultwen provide their affiliated U.S. trading company's sales and received their response on September 4, 2002. On September 13, 2002, Kremny/SKU and Pultwen submitted an unsolicited additional response to the Department's August 28, 2002, request for the affiliated U.S. trading company's sales. On October 2, 2002, Kremny/SKU and Pultwen submitted an untimely response by their affiliated U.S. trading company to Section C of the Department's antidumping questionnaire and a revised U.S. sales listing which included sales of silicon metal made by the U.S. trading company to its U.S. customers. On October 18, 2002, petitioners submitted comments on the untimely U.S. sales data. On October 31, 2002, the Department rejected the October 2, 2002, response submitted by Kremny/SKU and Pultwen, because it was untimely filed factual information pursuant to 19 CFR 351.302 (d) of the Department's regulations.

On September 26, 2002, Kremny/SKU and Pultwen submitted a request for a hearing pursuant to Section 351.310(c). On September 30, 2002, Bratsk Aluminum Smelter ("BAS") and Rual Trade Limited ("RTL") submitted a request for a hearing and on October 18, 2002, petitioners also submitted a request for a hearing.

On September 27, 2002, the Department received a joint submission from BAS, RTL, Kremny/SKU, and Pultwen providing additional surrogate country factor values pursuant to Section 351.301(c)(3)(i). On November 27, 2002, we also received a joint submission from BAS, RTL, Kremny/SKU, and Pultwen providing surrogate country factor values. On December 9, 2002, petitioners submitted additional surrogate country factor values.

On October 9, 2002, through October 11, 2002, the Department conducted a factors of production verification of Kremny. *See Memorandum from Carrie Blozy and Catherine Bertrand, Case Analysts, to the File: Verification of Factors of Production for ZAO Kremny ("Kremny") plant in the Antidumping Duty Investigation of Silicon Metal from the Russian Federation*, (December 4, 2002) (*"Kremny Verification Report"*). On October 31, 2002, through November 1, 2002, the Department conducted a U.S. sales verification of Pultwen *See Memorandum from James C. Doyle, Program Manager, and Cheryl Werner, Case Analyst, to the File: Verification of U.S. Sales for Pultwen Ltd. ("Pultwen") in the Antidumping Duty Investigation of Silicon Metal from the Russian Federation*, (December 4, 2002) (*"Pultwen Verification Report"*).

On October 23, 2002, through October 25, 2002, the Department conducted a factors of production verification of BAS. *See Memorandum from James C. Doyle, Program Manager, and Cheryl Werner, Case Analyst, to the File: Verification of Factors of Production for Bratsk Aluminum Smelter ("BAS") in the Antidumping Duty Investigation of Silicon Metal from the Russian Federation*, (December 5, 2002) (*"BAS Verification Report"*). On October 28, 2002, through October 29, 2002, the Department conducted a U.S. sales verification of RTL. *See Memorandum from James C. Doyle, Program Manager, and Cheryl Werner, Case Analyst, to the File: Verification of U.S. Sales for Rual Trade Limited ("RTL")* (December 5, 2002) (*"RTL Verification Report"*).

We invited parties to comment on our *Preliminary Determination*. On December 17, 2002, petitioners, BAS and RTL, and Kremny/SKU and Pultwen submitted case briefs with respect to the sales and factors of production verifications and the Department's *Preliminary Determination*. Petitioners, BAS and RTL, and Kremny/SKU and Pultwen submitted their rebuttal briefs on December 24, 2002, with respect to the sales and factors of production verifications and the Department's *Preliminary Determination*. On January 7, 2003, the Department held a public hearing in accordance with 19 CFR 351.310(d)(1). Representatives for petitioners, BAS and RTL, and Kremny/SKU and Pultwen were present. All parties present were allowed an opportunity to make affirmative presentations only on arguments included in that party's case briefs and were also allowed to make rebuttal presentations only on arguments included in that party's rebuttal brief.

On January 28, 2003, the Department placed publicly available surrogate value data for petroleum coke on the record. The Department provided all parties an opportunity to comment on this value. On January 30, 2003, the Department received comments from BAS and RTL and petitioners.

Additionally, on February 3, 2003, the Department continued to find Pultwen and the U.S. trading company were affiliated. *See Memorandum For Joseph A. Spetrini, Deputy Assistant Secretary for Import Administration, Group III: Antidumping Investigation of Silicon Metal from Russia; Final Affiliation Memorandum of Pultwen Limited and U.S. Trading Company*, dated February 3, 2003 (*"Final Affiliation Memo"*).

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

Scope of Investigation

For purposes of this investigation, the product covered is silicon metal, which generally contains at least 96.00 percent but less than 99.99 percent silicon by weight. The merchandise covered by this investigation also includes silicon metal from Russia containing between 89.00 and 96.00 percent silicon by weight, but containing more aluminum than the silicon metal which contains at least 96.00 percent but less than 99.99 percent silicon by weight. Silicon metal currently is classifiable under subheadings 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule of the United States ("HTSUS"). This investigation covers all silicon metal meeting the above specification, regardless of tariff classification.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs to this investigation are addressed in the *Issues and Decision Memorandum from Joseph A. Spetrini, Deputy Assistant Secretary, to Faryar Shirzad, Assistant Secretary* (February 3, 2003) (*"Decision Memo"*), which is hereby adopted by this notice. A list of

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

Changes Since the Preliminary Determination

Based on our findings at verification, and analysis of comments received, we have made adjustments to the calculation methodology in calculating the final dumping margin in this proceeding. *See Analysis Memorandum of Bratsk Aluminum Smelter and Rual Trade Limited: Final Determination in the Less Than Fair Value Investigation of Silicon Metal from the Russian Federation* (February 3, 2003) (*"BAS and RTL Final Analysis Memo"*). Also, *see Analysis Memorandum of ZAO Kremny/Sual-Kremny-Ural Ltd. and Pultwen Ltd.: Final Determination in the Less Than Fair Value Investigation of Silicon Metal from the Russian Federation* (February 3, 2003) (*"Kremny/SKU and Pultwen Final Analysis Memo"*).

Verification

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

Nonmarket Economy Country

On June 6, 2002, the Department revoked Russia's status as a non-market economy ("NME"), effective April 1, 2002. *See Memorandum from Albert Hsu, Barbara Mayer, and Christopher Smith through Jeffrey May, Director, Office of Policy, to Faryar Shirzad, Assistant Secretary, Import Administration: Inquiry into the Status of the Russian Federation as a Non-Market Economy Country under the U.S. Antidumping Law,* dated June 6, 2002. Because the period of investigation pre-dates the effective date of the Department's determination, we are continuing to utilize the NME methodology in this investigation. Should an antidumping order be issued in this case, the NME antidumping duty rates will remain in effect until they are changed as a result of a review, pursuant to section 751 of the Act, of a sufficient period of time after April 1, 2002.

Separate Rates

In our *Preliminary Determination,* we found that the respondents had met the criteria for the application of separate antidumping duty rates. We have not received any other information since the Preliminary Determination which would warrant reconsideration of our separates rates determination with respect to the respondents. Therefore, we continue to find that the respondents should be assigned individual dumping margins. For a complete discussion of the Department's determination that the respondents are entitled to separate rates, see the Preliminary Determination.

Russia-Wide Rate

For the reasons set forth in the *Preliminary Determination,* we continue to believe that use of adverse facts available for the Russia-wide rate is appropriate. *See Preliminary Determination.*

Use of Facts Otherwise Available

Section 776(a)(2) of the Act provides that, if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form or manner requested, significantly impedes a proceeding under the antidumping statute, or provides information which cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination. Thus, pursuant to section 776(a) of the Act, the Department is required to apply, subject to section 782(d), facts otherwise available. Pursuant to section 782(e), the Department shall not decline to consider such information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties. In addition, section 776(b) of the Act provides that, if the Department finds that an interested party "has failed to cooperate by not acting to the best of its ability to comply with a request for information," the Department may use information that is adverse to the interests of the party as the facts otherwise available. The statute also provides that such an adverse inference may be based on secondary information, including information drawn from the petition, a final determination in an investigation, any previous administrative review, or any other information placed on the record.

In the *Preliminary Determination,* the Department applied total facts available for the Russia-wide rate using BAS's calculated margin, as it was the highest margin. For the final determination, BAS's calculated margin is less than the margin in the petition. Section 776(b) of the Act also provides that an adverse inference may include reliance on information from the petition. See also Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103–316 at 870 (1994) ("SAA"). Section 776(c) of the Act provides that where the Department selects from among the facts otherwise available and relies on "secondary information," such as the petition, the Department shall to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The SAA states that "corroborate" means to determine that the information used has probative value. *See* SAA, at 870. The petitioners' methodology for calculating the EP and NV, in the petition, is discussed in the initiation notice. To corroborate the petitioners' EP calculations, we compared the prices in the petition to the prices submitted by respondents for silicon metal. Based on a comparison of the U.S. Census Bureau's official IM–145 import statistics with the average unit values in the petition, we find the export price suggested in the petition to be consistent with those statistics. To corroborate the petitioners' NV calculation, we compared the petitioners' factor consumption data to the data reported by respondents and found them to be similar. Finally, we valued the factors in the petition using the surrogate values we selected for the final determination. However, by using the surrogate values we selected for the final determination, the petition margin is lower than BAS's calculated margin. Therefore, for the final determination, we have continued to apply total facts

available for the Russia-wide rate using BAS's calculated margin for the final determination.

Also in the *Preliminary Determination,* for Kremny/SKU, we applied partial facts available for the quantity of unreported sales by the U.S. trading company. We continue to find partial facts available are appropriate for valuing the quantity of unreported sales by the U.S. trading company and will continue to apply partial adverse facts available for the final determination. *See Decision Memo,* at Comment 19. As discussed above, BAS's calculated margin for the final determination is the highest corroborated margin in this investigation. Therefore, we have continued to apply partial adverse facts available to the quantity of unreported sales by the U.S. trading company using BAS's calculated margin for the final determination.

Additionally, we are applying adverse facts available to certain unreported raw materials by Kremny. *See Decision Memo,* at Comment 11. We are using the highest surrogate value for a mineral to value the quantity of unreported raw materials.

Critical Circumstances

In the Department's *Preliminary Determination,* we determined that critical circumstances exist for imports of silicon metal from Russia manufactured and/or exported by the Russia-wide entity. We preliminarily found, however, that critical circumstances do not exist for BAS and RTL and Kremny/SKU and Pultwen because there was no evidence of "massive imports" based on a five-month comparison period. At the time of the *Preliminary Determination,* the Department received shipment data from BAS and RTL and Kremny/SKU and Pultwen through July 2002. Since the *Preliminary Determination,* BAS and RTL and Kremny/SKU and Pultwen have submitted shipment data through November 2002 . We have reviewed this data and we continue to find that critical circumstances do not exist for BAS and RTL and Kremny/SKU and Pultwen based on the lack of "massive imports" as shown by the six-month shipment data. However, we continue to find that critical circumstances exist for the Russia-wide entity as discussed in the *Preliminary Determination.*

Suspension Agreement

On October 1, 2002, we received a joint request from the two primary exporters of silicon metal from Russia, BAS and Kremny/SKU, proposing a suspension agreement pursuant to 734(c) of the Act. Under a suspension agreement concluded pursuant to section 734(c) of the Act, the normal value cannot exceed the U.S. market price by more than 15 percent. Morever, we may only accept a suspension agreement under 734(c) of the Act if we determine that "extraordinary circumstances are present in a case," such as the suspension of the investigation will be more beneficial to the domestic industry than the continuation of the investigation, and the investigation is complex. No agreement was concluded.

Fair Value Comparisons

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

Surrogate Country

For purposes of the final determination, we continue to find that Egypt remains the appropriate primary surrogate country for Russia. For certain factors of production values, where we could not locate usable Egyptian prices, we used Thai import prices (for charcoal) or domestic South African prices (for quartzite and quartzite fines). For further discussion and analysis regarding the surrogate country selection for Russia, see the "Surrogate Country" section of our *Preliminary Determination* and the Issues and Decision Memorandum, at Comments 1–9.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the U.S. Customs Service ("Customs") to continue to suspend liquidation of imports of subject merchandise, which is produced by BAS and Kremny/SKU, and entered, or withdrawn from warehouse, for consumption on or after the date of publication of the *Preliminary Determination* in the **Federal Register**. Additionally, in accordance with section 735(c)(1)(B) of the Act, we are directing Customs to continue to suspend liquidation of imports of subject merchandise, which is produced by the Russia-wide entity (all entries of subject merchandise except for entries of Kremny/SKU or BAS material), and entered, or withdraw from warehouse, for consumption on or after the date following 90 days prior to the date of publication of the *Preliminary Determination* in the **Federal Register**. We will instruct Customs to continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated below. These suspension of liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

SILICON METAL

Exporter	Weighted-Average margin (percent)
Kremny/SKU	54.77
BAS	77.51
Russia-Wide Rate	77.51

Disclosure

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

International Trade Commission Notification

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

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

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

Dated: February 3, 2003.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix I

Petitioners' Comments

Comment 1: Egypt as a primary surrogate country
Comment 2: Valuation of quartzite
Comment 3: Valuation of coal
Comment 4: Valuation of petroleum coke
Comment 5: Valuation of wood charcoal
Comment 6: Valuation of electrodes
Comment 7: Valuation of rail freight
Comment 8: Valuation of electricity
Comment 9: Valuation of financial ratios
Comment 10: Valuation of profit
Comment 11: Silicon metal fines
Comment 12: Kremny's unreported raw materials
Comment 13: RTL's date of sale
Comment 14: Pultwen's sales to a certain U.S. customer
Comment 15: Discounts
Comment 16: Brokerage and handling expenses
Comment 17: Expenses Related to a Certain Sale

Kremny/SKU's and Pultwen's Comments

Comment 18: Relationship between Pultwen and the U.S. trading company
Comment 19: Use of Adverse Facts Available regarding the U.S. trading company's sales

BAS's and RTL's Comments

Comment 20: Valuing of inland freight added to surrogate import values for raw materials
Comment 21: Packing materials
Comment 22: Electricity usage
Comment 23: Insurance expense
Comment 24: Labor hours
Comment 25: Electrodes

[FR Doc. 03–3408 Filed 2–10–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-201–822]

Stainless Steel Sheet and Strip in Coils from Mexico; Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of final results of antidumping duty administrative review of stainless steel sheet and strip from Mexico.

SUMMARY: On August 7, 2002, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on stainless steel sheet and strip in coils from Mexico (67 FR 41523). This review covers one manufacturer/exporter, ThyssenKrupp Mexinox S.A. de C.V. (Mexinox) of the subject merchandise to the United States during the period July 1, 2000 to June 30, 2001. Based on our analysis of the comments received, we have made changes in the margin calculation. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margin for the reviewed firm is listed below in the section entitled "Final Results of Review."

EFFECTIVE DATE: February 11, 2003.

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

SUPPLEMENTARY INFORMATION:

Background

On August 7, 2002, the Department published in the **Federal Register** the preliminary results of the administrative review of the antidumping duty order on stainless steel sheet and strip in coils from Mexico for the period July 1, 2000 to June 30, 2001. *See Stainless Steel Sheet and Strip in Coils from Mexico; Preliminary Results of Antidumping Duty Administrative Review* (67 FR 51204). In response to the Department's invitation to comment on the preliminary results of this review, Mexinox (the respondent) and Allegheny Ludlum, AK Steel Corporation, J&L Specialty Steel, Inc., Butler-Armco Independent Union, Zanesville Armco Independent Union, and the United Steelworkers of America, AFL-CIO/CLC (collectively, petitioners) filed their case briefs on September 12, 2002. Petitioners submitted their rebuttal brief on September 20, 2002 and Mexinox filed its rebuttal brief on September 23, 2002. On November 7, 2002, we published in the **Federal Register** our notice of the extension of time limits for this review (67 FR 67832). This extension established the deadline for this final as February 3, 2003.

Period of Review

The period of review (POR) is July 1, 2000 to June 30, 2001.

Scope of the Review

For purposes of this order, the products covered are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (*e.g.*, cold-rolled, polished, aluminized, coated, etc.) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States (HTS) at subheadings: 7219.13.00.31, 7219.13.00.51, 7219.13.00.71, 7219.13.00.81, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the Department's written description of the merchandise under review is dispositive.

Excluded from the scope of this order are the following: (1) Sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled; (2) sheet and strip that is cut to length; (3) plate (i.e., flat-rolled stainless steel products of a thickness of 4.75 mm or more); (4) flat wire (i.e., cold-rolled sections, with a prepared edge, rectangular in shape, of a width of

Cash Deposit Rates

The following antidumping duty deposits will be required on all shipments of bulk aspirin from the PRC entered, or withdrawn from warehouse, for consumption, effective on or after the publication date of the amended final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) For Shandong and Jilin, no antidumping duty deposit will be required; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less-than-fair-value investigation or a previous review, the cash deposit will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received an individual rate; (3) if the exporter is not a firm covered in this review, the previous review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous reviews, the cash deposit rate will be 144.02 percent, the "all others" rate established in the less-than-fair-value investigation.

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Assessment Rates

Absent an injunction from the U.S. Court of International Trade, the Department will issue appropriate assessment instructions directly to the Customs Service within 15 days of publication of these amended final results of review.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 771(i)(1) of the Act.

Dated: March 6, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–6088 Filed 3–12–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–817]

Notice of Amended Final Determination of Sales at Less Than Fair Value: Silicon Metal From the Russian Federation

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

ACTION: Notice of amended final determination in the less-than-fair-value investigation of silicon metal from the Russian Federation.

EFFECTIVE DATE: March 13, 2003.

FOR FURTHER INFORMATION CONTACT: Cheryl Werner, AD/CVD Enforcement Group III, Office IX, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–2667.

Scope of Investigation

For purposes of this investigation, the product covered is silicon metal, which generally contains at least 96.00 percent but less than 99.99 percent silicon by weight. The merchandise covered by this investigation also includes silicon metal from Russia containing between 89.00 and 96.00 percent silicon by weight, but containing more aluminum than the silicon metal which contains at least 96.00 percent but less than 99.99 percent silicon by weight. Silicon metal currently is classifiable under subheadings 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule of the United States ("HTSUS"). This investigation covers all silicon metal meeting the above specification, regardless of tariff classification.

Amendment of Final Results

On February 11, 2003, the Department of Commerce ("the Department") published a notice of final determination of sales at less than fair value in the investigation of silicon metal from the Russian Federation ("Russia"). *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Metal From the Russian Federation,* 68 FR 6885 (February 11, 2003) ("*Final Determination*").

Also on February 11, 2003, petitioners timely filed an allegation that the Department made ministerial errors in the *Final Determination,* pursuant to 19 CFR 351.224(c). Bratsk Aluminum Smelter ("BAS") and ("RTL") submitted timely rebuttal comments on February 19, 2003, in reply to the petitioners' ministerial error allegations. BAS and RTL did not submit any ministerial error allegations. ZAO Kremny ("Kremny")/Sual-Kremny-Ural Ltd. ("SKU") and Pultwen, the other respondent covered by the investigation, did not submit any ministerial error allegations or rebuttal comments in reply to petitioners' ministerial error allegations.

Silicon Metal Fines

Petitioners contend that in its *Final Determination,* the Department used overstated production quantities of silicon metal in calculating factor usage rates. Petitioners argue that while the Department included fines in the total production quantities of silicon metal on the basis that silicon metal fines produced by BAS and Kremny/SKU (collectively "respondents") were similar in size, chemical composition, and price to commercial grade silicon metal, and the Department also concluded that the quantities of fines used in the calculation represented only sales of fines. Petitioners contend that the production quantities of fines reported by respondents and used by the Department included fines that were recycled and consumed in the production of silicon metal in addition of the fines that were sold. Petitioners claim this overstated the total production quantities used to calculate respondents' factor usage rates, and therefore, resulted in understated factor usage rates.

Petitioners contend that the record shows that both respondents consumed recycled silicon metal fines in the production of silicon metal during the POI. Petitioners explain that the production quantities of fines reported by respondents are larger than the total quantities of fines sold by respondents during the POI. According to petitioners, Kremny/SKU and Pultwen's August 13, 2002, response shows that they reported a quantity of fines recycled during the POI, which were then included in their production quantity. *See* Kremny/SKU and Pultwen's August 13, 2002, response, at 13. Petitioners also contend that the Department verified that only a portion of BAS's total fine production quantity was sold. *See BAS Verification Report,* at Exhibit 5.

Thus, petitioners argue the Department intended to include only the quantity of silicon metal fines sold by respondents in the total production quantity but erroneously included recycled fines as well. Petitioners explain that to correct this error, the Department should (1) subtract the

quantities of fines that were recycled and consumed in the production from the total quantities of fines included in the total production quantities and (2) recalculate respondents' factor usage rates using the reduced production quantities. Petitioners explain that the volume of fines recycled by BAS during the POI is not in the record of this investigation, and therefore, as facts available, the Department should subtract the volume of fines sold that was verified from the total quantity of fines produced during the POI. Alternatively, petitioners also suggest that the Department could estimate the volume of fines recycled by BAS using the percentage amount of fines recycled by Kremny in relation to its total output.

BAS and RTL contend that the Department determined in its *Final Determination* that 0–5 mm silicon metal, or fines, should be included in the production quantity because "excluding fines from the production quantity used to calculate the reported factors would overstate the factors of production." *See Issues and Decision Memorandum,* at Comment 11. BAS and RTL argue that the Department noted: That fines were within the scope of this investigation; that it verified that BAS made sales of fines; and that these sales were not made at a very substantial discount compared to normal-sized silicon metal. *See id.* Thus, BAS and RTL argue that the Department determined that fines produced by BAS were commercial-grade silicon metal. Accordingly, BAS and RTL explain that pursuant to *Silicon Metal from Brazil,* the Department properly determined that production costs should be allocated to fines produced by BAS.

BAS and RTL also contend that recycled fines were not included in the reported production quantities for BAS, which is demonstrated by the record. BAS and RTL explain that production documents show a small amount of material added to prevent the molten metal from sticking to the slab, but this amount was not included in BAS's reported total production quantity.

Department's Position

We disagree with petitioners.

Petitioners' request that the Department exclude recycled fines from the production quantity is not ministerial in nature, but rather involves a methodological change. This is because if the Department were to remove recycled fines from the total production quantity of silicon metal, we would not be allocating any costs to their production. Therefore, we would, in effect, be treating recycled fines as byproducts because the Department does not allocate costs to byproducts. This would be contrary to the Department's decision in the *Final Determination. See Issues and Decision Memorandum,* at Comment 11. A ministerial error is defined under 19 CFR 351.224(f) as "an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial." Petitioners' request, however, would require the Department to revisit its entire methodology for recognizing fines. Accordingly, we have not made the requested change, because it is not "ministerial" in nature.

Indirect Labor

Petitioners contend that the Department did not include indirect labor in the calculation of normal value for BAS in its *Final Determination.* Petitioners argue that the Department indicated that it intended to include both direct labor and indirect labor in the calculation of normal value for BAS, according to the *BAS and RTL Final Analysis Memorandum. See Analysis Memorandum of Bratsk Aluminum Smelter and Rual Trade Limited: Final Determination in the Less Than Fair Value Investigation of Silicon Metal from the Russian Federation,* at page 5 (February 3, 2003) ("*BAS and RTL Final Analysis Memo*") (under the Normal Value calculation heading: "TOT_LABOR = DIRLAB_F + INDLAB_F"). Petitioners explain that it is necessary to include indirect labor in the calculation of normal value because the surrogate-valued amount for factory overhead used by the Department does not include any amount for indirect labor. Petitioners explain that the computer program used by the Department to calculate the final margin for BAS does not include indirect labor in the calculation of normal value. Petitioners contend that the Department should include indirect labor in the calculation of normal value for BAS.

BAS and RTL contend that petitioners have identified a methodological issue regarding how to account for labor costs not directly related to production of subject merchandise under a non-market economy methodology, rather than an arithmetic or duplication error that is appropriate to address as a ministerial error. BAS and RTL explain that BAS reported, as indirect labor, the per-unit hours of personnel involved in the maintenance and servicing (*e.g.,* cleaning, catering) of the production facilities, and involved in the handling of transportation of raw materials and finished goods. BAS and RTL note that BAS included an allocated amount for the hours of executives, managers, and specialists who are involved indirectly in the production of silicon metal, in its reported direct labor. BAS and RTL contend that the labor cost of such personnel is normally classified as factory overhead or selling, general and administrative expenses under standard accounting principles. Accordingly, because the Department values factory overhead and general and administrative expenses using the financial statements of a surrogate company, under the non-market economy methodology, it is not necessary to include an amount for indirect labor in the Department's margin calculation, because this would double-count these labor expenses. Therefore, because BAS's reported direct labor already includes allocated amounts for indirect labor, and because indirect labor is also included in the surrogate financial information used in the margin calculation, the Department should not include additional labor hours in its margin calculation.

Department's Position

We agree with petitioners. We inadvertently excluded indirect labor in the calculation of normal value for BAS in the *Final Determination.* As BAS explained above, its reported indirect labor consists of the per-unit hours of personnel involved in the maintenance and servicing (*e.g.,* cleaning, catering) of the production facilities, and involved in the handling of transportation of raw materials and finished goods, and is properly classified as indirect labor. Therefore, we revised our Final Determination, to include BAS's reported indirect labor in BAS's margin program calculation.

Wood Charcoal Freight Cost

Petitioners argue that the Department incorrectly calculated the wood charcoal freight cost for BAS in its *Final Determination.* Petitioners argue that the Department calculated the wrong weighted-average distance between BAS and wood charcoal suppliers. Petitioners contend that the Department should correct its wood charcoal freight cost calculation.

BAS and RTL agree with petitioners that the Department miscalculated the weighted-average distance of BAS's wood charcoal suppliers. However, BAS and RTL disagree with petitioners' calculation of the per-unit freight cost for wood charcoal, and propose their own calculation of the per-unit freight cost for wood charcoal.

Department's Position

We agree with petitioners and BAS and RTL, that we incorrectly calculated the weighted-average distance between BAS and wood charcoal suppliers. In the *Final Determination,* we inadvertently excluded certain suppliers of wood charcoal for BAS. We revised our *Final Determination,* to include the correct per-unit freight cost for wood charcoal in BAS's margin program calculation.

Therefore, we are amending the *Final Determination* to reflect the correction of the above-cited ministerial errors. All changes made to the margin program can be found in the analysis memorandum. *See Memorandum to the File from Cheryl Werner, Case Analyst to James C. Doyle, Program Manager, Final Analysis for BAS for the Amended Final Determination of the Antidumping Duty Investigation of Silicon Metal from the Russian Federation,* dated March 6, 2003.

The weighted-average dumping margins are as follows:

Producer/manufacturer exporter	Final weighted-average margin (percent)	Amended final weighted average margin (percent)
Bratsk Aluminum Smelter	77.51	79.42
ZAO Kremny/Sual-Kremny-Ural Ltd	54.79	56.11

Consequently, we are issuing and publishing this amended final determination and notice in accordance with section 751(a)(1) of the Act.

Dated: March 6, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–6089 Filed 3–12–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–834]

Stainless Steel Sheet and Strip in Coils From The Republic of Korea: Notice of Amended Final Results of Antidumping Duty Administrative Review

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

ACTION: Amended final results of antidumping duty administrative review of stainless steel sheet and strip in coils from the Republic of Korea.

EFFECTIVE DATE: March 13, 2003.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Robert Bolling, Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230; telephone: (202)482–4243, or (202)482–3434, respectively.

Amendment of Final Results

On February 10, 2003, the U.S. Department of Commerce ("Department") published in the **Federal Register** the results of its administrative review of the antidumping duty order on stainless steel sheet and strip in coils ("SSSS") from the Republic of Korea covering the period July 1, 2000, through June 30, 2001. *See Stainless Steel Sheet and Strip in Coils From the Republic of Korea; Final Results and Partial Rescission of Antidumping Duty Administrative Review, 68 FR 6713 (February 10, 2003) ("Final Results").*

On February 10, 2003, respondent Pohang Iron & Steel Co., Ltd. ("POSCO") filed a ministerial error allegation pursuant to section 351.224(c)(2) of the Department's regulations. Petitioners did not comment on any ministerial errors concerning the final results of this review. As a result of our analysis of POSCO's allegations, we are amending the Final Results in the antidumping review of SSSS from the Republic of Korea.

Scope of the Review

For purposes of this administrative review, the products covered are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (*e.g.*, cold-rolled, polished, aluminized, coated, *etc.*) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this review is classified in the Harmonized Tariff Schedule of the United States (HTS) at subheadings: 7219.13.0031, 7219.13.0051, 7219.13.0071, 7219.1300.81,[1] 7219.14.0030, 7219.14.0065, 7219.14.0090, 7219.32.0005, 7219.32.0020, 7219.32.0025, 7219.32.0035, 7219.32.0036, 7219.32.0038, 7219.32.0042, 7219.32.0044, 7219.33.0005, 7219.33.0020, 7219.33.0025, 7219.33.0035, 7219.33.0036, 7219.33.0038, 7219.33.0042, 7219.33.0044, 7219.34.0005, 7219.34.0020, 7219.34.0025, 7219.34.0030, 7219.34.0035, 7219.35.0005, 7219.35.0015, 7219.35.0030, 7219.35.0035, 7219.90.0010, 7219.90.0020, 7219.90.0025, 7219.90.0060, 7219.90.0080, 7220.12.1000, 7220.12.5000, 7220.20.1010, 7220.20.1015, 7220.20.1060, 7220.20.1080, 7220.20.6005, 7220.20.6010, 7220.20.6015, 7220.20.6060, 7220.20.6080, 7220.20.7005, 7220.20.7010, 7220.20.7015, 7220.20.7060, 7220.20.7080, 7220.20.8000, 7220.20.9030, 7220.20.9060, 7220.90.0010, 7220.90.0015, 7220.90.0060, and 7220.90.0080. Although the HTS subheadings are provided for convenience and Customs purposes, the Department's written description of the merchandise under review is dispositive.

Excluded from the scope of this review are the following: (1) Sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled, (2) sheet and strip that is cut to length, (3) plate (*i.e.*, flat-rolled stainless steel products of a thickness of 4.75 mm or more), (4) flat wire (*i.e.*, cold-rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm), and (5) razor

[1] Due to changes to the HTS numbers in 2001, 7219.13.0030, 7219.13.050, 7219.13.0070, and 7219.13.0080 are now 7219. 13.0031, 7219.13.0051,7219.13.0071, and 7219.13.0081, respectively.

APPENDIX B

LIST OF WITNESSES

CALENDAR OF PUBLIC HEARING

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

Subject: Silicon Metal from Russia

Inv. No.: 731-TA-991 (Final)

Date and Time: February 5, 2003 - 9:30 a.m.

Sessions were held in connection with this investigation in the Main Hearing Room (room 101), 500 E Street, SW, Washington, D.C.

OPENING REMARKS

Petitioners (**William D. Kramer**, Piper Rudnick)
Respondents (**Michael H. Stein**, Dewey Ballantine LLP)

In Support of the Imposition of Antidumping Duties:

Piper Rudnick
Washington, D.C.
on behalf of

Globe Metallurgical Inc.
SIMCALA, Inc.
The International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers, I.U.E-C.W.A., AFL-CIO, Local 693
The Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5-89
The United Steel Workers of America, AFL-CIO, Local 9436

C. Edward Boardwine, President and Chief Executive Officer, SIMCALA, Inc.

J. Marlin Perkins, Vice President, Sales, North America Globe Metallurgical Inc.

In Support of the Imposition
of Antidumping Duties (continued):

Kenneth R. Button, Senior Vice President, Economic Consulting Services, LLC

Jennifer Lutz, Senior Economist, Economic Consulting Services, LLC

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

In Opposition to the Imposition
of Antidumping Duties:

Holland & Knight LLP
Washington, D.C.
on behalf of

SUAL Holding
ZAO Kremny

Patrick Magrath, Managing Director, Georgetown Economic Services

William B. Hudgens, Economist, Georgetown Economic Services

Frederick P. Waite)
) – OF COUNSEL
Kimberly R. Young)

In Opposition to the Imposition
of Antidumping Duties (continued):

Shearman & Sterling
Washington, D.C.
on behalf of

Brastk Aluminum Smelter ("BAS")
RUAL Trade Limited ("RTL")

Thomas B. Wilner)
) – OF COUNSEL
Sam J. Yoon)

Dewey Ballantine LLP
Washington, D.C.
on behalf of

General Electric Silicones LLC ("GE Silicones")

Selig Merber, Counsel, International Regulation and Sourcing, GE Silicones

Marcia Haynes, General Manager, Global Sourcing, GE Silicones

William Noellert, Chief Economist, Dewey Ballantine LLP

Susan Hester, Economist, Dewey Ballantine LLP

Michael H. Stein) – OF COUNSEL

REBUTTAL/CLOSING REMARKS

Petitioners (**William D. Kramer**, Piper Rudnick and **Kenneth R. Button**, Economic Consulting Services, LLC)
Respondents (**Frederick P. Waite**, Holland & Knight LLP, **Thomas B. Wilner**, Shearman & Sterling, and **Michael H. Stein**, Dewey Ballantine LLP)

APPENDIX C

SUMMARY DATA

Table C-1
Silicon metal: Summary data concerning the U.S. market, 1999-2001, January-September 2001, and January-September 2002

(Quantity=*short tons of contained silicon*; value=$*1,000*; unit values, labor costs, and unit expenses are *per short ton* of contained silicon; period changes=*percent*, except where noted)

Item	Calendar year			January-September		Period changes			
	1999	2000	2001	2001	2002	1999-2001	1999-2000	2000-2001	Jan.-Sept. 2001--Jan.-Sept. 2002
U.S. consumption quantity: Amount	324,202	329,502	278,197	208,615	204,876	-14.2	1.6	-15.6	-1.8
Producers' share[1]	62.2	57.0	54.6	55.4	39.7	-7.6	-5.1	-2.5	-15.7
Importers' share:[1]									
Russia	7.8	7.5	12.3	9.9	15.9	4.5	-0.3	4.8	6.0
Other sources	30.1	35.5	33.2	34.6	44.4	3.1	5.4	-2.3	9.7
Total	37.8	43.0	45.4	44.6	60.3	7.6	5.1	2.5	15.7
U.S. consumption value: Amount	424,244	405,491	335,989	254,431	233,131	-20.8	-4.4	-17.1	-8.4
Producers' share[1]	65.0	60.5	58.4	58.7	43.4	-6.6	-4.6	-2.0	-15.3
Importers' share:[1]									
Russia	6.2	6.3	10.5	9.0	13.0	4.3	0.1	4.2	4.0
Other sources	28.8	33.2	31.1	32.3	43.6	2.3	4.4	-2.2	11.3
Total	35.0	39.5	41.6	41.3	56.6	6.6	4.6	2.0	15.3
U.S. imports from-- Russia: Quantity	25,158	24,643	34,153	20,718	32,643	35.8	-2.0	38.6	57.6
Value	26,201	25,529	35,325	22,936	30,272	34.8	-2.6	38.4	32.0
Unit value	$1,041	$1,036	$1,034	$1,107	$927	-0.7	-0.5	-0.2	-16.2
Ending inventory	8,871	5,516	9,814	3,518	7,296	10.6	-37.8	77.9	107.4
Other sources:									
Quantity	97,499	116,908	92,279	72,226	90,875	-5.4	19.9	-21.1	25.8
Value	122,231	134,819	104,420	82,064	101,608	-14.6	10.3	-22.5	23.8
Unit value	$1,254	$1,153	$1,132	$1,136	$1,118	-9.7	-8.0	-1.9	-1.6
Ending inventory	6,071	3,053	5,013	3,335	1,774	-17.4	-49.7	64.2	-46.8
U.S. imports from--									
All sources Quantity	122,657	141,551	126,431	92,945	123,519	3.1	15.4	-10.7	32.9
Value	148,432	160,349	139,745	105,000	131,881	-5.9	8.0	-12.8	25.6
Unit value	$1,210	$1,133	$1,105	$1,130	$1,068	-8.7	-6.4	-2.4	-5.5
Ending inventory	14,942	8,569	14,827	6,853	9,070	-0.8	-42.7	73.0	32.4

Table continued on next page.

Table C-1--*Continued*
Silicon metal: Summary data concerning the U.S. market, 1999-2001, January-September 2001, and January-September 2002

(Quantity=*short tons of contained silicon*; value=$*1,000*; unit values, labor costs, and unit expenses are *per short ton* of contained silicon; period changes=*percent*, except where noted)

Item	Calendar year			January-September		Period changes			
	1999	2000	2001	2001	2002	1999-2001	1999-2000	2000-2001	Jan.-Sept. 2001--Jan.-Sept. 2002
U.S. producers'--									
Capacity quantity	243,667	215,245	198,363	148,123	144,450	-18.6	-11.7	-7.8	-2.5
Production quantity	209,376	195,660	145,324	112,638	85,824	-30.6	-6.6	-25.7	-23.8
Capacity utilization[1]	85.9	90.9	73.3	76.0	59.4	-12.7	5.0	-17.6	-16.6
U.S. shipments:									
Quantity	201,545	187,951	151,766	115,670	81,357	-24.7	-6.7	-19.3	-29.7
Value	275,812	245,142	196,244	149,431	101,250	-28.8	-11.1	-19.9	-32.2
Unit value	$1,368	$1,304	$1,293	$1,292	$1,245	-5.5	-4.7	-0.9	-3.7
Export shipments:									
Quantity	***	***	***	***	***	-75.9	-38.2	-61.0	90.2
Value	***	***	***	***	***	-78.2	-43.1	-61.7	68.6
Unit value	***	***	***	***	***	-9.4	-8.0	-1.6	-11.3
Ending inventory quantity	9,135	11,110	2,306	5,462	3,940	-74.8	21.6	-79.2	-27.9
Inventories/total shipments[1]	***	***	***	***	***	-2.9	1.4	-4.3	0.0
Production workers	719	637	523	531	407	-27.3	-11.4	-17.9	-23.4
Hours worked (*1,000 hours*)	1,632	1,471	1,210	970	793	-25.9	-9.9	-17.7	-18.2
Wages paid (*1,000 dollars*)	32,438	29,055	23,675	17,692	13,979	-27.0	-10.4	-18.5	-21.0
Hourly wages	$19.88	$19.75	$19.57	$18.24	$17.63	-1.6	-0.6	-0.9	-3.4
Productivity (*lbs. per hour*)	128.3	133.0	120.1	116.1	108.2	-6.4	3.7	-9.7	-6.8
Unit labor costs	$155	$148	$163	$157	$163	5.2	-4.2	9.7	3.7
Net sales:									
Quantity	207,173	202,463	169,520	116,758	83,426	-18.2	-2.3	-16.3	-28.5
Value	293,831	267,227	219,034	150,763	103,496	-25.5	-9.1	-18.0	-31.4
Unit value	$1,418	$1,320	$1,292	$1,291	$1,241	-8.9	-6.9	-2.1	-3.9
COGS	251,913	242,020	214,672	152,054	106,554	-14.8	-3.9	-11.3	-29.9
Gross profit or (loss)	41,918	25,207	4,362	(1,291)	(3,058)	-89.6	-39.9	-82.7	136.9
SG&A expenses	16,743	15,964	14,703	11,459	8,703	-12.2	-4.7	-7.9	-24.1
Operating income	25,175	9,243	(10,341)	(12,750)	(11,761)	-141.0	-63.3	-211.9	-7.8
Capital expenditures	***	9,457	7,773	5,411	8,830	***	***	-17.8	63.2
Unit COGS	$1,216	$1,195	$1,266	$1,302	$1,277	4.1	-1.7	5.9	-1.9
Unit SG&A expenses	$81	$79	$87	$98	$104	7.3	-2.4	10.0	6.3
Unit operating income	$122	$46	($61)	($109)	($141)	-150.2	-62.4	-233.6	29.1
COGS/sales[1]	85.7	90.6	98.0	100.9	103.0	12.3	4.8	7.4	2.1
Operating income or (loss)/sales[1]	8.6	3.5	-4.7	-8.5	-11.4	-13.3	-5.1	-8.2	-2.9

[1] Period changes are in percentage points.
[2] Not meaningful.

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

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

APPENDIX D

ADDITIONAL INFORMATION REGARDING U.S. SHIPMENTS BY END USE

Table D-1

Silicon metal: U.S. producers' U.S. shipments and U.S. shipments of imports, by end uses, 1999-2001, January-September 2001, and January-September 2002

(Quantity in short tons of contained silicon; value in $1,000)

Item	1999	2000	2001	January-Sept. 2001	January-Sept. 2002	1999	2000	2001	January-Sept. 2001	January-Sept. 2002	1999	2000	2001	January-Sept. 2001	January-Sept. 2002	1999	2000	2001	January-Sept. 2001	January-Sept. 2002
	U.S. producers					Product from Russia					Product from other sources					TOTAL				
Chemical producers: (1)																				
Quantity	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***
Share of category (%)	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***
Share of silicon metal (%)	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***
Primary aluminum producers:																				
Quantity	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***
Share of category (%)	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***
Share of silicon metal (%)	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***
Secondary aluminum producers:																				
Quantity	40,876	42,664	30,923	24,593	12,447	19,993	18,064	21,287	12,079	24,955	24,863	33,093	30,116	18,975	25,881	85,732	93,821	82,326	55,647	63,283
Value	50,400	48,986	33,786	26,793	12,921	22,141	19,696	22,263	12,783	23,459	27,091	34,265	31,783	20,179	26,294	99,632	102,947	87,832	59,755	62,674
Unit value	$1,233	$1,148	$1,093	$1,089	$1,038	$1,107	$1,090	$1,046	$1,058	$940	$1,090	$1,035	$1,055	$1,063	$1,016	$1,162	$1,097	$1,067	$1,074	$990
Share of category (%)	47.7	45.5	37.6	44.2	19.7	23.3	19.3	25.9	21.7	39.4	29.0	35.3	36.6	34.1	40.9	100.0	100.0	100.0	100.0	100.0
Share of silicon metal (%)	20.9	22.8	20.4	21.2	15.4	84.4	75.6	65.9	58.3	70.8	32.7	34.7	36.4	30.6	35.2	29.0	30.6	30.8	28.0	33.4
Other producers:																				
Quantity	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***
Share of category (%)	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***
Share of silicon metal (%)	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***
Total U.S. shipments:																				
Quantity	195,500	187,152	151,881	116,099	81,033	23,695	23,894	32,296	20,715	35,230	76,060	95,446	82,704	62,048	73,422	295,255	306,492	266,881	198,862	189,685
Value	270,246	247,107	198,658	151,345	101,517	26,619	26,582	35,126	22,933	35,012	93,254	111,796	94,987	71,943	80,222	390,119	385,485	328,771	246,221	216,751
Unit value	$1,382	$1,320	$1,308	$1,304	$1,253	$1,123	$1,112	$1,088	$1,107	$994	$1,226	$1,171	$1,149	$1,159	$1,093	$1,321	$1,258	$1,232	$1,238	$1,143
Share of total ship./import	97.0	99.6	100.1	100.4	99.6	94.2	97.0	94.6	100.0	107.9	78.0	81.6	89.6	85.9	80.8	91.1	93.0	95.9	95.3	92.6
Price differentials (%):																				
Chemical vs. secondary al	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***
Chemical vs. primary alum	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***
Primary vs. secondary alu	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***

(1) Data regarding imports from all other sources includes information from ***.

(2) Not applicable.

Source: Compiled from responses to the Commission's questionnaires and official import statistics.

APPENDIX E

ADDITIONAL IMPORT STATISTICS

Table E-1
Silicon metal: U.S. imports, by quarters, January 1999-September 2002

Source	1999				2000				2001				2002		
	1st Qtr.	2nd Qtr	3rd Qtr.	4th Qtr.	1st Qtr.	2nd Qtr	3rd Qtr.	4th Qtr.	1st Qtr.	2nd Qtr	3rd Qtr.	4th Qtr.	1st Qtr.	2nd Qtr	3rd Qtr.
	Quantity (short tons of contained silicon)														
Russia	4,047	8,542	6,430	6,139	6,038	8,737	4,355	5,514	2,111	7,874	10,733	13,434	9,898	17,573	5,173
Brazil	2,159	2,579	5,219	2,472	5,910	4,412	5,767	6,296	7,468	5,877	1,377	2,587	6,460	9,203	12,290
Canada	6,384	6,239	7,023	5,398	7,759	8,207	6,565	4,816	4,208	5,350	3,372	4,350	3,326	3,455	6,265
South Africa	6,939	6,100	4,978	10,168	9,417	10,713	10,919	9,281	10,253	7,914	11,523	5,614	6,163	9,120	11,449
All other	8,775	8,024	7,863	7,180	6,263	8,452	6,362	5,770	4,744	3,007	7,132	7,501	5,549	8,297	9,298
Subtotal (r	24,256	22,941	25,083	25,219	29,349	31,783	29,613	26,163	26,673	22,149	23,405	20,052	21,498	30,076	39,301
Total	28,304	31,483	31,513	31,358	35,387	40,520	33,967	31,677	28,783	30,023	34,138	33,487	31,396	47,649	44,474
	Landed, duty-paid value (in actual dollars)														
Russia	4,968,462	9,244,478	6,164,482	5,823,448	5,403,879	8,472,712	4,548,579	7,104,180	3,508,521	8,474,476	10,953,333	12,389,067	9,187,335	15,883,012	5,202,085
Brazil	2,691,350	3,733,259	7,204,440	3,573,996	7,330,136	5,753,177	8,000,302	8,451,523	9,901,797	7,719,575	1,726,610	3,302,399	7,992,004	12,137,811	16,298,497
Canada	9,068,873	8,204,657	9,538,195	7,251,876	9,391,000	10,206,829	8,065,048	5,853,417	5,071,026	6,059,035	3,812,591	5,043,866	3,691,760	3,824,809	5,964,531
South Africa	7,967,934	7,251,762	5,820,343	11,154,502	9,810,427	11,298,800	12,669,283	9,804,953	9,923,984	8,577,597	11,776,549	5,841,700	6,276,757	9,238,584	11,460,506
All other	10,651,094	9,643,787	9,076,243	9,398,680	6,646,195	8,603,883	7,056,560	5,877,890	5,605,607	3,578,246	8,311,520	8,167,469	5,877,419	8,652,708	10,192,709
Subtotal (r	30,379,251	28,833,465	31,639,221	31,379,054	33,177,758	35,862,689	35,791,193	29,987,783	30,502,414	25,934,453	25,627,270	22,355,434	23,837,940	33,853,912	43,916,243
Total	35,347,713	38,077,943	37,803,703	37,202,502	38,581,637	44,335,401	40,339,772	37,091,963	34,010,935	34,408,929	36,580,603	34,744,501	33,025,275	49,736,924	49,118,328
	Unit value (per short ton) (1)														
Russia	$1,198	$1,082	$959	$945	$895	$970	$1,045	$1,149	$1,121	$1,017	$998	$922	$928	$905	$1,006
Brazil	1,247	1,141	1,219	1,109	1,240	1,302	1,341	1,342	1,326	1,313	1,254	1,277	1,237	1,319	1,326
Canada	1,421	1,315	1,358	1,343	1,210	1,244	1,229	1,215	1,205	1,133	1,131	1,159	1,110	1,107	1,107
South Africa	1,044	1,187	1,157	1,097	1,054	1,043	1,102	1,056	1,009	1,068	1,035	1,040	1,018	1,013	1,001
All other	1,214	1,202	1,154	1,309	1,061	1,018	1,109	1,019	1,182	1,190	1,165	1,089	1,059	1,043	1,096
Average (r	1,252	1,257	1,261	1,244	1,130	1,128	1,209	1,146	1,144	1,171	1,095	1,115	1,109	1,126	1,117
Average	1,249	1,209	1,200	1,186	1,090	1,094	1,188	1,171	1,182	1,146	1,072	1,038	1,052	1,044	1,104
	Shares of total quantity (percent)														
Russia	14.3	27.1	20.4	19.6	17.1	21.6	12.8	17.4	7.3	26.2	31.4	40.1	31.5	36.9	11.6
Brazil	7.6	8.2	16.6	7.9	16.7	10.9	17.0	19.9	25.9	19.6	4.0	7.7	20.6	19.3	27.6
Canada	22.6	19.8	22.3	17.2	21.9	20.3	19.3	15.2	14.6	17.8	9.9	13.0	10.6	7.3	14.1
South Africa	24.5	19.4	15.8	32.4	26.6	26.4	32.1	29.3	35.6	26.4	33.8	16.8	19.6	19.1	25.7
All other	31.0	25.5	25.0	22.9	17.7	20.9	18.7	18.2	16.5	10.0	20.9	22.4	17.7	17.4	20.9
Subtotal (r	85.7	72.9	79.6	80.4	82.9	78.4	87.2	82.6	92.7	73.8	68.6	59.9	68.5	63.1	88.4
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

(1) Average unit values have been adjusted using data from the Customs Net Import File to remove certain anomalous entries for Brazil, Canada, Russia, and South Africa. Anomalies included ***.

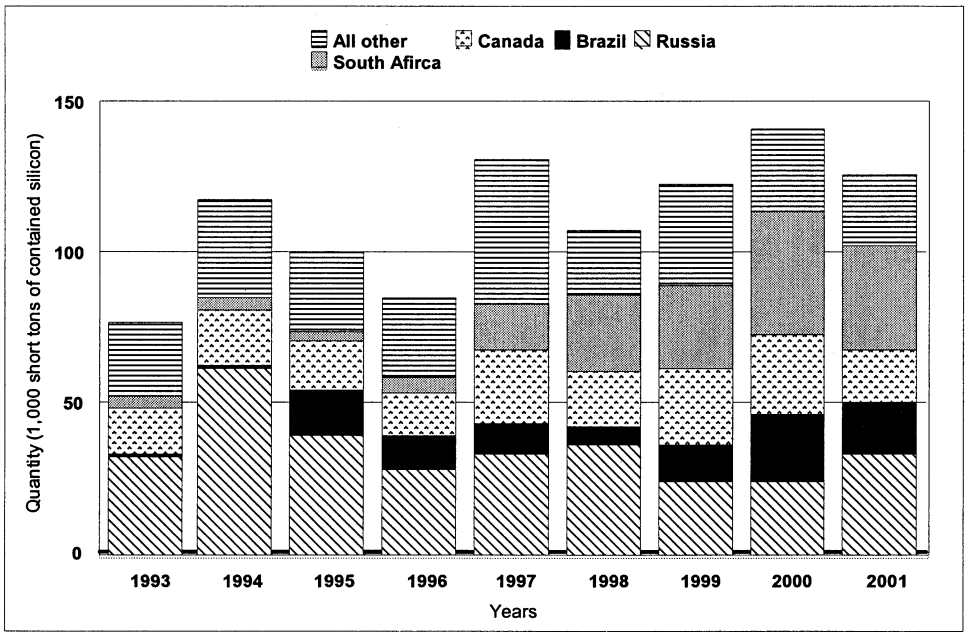
Source: Compiled from official Commerce statistics (HTS 2804.69.1000 and 2804.69.5000), adjusted using data from the Customs Net Import File.

Table E-2
Silicon metal: U.S. imports, by sources, 1993-2001, January-September 2001, and January-September 2002

Source	1993	1994	1995	1996	1997	1998	1999	2000	2001	Jan-Sept 01	Jan-Sept 02
	Quantity (short tons of contained silicon)										
Russia	33,502	62,990	40,005	28,794	33,878	36,794	25,158	24,643	34,153	20,718	32,643
Brazil	370	516	15,888	11,345	10,663	6,273	12,429	22,385	17,309	14,722	27,953
Canada	15,380	18,734	16,169	14,842	24,065	18,874	25,044	27,347	17,281	12,931	13,046
South Africa	4,427	3,738	3,016	5,194	15,315	25,273	28,184	40,329	35,305	29,690	26,731
All other	23,414	31,972	25,029	24,962	47,244	20,883	31,842	26,847	22,384	14,883	23,144
Subtotal (r	43,591	54,959	60,103	56,343	97,286	71,303	97,499	116,908	92,279	72,226	90,875
Total	77,093	117,950	100,108	85,137	131,165	108,097	122,657	141,551	126,431	92,945	123,519
	Landed, duty-paid value ($1,000)										
Russia	33,960	57,231	48,875	43,995	47,703	47,173	26,201	25,529	35,325	22,936	30,272
Brazil	432	647	20,522	19,980	17,010	8,251	17,203	29,535	22,650	19,348	36,428
Canada	20,010	24,844	22,120	21,713	35,532	27,726	34,064	33,516	19,987	14,943	13,481
South Africa	5,267	4,311	3,646	7,416	24,682	33,733	32,195	43,583	36,120	30,278	26,976
All other	27,413	33,285	34,741	41,045	73,662	31,754	38,770	28,185	25,663	17,495	24,723
Subtotal (r	53,122	63,086	81,029	90,154	150,885	101,464	122,231	134,819	104,420	82,064	101,608
Total	87,082	120,318	129,905	134,150	198,589	148,637	148,432	160,349	139,745	105,000	131,881
	Unit value (per short ton)										
Russia	1,014	909	1,222	1,528	1,408	1,282	1,041	1,036	1,034	1,107	927
Brazil	1,168	1,254	1,292	1,761	1,595	1,315	1,384	1,319	1,309	1,314	1,303
Canada	1,301	1,326	1,368	1,463	1,476	1,469	1,360	1,226	1,157	1,156	1,033
South Africa	1,190	1,153	1,209	1,428	1,612	1,335	1,142	1,081	1,023	1,020	1,009
All other	1,171	1,041	1,388	1,644	1,559	1,521	1,218	1,050	1,146	1,176	1,068
Average (r	1,219	1,148	1,348	1,600	1,551	1,423	1,254	1,153	1,132	1,136	1,118
Average	1,130	1,020	1,298	1,576	1,514	1,375	1,210	1,133	1,105	1,130	1,068
	Share of total quantity (percent)										
Russia	43.5	53.4	40.0	33.8	25.8	34.0	20.5	17.4	27.0	22.3	26.4
Brazil	0.5	0.4	15.9	13.3	8.1	5.8	10.1	15.8	13.7	15.8	22.6
Canada	19.9	15.9	16.2	17.4	18.3	17.5	20.4	19.3	13.7	13.9	10.6
South Africa	5.7	3.2	3.0	6.1	11.7	23.4	23.0	28.5	27.9	31.9	21.6
All other	30.4	27.1	25.0	29.3	36.0	19.3	26.0	19.0	17.7	16.0	18.7
Subtotal (r	56.5	46.6	60.0	66.2	74.2	66.0	79.5	82.6	73.0	77.7	73.6
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

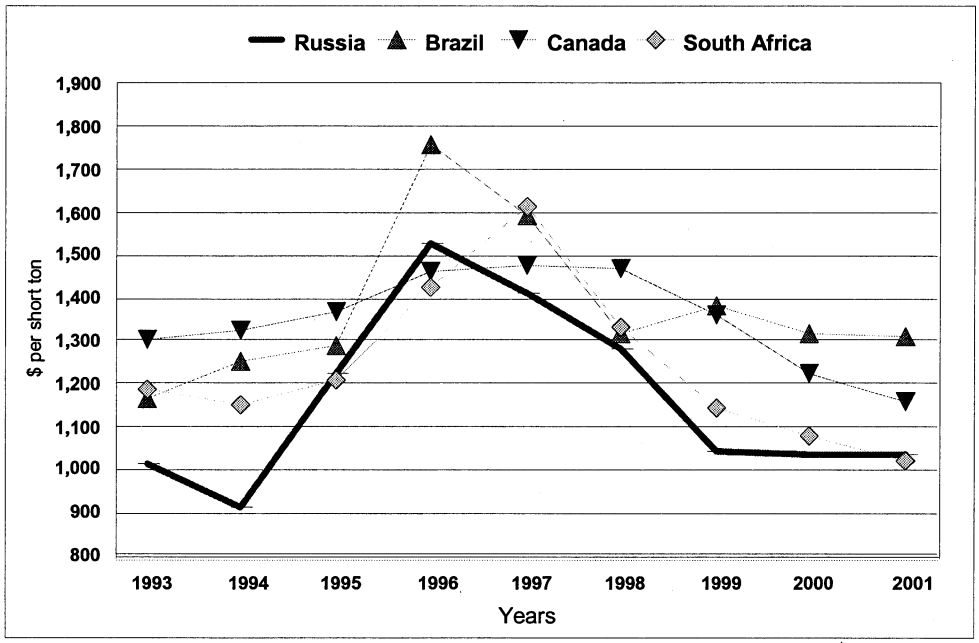
Source: Compiled from official Commerce statistics (HTS 2804.69.1000 and 2804.69.5000).

Figure E-1
Silicon metal: U.S. imports, by sources, 1993-2001



Source: Table E-2

Figure E-2
Silicon metal: U.S. imports, average unit values by principal sources, 1993-2001



Source: Table E-2

APPENDIX F

EFFECTS OF IMPORTS ON U.S. PRODUCERS' EXISTING DEVELOPMENT AND PRODUCTION EFFORTS, GROWTH, INVESTMENT, AND ABILITY TO RAISE CAPITAL

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of silicon metal from Russia on their firms' growth, investment, and ability to raise capital or development and production efforts (including efforts to develop a derivative or more advanced version of the product).

Actual Negative Effects

Elkem

***

SIMCALA

***

Globe

***.

Anticipated Negative Effects

Elkem

***

SIMCALA

***

Globe

***