

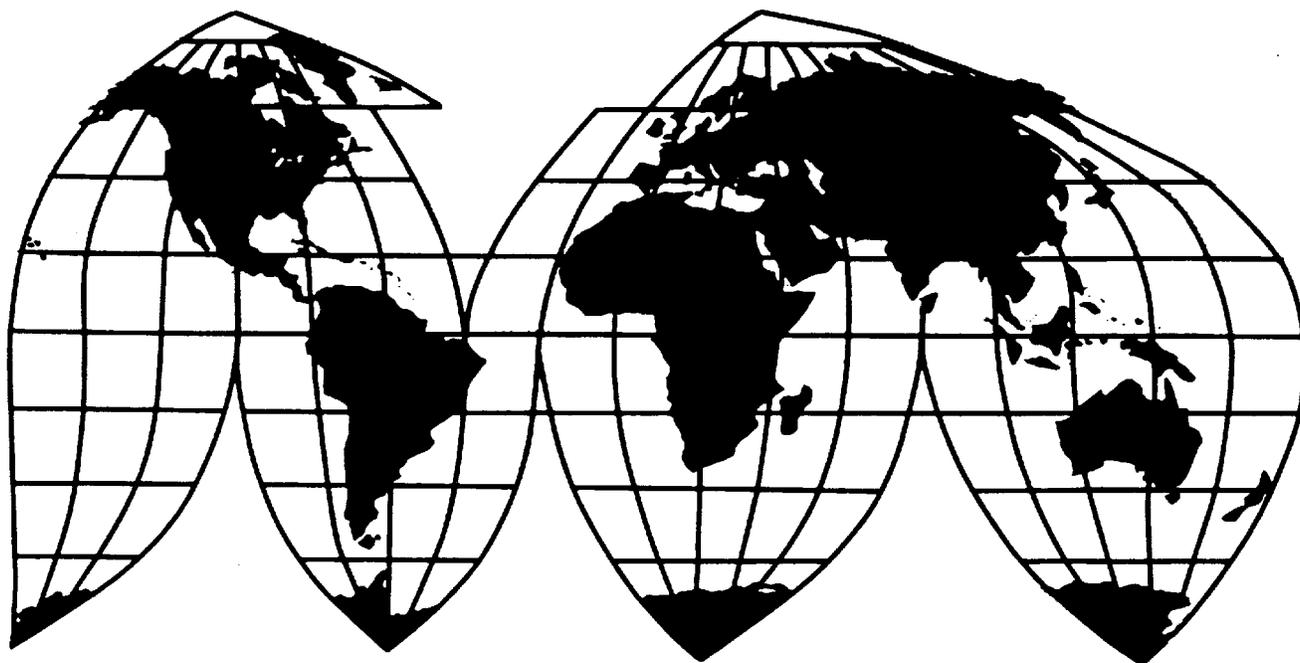
# Silicon Metal From Russia

Investigation No. 731-TA-991 (Final) (Remand)

**Publication 3720**

**September 2004**

**U.S. International Trade Commission**



Washington, DC 20436

# **U.S. International Trade Commission**

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## VIEWS OF THE COMMISSION ON REMAND

### I. INTRODUCTION

By opinion and order dated June 22, 2004, the U.S. Court of International Trade (“CIT”) remanded the Commission’s determination in the antidumping investigation concerning silicon metal from Russia.<sup>1</sup> Based on the record in this investigation, the Commission finds on remand 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”).<sup>2</sup>

### II. PROCEDURAL HISTORY

In March 2003, the Commission, by a unanimous vote, issued a final affirmative determination in *Silicon Metal from Russia*, Inv. No. 731-TA-991 (Final).<sup>3</sup> Bratsk Aluminum Smelter, Rual Trade Limited, Sual Holding and Zao Kremny, producers of subject merchandise, and importer General Electric Silicones LLC (collectively “plaintiffs”) contested the Commission’s determination before the CIT. In its June 2004 opinion, the CIT affirmed the Commission’s determination that subject import volume was significant but remanded to the Commission for further explanation with respect to its price determination. In its remand, the CIT directed the Commission:

- to explain its reasons for accepting evidence that “spot” prices may affect contract prices while rejecting contradictory evidence;<sup>4</sup>
- to explain the significance or effect of the similar pricing trends of the different market segments;<sup>5</sup> and
- if the Commission cannot provide sufficient reasons or explanations, to change its determination accordingly.<sup>6</sup>

The record in this remand determination is the same record compiled in the original investigation that the Commission conducted in 2003.<sup>7</sup> Having considered the Court’s instructions and having examined the record as a whole, we again determine that an industry in the United States is materially injured by reason of imports of silicon metal from Russia sold in the United States at LTFV.

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<sup>1</sup> *Bratsk Aluminum Smelter v. United States*, Slip Op. 04-75 (Ct. Int’l Trade June 22, 2004) (“CIT slip op.”).

<sup>2</sup> Vice Chairman Deanna Tanner Okun did not participate in this investigation, either originally or on remand. Commissioners Lane and Pearson did not participate in the original investigation but did participate in this remand determination.

<sup>3</sup> *Silicon Metal from Russia*, Inv. No. 731-TA-991 (Final), USITC Pub. 3584 (Mar. 2003).

<sup>4</sup> See CIT slip op. at 28.

<sup>5</sup> See CIT slip op. at 28.

<sup>6</sup> See CIT slip op. at 28.

<sup>7</sup> The CIT’s opinion and order did not direct the Commission to supplement its record on remand. The Commission did not exercise its discretion to reopen the record.

### III. MATERIAL INJURY BY REASON OF LESS THAN FAIR VALUE IMPORTS

We incorporate herein by reference our original Views in their entirety and provide further explanation below, as instructed by the Court. In the original determination, the Commission defined the domestic like product as all silicon metal, regardless of grade, consistent with the Department of Commerce's scope.<sup>8</sup> The Commission defined the pertinent domestic industry to encompass all U.S. producers of silicon metal.<sup>9</sup> The Commission's definitions of the domestic like product and the domestic industry were not at issue in the CIT appeal. The Commission adopts in full these definitions and conclusions for purposes of this remand determination. Commissioner Lane and Commissioner Pearson, who were not members of the Commission at the time of the original determination, also adopt these conclusions as a result of their review of the record in this proceeding.

The original determination also contained a discussion of the pertinent conditions of competition in the U.S. silicon metal industry, which the CIT's decision did not call into question. The Commission adopts its prior discussion of the conditions of competition for purposes of this remand determination.<sup>10</sup> Commissioner Lane and Commissioner Pearson also adopt this discussion as a result of their review of the record for the reasons stated in the Commission's original determination.

Because the CIT affirmed the Commission's volume findings, the Commission does not reconsider those issues and adopts its prior views on those issues in their entirety.<sup>11 12</sup> Commissioner Lane and Commissioner Pearson have considered the record evidence in this investigation regarding the volume of subject imports and adopt the Commission's prior views on this issue in their entirety.

For those Commission findings in the price effects and impact sections of the original determination that the CIT has not yet addressed or are not at issue, the Commission adopts its prior views on those issues in their entirety.<sup>13</sup> Commissioner Lane and Commissioner Pearson have considered the record evidence in this investigation regarding the material injury analysis of price effects and impact and adopt the pertinent sections of the Commission's prior views in their entirety.

#### 1. Price Effects of the Subject Imports

The Commission's finding of significant price effects, as stated in our original Views, which we incorporate herein by reference, was based on numerous factors. To summarize, those factors are: the domestic product and subject imports are generally substitutable and price is a key factor in purchasing decisions.<sup>14</sup> There are three basic market segments for silicon metal (chemical, primary aluminum, and secondary aluminum) with different end uses and different purchasers.<sup>15</sup> Both subject imports and U.S.

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<sup>8</sup> See USITC Pub. 3584 at 5.

<sup>9</sup> See USITC Pub. 3584 at 6.

<sup>10</sup> See USITC Pub. 3584 at 6-9.

<sup>11</sup> See CIT slip op. at 14-15.

<sup>12</sup> See USITC Pub. 3584 at 10-11.

<sup>13</sup> See USITC Pub. 3584 at 11-21.

<sup>14</sup> See USITC Pub. 3584 at 8, 11.

<sup>15</sup> The three customer segments correspond to the following grades of silicon metal, which are ranked in generally descending order of purity as: (1) chemical grade; (2) a metallurgical grade used to produce primary aluminum (aluminum produced from ore); and (3) a metallurgical grade used to produce secondary aluminum (aluminum produced from scrap). Although silicon metal is described in terms of different grades, there is no uniformly accepted grade classification system. These grades actually refer to ranges of specifications that are typically sold to  
(continued...)

product were sold in all three market segments although in varying proportions,<sup>16</sup> and the percentage of subject import shipments to the chemical market, where most U.S. product is sold, increased substantially over the period of investigation (POI).<sup>17</sup> Subject imports undersold the domestic product in the vast majority of pricing comparisons, based on both sales price data and purchaser pricing data, and for all three grades of silicon metal.<sup>18</sup> The purchaser price data also showed that imports from Russia have been priced at lower levels than nonsubject imports during the period of investigation, and average unit value (AUV) data, which are normally less probative than pricing data, generally confirmed those trends.<sup>19</sup> We also found that U.S. and subject import prices of all three grades of silicon metal generally declined over the POI, and given the significant volumes of subject imports and their significant underselling, we found significant price depression by the subject imports.<sup>20</sup> Consistent with, but not central to our finding of adverse price effects, was evidence of lost sales and some evidence that prices for secondary aluminum grade silicon metal, the largest market for the Russian product, affect prices of the two other silicon metal grades.<sup>21</sup>

In its opinion, the CIT focused on two Commission findings from the price effects section of the original determination: that silicon metal prices in all three market segments “key off” the secondary aluminum price and that subject imports depressed prices in the secondary aluminum market, which consequently affected prices in the other two segments as well.<sup>22</sup> As we explain below, our use of the phrase “key off” in the first cited finding was not intended to establish that secondary aluminum prices and prices in the other two customer sectors (*i.e.*, chemical and primary aluminum grade) are directly correlated and move together in a lockstep fashion. Instead, our conclusion was meant to connote that published spot prices for secondary aluminum grade silicon metal were a benchmark for prices in all three market segments and influenced, to a certain degree, prices and price movements in those segments. As clarification, we restate that finding as follows: published spot prices for secondary aluminum grade silicon metal served as a benchmark for silicon metal prices in all three customer sectors.

As to the second finding cited by the CIT, we did not intend to conclude that subject imports only depressed prices in the secondary aluminum sector, which in turn depressed prices in the other two sectors. Rather, our finding of significant price depressing effects by subject imports was with respect to each of the three customer sectors of the U.S. silicon metal market. As further clarification, we note that the first finding cited by the CIT (*i.e.*, that prices in all three sectors keyed off the secondary aluminum price) was not intended to be the primary basis for our conclusion that subject imports significantly depressed U.S. silicon metal prices in all three customer sectors. For our finding of significant price depression by subject imports, we relied principally on record evidence indicating significant underselling by all three grades of subject imports, subject imports’ increasing volume during the period of

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<sup>15</sup> (...continued)

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. Chemical grade and primary aluminum grade customers have widely differing specifications. Out of the three grades, secondary aluminum grade silicon metal is closest to a commodity product. CR at I-7 & n.13; PR at I-6 & n.14.

<sup>16</sup> CR/PR at Table I-2.

<sup>17</sup> See USITC Pub. 3584 at 7.

<sup>18</sup> See USITC Pub. 3584 at 12.

<sup>19</sup> See USITC Pub. 3584 at 13 & n.89.

<sup>20</sup> See USITC Pub. 3584 at 14.

<sup>21</sup> See USITC Pub. 3584 at 12, 14.

<sup>22</sup> See CIT slip op. at 24.

investigation, and the high degree of substitutability between subject imports and domestic product.<sup>23</sup> Our finding that secondary aluminum grade spot prices were a benchmark for prices in all three customer sectors was neither a controlling factor in our price effects analysis nor was it a determinative component of our conclusion that the domestic industry was materially injured by reason of subject imports of silicon metal.

The CIT directed the Commission to explain its reasons for accepting evidence that “spot” prices may affect contract prices while rejecting contradictory evidence and to explain the significance or effect of the similar pricing trends of the different market segments.<sup>24</sup> We provide below an explanation of our conclusion that published secondary aluminum spot prices served as a benchmark for prices in all three customer sectors in the context of the spot/contract price relationship and the similar pricing trends in the three silicon metal market segments.

Our conclusion that published secondary aluminum spot prices served as a benchmark for prices in all three customer sectors is based on our analysis of how these published spot prices were utilized by sellers and buyers in the three customer sectors. The publications *Metals Week* and *Ryan’s Notes* periodically report spot sales prices for imported silicon metal of secondary aluminum specifications, the only spot prices, according to the record, that are published and widely available to the public.<sup>25</sup> These published prices were used as a benchmark in negotiating prices in a number of new contracts concerning one or more grades of silicon metal.<sup>26</sup> According to \*\*\*, one of the three remaining domestic producers in the domestic industry,<sup>27</sup> published spot prices such as those found in *Metals Week* and *Ryan’s Notes* were also used as pricing mechanisms in its contracts to adjust prices quarterly, semi-annually, or annually.<sup>28</sup> Another U.S. producer, \*\*\* 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 duration of the contract.<sup>29</sup> All three U.S. producers, Elkem, Globe, and SIMCALA, reported that they sell silicon metal to all three customer segments and that over 95 percent of their sales of silicon metal are done on a contract basis.<sup>30</sup>

Several responding purchasers confirmed that spot prices are used as a benchmark for pricing their purchases of silicon metal.<sup>31</sup> When purchasers were asked to describe the relationship between contract and spot prices for silicon metal, \*\*\*, a purchaser of both domestic and imported secondary

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<sup>23</sup> See USITC Pub. 3584 at 11-16.

<sup>24</sup> See CIT slip op. at 28.

<sup>25</sup> See *Ryan’s Notes Ferrous and Nonferrous News and Prices*, April 1, 2002 edition (AR List 1, Doc. 33); CR at I-7, n.13, V-3, n.1; PR at I-6, n.14, V-2, n.1; Hearing Transcript (“Tr.”) at 120 (Haynes) (AR List 1, Doc. 50); Respondents’ Posthearing Brief, Vol. II, Exhibit 1, p. 34; Exhibit 2, p. 42 (AR List 2, Doc. 104). The spot prices reported in *Metals Week* are based on a survey of reliable buyers and sellers.

<sup>26</sup> See \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 178), Response to Question III-32(a); \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 177), Response to Question III-32(a).

<sup>27</sup> A fourth producer, American Silicon Technologies, ceased production operations in September 1999, the first year of the period of investigation. CR/PR at III-1.

<sup>28</sup> CR at V-3; PR at V-2. Globe testified that it had a 2003 contract that is indexed and changes on a monthly basis. Hearing Tr. at 55 (Perkins) (AR List 1, Doc. 50).

<sup>29</sup> CR at V-3; PR at V-2 to V-3.

<sup>30</sup> CR at V-3; PR at V-2; CR/PR at Table I-2.

<sup>31</sup> We assign no weight to the responses of those purchasers that failed to answer or provided answers that were not responsive to question III-32(a) or other questions of the purchaser questionnaire discussed in these remand views.

aluminum grade silicon metal, responded that \*\*\*.<sup>32</sup> Another purchaser of both domestic and imported primary grade silicon metal, \*\*\*, cited \*\*\*.<sup>33</sup> \*\*\*, a purchaser of both domestic and imported chemical grade silicon metal, reported that \*\*\*.<sup>34</sup> \*\*\*, a purchaser of both domestic and imported secondary aluminum grade silicon metal, reported that \*\*\*.<sup>35</sup> These questionnaire responses indicate that spot prices are used as an adjustment mechanism for pricing in existing contracts and as a component of negotiations for future contracts.<sup>36</sup> Although some responding purchasers did not specify whether the spot price in question was for secondary aluminum grade product, the record evidence indicates that spot prices for secondary aluminum grade silicon metal are the only spot prices that are published and widely available to the public.

The effect of these spot prices as a benchmark of silicon metal prices in all three customer segments is consistent with U.S. producer price trends, which show that prices in all three sectors moved roughly in tandem during the period of investigation.<sup>37</sup> 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.<sup>38</sup> Respondents acknowledge similar pricing trends in the primary and secondary aluminum markets, stating that they “moved virtually in tandem.”<sup>39</sup> Because the secondary aluminum prices are the only prices that are published and widely available, and given the importance of price in purchasing decisions, the availability of domestic and subject imports in all customer sectors, and the high degree of interchangeability between domestic and imported silicon

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<sup>32</sup> See \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 193), Response to Question III-32(a).

<sup>33</sup> See \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 168), Response to Questions III-31(g) and III-32(a).

<sup>34</sup> See \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 178), Response to Question III-32(a).

<sup>35</sup> See \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 177), Response to Question III-32(a).

<sup>36</sup> Four purchasers, \*\*\*, reported no relationship between spot and contract prices. See \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 182), Response to Question III-32(a); \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 180), Response to Question III-32(a); \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 176), Response to Question III-32(a); \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 181), Response to Question III-32(a). However, as noted in the original determination, we did not find another claim by \*\*\* and we similarly discount its claim here. See Confidential Opinion (“CO”) at 32, n.134 (AR List 2, Doc. 137). As for the response of \*\*\*, we note that it \*\*\*. See \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 180), Response to Question III-31(b). In its response, \*\*\*, reported that \*\*\*. See \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 176), Response to Question III-30. Because of the limited experience that \*\*\* and \*\*\* have in making contract purchases of silicon metal, we discount their responses to question III-32(a). Out of the four responses, then, the remaining response of \*\*\* is insufficient to mandate an opposite conclusion.

<sup>37</sup> The CIT instructed the Commission to explain the significance or effect of the similar pricing trends of the different market segments. See CIT slip. op. at 28. As described above, prices and price changes of imported secondary aluminum grade silicon metal, as published in *Metals Week* and *Ryan’s Notes*, are quickly communicated throughout all three market segments of the U.S. silicon metal market. The evidence therefore indicates that secondary aluminum spot prices serve as a benchmark for prices overall in the silicon metal market and is consistent with the observed similar pricing trends in all three market segments. However, as described previously, we also observed significant underselling, price declines and price depression within each market segment when considered separately.

<sup>38</sup> CR at V-7; PR at V-4.

<sup>39</sup> Respondents’ Joint Prehearing Brief at 41 (AR List 2, Doc. 97).

metal of the same grade, the evidence indicates that published spot prices for secondary grade silicon metal served as a benchmark for silicon metal prices overall in the domestic silicon metal market.<sup>40</sup>

In accordance with the CIT's instructions, we examine the contradictory evidence regarding our finding that secondary aluminum grade spot prices are a benchmark for silicon metal prices in all three customer sectors.<sup>41</sup> We note again that this finding was not a controlling factor in our conclusion that subject imports significantly depressed U.S. prices in all three market segments.

The record evidence shows that contract prices were adjusted based on movements in published secondary aluminum grade spot prices even where no meet-or-release clauses existed in pertinent contracts. A meet-or-release clause is not the only possible or even the principal price adjustment mechanism,<sup>42</sup> as shown by the questionnaire response of purchaser \*\*\*, who reported \*\*\*.<sup>43</sup> One of the two largest purchasers of chemical grade silicon metal, \*\*\*, reported that \*\*\*.<sup>44</sup> In response to a question of whether there were any price leaders in the U.S. silicon metal market, \*\*\*, a purchaser of secondary aluminum silicon metal, \*\*\*. It also reported that \*\*\*.<sup>45</sup>

Five of five responding purchasers responded negatively 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.<sup>46</sup> However, we find that this evidence does not detract from our conclusion that contractual prices were adjusted based on movements in published secondary aluminum grade spot prices even when such contracts contained no meet-or-release clauses. As noted earlier, \*\*\* reported that \*\*\*. \*\*\* also reported that, \*\*\*.<sup>47</sup> Moreover, three of the five responding purchasers, \*\*\*, \*\*\*, and \*\*\*, \*\*\*. Thus, we do not regard these three responses as conclusive.<sup>48</sup> As for \*\*\* response, we find that it does not outweigh the other record evidence showing that contract prices, particularly during initial contract negotiations, may

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<sup>40</sup> *Ryan's Notes Ferrous and Nonferrous News and Prices*, April 1, 2002 edition (AR List 1, Doc. 33); CR at I-7, n.13, V-3, n.1; PR at I-6, n.14, V-2, n.1; Hearing Tr. at 120 (Haynes) (AR List 1, Doc. 50); Respondents' Posthearing Brief, Vol. II, Exhibit 1, p. 34; Exhibit 2, p. 42 (AR List 2, Doc. 104); CR/PR at Table I-2; CR at I-11 to I-13, II-6; PR at I-9 to I-10, II-4; Hearing Tr. at 16-17 (Perkins) and 30 (Lutz) (AR List 1, Doc. 50); Respondents' Joint Prehearing Brief at 4-8 (AR List 2, Doc. 97).

<sup>41</sup> See CIT slip op. at 25, 28.

<sup>42</sup> A meet-or-release clause provides that if a purchaser is offered a price by another supplier that is lower than the price provided under the contract, the incumbent supplier must lower the price to meet the competing offer or the purchaser is free to cancel the contract. See Petitioners' Prehearing Brief at 10 (AR List 2, Doc. 98).

<sup>43</sup> See \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 168), Response to Questions III-31(d) and (g).

<sup>44</sup> See \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 178), Response to Questions II-1, III-31(h) and III-32(a). See also \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 182), Response to Question II-1; CR/PR at Tables V-4 to V-6. Although \*\*\* also reported in its questionnaire in response to question IV-7 that \*\*\*, we find that this statement does not detract from our finding that spot prices for secondary aluminum grade silicon metal are a benchmark for U.S. silicon metal prices in the three market segments.

<sup>45</sup> See \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 193), Responses to Questions III-21 and III-31(d).

<sup>46</sup> CR at V-4; PR at V-3. See \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 178), Response to Question III-31(h); \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 185), Response to Question III-31(h); \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 194), Response to Question III-31(h); \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 181), Response to Questions III-31(h); \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 182), Response to Question III-31(h).

<sup>47</sup> See \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 178), Responses to Questions III-31(d) and III-32(a).

<sup>48</sup> See \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 185), Responses to Questions III-31(d) and (h); \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 194), Responses to Questions III-31(d) and (h); \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 181), Responses to Questions III-31(d) and (h).

still be influenced by price changes in published secondary aluminum spot prices, even if no meet-or-release clauses are in place.<sup>49</sup>

The majority of responding purchasers answered negatively when asked if prices vary within the duration of a contract in response to changes in spot prices.<sup>50</sup> However, those purchasers also reported a mix of contract and spot sales, with some firms reporting that all or the majority of sales are made on a spot basis and others reporting that all or a majority of sales are conducted on a contract basis.<sup>51</sup> Sixteen out of 18 responding purchasers that reported using contracts indicated that their average duration was relatively short, varying from 3 to 12 months, with prices and/or quantities fixed.<sup>52</sup> With shorter contracts, purchasers can simply wait until a contract is completed to negotiate new prices, which may be subject to changes due to price movements in the secondary aluminum spot price. For other purchasers

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<sup>49</sup> Assuming that GE Silicones' testimony that secondary aluminum grade spot prices do not affect the contract prices that it pays for chemical grade silicon metal is true, we find that this testimony does not outweigh the other record evidence indicating that published spot prices do influence prices in all three market sectors, including the chemical sector. Hearing Tr. at 120 (Haynes) (AR List 1, Doc. 50). Moreover, GE Silicones is not the only purchaser of chemical grade silicon metal. Another large purchaser of chemical grade silicon metal, \*\*\*, reported in its questionnaire response that \*\*\*. See \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 178), Response to Question III-32(a).

Further, there is some record evidence that the prices paid by GE Silicones for its purchase of chemical grade silicon metal have been influenced by market forces and publicly available pricing information. GE Silicones purchased large quantities of chemical grade silicon metal in 2001 by inviting qualified suppliers to submit competing bids in three internet auctions. These internet auctions were for the purchase of just over \*\*\* tons of silicon metal, or about \*\*\* percent of its 2002 requirements. GE reported that the duration of these contracts was \*\*\*. CR at V-4 to V-5; PR at V-3. In these auctions, GE Silicones set the maximum and target prices and bidders could continue to make bids as long as their bid was below the last one made. CR at V-5; PR at V-3. One domestic producer, \*\*\*, reported that GE Silicones' contract requirements were very rigid and difficult and that \*\*\*. CR at V-5; PR at V-3. Because \*\*\*. CR at V-5; PR at V-3. We find that, by utilizing internet auctions, GE Silicones effectively was looking to the silicon metal market to set a price for its chemical grade requirements. In the January 20, 2003 *Ryan's Notes* edition, it was reported that GE Silicones wanted to pay an "unrealistically low number" for its 2003 chemical grade requirements, but it was believed by a supplier that GE Silicones ultimately would have to pay higher prices more in line with other market quotes. See Respondents' Joint Prehearing Brief, Exhibit F (January 20, 2003, edition of *Ryan's Notes, Ferrous and Nonferrous News and Prices*, p.2) (AR List 2, Doc. 97).

<sup>50</sup> CR at V-4; PR at V-3. See Question III-31(g) of Purchaser Questionnaire.

<sup>51</sup> CR at V-3; PR at V-2.

<sup>52</sup> CO at 13 (AR List 2, Doc. 137). See \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 170), Responses to Questions III-31(a) and (c); \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 172), Responses to Questions III-31(a) and (c); \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 173), Responses to Questions III-31(a) and (c); \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 176), Responses to Questions III-31(a) and (c); \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 177), Responses to Questions III-31(a) and (c); \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 180), Responses to Questions III-31(a) and (c); \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 181), Responses to Questions III-31(a) and (c); \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 182), Responses to Questions III-31(a) and (c); \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 184), Responses to Questions III-31(a) and (c); \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 185), Responses to Questions III-31(a) and (c); \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 188), Responses to Questions III-31(a) and (c); \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 190), Responses to Questions III-31(a) and (c); \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 191), Responses to Questions III-31(a) and (c); \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 193), Responses to Questions III-31(a) and (c); \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 194), Responses to Questions III-31(a) and (c); \*\*\* Purchaser Questionnaire Response (AR List 2, Doc. 195), Responses to Questions III-31(a) and (c).

whose sales are primarily made on a spot basis, we find that, given the importance of price and the fungibility of U.S.-produced and imported silicon metal, published spot prices for secondary aluminum grade silicon metal, which are the only published and widely available spot prices, serve as a benchmark for those sales as well.<sup>53</sup>

As we stated previously, our conclusion that spot prices for secondary aluminum grade silicon metal serve as a benchmark for all three sectors was not critical to our finding of significant price depressing effects by subject imports. Evidence of lost sales, likewise, was consistent with, but not central to, our finding of adverse price effects. In our original determination, we noted that there were several confirmed lost sales in the primary and secondary aluminum sectors, but not in the chemical sector. However, despite no confirmed lost sales in the chemical sector, the evidence indicates that prices and price movements in the secondary aluminum sector “have an effect on all three sectors.”<sup>54</sup> The lack of confirmed lost sales in the chemical sector therefore does not negate the other evidence showing adverse price effects, including significant underselling and price depressing effects, by subject imports in all three customer sectors.

### CONCLUSION

For the reasons stated in these remand views and in our original views, we find 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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<sup>53</sup> CR/PR at Table I-2; CR at I-7, n.13, I-11 to I-13, II-6, V-3, n.1; PR at I-6, n.14, I-9 to I-10, II-4, V-2, n.1; *Ryan’s Notes Ferrous and Nonferrous News and Prices*, April 1, 2002 edition (AR List 1, Doc. 33).

<sup>54</sup> See CO at 21 (AR List 2, Doc. 137).