

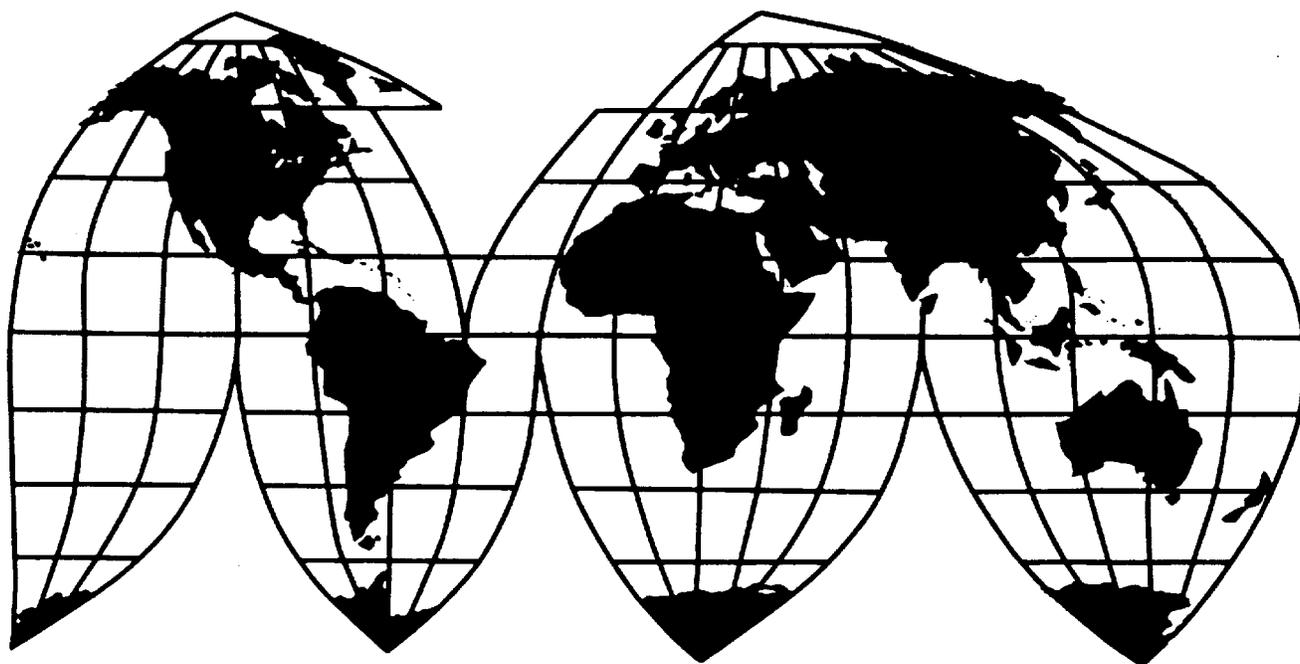
Silicomanganese From Brazil, China, and Ukraine

Investigation Nos. 731-TA-671-673 (Second Review)

Publication 3879

August 2006

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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CONTENTS

	<i>Page</i>
Determinations	1
Views of the Commission	3
Information obtained in the second reviews	I-1
Introduction	I-3
The original investigations and the first five-year reviews	I-3
Commerce’s original determinations and subsequent review determinations	I-6
Commerce’s final results of expedited second five-year reviews	I-6
Distribution of Continued Dumping and Subsidy Offset Act funds to affected domestic producers	I-8
Related Commission investigations	I-9
The product	I-10
Scope	I-10
U.S. tariff treatment	I-10
Domestic like product and domestic industry	I-10
Physical characteristics and uses	I-11
Manufacturing process	I-13
Interchangeability and customer and producer perceptions	I-13
Channels of distribution	I-14
Pricing	I-14
The industry in the United States	I-17
U.S. producers	I-17
U.S. producer’s trade, employment, and financial data	I-19
U.S. imports and apparent U.S. consumption	I-20
U.S. imports	I-20
Cumulation considerations	I-23
Apparent U.S. consumption and market shares	I-24
Antidumping actions outside the United States	I-31
The world market	I-31
The subject foreign industries	I-32
Brazil	I-32
China	I-34
Ukraine	I-36

Appendix

A. <i>Federal Register</i> notices	A-1
B. Statement on adequacy	B-1

Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 731-TA-671-673 (Second Review)

SILICOMANGANESE FROM BRAZIL, CHINA, AND UKRAINE

DETERMINATIONS

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

BACKGROUND

The Commission instituted these reviews on January 3, 2006 (71 F.R. 135) and determined on April 10, 2006 that it would conduct expedited reviews (71 F.R. 27515, May 11, 2006).

The Commission transmitted its determinations in these reviews to the Secretary of Commerce on August 28, 2006.

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

VIEWS OF THE COMMISSION

Based on the record in these five-year reviews, we determine under section 751(c) of the Tariff Act of 1930, as amended (“the Act”), that revocation of the antidumping duty orders on silicomanganese from Brazil, China, and Ukraine would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

I. BACKGROUND

The original investigations of silicomanganese from Brazil, China, and Ukraine were instituted based on a petition filed by Elkem Metals Co. (“Elkem”) and the Oil, Chemical and Atomic Workers Local 3-639 on November 12, 1993. Effective October 31, 1994, the U.S. Department of Commerce (“Commerce”) suspended the antidumping investigation of silicomanganese from Ukraine, based on an agreement by the Government of Ukraine to restrict the volume of direct or indirect silicomanganese exports to the United States and to sell such exports at or above a “reference price” in order to prevent the suppression or undercutting of price levels of domestic silicomanganese in the United States.¹ Petitioner then requested continuation of the investigation regarding silicomanganese from Ukraine. On December 14, 1994, the Commission determined that an industry in the United States was materially injured or threatened with material injury by reason of imports of silicomanganese from Brazil, China, and Ukraine that were being sold at less than fair value (“LTFV”).² On December 22, 1994, Commerce issued antidumping duty orders on silicomanganese from Brazil and China.³

In January 2001, the Commission determined, based on full reviews, that revocation of the antidumping orders on silicomanganese from Brazil and China and the suspended investigation on silicomanganese from Ukraine would be likely to lead to continuation or recurrence of material injury to an industry in the United States in a reasonably foreseeable time.⁴ On the basis of these determinations, and affirmative determinations in its reviews of the orders on silicomanganese from Brazil and China and the suspended investigation on silicomanganese from Ukraine, Commerce published a notice of continuation on February 16, 2001.⁵

On July 19, 2001, the Government of Ukraine requested that Commerce terminate the suspension agreement on silicomanganese from Ukraine. Accordingly, on September 17, 2001, Commerce terminated the suspension agreement and issued an antidumping duty order on imports of silicomanganese from Ukraine.⁶

On January 3, 2006, the Commission instituted these five-year reviews, pursuant to section 751(c) of the Act, to determine whether revocation of the antidumping duty orders on silicomanganese from Brazil, China, and Ukraine would likely lead to continuation or recurrence of material injury within a reasonably foreseeable time.⁷ The Commission received one response to the notice of institution from

¹ 59 Fed. Reg. 60951 (November 29, 1994).

² Silicomanganese from Brazil, the People’s Republic of China, Ukraine, and Venezuela, Investigations Nos. 731-TA-671-674 (Final), USITC Pub. 2836 (Dec. 1994) (“Original Determinations”). The Commission reached a 4-2 negative determination with respect to silicomanganese from Venezuela.

³ 59 Fed. Reg. 66003 (December 22, 1994).

⁴ Silicomanganese from Brazil, China, and Ukraine, Inv. Nos. 731-TA-671-673 (Review) (“First Review Determinations”), USITC Pub. 3386 (Jan. 2001).

⁵ 66 Fed. Reg. 10669 (February 16, 2001).

⁶ 66 Fed. Reg. 43838 (August 21, 2001).

⁷ 71 Fed. Reg. 135 (January 3, 2006).

Eramet Marietta Inc. (“Eramet”). Eramet is a domestic producer of silicomanganese and the successor firm to Elkem, which, along with the Oil, Chemical and Atomic Workers union, was a petitioner in the original investigations. The Commission received no response to the notice of institution from any foreign producer, exporter, importer, or other respondent interested party. On April 10, 2006, the Commission determined that the domestic interested party response was adequate in each of these reviews, and that the respondent interested party response was inadequate in each of these reviews. Because the Commission determined that there were no other circumstances warranting a full review, it determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Act.⁸

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Product

In making its determination under section 751(c), the Commission defines the “domestic like product” and the “industry.”⁹ The Act defines the “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.”¹⁰ The Commission’s practice in five-year reviews is to look to the like product definition from the original determination and any previous reviews and consider whether the record indicates any reason to revisit that definition.¹¹

In these five-year reviews, Commerce has defined silicomanganese, the subject merchandise, as Silicomanganese, which is sometimes called ferrosilicon manganese, is a ferroalloy composed principally of manganese, silicon and iron, and normally contains much smaller proportions of minor elements, such as carbon, phosphorus, and sulfur. Silicomanganese generally contains by weight not less than 4 percent iron, more than 30 percent manganese, more than 8 percent silicon, and not more than 3 percent phosphorous. All compositions, forms, and sizes of silicomanganese are included within the scope of the order, including silicomanganese slag, fines, and briquettes. Silicomanganese is used primarily in steel production as a source of both silicon and manganese.¹²

Silicomanganese is used primarily by the steel industry as a source of both silicon and manganese, and sometimes as an alloying agent in iron production. Although manufactured in three grades (A, B and C) which are distinguished by their silicon and carbon content, most silicomanganese produced and sold in the United States conforms to the specification for grade B. Silicomanganese

⁸ 71 Fed. Reg. 27515 (May 11, 2006); Confidential Report (“CR”) at Appendix B, *Statement on Adequacy*.

⁹ 19 U.S.C. § 1677(4)(A).

¹⁰ 19 U.S.C. § 1677(10). See Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996); Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991). See also S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

¹¹ See Stainless Steel Sheet and Strip from France, Germany, Italy, Japan, Korea, Mexico, Taiwan and the United Kingdom, Inv. No. 701-TA-380-382 and 731-TA-797-804 (Review), USITC Pub. 3788 (July 2005) at 6; Crawfish Tail Meat from China, Inv. No. 731-TA-752 (Review), USITC Pub. 3614 (July 2003) at 4; Steel Concrete Reinforcing Bar from Turkey, Inv. No. 731-TA-745 (Review), USITC Pub. 3577 (Feb. 2003) at 4.

¹² Silicomanganese from Brazil, Ukraine, and the People’s Republic of China; Five-year Sunset Reviews of Antidumping Duty Orders; Final Results, 71 Fed. Reg. 26927 (May 9, 2006).

generally is sold in small pieces of fairly uniform sizes.¹³ Silicomanganese is produced by smelting together in a submerged arc furnace sources of silicon, manganese, iron, and a carbonaceous reducing agent (usually coke).¹⁴

In its original determinations, the Commission defined the domestic like product as all silicomanganese, coextensive with Commerce's scope.¹⁵ In its first five-year reviews, the Commission again defined the domestic like product as all silicomanganese, coextensive with Commerce's scope. In so doing, the Commission noted that none of the parties disagreed with the Commission's original domestic like product definition and that no new information had been obtained during the first five-year reviews that would suggest that it should change its domestic like product definition.¹⁶

In these second reviews, the domestic interested party indicated in its response to the notice of institution that it agreed with the Commission's prior definition of the domestic like product. There is no information in the record that would warrant a re-examination of the like product definition. We therefore define the domestic like product to be all silicomanganese, coextensive with Commerce's scope.

B. Domestic Industry

Section 771(4)(A) of the Act defines the relevant domestic industry as the "producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."¹⁷

In the original investigations, the Commission defined the domestic industry as the sole domestic producer of silicomanganese, which was petitioner Elkem, the assets of which were acquired in July 1999 by Eramet SA of France and renamed Eramet Marietta Inc. Eramet states that it is now the only operating U.S. producer of silicomanganese.¹⁸ Consistent with our definition of the domestic industry in the original investigations and the first five-year reviews and absent any contrary argument, we define the domestic industry in these reviews as all domestic producers of silicomanganese.¹⁹

¹³ CR at I-14-I-15; Public Staff Report ("PR") at I-11-I-12.

¹⁴ CR at I-16; PR at I-13.

¹⁵ Original Determinations at I-6-I-7 (December 1994) (Commissioners Rohr and Newquist) and I-21-I-22 (Commissioners Watson, Nuzum, Crawford, and Bragg).

¹⁶ First Review Determinations at 5 (January 2001).

¹⁷ 19 U.S.C. § 1677(4)(A). In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market, provided that adequate production-related activity is conducted in the United States. See United States Steel Group v. United States, 873 F. Supp. 673, 682-83 (Ct. Int'l Trade 1994), aff'd, 96 F.3d 1352 (Fed. Cir. 1996).

¹⁸ Eramet is now the only domestic producer of silicomanganese and the only producer that provided data to the Commission in this proceeding. While two companies, Globe Metallurgical Inc. ("Globe") and Highlanders Alloys LLC ("Highlanders"), attempted to begin silicomanganese production during the period of review ("POR"), 2000 to 2005, both apparently now have ceased production. Neither company provided data to the Commission in this proceeding, and there is no evidence that either company produced significant quantities of subject product during the POR. Eramet estimated in its response that Globe produced "no more than 4,000 short tons of silicomanganese during the first quarter of 2005." CR at I-24; PR at I-18.

¹⁹ Eramet indicated that it is related, through its parent company Eramet SA, to two Chinese producers of the subject merchandise, Guangxi Comilog Ferroalloy Co., Ltd. and Guilin Comilog Ferroalloys. There is no evidence that Eramet imported the subject merchandise from either of these producers during the POR. Although Eramet falls within the definition of a related party under the related party provision, 19 U.S.C. § 1677(4)(B), Eramet is the only remaining domestic producer of silicomanganese, and no party has argued for its exclusion. Moreover, there is no

(continued...)

III. CUMULATION

A. Overview

Section 752(a) of the Act provides that:

the Commission may cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews under section 1675(b) or (c) of this title were initiated on the same day, if such imports would be likely to compete with each other and with domestic like products in the United States market. The Commission shall not cumulatively assess the volume and effects of imports of the subject merchandise in a case in which it determines that such imports are likely to have no discernible adverse impact on the domestic industry.²⁰

Thus, cumulation is discretionary in five-year reviews. The Commission may exercise its discretion to cumulate only if the reviews are initiated on the same day and the Commission determines that the subject imports are likely to compete with each other and the domestic like product in the U.S. market. The statute precludes cumulation if the Commission finds that subject imports from a country are likely to have no discernible adverse impact on the domestic industry.²¹ We note that neither the statute nor the Uruguay Round Agreements Act (“URAA”) Statement of Administrative Action (“SAA”) provides specific guidance on what factors the Commission is to consider in determining that imports “are likely to have no discernible adverse impact” on the domestic industry.²² With respect to this provision, the Commission generally considers the likely volume of the subject imports and the likely impact of those imports on the domestic industry within a reasonably foreseeable time if the orders are revoked.²³

The Commission generally has considered four factors intended to provide a framework for determining whether the imports compete with each other and with the domestic like product.²⁴ Only a

¹⁹ (...continued)

evidence that Eramet has received a benefit by virtue of its relationship with these two related Chinese producers. Under these circumstances, we find that appropriate circumstances do not exist to exclude Eramet from the domestic industry.

²⁰ 19 U.S.C. § 1675a(a)(7).

²¹ 19 U.S.C. § 1675a(a)(7).

²² SAA, H.R. Rep. No. 103-316, vol. I (1994).

²³ For a discussion of the analytical framework of Commissioners Hillman and Koplan regarding the application of the “no discernible adverse impact” provision, see Malleable Cast Iron Pipe Fittings from Brazil, Japan, Korea, Taiwan, and Thailand, Inv. Nos. 731-TA-278-280 (Review) and 731-TA-347-348 (Review) USITC Pub. 3274 (Feb. 2000). For a further discussion of Commissioner Koplan’s analytical framework, see Iron Metal Construction Castings from India; Heavy Iron Construction Castings from Brazil; and Iron Construction Castings from Brazil, Canada, and China, Inv. Nos. 303-TA-13 (Review); 701-TA-249 (Review); and 731-TA-262, 263, and 265 (Review) USITC Pub. 3247 (Oct. 1999) (Views of Commissioner Stephen Koplan Regarding Cumulation).

²⁴ The four factors generally considered by the Commission in assessing whether imports compete with each other and with the domestic like product are: (1) the degree of fungibility between the imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions; (2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product; (3) the existence of common or similar channels of distribution for imports from different countries and the domestic like product; and (4) whether the imports are simultaneously present in the market. See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int’l Trade 1989).

“reasonable overlap” of competition is required.²⁵ In five-year reviews, the relevant inquiry is whether there likely would be competition even if none currently exists because the subject imports are absent from the U.S. market.²⁶ Moreover, because of the prospective nature of five-year reviews, we have examined not only the Commission’s traditional competition factors, but also other significant conditions of competition that are likely to prevail if the orders under review are terminated. The Commission has considered factors in addition to its traditional competition factors in other contexts where cumulation is discretionary.²⁷

In the current five-year reviews, the statutory requirement for cumulation that all reviews be initiated on the same day is satisfied, as all three reviews were initiated on January 3, 2006.²⁸

In the original investigations, three of the six Commissioners found a reasonable overlap of competition and, for purposes of their present injury determinations, cumulated imports from all the subject countries. Three Commissioners cumulated subject imports from Brazil and China, but did not cumulate imports from Ukraine, finding no reasonable overlap in competition between imports from Ukraine and the domestic like product. Among the four Commissioners who reached the issue of threat, one cumulated imports from Brazil and China and the others did not cumulate imports from any of the four countries.²⁹

In the first five-year reviews, the Commission determined to cumulate subject imports from Brazil, China, and Ukraine for purposes of the assessment of continuation or recurrence of material injury.³⁰ The Commission found with respect to fungibility and geographic overlap that subject imports were likely to be fungible with each other and with the domestic like product. Other factors that the Commission found to support cumulation were the commodity nature of silicomanganese, the high degree of substitutability between the subject imports and the domestic like product, and excess capacity in each of the subject countries.³¹

²⁵ See Mukand Ltd. v. United States, 937 F. Supp. 910, 916 (Ct. Int’l Trade 1996); Wieland Werke, AG, 718 F. Supp. at 52 (“Completely overlapping markets are not required.”); United States Steel Group v. United States, 873 F. Supp. 673, 685 (Ct. Int’l Trade 1994), aff’d, 96 F.3d 1352 (Fed. Cir. 1996). We note, however, that there have been investigations where the Commission has found an insufficient overlap in competition and has declined to cumulate subject imports. See, e.g., Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386 (Preliminary) and 731-TA-812-813 (Preliminary), USITC Pub. 3155 at 15 (Feb. 1999), aff’d sub nom. Ranchers-Cattlemen Action Legal Foundation v. United States, 74 F. Supp.2d 1353 (Ct. Int’l Trade 1999); Static Random Access Memory Semiconductors from the Republic of Korea and Taiwan, Inv. Nos. 731-TA-761-762 (Final), USITC Pub. 3098 at 13-15 (Apr. 1998).

²⁶ See, e.g., Torrington Co. v. United States, 790 F. Supp. at 1172 (affirming Commission’s determination not to cumulate for purposes of threat analysis when pricing and volume trends among subject countries were not uniform and import penetration was extremely low for most of the subject countries); Metallwerken Nederland B.V. v. United States, 728 F. Supp. 730, 741-42 (Ct. Int’l Trade 1989); Asociacion Colombiana de Exportadores de Flores v. United States, 704 F. Supp. 1068, 1072 (Ct. Int’l Trade 1988).

²⁷ See, e.g., Torrington Co. v. United States, 790 F. Supp. at 1172 (affirming Commission’s determination not to cumulate for purposes of threat analysis when pricing and volume trends among subject countries were not uniform and import penetration was extremely low for most of the subject countries); Metallwerken Nederland B.V. v. United States, 728 F. Supp. 730, 741-42 (CIT 1989); Asociacion Colombiana de Exportadores de Flores v. United States, 704 F. Supp. 1068, 1072 (CIT 1988).

²⁸ 71 Fed. Reg. 135 (Jan. 3, 2006).

²⁹ Original Determinations at I-12-I-15, I-30-I-35, I-53, I-61, I-69, I-73-75 and I-80-I-81.

³⁰ First Review Determinations at 10.

³¹ First Review Determinations at 8-10.

Eramet contends that the Commission, as it did in the first five-year reviews, should cumulate imports from Brazil, China, and Ukraine for purposes of its analysis.³² Eramet argues that nothing has changed to justify a change in the Commission’s findings from the first five-year reviews that there was a reasonable overlap of competition between the subject imports from each country and the domestic like product.³³ The company notes that the subject imports and the domestic like product can be used interchangeably in most applications, and would likely be sold in the same geographic markets. Moreover, most sales of both the subject imports and the domestic like product are made to end users, indicating that both have similar channels of distribution.³⁴

B. Likelihood of No Discernible Adverse Impact

We do not find that revocation of any of the antidumping orders on silicomanganese from Brazil, China, and Ukraine would likely have no discernible adverse impact on the domestic industry. As discussed below, the information available indicates that the silicomanganese industry in each of these subject countries has significant production capacity, and that each of these subject countries has significant unused capacity.³⁵ Silicomanganese, regardless of source, is produced to standard specifications. Domestically produced silicomanganese is highly substitutable with imports from each of the subject countries. Consequently, sustained underselling by dumped imports would be likely to have significant price-depressing or -suppressing effects. In light of these factors, we cannot conclude that revocation of any of the antidumping orders on silicomanganese from Brazil, China, or Ukraine will likely have no discernible adverse impact.

In the first five-year reviews, the Commission also did not find that revocation of the orders would likely have no discernible adverse impact standard with respect to subject imports from Brazil, China, and Ukraine, given the Commission’s findings as to the likely volumes, price effects, and impact of those imports.³⁶ Those findings included that the subject imports and the domestic like product remained highly fungible and substitutable, that all three countries had the economic incentive and ability to increase sales to the United States if the orders were revoked, and that excess capacity existed in all three countries.³⁷

No respondent interested party in these reviews responded to the Commission’s notice of institution. Thus, the record contains limited information with respect to the silicomanganese industry in those countries. Accordingly, we rely upon available information when appropriate.^{38 39}

³² Eramet Comments at 6.

³³ Eramet Comments at 6.

³⁴ Eramet Comments at 6-7.

³⁵ CR at I-44-I-52; PR at I-32-I-37.

³⁶ First Review Determinations at 8.

³⁷ First Review Determinations at 8.

³⁸ Section 776 of the Act authorizes the Commission to “use the facts otherwise available” in reaching a determination when: (1) necessary information is not available on the record or (2) an interested party or other person withholds information requested by the agency, fails to provide such information in the time, form, or manner requested, significantly impedes a proceeding, or provides information that cannot be verified pursuant to section 782(I) of the Act. 19 U.S.C. § 1677e(a). The verification requirements in section 782(I) are applicable only to Commerce. 19 U.S.C. § 1677m(I). See Titanium Metals Corp., 155 F. Supp. 2d at 765 (“the ITC correctly responds that Congress has not required the Commission to conduct verification procedures for the evidence before it, or provided a minimum standard by which to measure the thoroughness of a Commission investigation.”).

³⁹ Commissioner Okun notes that the statute authorizes the Commission to take adverse inferences in five-year reviews, but such authorization does not relieve the Commission of its obligation to consider the record evidence as
(continued...)

1. Brazil

In the original investigation, the Commission found that the volume of subject imports from Brazil had increased significantly, from 51,656 short tons in 1991 to 71,400 short tons in 1993.⁴⁰ Following the imposition of the order, Brazilian subject imports declined to zero short tons in 1996, 1997, and 1998, 22 short tons in 1999, and 17 short tons in 2000.⁴¹ In the second review period, 2000 to 2005, the quantity of subject imports from Brazil remained at extremely low levels, ranging from zero short tons in 2001 and 2005, to a high of 60 short tons in 2004 (compared to total U.S. silicomanganese imports of 483,030 short tons in 2004).⁴²

There is little information in the current record pertaining to the Brazilian industry's production capacity for silicomanganese subsequent to the original investigations, but its current global exports are substantial. The *World Trade Atlas* indicates that Brazil's global exports increased by *** percent from 2000 to 2005, from *** short tons to *** short tons.⁴³

In light of the prevailing conditions of competition in the U.S. market, including the fungible nature of the product (discussed below in 'Likelihood of a Reasonable Overlap of Competition'), we do not find that subject imports from Brazil, with their history of increases in volume and underselling of the domestic like product, along with evidence of substantial capacity and strong export orientation, would likely have no discernible adverse impact if the order was revoked.

2. China

Chinese subject imports increased during the period of investigation ("POI") from 5,848 short tons in 1991 to 56,430 short tons in 1993.⁴⁴ Immediately following the imposition of the antidumping order, Chinese subject imports declined, and, over the POR of the first reviews, fell from 19,751 short tons in 1994 to zero short tons from 1995 through 1999.⁴⁵ The quantity of subject imports from China remained at zero from 2000 to 2002, with limited quantities of Chinese imports entering the United States during 2003 and 2004 before returning to zero in 2005.⁴⁶

There is little information in the current record pertaining to the Chinese industry's production capacity for silicomanganese subsequent to the original investigations, but its current production and exports are substantial. According to the U.S. Geological Survey, Chinese production of silicomanganese

³⁹ (...continued)

a whole in making its determination. 19 U.S.C. § 1677e. She generally gives credence to the facts supplied by the participating parties and certified by them as true, but bases her decision on the evidence as a whole, and does not automatically accept participating parties' suggested interpretations of the record evidence. Regardless of the level of participation and the interpretations urged by participating parties, the Commission is obligated to consider all evidence relating to each of the statutory factors and may not draw adverse inferences that render such analysis superfluous. "In general, the Commission makes determinations by weighing all of the available evidence regarding a multiplicity of factors relating to the domestic industry as a whole and by drawing reasonable inferences from the evidence it finds most persuasive." SAA at 869.

⁴⁰ CR/PR at Table I-4.

⁴¹ CR/PR at Table I-4.

⁴² CR/PR at Table I-4.

⁴³ CR at I-46; PR at I-34.

⁴⁴ CR/PR at Table I-4.

⁴⁵ CR/PR at Table I-4.

⁴⁶ CR/PR at Table I-4.

almost tripled from 992,070 short tons in 2000 to 2,865,980 short tons in 2004.⁴⁷ The *World Trade Atlas* estimates that China's global exports generally rose over the period of this review to a peak of *** short tons in 2004, then reportedly declined by *** percent in 2005.⁴⁸

In light of the prevailing conditions of competition in the U.S. market, including the fungible nature of the product (discussed below in 'Likelihood of a Reasonable Overlap of Competition'), we do not find that subject imports from China, with their history of increases in volume and underselling of the domestic like product, along with evidence of substantial growth in capacity over the second POR and its strong export orientation, would likely have no discernible adverse impact if the order was revoked.

3. Ukraine

Over the POI, Ukrainian subject imports increased from zero short tons in 1991 to 41,493 short tons in 1993.⁴⁹ After the suspension agreement became effective in 1994, Ukrainian subject imports declined to very low levels, and fell during the POR of the first reviews from zero in 1995 and 1996 to 8,259 short tons in 1997, zero in 1998, and 9,025 short tons in 1999.⁵⁰ With the termination of the suspension agreement and the imposition of the antidumping order in 2001, the quantity of subject imports from Ukraine remained at very low levels during the second POR, ranging from zero from 2000 to 2002, to 80 short tons in 2004, before returning to zero in 2005.⁵¹

There is little information in the record pertaining to the Ukrainian industry's production capacity for silicomanganese subsequent to the original investigations, but its current production and exports are substantial. The U.S. Geological Survey estimates that Ukrainian production of the subject merchandise rose from 754,017 short tons in 2000 to 1,168,438 short tons in 2004.⁵² Ukraine's global exports of silicomanganese increased by *** percent from 2002 to 2004, according to *World Trade Atlas* statistics, before falling by *** percent from 2004 to 2005.⁵³

In light of the prevailing conditions of competition in the U.S. market, including the fungible nature of the product (discussed below in 'Likelihood of a Reasonable Overlap of Competition'), we do not find that subject imports from Ukraine, with their history of increases in volume and underselling of the domestic like product, along with evidence of substantial growth in capacity over the second POR and strong export orientation, would likely have no discernible adverse impact if the order was revoked.

C. Likelihood of a Reasonable Overlap of Competition

With regard to likely overlap of competition, we note that the relevant inquiry is whether there would likely be competition even if there are no current imports from a subject country.⁵⁴ Further, only a "reasonable overlap" of competition is required.⁵⁵ We next analyze the four factors the Commission typically examines in determining whether there will be a likely overlap of competition.

⁴⁷ CR/PR at Table I-8.

⁴⁸ CR at I-49; PR at I-36.

⁴⁹ CR/PR at Table I-4.

⁵⁰ CR/PR at Table I-4.

⁵¹ CR/PR at Table I-4.

⁵² CR/PR at Table I-8.

⁵³ CR at I-52; PR at I-37.

⁵⁴ See generally *Cheflin Corp. v. United States*, 219 F. Supp.2d 1313, 1314 (Ct. Int'l Trade 2002).

⁵⁵ See *Mukand Ltd. v. United States*, 937 F. Supp. 910, 917 (Ct. Int'l Trade 1996).

Fungibility

Imported silicomanganese is generally considered to be interchangeable with domestic silicomanganese in most applications.⁵⁶ In the first five-year reviews, most purchasers and importers reported that the subject merchandise and the domestic like product could be used interchangeably.⁵⁷ The Commission found that while the use of Ukrainian silicomanganese could be limited for certain applications due to a higher level of phosphorous, it was considered substitutable in suitable applications such as static structural steel products.⁵⁸ Producers and purchasers, moreover, were able to blend high-phosphorous silicomanganese with standard silicomanganese to produce a silicomanganese with lower phosphorous content.⁵⁹

In these reviews, Eramet indicated that silicomanganese from all sources remains fungible for most applications.⁶⁰ There is no information in the record of the present reviews that indicates that the fungibility of silicomanganese from all sources has changed.

Geographic Overlap

In the first five-year reviews, the Commission concluded that all silicomanganese sold in the United States is likely to continue to be sold throughout the United States in the same geographical areas in which the domestic like product is sold.⁶¹ In the current reviews, Eramet states that the subject imports are sold in all the same geographic markets as the domestic like product.⁶² During the POR, imports of silicomanganese from Brazil entered the United States through ports in Florida, North Dakota, Maryland, and Virginia.⁶³ Chinese imports entered through Illinois, Maryland, and California. Silicomanganese from Ukraine entered through Michigan and New York.⁶⁴ There is no information in the record of the present reviews that indicates that the geographic overlap of sales of the domestic like product and the subject imports has changed.

Channels of Distribution

In the first five-year reviews, the Commission found that all silicomanganese sold in the United States is sold through the same channels of distribution (i.e., directly to end users), with very limited sales through distributors, trading companies, and swaps.⁶⁵ Silicomanganese is usually sold directly from the U.S. producer to end users throughout the United States.⁶⁶ There is no information in the record of the present reviews that indicates that this distribution pattern has changed.

⁵⁶ CR at I-17; PR at I-13.

⁵⁷ CR at I-17; PR at I-13.

⁵⁸ CR at I-17; PR at I-13.

⁵⁹ CR at I-17; PR at I-13.

⁶⁰ CR at I-18; PR at I-14.

⁶¹ First Review Determinations at 8-9.

⁶² Eramet Response at 12 (February 22, 2006).

⁶³ CR at I-33-I-34; PR at I-23-I-24.

⁶⁴ CR at I-33-I-34; PR at I-23-I-24.

⁶⁵ First Review Determinations at 8.

⁶⁶ CR at I-18; PR at I-14.

Simultaneous Presence

In the original investigations, imports from all three subject countries were simultaneously present in the U.S. market in large quantities. Subject imports from Brazil, China, and Ukraine entered the United States only intermittently during the period examined in the first five-year reviews, and during the period examined in these current reviews. During the six-year period from January 2000 through December 2005 subject imports from Brazil were recorded in only six months, from China in only five months, and from Ukraine in only four months.⁶⁷

D. Conclusion

While subject imports from the subject countries were essentially absent from the U.S. market during the current POR, this appears to be due to the discipline of the orders. The relevant inquiry in a five-year review is whether subject imports likely would be simultaneously present if the orders were revoked. Because we have concluded that subject imports from Brazil, China, and Ukraine will likely enter the U.S. market in sufficient quantities to have a discernible adverse impact on the domestic industry, it logically follows that such imports would likely enter the United States on a regular basis, as they did during the original investigations.

The available data indicate that imports from each individual subject country are now and are likely to continue to be purchased in multiple regions of the United States. There is no contrary evidence on the record of this proceeding to suggest that those circumstances have changed since the first five-year reviews. We consequently find that there is currently and will likely continue to be a reasonable geographic overlap of competition among imports from the subject countries and between the subject imports and the domestic like product, which is sold nationwide.

The record indicates that the other competition criteria are satisfied. Both domestically produced silicomanganese and subject imports from all sources are fungible, and are primarily sold to end users. We consequently conclude that the subject silicomanganese imports from Brazil, China, and Ukraine will likely compete with each other, and with the domestic like product, should the orders under review be revoked. We also see no differences in the conditions of competition between subject silicomanganese imports from Brazil, China and Ukraine. Accordingly, we exercise our discretion to cumulate the subject imports from all of the subject countries.

IV. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY IF THE ANTIDUMPING DUTY ORDERS ARE REVOKED

A. Legal Standard in a Five-Year Review

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping duty order unless: (1) it makes a determination that dumping or subsidization is likely to continue or recur, and (2) the Commission makes a determination that revocation of the antidumping duty order “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”⁶⁸ The SAA states that “under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of

⁶⁷ CR/PR at Table I-6.

⁶⁸ 19 U.S.C. § 1675a(a).

its restraining effects on volumes and prices of imports.”⁶⁹ Thus, the likelihood standard is prospective in nature.⁷⁰ The U.S. Court of International Trade has found that “likely,” as used in the five-year review provisions of the Act, means “probable,” and the Commission applies that standard in five-year reviews.⁷¹

The statute states that “the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.”⁷⁴ According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ timeframe applicable in a threat of injury analysis in original investigations.”^{75 76}

⁶⁹ SAA, H.R. Rep. No. 103-316, vol. I, at 883-84 (1994). The SAA states that “[t]he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed.” SAA at 883.

⁷⁰ While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued [sic] prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

⁷¹ See NMB Singapore Ltd. v. United States, 288 F. Supp. 2d 1306, 1352 (Ct. Int’l Trade 2003) (“‘likely’ means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)”), aff’d without opinion, 05-1019 (Fed. Cir. August 3, 2005); Nippon Steel Corp. v. United States, Slip Op. 02-153 at 7-8 (Ct. Int’l Trade Dec. 24, 2002) (same); Usinor Industeel, S.A. v. United States, Slip Op. 02-152 at 4 n.3 & 5-6 n.6 (Ct. Int’l Trade Dec. 20, 2002) (“more likely than not” standard is “consistent with the court’s opinion”; “the court has not interpreted ‘likely’ to imply any particular degree of ‘certainty’”); Indorama Chemicals (Thailand) Ltd. v. United States, Slip Op. 02-105 at 20 (Ct. Int’l Trade Sept. 4, 2002) (“standard is based on a likelihood of continuation or recurrence of injury, not a certainty”); Usinor v. United States, Slip Op. 02-70 at 43-44 (Ct. Int’l Trade July 19, 2002) (“‘likely’ is tantamount to ‘probable,’ not merely ‘possible’”).

⁷² For a complete statement of Commissioner Okun’s interpretation of the likely standard, see Additional Views of Vice Chairman Deanna Tanner Okun Concerning the “Likely” Standard in Certain Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Argentina, Brazil, Germany, and Italy, Inv. Nos. 701-TA-362 (Review) and 731-TA-707-710 (Review)(Remand), USITC Pub. 3754 (Feb. 2005).

⁷³ Commissioner Lane notes that, consistent with her views in Pressure Sensitive Plastic Tape from Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 (June 2004) at 15-17, she does not concur with the U.S. Court of International Trade’s interpretation of “likely” but she will apply the Court’s standard in this review and all subsequent reviews until either Congress clarifies the meaning or the U.S. Court of Appeals for the Federal Circuit addresses the issue.

⁷⁴ 19 U.S.C. § 1675a(a)(5).

⁷⁵ SAA at 887. Among the factors that the Commission should consider in this regard are “the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities.” Id.

⁷⁶ In analyzing what constitutes a reasonably foreseeable time, Commissioner Koplán examines all the current and likely conditions of competition in the relevant industry. He defines “reasonably foreseeable time” as the length of time it is likely to take for the market to adjust to a revocation or termination. In making this assessment, he considers all factors that may accelerate or delay the market adjustment process including any lags in response by foreign producers, importers, consumers, domestic producers, or others due to: lead times; methods of contracting; the need to establish channels of distribution; product differentiation; and any other factors that may only manifest themselves in the longer term. In other words, this analysis seeks to define “reasonably foreseeable time” by reference to current and likely conditions of competition, but also seeks to avoid unwarranted speculation that may

(continued...)

Although the standard in a five-year review is not the same as the standard applied in an original antidumping duty investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to “consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated.”⁷⁷ It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if the orders are revoked or the suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).⁷⁸

B. Conditions of Competition and the Business Cycle

In evaluating the likely impact of the subject imports on the domestic industry, the statute directs the Commission to consider all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”⁷⁹ The following conditions of competition are relevant to our determinations.

The Commission found in the original investigations and first five-year reviews that silicomanganese is a commodity product made to common industry standards such that once a producer has qualified multiple suppliers, price takes on central importance to purchasing decisions.⁸⁰ Although silicomanganese can be produced with some variations in chemistry, the Commission found that silicomanganese consumed in the United States is largely grade B, and silicomanganese with variations in chemistry other than those specified by the ASTM standards is still viewed in the market as silicomanganese.⁸¹ The U.S. market at the time of the first reviews was served by silicomanganese suppliers from at least 20 countries.⁸² In both the original investigations and first five-year reviews, the Commission also found that silicomanganese producers are able, at least to a limited extent, to produce other products, particularly ferromanganese, in their silicomanganese furnaces.⁸³

In the original investigations and first five-year reviews, the Commission identified several conditions of competition pertinent to the domestic silicomanganese industry. These included the fact that the domestic industry is very small relative to demand and that imports were therefore required to meet domestic demand.⁸⁴ Domestic demand for silicomanganese is largely derived from demand from steelmakers and producers of ferrous castings, particularly in the production of long products by

⁷⁶ (...continued)
occur in predicting events into the more distant future.

⁷⁷ 19 U.S.C. § 1675a(a)(1).

⁷⁸ 19 U.S.C. § 1675a(a)(1). There have been no duty absorption findings by Commerce with respect to the orders under review. CR at I-7, PR at I-6. The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission’s determination. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

⁷⁹ 19 U.S.C. § 1675a(a)(4).

⁸⁰ Original Determinations at I-6-I-7 (Commissioners Rohr and Newquist) and I-21-I-22, I-26 (Commissioners Watson, Nuzum, Crawford, and Bragg); First Review Determinations at 14; CR at I-19; PR at I-14.

⁸¹ First Review Determinations at I-14.

⁸² CR at Table I-8.

⁸³ Original Determinations at I-26; First Review Determinations at 15; CR at I-16; PR at I-13.

⁸⁴ Original Determinations at I-25; First Review Determinations at 14; PR at I-13.

minimills.⁸⁵ In the first five-year reviews, the Commission found that the domestic industry's market share accounted for less than *** percent of the domestic silicomanganese market.⁸⁶

The limited record in these expedited reviews does not indicate that there have been any significant changes in the conditions of competition since the first five-year reviews. Eramet reports that the U.S. market for silicomanganese remains highly competitive, and that domestic and import suppliers compete for sales in the United States.⁸⁷ There is no indication that the domestic like product and subject imports are no longer highly substitutable, or that silicomanganese is no longer sold primarily on the basis of price.⁸⁸

The only import data available for these expedited reviews, as was the case in the original investigations and the first five-year reviews, are based on official Commerce statistics. Based on the data available, however, the quantity and value of subject silicomanganese exports to the United States from Brazil, China, and Ukraine have remained at very low levels, with zero imports from the subject countries in 2005.⁸⁹

Data on domestic producers, including shipments, are available in these reviews only for Eramet. Although Eramet reportedly accounted for *** percent of domestic silicomanganese production at the end of the POR, two other domestic companies, Globe and Highlanders, reportedly produced silicomanganese during the POR, but have ceased production. Neither Globe nor Highlanders provided data to the Commission in these reviews.⁹⁰

Based on the available data, overall domestic demand increased from 1999 to 2005, but the share of domestic consumption supplied by domestic producers did not. Apparent U.S. consumption of silicomanganese increased by *** percent between 1999 to 2005, from *** short tons to *** short tons.⁹¹ U.S. producers' shipments, however, remained essentially unchanged over the period, rising approximately *** percent from *** short tons in 1999 to *** short tons in 2005. As a percentage of overall apparent domestic consumption, U.S. producer shipments declined from *** percent to *** percent from 1999 to 2005, by quantity, while the share of importers' shipments from nonsubject sources increased from *** percent of domestic consumption to *** percent.⁹² U.S. import data also show increases in nonsubject imports from 2001 to 2005.

The value of domestic silicomanganese consumption, however, increased from \$*** to \$*** between 1999 and 2005, reflecting the substantially higher domestic unit values for silicomanganese that

⁸⁵ First Review Determinations at I-14; CR at I-38; PR at I-24.

⁸⁶ First Review Determinations at 14; CR/PR at Table I-7.

⁸⁷ Eramet Comments at 5.

⁸⁸ Eramet reports that silicomanganese is still sold primarily on the basis of price, and that publications such as *Metals Week* and *Ryan's Notes* publish information about silicomanganese transaction prices, such that the domestic industry is forced to rapidly respond to any price declines caused by subject imports. Eramet Comments at 4-6 (subject imports are highly substitutable with domestic silicomanganese and compete directly with the domestic like product).

⁸⁹ CR/PR at Table I-4.

⁹⁰ CR at I-23-I-24; PR at I-18. Eramet estimated in its response that Globe produced "no more than 4,000 short tons of silicomanganese during the first quarter of 2005." Eramet Response at 34; CR at I-24; PR at I-18.

⁹¹ CR at I-38; PR at I-24 and CR/PR Table I-7. In comparison, domestic consumption of silicomanganese ranged between *** short tons and *** short tons during the original investigations (1991-1993) to between *** short tons and *** short tons during the first five-year reviews (1997-1999). First Review Determinations at 14; CR/PR at Table I-7.

⁹² CR/PR at Table I-7.

prevailed in 2005 compared to 1999.⁹³ Supply constraints experienced by Eramet, in conjunction with a decline in import volumes, may have contributed to an increase in silicomanganese prices in 2004.⁹⁴ A combination of the resolution of Eramet's supply problems and an increase in non-subject imports appears to have contributed to a moderation in silicomanganese prices in 2005.⁹⁵

Accordingly, we find that the U.S. market for silicomanganese remains highly competitive, and that demand remains cyclically tied to conditions in the U.S. and global steel industries.⁹⁶ The domestic industry continues to supply a relatively small portion of overall domestic demand. We find that these conditions of competition in the silicomanganese market provide us with a reasonable basis on which to assess the likely effects of revocation of the orders.

C. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the antidumping duty orders were revoked, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.⁹⁷ In doing so, the Commission must consider "all relevant economic factors," including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.⁹⁸

In the first five-year reviews, the Commission found that the volume of subject imports would likely be significant if the order were revoked. Among the bases for this finding was the fact that, during the original investigations, the Brazilian, Chinese, and Ukrainian producers and exporters demonstrated the ability to increase rapidly exports to the U.S. market.⁹⁹

During the period examined in these second reviews, the volume of cumulated subject imports remained at very low levels overall. Subject imports of silicomanganese totaled 17 short tons in 2000, zero short tons in 2001, 47 short tons in 2002, 90 short tons in 2003, 1,076 short tons in 2004 and zero short tons in 2005.¹⁰⁰

Due to the lack of response from subject foreign producers in these reviews, there is limited information in the record concerning current levels of production capacity in Brazil, China, and Ukraine. In the first five-year reviews, the Commission found that Brazil's reported capacity to produce silicomanganese was *** short tons, of which *** short tons represented excess capacity. Taken together with inventories of silicomanganese in Brazil, this excess capacity represented *** percent of apparent U.S. consumption in 1999.¹⁰¹ Similarly, the Commission found that Ukrainian producers, of a total production capacity of *** short tons, had excess capacity of *** short tons. Taken with inventories, this

⁹³ CR/PR at Table I-7; Figure I-1 (citing reported *Metal Bulletin* average weekly U.S. free market prices for silicomanganese, December 31, 1999 through March 10, 2006).

⁹⁴ CR at I-22; PR at I-15-I-17.

⁹⁵ CR at I-22; PR at I-17.

⁹⁶ Eramet Comments at 4-5.

⁹⁷ 19 U.S.C. § 1675a(a)(2).

⁹⁸ 19 U.S.C. § 1675a(a)(2)(A-D).

⁹⁹ First Review Determinations at 15-18.

¹⁰⁰ CR/PR at Table I-4.

¹⁰¹ First Review Determinations at 17; CR/PR at Tables I-7 and I-9.

excess capacity was equivalent to *** percent of apparent U.S. consumption in 1999.¹⁰² The Commission made no findings with respect to Chinese capacity in the first five-year reviews, because no Chinese producer participated.¹⁰³

While current capacity data for the subject countries are not available, data on the record show relatively high worldwide export levels for subject imports from Brazil, China, and Ukraine during the current POR. China, Ukraine, and Brazil are the first, second, and fifth largest producers of silicomanganese in the world, respectively, and total exports from all three subject countries have increased over the POR.¹⁰⁴ Available *World Trade Atlas* data show that Brazilian exports of the subject product to all countries increased from *** short tons in 2000 to over *** short tons in 2005, indicating that the Brazilian industry continues to produce and export substantial quantities of silicomanganese.¹⁰⁵ The *World Trade Atlas* indicates that Chinese exports of subject silicomanganese to all sources totaled *** short tons in 2000, increasing to *** short tons in 2004 before falling back to *** short tons in 2005.¹⁰⁶ Ukrainian exports of subject merchandise to all sources increased from *** short tons in 2002 to *** short tons in 2005.¹⁰⁷

Thus, the record shows that subject producers continue to produce and export substantial quantities of silicomanganese. The subject producers' export orientation, their substantial exports, the rapid increase in subject exports to the United States in the original investigations, as well as such producers' apparent substantial capacity, indicate that they are likely to increase exports to the United States significantly upon revocation of the antidumping duty orders. Accordingly, we conclude that the likely volume of the subject merchandise, both in absolute terms and relative to consumption and production in the United States, would be significant, absent the restraining effect of the orders.

D. Likely Price Effects of Subject Imports

In evaluating the likely price effects of subject imports if the orders under review are revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to the domestic like product and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.¹⁰⁸

The record in these reviews contains limited pricing data for the U.S. market. During the original investigations, the Commission found that the domestic product and subject imports were highly fungible.

In the original investigations, the Commission found that prices for the domestic like product and subject imports declined over most of the period examined. The evidence showed a mixed pattern of overselling and underselling by the subject imports, with data obtained by the Commission indicating 21 instances of underselling and 19 instances of overselling by the imports with respect to contract prices,

¹⁰² First Review Determinations at 17-18; CR/PR at Tables I-7 and I-13.

¹⁰³ First Review Determinations at 18.

¹⁰⁴ CR at Table I-8, Table I-10, Table I-12, and Table I-14.

¹⁰⁵ CR/PR at Table I-10.

¹⁰⁶ CR/PR at Table I-12.

¹⁰⁷ CR/PR at Table I-14.

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

and 8 instances of underselling and 5 instances of overselling on the spot market.¹⁰⁹ In the first five-year reviews, the Commission found, in light of the already high degree of price-based competition in the U.S. market and the inelasticity of demand for silicomanganese, that subject imports would be likely to expand their market share by lowering prices in the short run.¹¹⁰ The Commission found that the price declines triggered by the likely large volume of subject imports would likely depress or suppress the overall price level in the United States to a significant degree if the orders were revoked or the suspended investigation terminated.¹¹¹

Based on the limited pricing data in these reviews, which the Commission obtained from public sources,¹¹² we find it likely that, absent the antidumping duty orders, competitive conditions would return to those prevailing prior to the imposition of the orders. Moreover, given the fungibility between the domestic and subject silicomanganese, the producers in Brazil, China, and Ukraine would have the incentive to lower their prices to recapture their U.S. market share. Thus, increased sales of subject imports likely would be achieved by means of aggressive pricing. Based upon the past history of underselling, we find that the subject imports from Brazil, China, and Ukraine would likely enter the United States at prices that would significantly depress or suppress U.S. prices if the orders are revoked.

E. Likely Impact of Subject Imports

In evaluating the likely impact of imports of subject merchandise if the antidumping duty orders were revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.¹¹³ All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.¹¹⁴ As instructed by the statute, we

¹⁰⁹ Original Determinations, Views of Commissioners Rohr and Newquist at 21; Views of Chairman Watson and Commissioners Crawford and Bragg at 4-7; and Additional and Dissenting Views of Chairman Nuzum at 13-14.

¹¹⁰ First Review Determinations at 18-19.

¹¹¹ First Review Determinations at 19.

¹¹² CR/PR at Figure I-1.

¹¹³ 19 U.S.C. § 1675a(a)(4).

¹¹⁴ 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that “the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy” in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the “magnitude of the margin of dumping” to be used by the Commission in five-year reviews as “the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title.” 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887. In the final results of its expedited five-year reviews of the antidumping orders on Brazil, Commerce published likely dumping margins of 64.93 percent for Rio Doce Mangans S.A. (RDM), Companhia Paulista de Ferro-Ligas (CPFL), and Urucum Minerca S.A. (Urucum) (collectively RDM/CPFL), and 17.6 percent for all others. In its expedited five-year review of the antidumping duty order of silicomanganese from China, Commerce found a likely margin of 150 percent for all manufacturers/producers/exporters. With respect to the antidumping duty order on silicomanganese from Ukraine, Commerce found a rate of 163 percent for all manufacturers/producers/exporters. 71 Fed. Reg. 26927 (May 9, 2006).

have considered the extent to which any improvement in the state of the domestic industry is related to the orders at issue and whether the industry is vulnerable to material injury if the orders are revoked.¹¹⁵

In the original investigations, the Commission found that, due to falling prices, the domestic industry was unable to operate profitably.¹¹⁶ In the first five-year reviews, the Commission found that despite the imposition of the orders following the original investigations, the domestic industry's financial condition remained weak and that it would be vulnerable to material injury if the orders were revoked and the suspended investigation terminated.¹¹⁷ Accordingly, the Commission found that the subject imports would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time if the orders and suspended investigation were revoked.¹¹⁸ In these current reviews, given the likely significant increase in volume of subject imports and the resultant intense price competition, we find that the domestic industry would likely experience significant declines in output, sales, and income, with eventual losses in employment, capital, and research and development expenditures similar to those experienced in the years examined during the original investigations.

The limited evidence in the record is insufficient to enable us to determine whether the domestic industry producing silicomanganese is vulnerable. There is no current financial information available on the U.S. producers of silicomanganese during the POR, although the record does show that the U.S. producer's U.S. shipments are similar in quantity and higher in value compared to the beginning of the POR in the first five-year reviews.¹¹⁹

We find that if the orders were revoked, subject imports would likely return in large quantities at the expense of the domestic industry. As discussed above, revocation of the antidumping duty orders likely would lead to significant increases in the volume of cumulated subject imports at prices that would likely undersell the domestic like product and significantly suppress or depress U.S. prices. In addition, the volume and price effects of the cumulated subject imports likely would cause the domestic industry to lose market share, with a significant adverse impact on the domestic industry's production, shipments, sales, and revenue levels. This reduction in the industry's production, shipments, sales, and revenue levels would have a direct adverse impact on the industry's profitability as well as its ability to raise capital and make and maintain necessary capital investments. In addition, we find it likely that revocation of the orders will result in commensurate employment declines for the domestic industry.

Accordingly, based on the limited record in these reviews, we conclude that, if the antidumping duty orders are revoked, subject imports from Brazil, China, and Ukraine would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

CONCLUSION

For the foregoing reasons, we determine that revocation of the antidumping duty orders on silicomanganese from Brazil, China, and Ukraine would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

¹¹⁵ The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission "considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." SAA at 885.

¹¹⁶ Original Determinations at I-28.

¹¹⁷ First Review Determinations at 20.

¹¹⁸ First Review Determinations at 20.

¹¹⁹ CR/PR at Table I-3.

INFORMATION OBTAINED IN THE SECOND REVIEWS

INTRODUCTION

On January 3, 2006, in accordance with section 751(c) of the Tariff Act of 1930, as amended (“the Act”),¹ the U.S. International Trade Commission (“Commission” or “USITC”) gave notice that it had instituted reviews to determine whether revocation of the antidumping duty orders on silicomanganese from Brazil, China, and Ukraine would be likely to lead to a continuation or recurrence of material injury within a reasonably foreseeable time.^{2 3} On April 10, 2006, the Commission determined that the domestic interested party response to its notice of institution was adequate;⁴ the Commission also determined that the respondent interested party response was inadequate.⁵ The Commission found no other circumstances that would warrant conducting full reviews.⁶ Accordingly, the Commission unanimously determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Act.^{7 8} The Commission voted on these reviews on August 14, 2006, and notified Commerce of its determinations on August 28, 2006. Selected information relating to the schedule of these current five-year reviews is presented on the following page.⁹

The Original Investigations and the First Five-Year Reviews

On November 12, 1993, a petition was filed with Commerce and the Commission alleging that an industry in the United States was materially injured and threatened with further material injury by reason of less-than-fair-value (“LTFV”) imports of silicomanganese from Brazil, China, Ukraine, and Venezuela.¹⁰ On October 31, 1994, Commerce made final affirmative LTFV determinations regarding

¹ 19 U.S.C. 1675(c).

² 71 FR 135, January 3, 2006. All interested parties were requested to respond to this notice by submitting the information requested by the Commission. The Commission’s notice of institution is presented in app. A.

³ In accordance with section 751(c) of the Act, the U.S. Department of Commerce (“Commerce”) published a notice of initiation of five-year reviews of the subject antidumping duty orders concurrently with the Commission’s notice of institution. 71 FR 91, January 3, 2006.

⁴ The Commission received one submission in response to its notice of institution for the subject reviews. It was filed on behalf of domestic producer Eramet Marietta Inc. (“Eramet”). Eramet is represented by the law firm of DLA Piper Rudnick Gray Cary US LLP. Eramet indicated in its response that it accounted for at least *** percent of U.S. silicomanganese production in 2005. *Response of Eramet*, February 22, 2006, p. 34.

⁵ The Commission did not receive any responses to its notice of institution from respondent interested parties. However, on February 8, 2006, an entry of appearance was submitted by Marks & Sokolov, LLC on behalf of Felman Production Inc. (“Felman”) and Zaporozhye Ferroalloy Plant (“ZFP”). The entry of appearance indicated that Felman recently purchased a bankrupt ferroalloy plant in West Virginia and “has plans to restart the plant and produce {ferroalloys}, including silicomanganese.” It also indicated that “Felman is related to {ZFP}, a Ukrainian producer of silicomanganese, and also is a potential importer of silicomanganese from Ukraine.” On February 21, 2006, Marks & Sokolov, LLC withdrew the entry of appearance filed on behalf of Felman and ZFP. Felman and ZFP did not submit responses to the Commission’s notice of institution in these reviews.

⁶ The Commission’s statement on adequacy is presented in app. B.

⁷ 19 U.S.C. § 1675(c)(3).

⁸ 71 FR 27515, May 11, 2006. The Commission’s notice of expedited reviews appears in app. A.

⁹ Cited *Federal Register* notices beginning with the Commission’s institution of second five-year sunset reviews are presented in app. A.

¹⁰ The petition was filed by counsel on behalf of Elkem Metals Co. (“Elkem”), Pittsburgh, PA, and the Oil, Chemical and Atomic Workers (“OCAW”) Local 3-639, Belpre, OH. *Staff Report*, November 29, 1994 (INV-R-187), p. I-4.

Effective date	Action	Federal Register citation
January 3, 2006	Commission's institution of second five-year reviews	71 FR 135 January 3, 2006
January 3, 2006	Commerce's initiation of second five-year reviews	71 FR 91 January 3, 2006
April 10, 2006	Commission's determinations to conduct expedited second five-year reviews	71 FR 27515 May 11, 2006
May 9, 2006	Commerce's final results of expedited second five-year reviews	71 FR 26927 May 9, 2006
August 14, 2006	Date of the Commission's vote	Not applicable
August 28, 2006	Commission's determinations transmitted to Commerce	Not applicable

silicomanganese from Brazil, China, and Venezuela.¹¹ In addition, an agreement was signed on October 31, 1994, suspending the antidumping investigation on silicomanganese from Ukraine.¹² The Commission completed its original investigations concerning silicomanganese from Brazil, China, Ukraine, and Venezuela on December 14, 1994, determining that an industry in the United States was materially injured or threatened with material injury by reason of LTFV imports of silicomanganese from Brazil,¹³ China,¹⁴ and Ukraine¹⁵ and that an industry in the United States was not materially injured or threatened with material injury, and the establishment of an industry in the United States was not materially retarded, by reason of LTFV imports from Venezuela.¹⁶ After receipt of the Commission's

¹¹ 59 FR 55432, November 7, 1994.

¹² Commerce suspended its investigation based on an agreement by the Government of Ukraine to restrict the volume of direct or indirect silicomanganese exports to the United States and to sell such exports at or above a "reference price" in order to prevent the suppression or undercutting of price levels of domestic silicomanganese in the United States. 59 FR 60951, November 29, 1994. On December 2, 1994, Commerce notified the Commission that it had continued its investigation on silicomanganese from Ukraine. Accordingly, pursuant to section 207.42 of the Commission's Rules of Practice and Procedure (19 CFR 207.42), the Commission continued its investigation on silicomanganese from Ukraine. 59 FR 65788, December 21, 1994.

¹³ Commissioners Rohr and Newquist determined that an industry in the United States was materially injured, and Chairman Watson determined that an industry in the United States was threatened with material injury, by reason of LTFV imports of silicomanganese from Brazil. Vice Chairman Nuzum and Commissioners Crawford and Bragg dissented. 59 FR 65788, December 21, 1994; *Silicomanganese From Brazil, the People's Republic of China, Ukraine, and Venezuela: Investigations Nos. 731-TA-671-674 (Final)*, USITC Publication 2836, December 1994, p. I-3.

¹⁴ Chairman Watson, Vice Chairman Nuzum, and Commissioner Bragg determined that an industry in the United States was threatened with material injury, and Commissioners Rohr and Newquist determined that an industry in the United States was materially injured, by reason of LTFV imports of silicomanganese from China. Commissioner Crawford dissented. *Ibid.*

¹⁵ Commissioners Rohr and Newquist determined that an industry in the United States was materially injured, and Vice Chairman Nuzum determined that an industry in the United States was threatened with material injury, by reason of LTFV imports of silicomanganese from Ukraine. Chairman Watson and Commissioners Crawford and Bragg dissented. *Ibid.*

¹⁶ Commissioners Rohr and Newquist dissented. *Ibid.*

final determinations, Commerce issued antidumping duty orders on imports of silicomanganese from Brazil and China.¹⁷

On November 2, 1999, the Commission instituted the first five-year reviews of the antidumping duty orders on imports of silicomanganese from Brazil and China and the suspended investigation on silicomanganese from Ukraine¹⁸ and, on February 3, 2000, the Commission determined that it should proceed to full reviews.¹⁹ On June 2, 2000, Commerce found that revocation of the antidumping duty orders on silicomanganese from Brazil and China would likely lead to continuation or recurrence of dumping²⁰ and, on September 27, 2000, Commerce determined that termination of the suspended antidumping investigation on silicomanganese from Ukraine would be likely to lead to continuation or recurrence of dumping.²¹ In January 2001, the Commission completed its full first five-year reviews and determined that revocation of the antidumping duty orders on silicomanganese from Brazil and China and termination of the suspension agreement on silicomanganese from Ukraine would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.²² Subsequently, Commerce issued a continuation of the antidumping duty orders on silicomanganese from Brazil and China and the suspended antidumping duty investigation on silicomanganese from Ukraine.²³ On July 19, 2001, the Government of Ukraine submitted a memorandum to Commerce officially requesting termination of the suspension agreement on

¹⁷ 59 FR 66003, December 22, 1994.

¹⁸ 64 FR 59209, November 2, 1999.

¹⁹ The Commission received one submission from domestic interested parties in response to its notice of institution in the first five-year reviews. It was filed on behalf of Eramet (successor firm to petitioner Elkem), the sole domestic producer of silicomanganese during 1998, and the Paper, Allied-Industrial, Chemical and Energy Workers International Union (“PACE”) Local 5-0639, the union representing all silicomanganese workers in the United States. The Commission also received two submissions from respondent interested parties in response to its notice of institution in the first five-year reviews, one with respect to the antidumping duty order on silicomanganese from Brazil and the other with respect to the suspended investigation on silicomanganese from Ukraine. The Brazilian response was filed on behalf of Companhia Paulista De Ferroligas (“CPFL”) and Sibra Eletrosiderurgica Brasileira S.A. (“SIBRA”), Brazilian producers and exporters of silicomanganese that accounted for a substantial portion of total Brazilian production of silicomanganese during 1998. The Ukraine response was filed on behalf of Ronly Holdings, Ltd. (“Ronly”); Nikopol Ferroalloys Plant (“Nikopol”); ZFP; and Ukraine Ministry of Industrial Policy. Ronly, Nikopol, and ZFP were the sole Ukrainian producers and/or exporters of the subject silicomanganese. The Commission did not receive any responses from respondent interested parties to its notice of institution in the first five-year reviews with respect to the antidumping duty order on silicomanganese from China. In the adequacy phase of the first five-year reviews, the Commission determined that the domestic and respondent interested party responses to its notice of institution with respect to Brazil and Ukraine were adequate and voted to conduct full reviews. The Commission also determined that the respondent interested party response with respect to the antidumping duty order on silicomanganese from China was inadequate, but determined to conduct a full review to promote administrative efficiency in light of the Commission’s decision to conduct full reviews with respect to silicomanganese from Brazil and Ukraine. *Silicomanganese From Brazil, China, and Ukraine: Investigations Nos. 731-TA-671-673 (Review)*, USITC Publication 3386, January 2001, app. A, Commission’s statement on adequacy; and Commissioner vote summaries, <http://info.usitc.gov/oinv/sunset.nsf/...>, retrieved on April 20, 2006.

²⁰ 65 FR 35324, June 2, 2000.

²¹ 65 FR 58045, September 27, 2000.

²² 66 FR 8981, February 5, 2001; *Silicomanganese From Brazil, China, and Ukraine, Investigations Nos. 731-TA-671-673 (Review)*, USITC Publication 3386, January 2001, p. 1.

²³ 66 FR 10669, February 16, 2001.

silicomanganese from Ukraine and, effective September 17, 2001, Commerce issued an antidumping duty order.²⁴

Commerce's Original Determinations and Subsequent Review Determinations

Commerce has completed four administrative reviews of sales of silicomanganese from Brazil and one administrative review of sales of silicomanganese from China. Since the issuance of the antidumping duty order on silicomanganese from Ukraine, Commerce has not conducted an administrative review of sales of silicomanganese from Ukraine. Additionally, Commerce has not conducted any changed-circumstances reviews or duty-absorption inquiries of the three orders and there have been no scope rulings on the subject merchandise covered by the orders. The orders remain in effect for all manufacturers, producers, and exporters of silicomanganese from Brazil, China, and Ukraine. Information on Commerce's final determinations, antidumping duty orders, and administrative and five-year review determinations is presented in table I-1.

Commerce's Final Results of Expedited Second Five-Year Reviews

On February 21, 2006, Commerce notified the Commission that it did not receive an adequate response to its notice of initiation from the respondent interested parties with respect to silicomanganese from Brazil, China, and Ukraine and that it would conduct expedited reviews of the orders.²⁵ Commerce published the final results of its reviews based on the facts available on May 9, 2006.²⁶ In its final results, Commerce found that revocation of the antidumping duty orders on silicomanganese from Brazil, China, and Ukraine would likely lead to continuation or recurrence of dumping at margins determined in its original final determinations (see table I-1).²⁷

In its final results, Commerce explained that it "normally determines that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of an order and import volumes for the subject merchandise declined significantly."²⁸ With respect to the subject reviews, Commerce found that the quantity of silicomanganese imported from each of the subject countries decreased substantially post-order and remain well below pre-order levels. Commerce further determined that dumping is likely to continue or recur if the orders were revoked given that (1) dumping has occurred and imports are below pre-order levels with respect to silicomanganese from Brazil; (2) dumping exists at above *de minimis* levels and imports are below pre-order levels with respect to

²⁴ 66 FR 43838, August 21, 2001.

²⁵ *Letter from Thomas Futtner, Acting Director, Office IV, AD/CVD Operations, Import Administration, U.S. Department of Commerce, February 21, 2006.*

²⁶ 71 FR 26927, May 9, 2006.

²⁷ Commerce explained that it selected the margins from its original final determinations because those are the only calculated rates that reflect the behavior of producers and exporters without the discipline of the orders. *Issues and Decision Memorandum for the Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders on Silicomanganese from Brazil, Ukraine, and the People's Republic of China*, from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, International Trade Administration, Department of Commerce, May 3, 2006, p. 7.

²⁸ *Ibid.*, p. 5.

Table I-1

Silicomanganese: Commerce's final determinations, antidumping duty orders, administrative review determinations, and five-year review determinations

Action	Date of action	Federal Register citation	Period of review	Antidumping duty margins	
				Firm specific	Country-wide
				Percent ad valorem	
Brazil					
Final determination	11/7/1994	59 FR 55432	06/01/1993-11/30/1993	64.93 ¹	17.60
Antidumping duty order	12/22/1994	59 FR 66003	--	64.93 ¹	17.60
Administrative review	07/15/1997	62 FR 37869	06/17/1994-11/30/1995	88.87 ¹	17.60
Final results of expedited first five-year review	06/02/2000	65 FR 35324	--	64.93 ¹	17.60
Continuation of order	02/16/2001	66 FR 10669	--	--	--
Administrative review	03/24/2004	69 FR 13813	12/01/2001-11/30/2002	13.02 ²	17.60
Administrative review (amended)	05/24/2004	69 FR 29517	12/01/2001-11/30/2002	16.50 ²	17.60
Administrative review	04/13/2005	70 FR 19418	12/01/2002-11/30/2003	0.00 ³	17.60
Administrative review	01/17/2006	71 FR 2516	12/01/2003-11/30/2004	0.00 ³	17.60
Final results of expedited second five-year review	05/09/2006	71 FR 26927	--	64.93 ³	17.60
China					
Final determination	11/7/1994	59 FR 55435	06/01/1993-11/30/1993	--	150.00
Antidumping duty order	12/22/1994	59 FR 66003	--	--	150.00
Administrative review	05/18/2000	65 FR 31514	12/01/1997-11/30/1998	126.22 ⁴ 182.97 ⁵	150.00
Final results of expedited first five-year review	06/02/2000	65 FR 35324	--	--	150.00
Continuation of order	02/16/2001	66 FR 10669	--	--	--
Final results of expedited second five-year review	05/09/2006	71 FR 26927	--	--	150.00

Table continued on following page.

Table I-1--Continued

Silicomanganese: Commerce's final determinations, antidumping duty orders, administrative review determinations, and five-year review determinations

Action	Date of action	Federal Register citation	Period of review	Antidumping duty margins	
				Firm specific	Country-wide
				Percent ad valorem	
Ukraine					
Suspension of investigation	10/31/1994	59 FR 60951 11/29/1994	--	--	--
Final determination	12/6/1994	59 FR 62711	06/01/1993- 11/30/1993	--	163.00
Final results of full first five-year review	09/27/2000	65 FR 58045	--	--	163.00
Continuation of suspended investigation	02/16/2001	66 FR 10669	--	--	--
Administrative review	06/11/2001	66 FR 31206	11/01/1998- 10/31/1999	--	(⁶)
Termination of suspension agreement and notice of antidumping duty order	09/17/2001	66 FR 43838 08/21/2001	--	--	163.00
Final results of expedited second five-year review	05/09/2006	71 FR 26927	--	--	163.00
¹ CPFL and SIBRA. ² CPFL, SIBRA, and Urucum Mineracao. ³ CPFL, Urucum Mineracao, and Rio Doce Manganês S.A. ⁴ Guangxi Bayi Ferroalloy Works. ⁵ Sichuan Emei Ferroalloy Import and Export Co., Ltd. ⁶ Commerce determined that the Government of Ukraine was not in compliance with the suspension agreement and requested emergency consultations.					
Source: Cited <i>Federal Register</i> notices.					

silicomanganese from China; and (3) no administrative review has been conducted and imports are below pre-order levels with respect to silicomanganese from Ukraine.²⁹

Distribution of Continued Dumping and Subsidy Offset Act Funds to Affected Domestic Producers

Qualified U.S. producers of silicomanganese are eligible to receive disbursements from U.S. Customs and Border Protection (“Customs”) under the Continued Dumping and Subsidy Offset Act of 2000 (“CDSOA”), also known as the Byrd Amendment.³⁰ One U.S. producer (Elkem) received such

²⁹ Ibid, pp. 5-6.

³⁰ 19 CFR 159.64(g).

funds in 2001. No other CDSOA claims and disbursements were made with respect to silicomanganese after 2001.³¹ Table I-2 presents CDSOA claims and disbursements for Federal fiscal year 2001.

**Table I-2
Silicomanganese: CDSOA claims and disbursements, Federal fiscal year 2001^{1 2}**

Year	Order	Claimant	Share of yearly allocation	Certification amount ³	Amount disbursed
			Percent	Dollars	
2001	A-351-824 (Brazil)	Elkem	100.00	679,780.00	0.00
	A-570-828 (China)	Elkem	100.00	679,780.00	1,282.93
	A-823-805 (Ukraine)	Elkem	100.00	679,780.00	0.00

¹ The Federal fiscal year is October 1-September 30.

² No other CDSOA claims and disbursements were made with respect to silicomanganese after 2001.

³ Qualifying expenditures incurred by domestic producers since the issuance of an order.

Source: Customs' *CDSOA Annual Reports 2001-05*, http://www.cbp.gov/xp/cgov/import/add_cvd/cont_dump/, retrieved on May 9, 2006.

Related Commission Investigations

The Commission has conducted one other grouped investigation on silicomanganese. Following a petition filed in 2001 by Eramet and PACE, the Commission conducted antidumping duty investigations on silicomanganese from India, Kazakhstan, and Venezuela. In May 2002, the Commission made final affirmative determinations with respect to all three subject countries,³² resulting in the issuance of antidumping duty orders by Commerce.³³ In its final determinations, the Commission found a single domestic like product consisting of “all forms, sizes, and compositions of silicomanganese, except low-carbon silicomanganese.”³⁴ The Commission noted in its determinations that low-carbon silicomanganese was excluded from the scope of the investigations by Commerce and was not produced domestically.³⁵ The Commission is scheduled to review the antidumping duty orders on silicomanganese from India, Kazakhstan, and Venezuela beginning in April 2007.

³¹ Customs' *CDSOA Annual Reports 2001-05*, http://www.cbp.gov/xp/cgov/import/add_cvd/cont_dump/, retrieved on May 9, 2006.

³² *Silicomanganese From India, Kazakhstan, and Venezuela, Investigations Nos. 731-TA-929-931 (Final)*, USITC Publication 3505, May 2002, p. 1.

³³ 67 FR 36149, May 23, 2002.

³⁴ *Silicomanganese From India, Kazakhstan, and Venezuela, Investigations Nos. 731-TA-929-931 (Final)*, USITC Publication 3505, May 2002, pp. 4-5.

³⁵ *Ibid.*

THE PRODUCT

Scope

The imported product subject to the antidumping duty orders on silicomanganese from Brazil, China, and Ukraine has been defined by Commerce as follows:

Silicomanganese, which is sometimes called ferrosilicon manganese, is a ferroalloy composed principally of manganese, silicon, and iron, and normally containing much smaller proportions of minor elements, such as carbon, phosphorous, and sulfur. Silicomanganese generally contains by weight not less than four percent iron, more than 30 percent manganese, more than eight percent silicon, and not more than three percent phosphorous. All compositions, forms, and sizes of silicomanganese are included within the scope of these orders, and agreement, including silicomanganese slag, fines, and briquettes. Silicomanganese is used primarily in steel production as a source of both silicon and manganese. These antidumping duty orders, and this agreement, cover all silicomanganese, regardless of its tariff classification.³⁶

U.S. Tariff Treatment

The merchandise under review is currently classifiable under Harmonized Tariff Schedule of the United States (“HTS”) subheading 7202.30.00 (“ferrosilicon manganese”). Goods currently entering the United States from Brazil and China under HTS subheading 7202.30.00 are dutiable at a column 1-general rate of 3.9 percent *ad valorem*. Goods currently entering the United States from Ukraine under HTS subheading 7202.30.00 are eligible for duty-free column 1-special tariff treatment under the Generalized System of Preferences (“GSP”).

In its definition of the scope of the orders published in 2001, Commerce indicated that although most silicomanganese is currently classifiable under subheading 7202.30.00 of the HTS, some silicomanganese may also be imported under HTS statistical reporting number 7202.99.5040 (an “other” category under the general heading of “ferroalloys”).³⁷ Silicomanganese entering the United States under HTS statistical reporting number 7202.99.5040 referred to a product known as “ferromanganese silicon” or “low-carbon silicomanganese.” Since 2003, however, low-carbon silicomanganese has entered the United States under HTS subheading 7202.30.00.

Statistical reporting number 7202.99.5040 is a residual or “basket” category that may include both subject and nonsubject merchandise. Consistent with past Commission practice regarding silicomanganese, the import data that are presented in this report are derived from only HTS subheading 7202.30.00.

Domestic Like Product and Domestic Industry

The domestic like product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the subject merchandise. The domestic industry is the U.S. producers as a whole of the domestic like product, or those producers whose collective output of the domestic like product constitutes a major proportion of the total domestic production of the product. The Commission’s decision regarding the appropriate domestic products that

³⁶ 66 FR 10669, February 16, 2001; 66 FR 43838, August 21, 2001.

³⁷ Commerce notes that the HTS classification is provided for convenience and Customs purposes; the written description of the scope is dispositive. *Ibid*.

are “like” the subject imported products is based on a number of factors, including (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and, where appropriate, (6) price.

In its original investigations, the Commission determined that there was a single domestic like product consisting of all silicomanganese.³⁸ It also found the relevant domestic industry to consist of all domestic producers of silicomanganese.³⁹ In its full first five-year review determinations, the Commission noted that the sole domestic producer of silicomanganese urged the Commission to readopt its original like production definition, and the Brazilian and Ukrainian respondents indicated that they did not object to the Commission’s original domestic like production definition. The Commission also noted that it found no new information in the record of the first five-year reviews that would suggest that a different domestic like product definition was appropriate. Therefore, the Commission defined the domestic like product as all silicomanganese and, consistent with its definition of the domestic like product, the Commission defined a single domestic industry consisting of all domestic producers of silicomanganese.⁴⁰

Domestic producer Eramet indicated in its response to the Commission’s notice of institution in these current five-year reviews on silicomanganese from Brazil, China, and Ukraine that it agrees with the Commission’s first review definitions of the domestic like product and domestic industry. Eramet also noted in its response that the Commission defined the domestic like product differently in its final investigations on silicomanganese from India, Kazakhstan, and Venezuela.⁴¹ In those investigations, the Commission found that the domestic like product consisted of all silicomanganese except low-carbon silicomanganese, which was excluded from the scope and was not produced in the United States.⁴²

Physical Characteristics and Uses⁴³

Silicomanganese, a metallic silvery ferroalloy,⁴⁴ is composed principally of manganese, silicon, and iron. It is produced in a number of grades and sizes. Most, but not all, silicomanganese is manufactured and sold to American Society for Testing and Materials (“ASTM”) specification A 483, which covers three grades, designated “A,” “B,” and “C” and differentiated by their silicon and carbon contents.⁴⁵ Most silicomanganese produced and sold in the United States conforms to the specification

³⁸ *Silicomanganese from Brazil, the People’s Republic of China, Ukraine, and Venezuela, Investigations Nos. 731-TA-671-674 (Final)*, USITC Publication 2836, December 1994, pp. I-6-I-7 and I-21-I-22.

³⁹ The Commission indicated that Elkem was the sole domestic producer of silicomanganese. *Ibid.*, pp. I-7-I-9 and I-22-I-25.

⁴⁰ The Commission noted that Eramet (successor to Elkem) was the sole domestic producer of silicomanganese. *Silicomanganese From Brazil, China, and Ukraine, Investigations Nos. 731-TA-671-673 (Review)*, USITC Publication 3386, January 2001, pp. 5-6.

⁴¹ *Response of Eramet*, February 22, 2006, p. 36.

⁴² *Silicomanganese From India, Kazakhstan, and Venezuela, Investigations Nos. 731-TA-929-931 (Final)*, USITC Publication 3505, May 2002, pp. 4-5.

⁴³ The discussion in this section is based on information from the following sources: *Staff Report*, December 20, 2000 (INV-X-256), pp. I-11-I-12; and *Silicomanganese From India, Kazakhstan, and Venezuela, Investigations Nos. 731-TA-929-931 (Final)*, USITC Publication 3505, May 2002, p. I-4.

⁴⁴ A ferroalloy is an alloy of iron containing one or more other elements. It is used to add these other elements to molten metal, usually in the manufacture of steel or cast iron.

⁴⁵ According to standard specifications established by the ASTM, all three grades contain 65 to 68 percent manganese, a maximum of 0.20 percent phosphorus, and a maximum of 0.04 percent sulfur, by weight. Grade A contains 18.5 to 21.0 percent silicon and a maximum of 1.5 percent carbon. Grade B contains 16.0 to 18.5 percent

for grade B. Silicomanganese is sold in small pieces of fairly uniform sizes. A typical size of silicomanganese is 3 inches by 1/4 inch.⁴⁶

Silicomanganese is consumed in bulk form primarily by the steel industry as a source of both silicon and manganese, although some silicomanganese is used as an alloying agent in the production of iron castings. Manganese, intentionally present in nearly all steels, is used as a steel desulfurizer and deoxidizer. By removing sulfur from steel, manganese prevents the steel from becoming brittle during the hot rolling process. In addition, manganese increases the strength and hardness of steel. Silicon is used as a deoxidizer, aiding in making steels of uniform chemistry and mechanical properties. As such, it is not retained in the steel, but forms silicon oxide, which separates from the steel as a component of the slag. As an alloying agent, silicon increases the hardness and strength of hot-rolled steel mill products, and enhances the toughness, corrosion resistance, and magnetic and electrical properties of certain steel mill products.⁴⁷

Use depends upon the steelmaking practices of a given producer. Silicomanganese may be introduced directly into the steelmaking furnace or added as a chemistry addition/deoxidizer to molten steel at the ladle metallurgy station. As a furnace addition, it is typically used in lump sizes and melted along with other steelmaking raw materials; as a ladle addition, silicomanganese is used in smaller sizes. Silicomanganese is mostly consumed by electric furnace steelmakers in the production of long products, including bars and structural shapes. This use in long products may be due to less restrictive specifications for silicon for these products than for flat-rolled carbon steel mill products, such as sheet and strip.⁴⁸ Silicomanganese is believed to account for only a small share of the total cost of end-use steel mill products.⁴⁹

silicon and a maximum of 2.0 percent carbon. Grade C contains 12.5 to 16.0 percent silicon and a maximum of 3.0 percent carbon. Additionally, the content of certain minor elements such as arsenic, tin, lead, chromium, nickel, and molybdenum, is limited. See ASTM Designation A 483-64 (reapproved 1994), *Standard Specification for Silicomanganese*, tables 1 and 2 (chemical requirements).

⁴⁶ The dimensions refer to the diameters of the openings used in the standard screens or sieves that are used to size silicomanganese. The first number refers to the screen through which the material must pass, and the second number refers to the screen on which the material is retained, with smaller particles passing through to be recycled or sold as a smaller size. Silicomanganese is a friable product, susceptible to appreciable reduction in size by repeated handling. This generates small lumps and fines (the diameter of small lumps may be one-half that of regular-sized pieces, but there is no specified minimum diameter for fines).

⁴⁷ Other elements are carbon, which is the principal hardening element in steel, and phosphorus and sulfur, which are impurities in steel that cause brittleness and cracking.

⁴⁸ Producers of flat-rolled steel mill products reportedly tend to use a combination of ferromanganese and ferrosilicon, which allows them greater control of each individual element.

⁴⁹ *Response* of Eramet, February 22, 2006, p. 11. Purchasers estimated the cost of silicomanganese to represent less than three percent of the cost of the end-use product. *Silicomanganese From India, Kazakhstan, and Venezuela, Investigations Nos. 731-TA-929-931 (Final)*, USITC Publication 3505, May 2002, pp. II-4-II-5.

Manufacturing Process⁵⁰

Silicomanganese is produced by smelting together in a submerged arc furnace sources of silicon, manganese, iron, and a carbonaceous reducing agent, usually coke.⁵¹ The reducing agent and the other items are combined in a “charge” (which may include wood chips, dolomite, and a fluxing agent) and electrically heated. Impurities from the ore or other manganese sources are released and form slag, which rises to the top of the furnace and floats on top of the molten silicomanganese. Following smelting, molten metal and slag are removed or “tapped” from the furnace. The molten silicomanganese is poured into large molds (called “chills”), where it cools and hardens. Once the alloy has hardened, the chills are emptied and the alloy is crushed into small pieces and screened to fairly uniform sizes.

The sole U.S. producer, Eramet, produces silicomanganese at a plant in Marietta, OH, that it purchased in July 1999 from Elkem. Eramet also produces other manganese ferroalloys as well as other alloying agents at that plant. Silicomanganese is manufactured in the same or similar facilities as those used to produce standard ferromanganese, although switching from one grade or type of manganese ferroalloy to another involves costs in terms of lost production, reduced productivity, or possible contamination of the higher grade product. In general, little difference appears to exist between the production processes in the domestic industry and those used abroad to produce silicomanganese. This fact reflects the maturity of the industry, and may be attributed to the diffusion of process technology, techniques, and equipment on a world-wide basis; the similarity of steelmaking techniques; and the commonality of steel recipes.

Interchangeability and Customer and Producer Perceptions⁵²

Imported silicomanganese from the subject countries is generally considered to be interchangeable with domestic silicomanganese in most applications. Industry participants responding to the Commission’s questionnaire in the full first five-year reviews were asked to discuss the interchangeability between U.S.-produced silicomanganese and the imported subject merchandise. ***, most purchasers, and most subject and nonsubject importers reported that the U.S. product and the subject product could be used interchangeably. The Commission noted, however, that silicomanganese from Ukraine was reported to have a higher phosphorus content than did the U.S.-produced silicomanganese; as a consequence, the application of Ukrainian silicomanganese was limited to the production of products that could accommodate the higher phosphorus content.⁵³ However, for applications that were suitable, such as static structural steel products, the high-phosphorus silicomanganese was considered interchangeable with ASTM grades A, B, and C of silicomanganese. The Commission’s report also noted that the producer or purchaser of the high-phosphorus silicomanganese could blend the product with standard grade silicomanganese to produce a silicomanganese with an acceptable phosphorus content.

According to official import statistics, U.S. imports of silicomanganese were also available during 2000-05 from a variety of sources not subject to the antidumping duty orders under review, including

⁵⁰ The discussion in this section is based on information from the following sources: *Staff Report*, December 20, 2000 (INV-X-256), pp. I-12-I-13; and *Silicomanganese From India, Kazakhstan, and Venezuela, Investigations Nos. 731-TA-929-931 (Final)*, USITC Publication 3505, May 2002, p. I-5.

⁵¹ For a discussion of inputs, see *Silicomanganese from Brazil, the People’s Republic of China, Ukraine, and Venezuela, Investigations Nos. 731-TA-671-674 (Final)*, USITC Publication 2836, December 1994, pp. II-9.

⁵² The discussion in this section is based on information from the following sources: *Staff Report*, December 20, 2000 (INV-X-256), pp. I-13-I-14 and II-13-II-17; and *Silicomanganese From India, Kazakhstan, and Venezuela, Investigations Nos. 731-TA-929-931 (Final)*, USITC Publication 3505, May 2002, pp. I-5-I-6 and II-8.

⁵³ Although phosphorus makes steel harder, it is usually considered to be an undesirable element because it tends to make steel brittle.

Argentina, Australia, Bulgaria, Canada, France, Gabon, Georgia, Germany, India, Japan, Kazakhstan, Korea, Lithuania, Mexico, Norway, Poland, Romania, Russia, the Slovak Republic, South Africa, Spain, the United Kingdom, and Venezuela. In 2005, nonsubject imports accounted for all U.S. imports of silicomanganese. In the Commission's full first five-year reviews, ***, most responding importers, and 18 of 19 purchasers reported that domestic and nonsubject silicomanganese were used interchangeably; *** noted that interchangeability depended on specifications. Industry participants responding to the Commission's questionnaire in the full first five-year reviews were asked to discuss the interchangeability between subject and nonsubject imported silicomanganese. *** the responding Brazilian and Ukrainian producers reported that the subject and nonsubject imports were used interchangeably.⁵⁴

In its response to the Commission's notice of institution in these current five-year reviews, Eramet indicated that silicomanganese from all sources remains fungible for most applications.⁵⁵

Channels of Distribution⁵⁶

Silicomanganese is usually sold directly from the U.S. producer and importers to end users (both integrated steel mills and mini-mills) throughout the United States; a relatively small amount is exchanged among trading companies or sold through minerals distributors. Silicomanganese is used most frequently in steel long products, which favors its use in mini-mills over integrated steel mills.

Pricing

Silicomanganese is sold by weight and grade. Prices differ by the type of silicomanganese, chiefly determined by manganese and silicon content. In some transactions, there are deductions determined by the levels of impurities.⁵⁷ In its response in these current reviews, Eramet contends that silicomanganese is a commodity product that is sold primarily on the basis of price.⁵⁸

Price data for silicomanganese are publicly available from the following sources: *Metals Week*, *Ryan's Notes*, and *Metal Bulletin*. In the Commission's first five-year reviews, *** indicated that many *** prices from publicly available data. Importers also reported using such public sources to base their price negotiations since these sources poll the industry and report similar transaction prices.⁵⁹ In these current five-year reviews, Eramet indicated that buyers and sellers frequently use the published price data as reference points in determining prices.⁶⁰ The firm added that the "availability of such published data and the multiple bids received by most purchasers ensure that pricing changes are quickly communicated throughout the market."⁶¹ Reported average weekly U.S. free market prices for silicomanganese (in warehouse Pittsburgh) for the period January 1, 2000 through March 10, 2006 as published by *Metal Bulletin* are presented in figure I-1.

⁵⁴ Eramet reported that ***. Further, Eramet reported that ***.

⁵⁵ *Response* of Eramet, February 22, 2006, p. 12.

⁵⁶ The discussion in this section is based on information from the following sources: *Response* of Eramet, February 22, 2006, p. 13; *Staff Report*, December 20, 2000 (INV-X-256), p. I-14; and *Silicomanganese From India, Kazakhstan, and Venezuela, Investigations Nos. 731-TA-929-931 (Final)*, USITC Publication 3505, May 2002, p. II-1.

⁵⁷ *Staff Report*, December 20, 2000 (INV-X-256), pp. V-5-V-7.

⁵⁸ *Response* of Eramet, February 22, 2006, p. 3.

⁵⁹ *Staff Report*, December 20, 2000 (INV-X-256), pp. V-5-V-7.

⁶⁰ *Response* of Eramet, February 22, 2006, p. 9.

⁶¹ *Ibid.*

Eramet reported in its response to the Commission's notice of institution in these current five-year reviews that during the original period of investigation, the subject countries increased their exports to the U.S. market "rapidly and massively" by means of "low, dumped prices" that drove U.S. market prices to very low levels.⁶² According to *Metals Week*, silicomanganese prices were in the 26-27 cents per pound range in 1991. In 1992, the *Metals Week* price started to fall, hovering around 24 cents per pound before reaching a low of 20 cents per pound in early 1993.⁶³ Eramet indicated in its response in these current reviews that following the imposition of the antidumping relief with respect to Brazil, China, and Ukraine in 1994, prices of silicomanganese in the United States increased.⁶⁴

During the time period examined during the Commission's first reviews, there was considerable variation in the reported *Metals Week* price. After reaching a high in 1995 of over 40 cents per pound, prices fell through the end of 1996 before rising again to just over 30 cents per pound in 1997. Then prices fell steadily, reaching a low of just under 20 cents per pound at the end of 1998.⁶⁵ Eramet pointed to global overcapacity, reduced consumption in countries other than the United States, and increased imports from certain nonsubject producers as the causes of the falling U.S. market prices during that time period.⁶⁶

In the period following the first reviews, Eramet once again appeared before the Commission seeking antidumping relief from low-priced imports in April 2001 with respect to Kazakhstan, India, and Venezuela. Eramet contends that the imposition of antidumping relief with respect to these three additional countries in May 2002, along with the maintenance of the orders with respect to Brazil, China, and Ukraine, has allowed U.S. market prices to improve.⁶⁷ However, a series of major equipment and power supply problems experienced by Eramet at its Marietta, OH, facility, forced the company to reduce

⁶² *Ibid.*, pp. 2-3.

⁶³ "Silicomanganese Prices Soar as Eramet Reduces Deliveries," *American Metal Market*, February 10, 2004; "Silicomanganese Heading to \$1/lb.: Eramet Struggles," *American Metal Market*, February 20, 2004; "Silicomanganese Shipments at Eramet Return to Normal," *American Metal Market*, May 11, 2004; "Furnace Woes Force Eramet to Reduce Ferromanganese," *American Metal Market*, June 15, 2004; and "Out of Step with the Ferro-Pack, Silicomanganese Pricing is Sliding," *American Metal Market*, April 22, 2005.

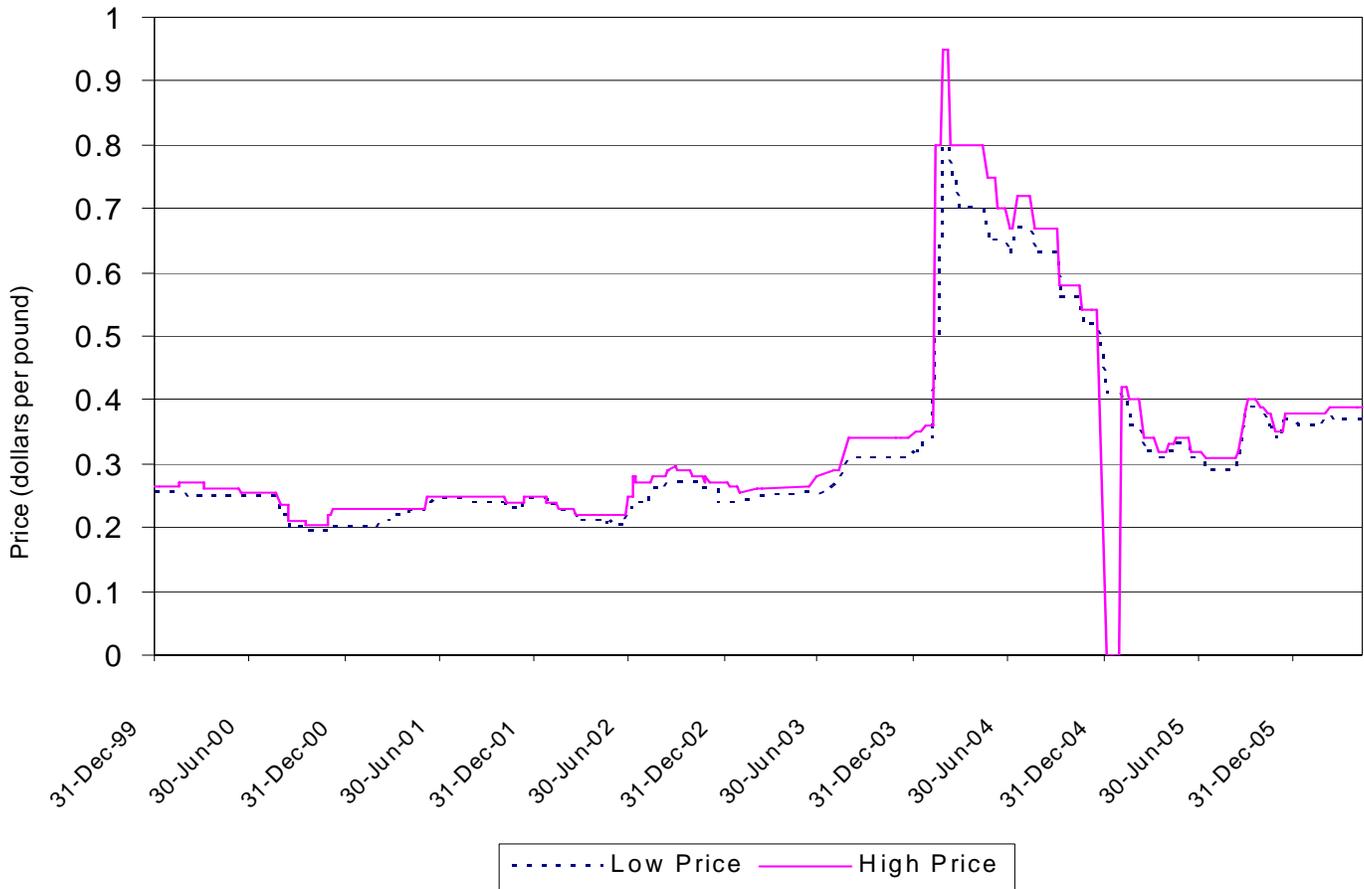
⁶⁴ *Response* of Eramet, February 22, 2006, pp. 2-3.

⁶⁵ Industry participants responding to the Commission's questionnaire in the full first five-year review of the orders on silicomanganese from Brazil, China, and Ukraine were asked to provide quarterly data for the total quantity and value of silicomanganese that was shipped to unrelated customers in the U.S. market during the period January 1997–June 2000. The products for which pricing data were requested were as follows: ASTM grade B bulk silicomanganese sold to steel producers under quarterly requirement contracts (product 1) and ASTM grade B bulk silicomanganese sold as spot sales (product 2). Limited usable pricing data for sales of the requested products were obtained; no firm reported pricing data for all products for all quarters. Pricing data reported accounted for *** percent of U.S. producers' shipments of silicomanganese, no U.S. imports from Brazil and China in 1999, and *** percent of imports from Ukraine. Only one price comparison between the U.S. product and the subject merchandise could be made from the data collected; it was in the second quarter of 2000 for product 1 from Ukraine and ***. Questionnaire data showed U.S. f.o.b. prices of products 1 and 2 fell from the first quarter of 1998 and began to recover in the third quarter of 1999. *Staff Report*, December 20, 2000 (INV-X-256), pp. V-5-V-7.

⁶⁶ *Response* of Eramet, February 22, 2006, p. 26.

⁶⁷ *Ibid.*, pp. 28-30.

Figure I-1
Silicomanganese: Reported average weekly U.S. free market prices (in warehouse Pittsburgh),
December 31, 1999 through March 10, 2006



Note.—“High price” data were not available for the following dates: 7-Jan-05; 14-Jan-05; 21-Jan-05; and 28-Jan-05.

Source: *Metal Bulletin*, found at http://www.metalbulletin.com/prices_mbprices_results.asp?mode=archive&id=3105, accessed on May 15, 2006.

silicomanganese production and cut deliveries during the first half of 2004. The resulting U.S. supply constraints, a decline in imports, and a strong demand from a booming steel industry drove up prices to around \$1 per pound during 2004. Prices have since moderated, as demand has fallen off, supply issues have been resolved, and nonsubject imports have increased.⁶⁸

THE INDUSTRY IN THE UNITED STATES

U.S. Producers

Elkem, located in Marietta, OH, was the sole U.S. silicomanganese producer at the time of the Commission's original investigations.⁶⁹ On July 1, 1999, the French firms Eramet SA and Cogema (wholly owned by the French government) acquired the manganese business, including operations in Norway and Marietta, OH, from Elkem ASA, a Norwegian company. This acquisition resulted in the transfer of ownership of the Marietta, OH, facility from Elkem to the newly created firm of Eramet Marietta Inc.⁷⁰

Manganese alloys are produced at the Eramet Marietta plant in three electric, submerged arc furnaces. One furnace produces silicomanganese and the other two produce high-carbon ferromanganese.⁷¹ Although other products are produced at the Marietta facility, Eramet produces silicomanganese in a location that is physically separate from the production of all other products the firm produces. Production-and-related workers ("PRWs") that are used to produce silicomanganese, as well as the machinery and equipment that the firm uses to produce silicomanganese, typically are not used in the production of any other products.⁷²

Eramet indicated in its response to the Commission's notice of institution in these current five-year reviews that it is not related to any Brazilian or Ukrainian producer or exporter of silicomanganese but that, through its parent company, Eramet SA, it is related to the following two Chinese producers of the subject merchandise: Guangxi Comilog Ferroalloy Co., Ltd. ("Guangxi Comilog") and Guilin Comilog Ferroalloys ("Guilin Comilog").⁷³

⁶⁸ "Silicomanganese Prices Soar as Eramet Reduces Deliveries," *American Metal Market*, February 10, 2004; "Silicomanganese Heading to \$1/lb.: Eramet Struggles," *American Metal Market*, February 20, 2004; "Silicomanganese Shipments at Eramet Return to Normal," *American Metal Market*, May 11, 2004; "Furnace Woes Force Eramet to Reduce Ferromanganese," *American Metal Market*, June 15, 2004; and "Out of Step with the Ferro-Pack, Silicomanganese Pricing is Sliding," *American Metal Market*, April 22, 2005.

⁶⁹ The Commission reported in its final investigations that the number of domestic producers in the United States declined from six in 1980 and 1981 to five in 1982 and three in 1983. After 1983, only Elkem and SKW Alloys Inc. ("SKW") produced silicomanganese domestically. SKW produced silicomanganese in the United States intermittently through 1989 and maintained and shipped the product from small inventories throughout the period examined in the Commission's original investigations. *Staff Report*, November 29, 1994 (INV-R-187), p. I-20.

⁷⁰ *Silicomanganese From India, Kazakhstan, and Venezuela, Investigations Nos. 731-TA-929-931 (Final)*, USITC Publication 3505, May 2002, p. III-1; and *Staff Report*, December 20, 2000 (INV-X-256), pp. V-14-V-15.

⁷¹ *Eramet Comilog – Plant Information*, <http://www.emspecialproducts.com/products.php?group=17>, retrieved on January 18, 2006.

⁷² *Silicomanganese From India, Kazakhstan, and Venezuela, Investigations Nos. 731-TA-929-931 (Final)*, USITC Publication 3505, May 2002, p. III-1.

⁷³ Eramet explained in its response to the Commission's request for information that its parent company "directly or indirectly controls (through stock ownership) Eramet, Guangxi Comilog and Guilin Comilog." Eramet's parent company, therefore, is "in a position to exercise restraint or direction over both Eramet and the two Chinese producers." *Response of Eramet to the Commission's request for information*, March 3, 2006, p. 2. Comilog acquired the Guangxi facility in 1995. Eramet became Comilog's principal shareholder in 1996-97. Comilog acquired the Guilin facility in 2002. *Eramet Reference Document*, p. 42; and "Eramet Mum on Terms of China

Eramet indicated in its response to the Commission's notice of institution in these current five-year reviews that it is the only currently operating U.S. producer of the domestic like product.⁷⁴ Eramet added, however, that in recent years, the following two companies have attempted to start up production of silicomanganese in the United States but have been unsuccessful due to the decline in market prices for silicomanganese.⁷⁵ Globe Metallurgical Inc. ("Globe") and Highlanders Alloys LLC ("Highlanders").⁷⁶ Globe began producing silicomanganese at its plant in Beverly, OH at the beginning of 2005 but it reportedly shut down production after only a few months.⁷⁷ Eramet estimated in its response in these current reviews that Globe produced "no more than 4,000 short tons of silicomanganese during the first quarter of 2005."⁷⁸ In December 2001, Highlanders, a company formed by a group of Israeli investors, acquired a plant in New Haven, WV, that was previously owned and operated by American Alloys for the production of silicon and silicon alloys.⁷⁹ Highlanders began production of silicomanganese at the New Haven, WV plant in mid-February 2002; however, since that time, the silicomanganese production plant has been plagued with problems ranging from financial woes, service cutoffs by unpaid utilities and suppliers, strikes by unpaid workers, and production and delivery difficulties.⁸⁰ Since its purchase of the facility in 2002, Highlanders operated its plant on an extremely sporadic basis and the company declared bankruptcy in May 2005.⁸¹ The Highlanders facility was purchased in January 2006 by Felman,⁸² which entered (and then withdrew) an appearance in these reviews.⁸³ At last report, the New Haven, WV

Ferroalloy Plant Buy," *American Metal Market*, September 27, 2002.

⁷⁴ *Response of Eramet*, February 22, 2006, p. 33.

⁷⁵ "Steel Slide Puts Pressure on Manganese Alloys," *American Metal Market*, June 10, 2005.

⁷⁶ *Ibid.*, pp. 10-11.

⁷⁷ "More Cutbacks in SiMn and One Addition," *Ryan's Notes*, April 4, 2005; and "Out of Step With the Ferro-Pack, Silicomanganese Pricing is Sliding," *American Metal Market*, April 22, 2005.

⁷⁸ *Response of Eramet*, February 22, 2006, p. 34.

⁷⁹ American Alloys filed for bankruptcy in 2000 and shut its West Virginia facility early in 2001. "Highlanders Starts Second Silicomanganese Furnace," *American Metal Market*, September 18, 2002.

⁸⁰ "Highlanders Said in Power Rate Talks as Worker Back Pay Comes Through," *American Metal Market*, July 23, 2002; "Highlanders Initiates Gradual Restart of Shuttered West Virginia Facility," *American Metal Market*, July 31, 2002; "Highlanders Starts Second Silicomanganese Furnace," *American Metal Market*, September 18, 2002; "Power Ills Force Production Halt at Highlanders," *American Metal Market*, November 11, 2002; "In Search of Ferroalloys' Mystery Man," *American Metal Market*, December 16, 2002; "Highlanders Alloys Laid Low by Power, Labor Problems," *American Metal Market*, February 7, 2003; "Boris Bannai Treading on Thin Ice as Highlanders Plant Remains Shut," *American Metal Market*, February 19, 2003; "Judge Tells Highlanders Exec To Sell Stocks To Meet Payroll," *American Metal Market*, February 24, 2003; "Highlanders Silent As Silicomanganese Sings," *American Metal Market*, August 5, 2003; "Privat Expected to Step Forward in Bid to Restart Idled Highlanders," *American Metal Market*, September 24, 2003; "Manganese Madness: The Mysterious Case of Highlanders Alloys," *American Metal Market*, December 9, 2005.

⁸¹ "Manganese Madness: The Mysterious Case of Highlanders Alloys," *American Metal Market*, December 9, 2005; *Silicomanganese From India, Kazakhstan, and Venezuela, Investigations Nos. 731-TA-929-931 (Final)*, USITC Publication 3505, May 2002, p. III-1; *Response of Eramet*, February 22, 2006, p. 11.

⁸² "Court OKs Sale of Highlanders; CSC link seen," *American Metal Market*, January 9, 2006.

⁸³ On February 8, 2006, an entry of appearance was submitted by Marks & Sokolov, LLC on behalf of Felman and ZFP. The entry of appearance indicated that Felman recently purchased a bankrupt ferroalloy plant in West Virginia and "has plans to restart the plant and produce ferro-alloys, including silicomanganese." It also indicated that "Felman is related to ZFP, a Ukrainian producer of silicomanganese, and also is a potential importer of silicomanganese from Ukraine." On February 21, 2006, Marks & Sokolov, LLC withdrew the entry of appearance filed on behalf of Felman and ZFP. Felman and ZFP did not submit responses to the Commission's notice of institution in these reviews.

silicomanganese plant remained idle.⁸⁴ Eramet estimated in its response in these current reviews that Highlanders produced between about 6,300 short tons and 8,150 short tons of silicomanganese during 2005.⁸⁵

U.S. Producer’s Trade, Employment, and Financial Data

Data reported by U.S. producers of silicomanganese in the Commission’s original investigations and in response to its first and second review institution notices are presented in table I-3. As shown, overall trends for U.S. production, capacity, and shipment indicators presented for silicomanganese were positive from 1991 to 1993, although declines in unit values were evident. In its original investigations, the Commission found that, due to falling prices, Elkem was unable to operate profitably despite these positive trends.⁸⁶ During its first five-year reviews, the Commission indicated that the industry’s condition had improved in a few respects since the original investigations. In particular, the Commission noted that the domestic industry increased its market share from *** percent in 1993 to *** percent in 1999.⁸⁷ As the data presented in table I-3 illustrate, although domestic production and U.S. shipments of silicomanganese appear to have risen in 1997 from the levels reported in the original investigations, these performance indicators fell overall from 1997 to 1999. The Commission also noted that the industry experienced a *** from 1997 to 1998 and a *** in 1999.⁸⁸

Table I-3
Silicomanganese: U.S. producers’ trade, employment, and financial data, 1991-93, January-June 1993, January-June 1994, 1997-99, January-June 1999, January-June 2000, and 2005

* * * * *

Although reported domestic production of silicomanganese was lower during 2005 than in the final annual reporting period during the Commission’s first five-year reviews, Eramet’s U.S. shipments of silicomanganese were higher. In 2005, *** short tons of silicomanganese are reported as being manufactured by Eramet in the United States, ***-percent decline from the 1999 figure of *** short tons. Eramet’s U.S. shipments, however, increased by *** percent, in terms of quantity, and by *** percent, in terms of value, from 1999 to 2005. The reported average unit value of domestically produced silicomanganese during 2005 was \$*** per short ton, an increase of *** percent over the level reported during 1999.

⁸⁴ “Court OKs Sale of Highlanders; CSC link seen,” *American Metal Market*, January 9, 2006.

⁸⁵ *Response* of Eramet, February 22, 2006, p. 34.

⁸⁶ *Silicomanganese from Brazil, the People’s Republic of China, Ukraine, and Venezuela, Investigations Nos. 731-TA-671-674 (Final)*, USITC Publication 2836, December 1994, pp. I-11, I-28, and I-45.

⁸⁷ *Confidential Views of the Commission*, Investigations Nos. 731-TA-671-673 (Review), p. 19.

⁸⁸ *Ibid.*

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

U.S. Imports

During the original investigations, the Commission identified 21 firms that accounted for the vast majority of silicomanganese imports (from all sources) during the period January 1991 through June 1994. Fifteen of these firms reported subject imports from Brazil, China, and/or Ukraine. The largest importer of subject merchandise during 1993 was ***, accounting for *** percent of total U.S. shipments of subject imports. Other large importers of the subject merchandise at that time were ***.⁸⁹

During its first five-year reviews, the Commission reported that *** imported from Ukraine *** and accounted for *** percent of subject imports from Ukraine during 1999 and *** percent of subject imports from Ukraine during 1997. No importer reported subject imports from Brazil or China during the Commission's first five-year review period.⁹⁰ Eramet indicated in its response to the Commission's notice of institution in these current five-year reviews that it does not know of any currently operating U.S. importers of the subject merchandise.

Import data for silicomanganese are presented in figure I-2 and table I-4. The total quantity of U.S. imports of silicomanganese from Brazil, China, and Ukraine increased throughout the period examined during the Commission's original investigations (1991-93), while U.S. imports of silicomanganese from all other countries declined. The unit values of U.S. imports of silicomanganese from all import sources declined throughout 1991-93. By quantity and value, imports from each of the subject countries increased as a share of total imports from 1991 to 1992, trends which continued into 1993 for China and Ukraine, but not for Brazil.

The original investigations filed in November 1993 and the imposition of the antidumping duty orders on silicomanganese from Brazil and China and the suspension agreement on silicomanganese from Ukraine in 1994 had an immediate impact on the volume of the subject imports. The quantity of silicomanganese imported into the United States from Brazil, China, and Ukraine fell by 65.3 percent from 169,323 short tons in 1993 to 58,771 short tons in 1994 and was reduced to only 151 short tons during 1995. Since 1995, there have been only small, sporadic quantities of silicomanganese shipped to the United States from the subject countries. In fact, subject imports combined accounted for less than three percent of total U.S. silicomanganese imports during every calendar-year period from 1995 to 2005. There were no reported imports of the subject merchandise during 2005. The largest nonsubject sources of imported silicomanganese during 2005 were South Africa, Romania, and Norway.⁹¹

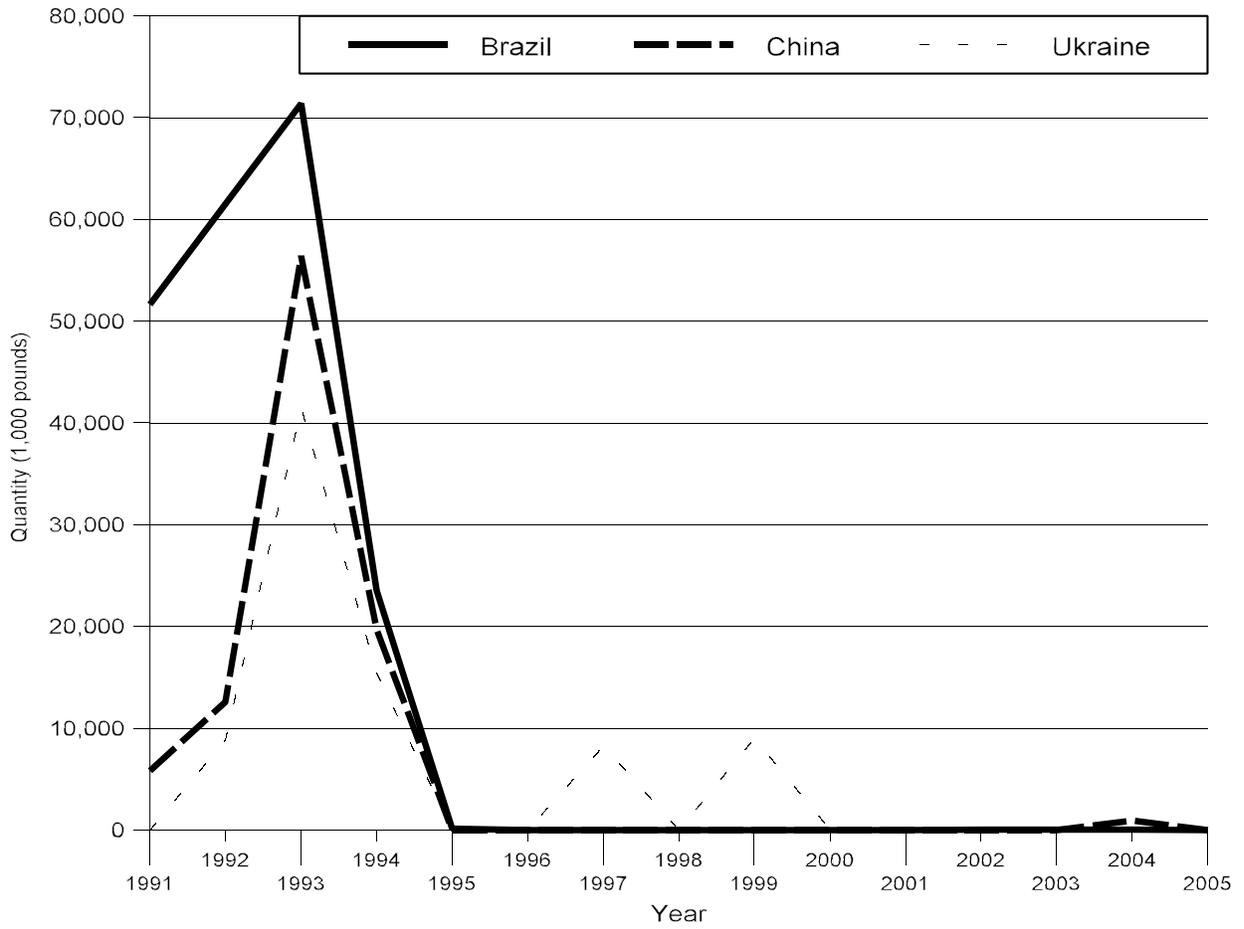
The unit values of subject imports of silicomanganese have generally been higher during the annual periods following the imposition of the orders and the suspension agreement than during the period examined in the original investigations. The unit values for silicomanganese imported from Brazil and China were lowest in 1993 and 1994, respectively, prior to the imposition of the antidumping duty orders in December 1994. With one exception, the unit values for silicomanganese imported from Ukraine were also lowest in 1993 prior to the suspension agreement. During 1999, the unit value of silicomanganese imported from Ukraine was one dollar per short ton less than the unit value reported during 1993.

⁸⁹ *Staff Report*, November 29, 1994 (INV-R-187), p. I-22.

⁹⁰ *Staff Report*, December 20, 2000 (INV-X-256), p. I-15.

⁹¹ Nonsubject imports of silicomanganese fell by 35 percent from 416,793 short tons in 2000 to 271,757 short tons in 2002 before increasing by 77 percent from 2002 to 2004. Nonsubject silicomanganese imports declined by 25 percent from 481,954 short tons in 2004 to 360,920 short tons in 2005.

Figure I-2
Silicomanganese: U.S. imports from Brazil, China, and Ukraine, by quantity, 1991-2005



Source: Official Commerce statistics, HTS subheading 7202.30.00.

Table I-4
Silicomanganese: U.S. imports, by source, 1991-2005¹

Item	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Quantity (short tons)															
Brazil	51,656	61,512	71,400	23,560	151	0	0	0	22	17	0	47	46	60	0
China	5,848	12,591	56,430	19,751 ²	0	0	0	0	0	0	0	0	21	937	0
Ukraine	0	8,810	41,493	15,460	0	0	8,259	0	9,025	0	0	0	22	80	0
Subtotal	57,504	82,913	169,323	58,771 ²	151	0	8,259	0	9,047	17	0	47	90	1,076	0
Other ³	225,895	200,573	179,104	244,636 ²	333,279	356,100	328,653	381,886	322,301	416,793	296,790	271,757	294,537	481,954	360,920
Total	283,400	283,487	348,427	303,407 ²	333,430	356,100	336,911	381,886	331,348	416,810	296,790	271,804	294,627	483,030	360,920
Landed duty-paid value (\$1,000)															
Brazil	24,349	26,322	29,375	10,912	117	0	0	0	20	31	0	31	34	102	0
China	2,984	5,628	22,967	7,661	0	0	0	0	0	0	0	0	16	1,073	0
Ukraine	0	3,640	15,300	5,962	0	0	4,570	0	3,317	0	0	0	16	59	0
Subtotal	27,333	35,589	67,643	24,535	117	0	4,570	0	3,337	31	0	31	66	1,234	0
Other ³	112,918	94,267	80,405	109,670	169,448	200,955	157,543	171,976	128,789	182,465	122,415	120,147	143,889	408,303	249,364
Total	140,251	129,856	148,047	134,205	169,565	200,955	162,114	171,976	132,126	182,496	122,415	120,178	143,955	409,537	249,364
Landed duty-paid unit value (dollars per short ton)															
Brazil	471	428	411	463	774	(⁴)	(⁴)	(⁴)	895	1,874	(⁴)	649	742	1,711	(⁴)
China	510	447	407	388	(⁴)	750	1,145	(⁴)							
Ukraine	(⁴)	413	369	386	(⁴)	(⁴)	553	(⁴)	368	(⁴)	(⁴)	(⁴)	721	740	(⁴)
Subtotal	475	429	399	417	774	(⁴)	553	(⁴)	369	1,874	(⁴)	649	739	1,146	(⁴)
Other ³	500	470	449	448	508	564	479	450	400	438	412	442	489	847	691
Total	495	458	425	442	509	564	481	450	399	438	412	442	489	848	691

¹ There were no U.S. imports of silicomanganese from the subject countries during January and February of 2006. Reported U.S. imports of silicomanganese from nonsubject countries amounted to 62,383 short tons (\$42.4 million) during the first two months of 2006.

² The domestic interested parties reported that the Census Bureau revised the 1994 U.S. import data. The 1994 revised data are as follows: China (17,070 short tons); subject countries (56,089 short tons); "other" (243,997 short tons); and "total" (300,086 short tons).

³ The largest "other" sources of silicomanganese during 2005 were South Africa, Romania, and Norway.

⁴ Not applicable.

Source: Official Commerce statistics, HTS subheading 7202.30.00 (revised by staff to reflect Census Bureau verification results for 1993 data for "other" countries).

Cumulation Considerations

In assessing whether subject imports are likely to compete with each other and with the domestic like product with respect to cumulation, the Commission generally has considered the following four factors: (1) the degree of fungibility, including specific customer requirements and other quality-related questions; (2) presence of sales or offers to sell in the same geographical markets; (3) common channels of distribution; and (4) simultaneous presence in the market.⁹²

In the original investigations, three of six Commissioners found a reasonable overlap of competition and, for purposes of their present injury analysis, cumulated imports from all subject countries. The other three Commissioners cumulated imports from Brazil and China for purposes of their present material injury analysis, but did not cumulate imports from Ukraine, finding no reasonable overlap of competition between imports from Ukraine and the domestic like product based principally on a lack of geographic overlap between sales of the two products. Among the four Commissioners who reached the issue of threat, one cumulated imports from Brazil and China and the others did not cumulate subject imports from any of the four countries.⁹³

In its determinations in the first five-year reviews, the Commission unanimously decided to cumulate subject imports from Brazil, China, and Ukraine for purposes of the assessment of the likelihood of continuation or recurrence of material injury. In its opinions, the Commission noted that all silicomanganese sold in the United States was sold through the same channels of distribution, *i.e.*, mostly directly to end users. With respect to fungibility and geographic overlap (*i.e.*, the two issues which divided the Commission in the original investigations), the Commission found that subject imports were likely to be fungible with each other and with the domestic like product and that there were likely to be sales of each of the subject imports and the domestic like product in the same geographical markets if the orders were revoked and the suspended investigation was terminated.⁹⁴ With respect to fungibility, the Commission also noted the following: (1) the method of production for silicomanganese is essentially the same worldwide, (2) virtually all silicomanganese is used in the production of steel, and (3) once the chemical requirements are met, products from multiple suppliers are readily substitutable and are used interchangeably. Other considerations supporting cumulation included the commodity nature of the product, the high degree of substitutability among the subject imports and the domestic like product, and the existence of excess capacity in all the subject countries.⁹⁵

Available information concerning fungibility and channels of distribution is presented in the sections of this report entitled “Interchangeability and Customer and Producer Perceptions” and “Channels of Distribution,” respectively. Additional information concerning geographical markets and simultaneous presence in the market is presented below.

During the original investigations, the Commission noted that the vast majority of silicomanganese imported from the subject countries entered the United States through New Orleans, LA.⁹⁶ According to official import statistics, by customs district, New Orleans, LA remains a major entry point for a substantial portion of nonsubject imports of silicomanganese; however, no subject imports

⁹² Eramet indicated in its response in these current five-year reviews that the essential conditions of competition have not changed since the Commission’s prior determinations. *Response of Eramet*, February 22, 2006, p. 7.

⁹³ *Silicomanganese from Brazil, the People’s Republic of China, Ukraine, and Venezuela, Investigations Nos. 731-TA-671-674 (Final)*, USITC Publication 2836, December 1994, pp. I-12-I-15, I-30-I-35, I-53, I-61, I-69, I-73-I-75, and I-80-I-81.

⁹⁴ Eramet indicated in its response in these current reviews that this continues to hold true today. *Response of Eramet*, February 22, 2006, p. 12.

⁹⁵ *Silicomanganese From Brazil, China, and Ukraine, Investigations Nos. 731-TA-671-673 (Review)*, USITC Publication 3386, January 2001, pp. 8-10.

⁹⁶ *Staff Report*, November 29, 1994 (INV-R-187), pp. I-22 and I-79.

entered the United States through that customs district during 2000-05 (table I-5). Imports of silicomanganese from Brazil entered the United States through Miami, FL, in 2000; Pembina, ND, and Baltimore, MD, in 2002; Norfolk, VA, in 2003; and Baltimore, MD, in 2004. The Chinese subject merchandise entered the United States through Chicago, IL, in 2003, and Baltimore, MD, and Los Angeles, CA, in 2004. Silicomanganese from Ukraine entered the United States through Detroit, MI, in 2003 and 2004 and through Ogdensburg, NY during 2004. With respect to geographic markets, Eramet pointed out in its response to the Commission's notice of institution in these current five-year reviews that "the subject imports would be likely to be sold or offered for sale in the same geographic markets as the domestic like product."⁹⁷

A review of monthly import data for January 2000 through December 2005 indicates that imports of silicomanganese from Brazil entered the United States in only six months during that six-year time period (table I-6); silicomanganese from China was imported in only five months and silicomanganese from Ukraine was imported in only four months. Imports of silicomanganese from nonsubject sources entered the United States in every month throughout the six-year period. With respect to simultaneous presence in the market, Eramet pointed out in its response to the Commission's notice of institution in these current five-year reviews that "during the original POI, imports from all three subject countries were simultaneously present in the market in large quantities and likely would be again if the orders were revoked."⁹⁸

Apparent U.S. Consumption and Market Shares

The level of U.S. aggregate demand for silicomanganese depends in large part upon the demand by steelmakers and producers of ferrous castings.⁹⁹ In particular, the level of demand is largely dependent on the production of long products in mini-mills.¹⁰⁰ Apparent U.S. consumption and market shares of silicomanganese for the periods 1991-93, 1997-99, and 2005 are presented in table I-7. As presented in table I-7, apparent U.S. consumption of silicomanganese increased from 1991 to 1993, between 1993 and 1997, and from 1997 to 1998. Although a ***-percent decline in apparent consumption occurred between 1998 and 1999, an increase of *** percent occurred between 1999 and 2005.

Eramet indicated in its response to the Commission's notice of institution in these reviews that, as has been the case in the past, the domestic silicomanganese industry currently does not have the capacity to meet all of the domestic demand for the product. Because of this, imports have historically been a "normal part of U.S. supply."¹⁰¹ The share of apparent consumption held by imports (subject and nonsubject) has fallen overall from a high of *** percent during 1991. Total imports held a *** percent share of domestic consumption during 2005.

⁹⁷ *Response of Eramet*, February 22, 2006, p. 12.

⁹⁸ *Ibid.*, p. 13.

⁹⁹ *Staff Report*, December 20, 2000 (INV-X-256), p. II-10 and II-12; and *Response of Eramet*, February 22, 2006, p. 11.

¹⁰⁰ *Response of Eramet*, February 22, 2006, p. 11; and *Silicomanganese From India, Kazakhstan, and Venezuela, Investigations Nos. 731-TA-929-931 (Final)*, USITC Publication 3505, May 2002, p. II-3.

¹⁰¹ *Response of Eramet*, February 22, 2006, p. 9.

**Table I-5
Silicomanganese: U.S. imports from Brazil, China, and Ukraine, by customs district, 2000-05**

District	Source	Calendar year					
		2000	2001	2002	2003	2004	2005
Quantity (short tons)							
Baltimore, MD	Brazil	0	0	44	0	60	0
	China	0	0	0	0	672	0
Chicago, IL	China	0	0	0	21	0	0
Detroit, MI	Ukraine	0	0	0	22	20	0
Los Angeles, CA	China	0	0	0	0	265	0
Miami, FL	Brazil	17	0	0	0	0	0
Norfolk, VA	Brazil	0	0	0	46	0	0
Ogdensburg, NY	Ukraine	0	0	0	0	60	0
Pembina, ND	Brazil	0	0	3	0	0	0
Source: Compiled from official Commerce statistics.							

Table I-6
Silicomanganese: U.S. imports, by source and by month, January 2000-December 2005

Period	Brazil	China	Ukraine	Subtotal, subject countries	All other countries	Total, all countries
Quantity (short tons)						
2000: January	0	0	0	0	28,417	28,417
February	0	0	0	0	25,832	25,832
March	0	0	0	0	52,082	52,082
April	17	0	0	17	25,773	25,790
May	0	0	0	0	31,545	31,545
June	0	0	0	0	47,703	47,703
July	0	0	0	0	39,518	39,518
August	0	0	0	0	40,386	40,386
September	0	0	0	0	44,990	44,990
October	0	0	0	0	25,990	25,990
November	0	0	0	0	32,994	32,994
December	0	0	0	0	21,562	21,562
Total	17	0	0	17	416,793	416,810
2001: January	0	0	0	0	23,665	23,665
February	0	0	0	0	19,938	19,938
March	0	0	0	0	25,409	25,409
April	0	0	0	0	34,507	34,507
May	0	0	0	0	37,228	37,228
June	0	0	0	0	24,914	24,914
July	0	0	0	0	23,545	23,545
August	0	0	0	0	23,367	23,367
September	0	0	0	0	22,043	22,043
October	0	0	0	0	21,682	21,682
November	0	0	0	0	18,824	18,824
December	0	0	0	0	21,667	21,667
Total	0	0	0	0	296,790	296,790

Table continued on following page.

Table I-6--Continued
Silicomanganese: U.S. imports, by source and by month, January 2000-December 2005

Period	Brazil	China	Ukraine	Subtotal, subject countries	All other countries	Total, all countries
Quantity (short tons)						
2002: January	0	0	0	0	23,515	23,515
February	0	0	0	0	17,986	17,986
March	3	0	0	3	11,277	11,280
April	0	0	0	0	37,040	37,040
May	0	0	0	0	7,270	7,270
June	0	0	0	0	18,650	18,650
July	0	0	0	0	15,763	15,763
August	0	0	0	0	22,621	22,621
September	0	0	0	0	28,055	28,055
October	0	0	0	0	34,013	34,013
November	22	0	0	22	34,743	34,765
December	22	0	0	22	20,824	20,846
Total	47	0	0	47	271,757	271,804
2003: January	0	0	0	0	16,089	16,089
February	0	0	0	0	17,610	17,610
March	0	0	0	0	12,048	12,048
April	0	0	0	0	25,842	25,842
May	0	0	0	0	17,461	17,461
June	0	0	0	0	8,725	8,725
July	0	0	0	0	30,014	30,014
August	0	0	0	0	30,686	30,686
September	0	0	0	0	40,787	40,787
October	0	0	0	0	43,225	43,225
November	46	21	22	90	26,751	26,841
December	0	0	0	0	25,298	25,298
Total	46	21	22	90	294,537	294,627

Table continued on following page.

Table I-6--Continued
Silicomanganese: U.S. imports, by source and by month, January 2000-December 2005

Period	Brazil	China	Ukraine	Subtotal, subject countries	All other countries	Total, all countries
Quantity (short tons)						
2004: January	0	0	20	20	27,642	27,662
February	0	0	0	0	25,206	25,206
March	0	0	0	0	20,065	20,065
April	0	0	0	0	43,749	43,749
May	0	0	0	0	19,338	19,338
June	0	0	36	36	32,821	32,857
July	0	0	0	0	62,852	62,852
August	0	265	24	289	71,525	71,814
September	0	176	0	176	30,355	30,531
October	0	220	0	220	62,108	62,328
November	60	276	0	335	48,300	48,635
December	0	0	0	0	37,993	37,993
Total	60	937	80	1,076	481,954	483,030
2005: January	0	0	0	0	31,870	31,870
February	0	0	0	0	13,376	13,376
March	0	0	0	0	41,446	41,446
April	0	0	0	0	35,329	35,329
May	0	0	0	0	35,260	35,260
June	0	0	0	0	23,146	23,146
July	0	0	0	0	46,097	46,097
August	0	0	0	0	28,636	28,636
September	0	0	0	0	13,372	13,372
October	0	0	0	0	31,798	31,798
November	0	0	0	0	25,811	25,811
December	0	0	0	0	34,778	34,778
Total	0	0	0	0	360,920	360,920
Source: Compiled from official Commerce statistics.						

Table I-7

Silicomanganese: U.S. producers' U.S. shipments, U.S. imports, and apparent U.S. consumption, by quantity, 1991-93, 1997-99, and 2005¹

Item	1991	1992	1993	1997	1998	1999	2005
Quantity (short tons)							
U.S. producers' U.S. shipments ¹	***	***	***	***	***	***	***
U.S. imports: ²							
Brazil	***	***	***	0	0	22	0
China	***	***	***	0	0	0	0
Ukraine	***	***	***	8,259	0	9,025	0
Subtotal	***	***	***	8,259	0	9,047	0
Other sources	***	***	***	328,653	381,886	322,301	360,920
Total imports	234,254	262,719	318,460	336,911	381,886	331,348	360,920
Apparent U.S. consumption	***	***	***	***	***	***	***
Value (\$1,000)							
U.S. producers' U.S. shipments ¹	***	***	***	***	***	***	***
U.S. imports: ²							
Brazil	***	***	***	0	0	20	0
China	***	***	***	0	0	0	0
Ukraine	***	***	***	4,570	0	3,317	0
Subtotal	***	***	***	4,570	0	3,337	0
Other sources	***	***	***	157,543	171,976	128,789	249,364
Total imports	130,240	131,930	148,471	162,114	171,976	132,126	249,364
Apparent U.S. consumption	***	***	***	***	***	***	***

Table continued on following page.

Table I-7--Continued

Silicomanganese: U.S. producers' U.S. shipments, U.S. imports, and apparent U.S. consumption, by quantity, 1991-93, 1997-99, and 2005¹

Item	1991	1992	1993	1997	1998	1999	2005
Share of consumption based on quantity (percent)							
U.S. producers' U.S. shipments ¹	***	***	***	***	***	***	***
U.S. imports: ² Brazil	***	***	***	***	***	***	***
China	***	***	***	***	***	***	***
Ukraine	***	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***	***
Other sources	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***
Share of consumption based on value (percent)							
U.S. producers' U.S. shipments ¹	***	***	***	***	***	***	***
U.S. imports: ² Brazil	***	***	***	***	***	***	***
China	***	***	***	***	***	***	***
Ukraine	***	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***	***
Other sources	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***
¹ Includes *** short tons (\$***) of Defense Logistics Agency ("DLA") shipments to Elkem during 1992 and *** short tons (\$***) of DLA shipments to Elkem during 1993. ² Data for 1991-93 are for U.S. importers' U.S. shipments.							
Source: <i>Staff Report</i> , November 29, 1994 (INV-R-187), table 2, for 1991-93; <i>Staff Report</i> , December 20, 2000 (INV-X-256), table I-2 for 1997-99; <i>Response of Eramet</i> , February 22, 2006, p. 34; and official Commerce statistics for 2005.							

ANTIDUMPING ACTIONS OUTSIDE THE UNITED STATES

The Commission reported during the original investigations and the first five-year reviews that silicomanganese was the subject of several antidumping actions outside the United States. Antidumping actions taken by the EU, Indonesia, Japan, Korea, and Mexico are discussed below.

On October 8, 1991, the Japan Ferro-Alloy Association filed complaints against silicomanganese produced in China, Norway, and South Africa. The Government of Japan made negative determinations on imports from Norway and South Africa but, on February 3, 1993, imposed antidumping duties of 5 to 27 percent on imports from China. These duties were in effect until 1998.¹⁰² In 2002, Chinese producers of silicomanganese met with counterparts in Japan in a bid to stave off new antidumping measures. Under discussion was the establishment of an unofficial floor price for the Chinese silicomanganese in return for the scrapping of an antidumping case filed by Japan's Ferro-Alloy Association.¹⁰³

On April 8, 1993, the European Commission ("EC"), responding to complaints filed by Euro Alliances on behalf of all producers in the European Union ("EU"), initiated antidumping investigations on silicomanganese from Brazil, Georgia, Russia, South Africa, and Ukraine. At the time of the writing of the staff report in the Commission's original investigations, the EC had not published the provisional findings on these investigations; however, the Commission reported in the first five-year reviews that, in February 1998, the EU imposed antidumping duties on silicomanganese from China.¹⁰⁴ In addition, according to questionnaire responses received during the Commission's first reviews, antidumping relief was imposed by the EU on silicomanganese from Ukraine in the form of a "price undertaking" accepted by the two Ukrainian producers.¹⁰⁵

In late 2005, Mexican manganese alloy producer Minera Autlan indicated that Mexico was considering the imposition of final antidumping duties on silicomanganese imports from several countries. Mexico currently has in place antidumping duties of 51.28 percent on silicomanganese from Ukraine and 54.34 percent on high-carbon ferromanganese from China.¹⁰⁶

For four months beginning in October 1998, provisional measures were placed on Chinese silicomanganese by Indonesia,¹⁰⁷ and Korea imposed antidumping duties on silicomanganese from China in July 1998; however, the Commission raised a question as to whether that order remained in effect or whether it was superseded by or existed concurrently with a suspension agreement between Korea and China.¹⁰⁸

THE WORLD MARKET

The global demand for silicomanganese is tied to the operations of the global steel industry. Eramet indicated in its response that "there has been an expansion of global silicomanganese production

¹⁰² *Staff Report*, December 20, 2000 (INV-X-256), p. IV-11.

¹⁰³ "Japan, China Silicomanganese Producers Huddle," *American Metal Market*, April 11, 2002.

¹⁰⁴ *Staff Report*, December 20, 2000 (INV-X-256), p. IV-11.

¹⁰⁵ *Staff Report*, December 20, 2000 (INV-X-256), p. IV-11-IV-12. In February 1998, the EC also stated that antidumping measures pertaining to imports from Brazil, Russia, and South Africa were no longer necessary, but indicated that it would monitor import levels (*Ferroalloys Mining Annual Review*, December 1998, presented in *Response of Eramet*, February 22, 2006, app. 8).

¹⁰⁶ "Autlan Eyes SiMn Antidumping Duty," *Platts Metals Week*, December 5, 2005, p. 11.

¹⁰⁷ *Staff Report*, December 20, 2000 (INV-X-256), p. IV-11.

¹⁰⁸ *Ibid.*

capacity.”¹⁰⁹ Global silicomanganese production data are presented in table I-8. These data show that the leading producer countries of silicomanganese during 2004, in decreasing order, were China, Ukraine, South Africa, Norway, and Brazil. These data also indicate that production of silicomanganese in the three countries subject to the antidumping duty orders in these current reviews in the aggregate more than doubled from 1.9 million short tons in 2000 to 4.2 million short tons in 2004. China accounted for the bulk of that reported increase. Silicomanganese production in the countries not subject to antidumping duty orders in these current reviews in the aggregate hovered between 1.9 and 2.0 million short tons from 2000 to 2004.

THE SUBJECT FOREIGN INDUSTRIES

Eramet indicated in its response to the Commission’s notice of institution in these current reviews that the subject countries have “truly massive production capacity and very large unused capacity, in addition to substantial additional capacity that could be shifted to the production of silicomanganese.” Eramet also pointed out that “additional production capacity is being developed in China and Ukraine.”¹¹⁰ Eramet added that “{p}roducers in the subject countries are highly export-oriented and have major economic incentives to target the U.S. silicomanganese market.”¹¹¹

Brazil

During the original investigations concerning silicomanganese, the Commission identified the following five producers of silicomanganese in Brazil: Companhia de Cimento Portland Maringa (“Maringa”); Companhia Ferro Ligas de Bahia (“Febrasa”); Ferro Ligas Piracicaba (“Piracicaba”); CPFL; and SIBRA. Two producers of silicomanganese in Brazil (*i.e.*, CPFL and SIBRA) provided data on their operations. These two firms were believed to have accounted for *** percent of Brazilian silicomanganese production and virtually all exports of silicomanganese to the United States at that time.¹¹²

During the Commission’s first five-year reviews, the same two Brazilian silicomanganese producers provided the Commission with data concerning their silicomanganese production in Brazil. These two producers accounted for approximately *** of Brazilian silicomanganese production at that time.¹¹³ Table I-9 presents trade data for the Brazilian silicomanganese industry during the original investigations (1991-93) and the first five-year reviews (1997-99).

With respect to Brazil, the world’s fifth largest producer of silicomanganese, Eramet indicated in its response to the Commission’s notice of institution in these current five-year reviews that there are currently three Brazilian silicomanganese producers. Two of these producers, Rio Doce Manganês S.A. and Urucum Mineração S.A., are subsidiaries of Companhia Vale do Rio Doce. The third Brazilian producer is Maringá S.A. Cimento e Ferro-Liga (“Maringa”).¹¹⁴ Eramet reported in its response that “Brazil has a very large capacity to produce silicomanganese” and that “at least 18 percent of that

¹⁰⁹ *Response of Eramet*, February 22, 2006, p. 34.

¹¹⁰ *Response of Eramet*, February 22, 2006, p. 15.

¹¹¹ *Response of Eramet*, February 22, 2006, p. 3.

¹¹² *Staff Report*, November 29, 1994 (INV-R-187), pp. I-66-I-67.

¹¹³ *Staff Report*, December 20, 2000 (INV-X-256), p. IV-5.

¹¹⁴ The Brazilian producers participating in the Commission’s first five-year reviews indicated that ***. *Staff Report*, December 20, 2000 (INV-X-256), p. IV-6.

Table I-8
Silicomanganese: World production, by country, 2000-04¹

Country	2000	2001	2002	2003	2004
Quantity (short tons)					
Argentina	5,401	5,677	5,512	5,512	5,512
Australia	148,811	148,811	148,811	148,811	148,811
Brazil	188,828	198,673	201,424	198,634	198,414
Chile	1,984	0	0	0	0
China	992,070	1,289,691	1,741,634	1,984,140	2,865,980
France	66,138	55,115	55,115	117,946	70,547
Georgia	27,558	27,558	27,558	27,558	27,558
India	203,926	165,345	165,345	176,368	176,368
Indonesia	7,716	7,716	7,716	7,716	7,716
Italy	99,207	99,207	99,207	99,207	99,207
Japan	74,875	68,605	78,225	63,981	82,783
Kazakhstan	113,227	155,645	180,777	197,224	198,414
Korea	114,112	112,299	103,616	0	0
Mexico	118,962	81,890	80,758	89,532	113,764
Norway	253,529	253,529	253,529	253,529	253,529
Poland	20,944	22,046	8,267	11,023	11,023
Romania	23,322	79,279	97,735	93,696	88,184
Russia	134,481	136,685	139,992	91,491	157,629
Slovakia	38,581	38,581	38,581	38,581	38,581
South Africa	341,713	278,882	348,109	345,187	374,782
Spain	110,230	110,230	110,230	110,230	110,230
Ukraine	754,017	774,243	807,536	815,702	1,168,438
Venezuela	76,869	62,434	40,756	33,766	38,581
Total, all countries, excluding the United States ²	3,913,165	4,166,694	4,739,890	4,905,235	6,239,018

¹ In addition to the countries listed, Iran is believed to have produced silicomanganese, but production information is inadequate for the formulation of estimates of output levels. Also, data for the United States were withheld by the publication to avoid disclosing company proprietary data. In its response to the Commission's notice of institution in these current five-year reviews, U.S. producer Eramet reported that it produced *** short tons of silicomanganese during 2005.

² Individual country data do not sum to published totals.

Source: Corathers, Lisa A., "Manganese," *U.S. Geological Survey Minerals Yearbook-2004*, table 8, converted to short tons by Commission staff.

**Table I-9
Silicomanganese: Brazil's capacity, production, shipments, and inventories, 1991-93 and 1997-99**

* * * * *

capacity . . . is not being utilized.”¹¹⁵ Eramet also indicated that the Brazilian silicomanganese industry is “highly export-oriented.”¹¹⁶ *World Trade Atlas* statistics concerning exports of silicomanganese (HTS subheading 7202.30) from Brazil for selected time periods subsequent to the Commission’s first five-year reviews are presented in table I-10. These data show that Brazilian exports to the world increased overall by *** percent from 2000 to 2005. Major export markets for the Brazilian product during 2005 include ***.

**Table I-10
Silicomanganese: Brazil's export shipments, 2000-05**

* * * * *

China

The petitioners in the original investigations concerning silicomanganese identified eight producers of silicomanganese in China. Limited data on the operations of silicomanganese operations in China were obtained in the original investigations from the following four firms: Emei Ferroalloy Works; Liaoyang Ferroalloy Works; Dandong Joint Venture; and Guizhou Ferroalloy Works. These firms were estimated to have accounted for only about *** percent of the total Chinese production of silicomanganese during 1993.¹¹⁷

In its response to the notice of institution in the Commission’s first five-year reviews, counsel for the U.S. producer alleged the existence of 44 silicomanganese producers in China of undetermined production capacity. China’s Chamber of Metals, Minerals and Chemicals Imports and Exports provided aggregate Chinese export data and the following five Chinese silicomanganese producers provided data concerning their capacity, production, and home market shipments during those full reviews: ***.¹¹⁸ Table I-11 presents trade data for the Chinese silicomanganese industry during the original investigations (1991-93) and the first five-year reviews (1997-99).

In its response in these current five-year reviews, Eramet indicated that China is the largest global producer of silicomanganese and that the Chinese industry is currently composed of at least 42 known silicomanganese producers. The U.S. producer stated further that “over the past five years, Chinese silicomanganese production and production capacity have grown enormously.”¹¹⁹ Citing public sources, Eramet reported that China’s share of world silicomanganese production increased from 15

¹¹⁵ *Response of Eramet*, February 22, 2006, p. 20.

¹¹⁶ *Response of Eramet*, February 22, 2006, p. 31.

¹¹⁷ *Staff Report*, November 29, 1994 (INV-R-187), p. I-69.

¹¹⁸ *** ceased operations in 1998. *** ceased production in 1999 and ceased operations in 2000. *Staff Report*, December 20, 2000 (INV-X-256), p. IV-10.

¹¹⁹ *Response of Eramet*, February 22, 2006, p. 17.

Table I-11

Silicomanganese: China's capacity, production, shipments, and inventories, 1991-93¹ and 1997-99²

Item	1991	1992	1993	1997	1998	1999
Quantity (short tons)						
Capacity	***	***	***	***	***	***
Production	***	***	***	***	***	***
End-of-period inventories	***	***	***	(³)	(³)	(³)
Shipments:						
Home market	***	***	***	28,589	***	***
Exports:						
United States	(³)	(³)	(³)	0	0	0
All other markets	(³)	(³)	(³)	472,939	328,187	329,110
Total exports	***	***	***	472,939	328,187	329,110
Total shipments	***	***	***	(³)	(³)	(³)
Ratios and shares (percent)						
Capacity utilization	***	***	***	75.5	***	67.2
Inventories to production	***	***	***	(³)	(³)	(³)
Inventories to total shipments	***	***	***	(³)	(³)	(³)
Share of total quantity of shipments:						
Home market	***	***	***	(³)	(³)	(³)
Exports to:						
United States	(³)					
All other markets	(³)					
All export markets	***	***	***	(³)	(³)	(³)
<p>¹ Data presented for the period 1991-93 were provided by four firms in China that were estimated to have accounted for *** percent of Chinese silicomanganese production in 1993.</p> <p>² Capacity, production, and home market shipment data presented for the period 1997-99 were provided by five firms in China. Export data presented for the period 1997-99 were provided for the aggregate Chinese silicomanganese industry by the China Chamber of Commerce of Metals, Minerals and Chemicals Imports and Exports.</p> <p>³ Not available.</p>						
<p>Source: <i>Staff Report</i>, November 29, 1994 (INV-R-187), table 18, for 1991-93 data; <i>Staff Report</i>, December 20, 2000 (INV-X-256), tables IV-5 and IV-6, for 1997-99 data.</p>						

percent in 1987 to 31 percent in 1997, with a further increase to 38 percent in 2004.¹²⁰ Total production of silicomanganese in China during 2004 was 2.9 million short tons.¹²¹ Eramet added that “despite huge unused capacity, China continues to expand its capacity to produce silicomanganese.”¹²² In fact, in 2004, several new Chinese silicomanganese smelters were under construction or became operational and a number of Chinese producers announced production capacity increases.¹²³ Further, China’s silicomanganese production capacity is expected to continue to expand as a result of two planned joint ventures, which will raise the capacity of silicomanganese production in China by an additional 220,000 short tons per year.¹²⁴

In its response to the Commission’s notice of institution in these current reviews, Eramet indicated that the Chinese silicomanganese industry is “highly export-oriented.”¹²⁵ *World Trade Atlas* statistics concerning exports of silicomanganese (HTS subheading 7202.30.00) from China for selected time periods subsequent to the Commission’s first five-year reviews are presented in table I-12. These data show that total exports of silicomanganese from China to the world generally increased from 2000 to 2004. A decline of *** percent was reported in 2005 from the high of *** short tons reported in ***. There were no reported Chinese exports of silicomanganese to the United States during 2000-02; exports of Chinese silicomanganese to the United States remained below *** percent of total exports during 2003-05. Almost *** of the Chinese silicomanganese exports were made to *** during 2005. Other relatively large export markets for Chinese silicomanganese during that year include ***.

**Table I-12
Silicomanganese: China’s export shipments, 2000-05**

* * * * *

Ukraine

During the original investigations concerning silicomanganese, the Commission identified the following two firms as producers of silicomanganese in Ukraine: Nikopol Ferro-Alloy Works and Zaporozhye Ferroalloy Works. Both firms provided data in response to the Commission’s questionnaire

¹²⁰ Ibid.

¹²¹ Corathers, Lisa A., “Manganese,” *U.S. Geological Survey Minerals Yearbook–2004*, table 8, converted to short tons by Commission staff.

¹²² Eramet indicated in its response to the Commission’s notice of institution in these current reviews that “industry observers believe that Chinese manganese ferroalloy producers are only operating at 50 to 55 percent of capacity.” *Response of Eramet*, February 22, 2006, p. 18.

¹²³ *Response of Eramet*, February 22, 2006, p. 18; “China’s Jinzhou Nichiden to Start SiMn Output in April,” *Platts Metals Week*, February 6, 2006, pp. 6-7; and Corathers, Lisa A., “Manganese,” *U.S. Geological Survey Minerals Yearbook–2004*, pp. 48.4-48.5.

¹²⁴ In August 2004, Chinese silicomanganese producer Erdos Manganese Alloys Co. was established under a joint venture by Inner Mongolia’s ERDOS Group and the Japanese firms JFE Steel and Mitsui & Co. and, in November 2004, Toyota Tsusho Corp. acquired a stake in the Chinese silicomanganese joint-venture company Jinzhou Nichiden Ferroalloy. Remaining ownership in Jinzhou Nichiden was held by Nippon Denko and Jinzhou Ferroalloy. *Response of Eramet*, February 22, 2006, p. 18; “China’s Jinzhou Nichiden to Start SiMn Output in April,” *Platts Metals Week*, February 6, 2006, pp. 6-7; and Corathers, Lisa A., “Manganese,” *U.S. Geological Survey Minerals Yearbook–2004*, pp. 48.4-48.5.

¹²⁵ *Response of Eramet*, February 22, 2006, p. 31.

in the original investigations.¹²⁶ The same two producers in Ukraine also participated in the Commission’s first five-year reviews by providing the requested data concerning their silicomanganese operations in Ukraine. These two companies were believed to have represented all Ukrainian silicomanganese production at that time.¹²⁷ Table I-13 presents trade data for the Ukrainian silicomanganese industry during the original investigations (1991-93) and the first five-year reviews (1997-99).

Table I-13
Silicomanganese: Ukraine’s capacity, production, shipments, and inventories, 1991-93 and 1997-99

* * * * *

In its response in these current five-year reviews, Eramet reported that Ukraine is the second-largest producer of silicomanganese in the world. It named Nikopol and ZFP as that country’s largest and second-largest producers, respectively. It indicated that ZFP completed a major upgrade on its main silicomanganese furnace in November 2004, increasing its daily production capacity by 15 percent. Eramet added that Ukraine saw a new entrant in the silicomanganese market in 2004 with the addition of JSC Stakhanov Ferroalloy Plant (“Stakhanov”). In 2004, Privat’s Stakhanov facility converted two furnaces from ferrosilicon to silicomanganese production and is expected to bring a third furnace on-line in 2006, thereby increasing its output to 145,500 short tons per year.¹²⁸ The majority of furnaces at ZFP and Stakhanov reportedly have the technical ability to quickly switch between silicomanganese and ferrosilicon production.¹²⁹

In its response to the Commission’s notice of institution in these current reviews, Eramet indicated that the silicomanganese industry in Ukraine is “highly export-oriented.”¹³⁰ Statistics concerning exports of silicomanganese from Ukraine during 2002-05 are available from the *World Trade Atlas*. These data are presented in table I-14. As shown, Ukraine’s exports of silicomanganese to all sources increased by *** percent from 2002 to 2004, but fell by *** percent in 2005. There were *** reported Ukrainian exports of silicomanganese to the United States during 2002-04. During 2005, *** of Ukraine’s exports of silicomanganese were destined for Russia. Other relatively large export markets for the Ukrainian product include ***.

Table I-14
Silicomanganese: Ukraine’s export shipments, 2002-05

* * * * *

¹²⁶ *Staff Report*, November 29, 1994 (INV-R-187), I-71.

¹²⁷ *Staff Report*, December 20, 2000 (INV-X-256), p. IV-11-IV-12.

¹²⁸ *Response of Eramet*, February 22, 2006, pp. 19-20.

¹²⁹ “An Examination of Ferro-Alloys in CIS Markets with Particular Focus on SiMn, FeMn and FeSi,” Metal Bulletin’s 21st Ferro-alloys Conference, Monte Carlo, Monaco, Andrey Pupchenko, Head of Raw Materials Research, Metal Expert, November 14, 2005, found at <http://www.metalcourier.com/web/mee.nsf/WebNews/664A91AOC...>, retrieved on January 19, 2006.

¹³⁰ *Response of Eramet*, February 22, 2006, p. 31.

APPENDIX A
***FEDERAL REGISTER* NOTICES**

This notice is not required by statute but is published as a service to the international trading community.

Dated: December 16, 2005.

Thomas F. Futtner,

Acting Office Director, AD/CVD Operations, Office 4 for Import Administration.

[FR Doc. E5-8211 Filed 12-30-05; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year (“Sunset”) Reviews

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

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as

amended (“the Act”), the Department of Commerce (“the Department”) is automatically initiating five-year (“Sunset Reviews”) of the antidumping duty orders listed below. The International Trade Commission (“the Commission”) is publishing concurrently with this notice its notice of *Institution of Five-Year Review* which covers these same orders.

EFFECTIVE DATE: January 3, 2006.

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

SUPPLEMENTARY INFORMATION:

Background

The Department’s procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. Guidance on methodological or analytical issues relevant to the Department’s conduct of Sunset Reviews is set forth in the Department’s Policy Bulletin 98.3 – *Policies Regarding the Conduct of Five-Year (“Sunset”) Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) (“*Sunset Policy Bulletin*”).

Initiation of Reviews

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

DOC Case No.	ITC Case No.	Country	Product	Department Contact
A-570-822	731-TA-624	PRC	Helical Spring Lock Washers (2nd Review)	Maureen Flannery (202) 482-3020
A-583-820	731-TA-625	Taiwan	Helical Spring Lock Washers (2nd Review)	Maureen Flannery (202) 482-3020
A-351-824	731-TA-671	Brazil	Silicomanganese (2nd Review)	Zev Primor (202) 482-4114
A-570-828	731-TA-672	PRC	Silicomanganese (2nd Review)	Zev Primor (202) 482-4114
A-823-805	731-TA-673	Ukraine	Silicomanganese (2nd Review)	Zev Primor (202) 482-4114
A-351-806	731-TA-471	Brazil	Silicon Metal (2nd Review)	Maureen Flannery (202) 482-3020
A-570-806	731-TA-472	PRC	Silicon Metal (2nd Review)	Maureen Flannery (202) 482-3020
A-475-828	731-TA-865	Italy	Stainless Steel Butt-Weld Pipe Fittings	Dana Mermelstein (202) 482-1391
A-557-809	731-TA-866	Malaysia	Stainless Steel Butt-Weld Pipe Fittings	Dana Mermelstein (202) 482-1391
A-565-801	731-TA-867	Philippines	Stainless Steel Butt-Weld Pipe Fittings	Dana Mermelstein (202) 482-1391

Filing Information

As a courtesy, we are making information related to Sunset proceedings, including copies of the Department’s regulations regarding *Sunset Reviews* (19 CFR 351.218) and *Sunset Policy Bulletin*, the Department’s schedule of Sunset Reviews, case history information (*i.e.*, previous margins, duty absorption determinations, scope language, import volumes), and service lists available to the public on the Department’s sunset Internet website at the following address: “<http://ia.ita.doc.gov/sunset/>.” All submissions in these Sunset Reviews must be filed in accordance with the Department’s regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303.

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

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

Information Required from Interested Parties

Domestic interested parties (defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b)) wishing to participate in these Sunset Reviews must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department’s regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day

deadline, the Department will automatically revoke the orders without further review. See 19 CFR 351.218(d)(1)(iii).

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

¹ In comments made on the interim final sunset regulations, a number of parties stated that the proposed five-day period for rebuttals to substantive responses to a notice of initiation was insufficient. This requirement was retained in the

consult the Department's regulations at 19 CFR Part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

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

Dated: December 14, 2005.

Thomas F. Futtner,

Acting Office Director, AD/CVD Operations, Office 4 for Import Administration.

[FR Doc. E5-8210 Filed 12-30-05; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews

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

ACTION: Notice of Upcoming Sunset Reviews.

SUPPLEMENTARY INFORMATION:

Background

Every five years, pursuant to section 751(c) of the Tariff Act of 1930, as amended, the Department of Commerce

("the Department") and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for February 2006

The following Sunset Reviews are scheduled for initiation in February 2006 and will appear in that month's Notice of Initiation of Five-Year Sunset Reviews.

Antidumping Duty Orders	Department Contact
Fresh Garlic from the People's Republic of China (A-570-831) - (2nd Review)	Maureen Flannery (202) 482-3020
Grain-Oriented Electrical Steel from Italy (A-475-811) - (2nd Review)	Dana Mermelstein (202) 482-1391
Grain-Oriented Electrical Steel from Japan (A-588-831) - (2nd Review)	Dana Mermelstein (202) 482-1391
Countervailing Duty Orders	
Grain-Oriented Electrical Steel from Italy (C-475-812) - (2nd Review)	David Goldberger (202) 482-4136
Suspended Investigations	
No suspended investigations are scheduled for initiation in February 2006.	

The Department's procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3--Policies Regarding the Conduct of Five-Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) ("Sunset Policy Bulletin"). The Notice of Initiation of Five-Year ("Sunset") Reviews provides further information regarding what is required of all parties to participate in Sunset Reviews.

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

Please note that if the Department receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation,

the review will continue. Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

This notice is not required by statute but is published as a service to the international trading community.

Dated: December 14, 2005.

Thomas F. Futtner,

Acting Office Director, AD/CVD Operations, Office 4 for Import Administration.

[FR Doc. E5-8212 Filed 12-30-05; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration (A-570-827)

Notice of Preliminary Results of Antidumping Duty Changed Circumstances Review and Intent to Revoke Order in Part: Certain Cased Pencils from the People's Republic of China

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

SUMMARY: M.A. Notch Corporation (Notch) filed a request for a changed circumstances review of the antidumping duty (AD) order on certain cased pencils from the People's Republic of China (PRC). Specifically, Notch requests that the Department revoke the AD order with respect to a large novelty pencil, which is described below. Certain domestic interested parties have affirmatively expressed a lack of interest in the continuation of the order with respect to this product.¹ In response to the request, the Department initiated a changed circumstances review of the AD order on certain cased pencils from the PRC.

final sunset regulations at 19 CFR 351.218(d)(4). As provided in 19 CFR 351.302(b), however, the Department will consider individual requests for

extension of that five-day deadline based upon a showing of good cause.

¹ These domestic interested parties are Sanford Corporation, Musgrave Pencil Company, Rose

Moon, Inc., and General Pencil Company, domestic manufacturers of cased pencils, (collectively, the domestic interested parties).

worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/ which are members of your association.

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

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

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

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Countries*, provide the following information on your firm's(s') operations on that product during calendar year 2005 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

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

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

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

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Countries*, provide the following information on your firm's(s') operations on that product during calendar year 2005 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

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

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

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in each *Subject Country* after 1999, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in each *Subject Country*, and such merchandise from other countries.

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

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

Issued: December 22, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05-24584 Filed 12-30-05; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731-TA-671-673 (Second Review)]

Silicomanganese From Brazil, China, and Ukraine

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the antidumping duty orders on silicomanganese from Brazil, China, and Ukraine.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on silicomanganese from Brazil, China, and Ukraine would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; ¹ to be assured of consideration, the deadline for responses is February 22, 2006. Comments on the adequacy of responses may be filed with the Commission by March 20, 2006. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* January 3, 2006.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202-205-3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION: *Background.* On October 31, 1994, the Department of Commerce ("Commerce") suspended an antidumping duty investigation on imports of silicomanganese from Ukraine (59 FR

¹ No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 06-5-143, expiration date June 30, 2008. Public reporting burden for the request is estimated to average 10 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

60951, November 29, 1994). On December 22, 1994, Commerce issued antidumping duty orders on imports of silicomanganese from Brazil and China (59 FR 66003). Following five-year reviews by Commerce and the Commission, effective February 16, 2001, Commerce issued a continuation of the antidumping duty orders on imports of silicomanganese from Brazil and China and the suspended investigation on imports of silicomanganese from Ukraine (66 FR 10669). On July 19, 2001, the Government of Ukraine requested termination of the suspension agreement on silicomanganese from Ukraine and, effective September 17, 2001, Commerce issued an antidumping duty order (66 FR 43838, August 21, 2001). The Commission is now conducting second reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions. The following definitions apply to these reviews:

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

(2) The *Subject Countries* in these reviews are Brazil, China, and Ukraine.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise*. In its original determinations and its full five-year review determinations, the Commission defined the *Domestic Like Product* as all silicomanganese.

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

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into

the United States from a foreign manufacturer or through its selling agent.

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

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission is seeking guidance as to whether a second transition five-year review is the "same particular matter" as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was "personal and substantial." However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202-205-3088.

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

Certification. Pursuant to section 207.3 of the Commission's rules, any

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

Written submissions. Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is February 22, 2006. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is March 20, 2006. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information. Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification

(or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information to Be Provided in Response to This Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country*; or produce *Subject Merchandise* in more than one *Subject Country*, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country*. As used below, the term "firm" includes any related firms.

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

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

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

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

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

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have

exported *Subject Merchandise* to the United States or other countries after 1999.

(7) If you are a U.S. producer of the *Domestic Like Product*, provide the following information on your firm's operations on that product during calendar year 2005 (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

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

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

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

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Countries*, provide the following information on your firm's(s') operations on that product during calendar year 2005 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

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

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

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

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Countries*, provide the following information on your firm's(s') operations on that product during calendar year 2005 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you

are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

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

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

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Countries* after 1999, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in each *Subject Country*, and such merchandise from other countries.

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

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

Issued: December 22, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05-24587 Filed 12-30-05; 8:45 am]

BILLING CODE 7020-02-P

hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanctions.

This notice is published in accordance with section 751(a) of the Act and 19 CFR 351.214(f)(3).

Dated: May 3, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6-7042 Filed 5-8-06; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-351-824, A-823-805, A-570-828]

Silicomanganese from Brazil, Ukraine, and the People's Republic of China; Five-year Sunset Reviews of Antidumping Duty Orders; Final Results

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

SUMMARY: On January 3, 2006, the Department of Commerce (the Department) initiated sunset reviews of the antidumping duty orders on silicomanganese from Brazil, Ukraine, and the People's Republic of China pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). On the basis of the notice of intent to participate and adequate substantive responses filed on behalf of the sole domestic interested party and inadequate responses from respondent interested parties, the Department conducted expedited sunset reviews. As a result of these sunset reviews, the Department finds that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping and the magnitude of the margins likely to prevail is set forth in the section entitled "Final Results of Reviews."

EFFECTIVE DATE: May 9, 2006.

FOR FURTHER INFORMATION CONTACT: Zev Primor or Janis Kalnins, Office 5, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution

Avenue, NW, Washington, DC, 20230; telephone: (202) 482-4114 or (202) 482-1392, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 3, 2006, the Department initiated sunset reviews of the antidumping duty orders on silicomanganese from Brazil, Ukraine, and the People's Republic of China pursuant to section 751(c) of the Act. See *Initiation of Five-year ("Sunset") Reviews*, 71 FR 91 (January 3, 2006). The Department received a Notice of Intent to Participate from Eramet Marietta Inc. (Eramet) within the deadline specified in 19 CFR 351.218(d)(1)(i), (Sunset Regulations). Eramet claimed interested-party status under section 771(9)(C) of the Act as a manufacturer of a domestic like product in the United States. We received complete substantive responses from Eramet within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). In its substantive response, Eramet indicated that Elkem was the petitioner in the original investigation but that, since Eramet purchased Elkem's silicomanganese operations in 1999, it has participated actively in all administrative reviews and sunset reviews.

We did not receive substantive responses from any respondent interested parties in the sunset reviews of the antidumping duty orders on silicomanganese from Brazil, Ukraine, and the People's Republic of China. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted expedited sunset reviews of these orders.

Scope of the Orders

The merchandise covered by these orders is silicomanganese. Silicomanganese, which is sometimes called ferrosilicon manganese, is a ferroalloy composed principally of manganese, silicon and iron, and normally contains much smaller proportions of minor elements, such as carbon, phosphorus, and sulfur. Silicomanganese generally contains by weight not less than 4 percent iron, more than 30 percent manganese, more than 8 percent silicon, and not more

than 3 percent phosphorous. All compositions, forms, and sizes of silicomanganese are included within the scope of the order, including silicomanganese slag, fines, and briquettes. Silicomanganese is used primarily in steel production as a source of both silicon and manganese.

Silicomanganese is currently classifiable under subheading 7202.30.0000 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Some silicomanganese may also currently be classifiable under HTSUS subheading 7202.99.5040. These orders cover all silicomanganese, regardless of its tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of these orders remain dispositive.

Analysis of Comments Received

All issues raised in these cases are addressed in the "Issues and Decision Memorandum" from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated May 3, 2006 (Decision Memorandum), which is hereby adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the orders were revoked. Parties can find a complete discussion of all issues raised in these sunset reviews and the corresponding recommendations in this public memorandum, which is on file in the CRU, Room B-099 of the main Department building.

In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at <http://ia.ita.doc.gov>. The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Reviews

We determine that revocation of the antidumping duty orders on silicomanganese from Brazil, Ukraine, and the People's Republic of China would likely lead to continuation or recurrence of dumping at the following percentage weighted-average margins:

Manufacturers/Exporters/Producers	Weighted-Average Margin (Percent)
Brazil. Rio Doce Manganês S.A. (RDM), Companhia Paulista de Ferro-Ligas (CPFL), and Urucum Mineração S.A. (Urucum). (collectively RDM/CPFL)	64.93

Manufacturers/Exporters/Producers	Weighted-Average Margin (Percent)
All Others	17.60
Ukraine.	
All Manufacturers/Producers/Exporters	163.00
The People's Republic of China.	
All Manufacturers/Producers/Exporters	150.00

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

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

Dated: May 3, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6-7044 Filed 5-8-06; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

A-570-890

Wooden Bedroom Furniture from the People's Republic of China: Notice of Initiation and Preliminary Results of Changed Circumstances Review, and Intent to Revoke Order in Part

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

EFFECTIVE DATE: May 9, 2006.

SUMMARY: On February 2, 2006, and in an amendment on March 16, 2006, the Department of Commerce (the "Department") received a request on behalf of the petitioners, the American Furniture Manufacturers Committee for Legal Trade and its individual members (the "AFMC") for a changed circumstances review and a request to revoke in part the antidumping duty ("AD") order on wooden bedroom furniture from the People's Republic of China with respect to jewelry armoires that have at least one side door, whether or not the door is lined with felt or felt-like material. In its February 2, 2006, submission, AFMC stated that it no longer has any interest in antidumping

relief from imports of such jewelry armoires with respect to the subject merchandise defined in the "Scope of the Review" section below. Interested parties are invited to comment on these preliminary results.

FOR FURTHER INFORMATION CONTACT: Will Dickerson or Robert Bolling, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482-1778 and (202) 482-3434, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 4, 2005, the Department published the Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order on Wooden Bedroom Furniture from the People's Republic of China (70 FR 329). On February 2, 2006, and in an amendment on March 16, 2006, AFMC requested revocation in part of the AD order pursuant to sections 751(b)(1) and 782(h) of the Tariff Act of 1930, as amended ("the Act"), with respect to jewelry armoires that have at least one side door, whether or not lined with felt or felt-like material, as described below.

Scope of the Order

The product covered is wooden bedroom furniture. Wooden bedroom furniture is generally, but not exclusively, designed, manufactured, and offered for sale in coordinated groups, or bedrooms, in which all of the individual pieces are of approximately the same style and approximately the same material and/or finish. The subject merchandise is made substantially of wood products, including both solid wood and also engineered wood products made from wood particles, fibers, or other wooden materials such as plywood, oriented strand board, particle board, and fiberboard, with or without wood veneers, wood overlays, or laminates, with or without non-wood components or trim such as metal, marble, leather, glass, plastic, or other resins, and whether or not assembled, completed, or finished.

The subject merchandise includes the following items: (1) Wooden beds such as loft beds, bunk beds, and other beds;

(2) wooden headboards for beds (whether stand-alone or attached to side rails), wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds; (3) night tables, night stands, dressers, commodes, bureaux, mule chests, gentlemen's chests, bachelor's chests, lingerie chests, wardrobes, vanities, chessers, chifforobes, and wardrobe-type cabinets; (4) dressers with framed glass mirrors that are attached to, incorporated in, sit on, or hang over the dresser; (5) chests-on-chests¹, highboys², lowboys³, chests of drawers⁴, chests⁵, door chests⁶, chiffoniers⁷, hutches⁸, and armoires⁹; (6) desks, computer stands, filing cabinets, book cases, or writing tables that are attached to or incorporated in the subject merchandise; and (7) other bedroom furniture consistent with the above list.

The scope of the order excludes the following items: (1) seats, chairs, benches, couches, sofas, sofa beds, stools, and other seating furniture; (2) mattresses, mattress supports (including box springs), infant cribs, water beds,

¹ A chest-on-chest is typically a tall chest-of-drawers in two or more sections (or appearing to be in two or more sections), with one or two sections mounted (or appearing to be mounted) on a slightly larger chest; also known as a tallboy.

² A highboy is typically a tall chest of drawers usually composed of a base and a top section with drawers, and supported on four legs or a small chest (often 15 inches or more in height).

³ A lowboy is typically a short chest of drawers, not more than four feet high, normally set on short legs.

⁴ A chest of drawers is typically a case containing drawers for storing clothing.

⁵ A chest is typically a case piece taller than it is wide featuring a series of drawers and with or without one or more doors for storing clothing. The piece can either include drawers or be designed as a large box incorporating a lid.

⁶ A door chest is typically a chest with hinged doors to store clothing, whether or not containing drawers. The piece may also include shelves for televisions and other entertainment electronics.

⁷ A chiffonier is typically a tall and narrow chest of drawers normally used for storing undergarments and lingerie, often with mirror(s) attached.

⁸ A hutch is typically an open case of furniture with shelves that typically sits on another piece of furniture and provides storage for clothes.

⁹ An armoire is typically a tall cabinet or wardrobe (typically 50 inches or taller), with doors, and with one or more drawers (either exterior below or above the doors or interior behind the doors), shelves, and/or garment rods or other apparatus for storing clothes. Bedroom armoires may also be used to hold television receivers and/or other audio-visual entertainment systems.

time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondents, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or cease and desist order or both directed against the respondent.

Issued: May 8, 2006.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 06-4413 Filed 5-10-06; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731-TA-671-673 (Second Review)]

Silicomanganese From Brazil, China, and Ukraine

AGENCY: United States International Trade Commission.

ACTION: Scheduling of expedited five-year reviews concerning the antidumping duty orders on silicomanganese from Brazil, China, and Ukraine.

SUMMARY: The Commission hereby gives notice of the scheduling of expedited reviews pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)) (the Act) to determine whether revocation of the antidumping duty orders on silicomanganese from Brazil, China, and Ukraine would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* April 10, 2006.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202-205-3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW.,

Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—On April 10, 2006, the Commission determined that the domestic interested party group response to its notice of institution (71 FR 135, January 3, 2006) of the subject five-year reviews was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting full reviews. Accordingly, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Act.

Staff report.—A staff report containing information concerning the subject matter of the reviews will be placed in the nonpublic record on June 1, 2006, and made available to persons on the Administrative Protective Order service list for these reviews. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the reviews and that have provided individually adequate responses to the notice of institution,¹ and any party other than an interested party to the reviews may file written comments with the Secretary on what determinations the Commission should reach in the reviews. Comments are due on or before June 28, 2006 and may not contain new factual information. Any person that is neither a party to the five-year reviews nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the reviews by June 28, 2006. However, should the Department of Commerce extend the time limit for its completion of the final results of its reviews, the deadline for comments (which may not contain new factual

¹ The Commission has found the response submitted by Eramet Marietta Inc. to be individually adequate. Comments from other interested parties will not be accepted (see 19 CFR 207.62(d)(2)).

information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II(C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the reviews must be served on all other parties to the reviews (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.

Determination.—The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

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

By order of the Commission.

Issued: May 5, 2006.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E6-7154 Filed 5-10-06; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[USITC SE-06-032]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: May 17, 2006 at 11 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205-2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings: none.
2. Minutes.
3. Ratification List.
4. Inv. No. 731-TA-461 (Second Review) (Gray Portland Cement and

APPENDIX B
STATEMENT ON ADEQUACY

EXPLANATION OF COMMISSION DETERMINATION ON ADEQUACY
in
Silicomanganese from Brazil, China, and Ukraine,
Inv. Nos. 731-TA-671-673 (Second Review)

On April 10, 2006, the Commission determined that it should proceed to expedited reviews in the subject five-year reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (as amended 19 U.S.C. § 1675(c)(5)).

The Commission received a response to its notice of institution from one domestic producer of silicomanganese. The response, which contained company-specific data, was filed on behalf of domestic producer Eramet Marietta Inc. This producer accounts for an overwhelming majority of domestic production of silicomanganese. The Commission found the individual response of the domestic producer adequate. The Commission also determined that the domestic interested party group response to its notice of institution was adequate.

No responses were received from any respondent interested parties. Consequently, the Commission determined that the respondent interested party group responses were inadequate.

The Commission did not find any circumstances that would warrant conducting a full review of the orders. The Commission, therefore, determined to conduct an expedited review of the three orders.

A record of the Commissioners' votes is available from the Office of the Secretary and on the Commission's website (<http://www.usitc.gov>).

