

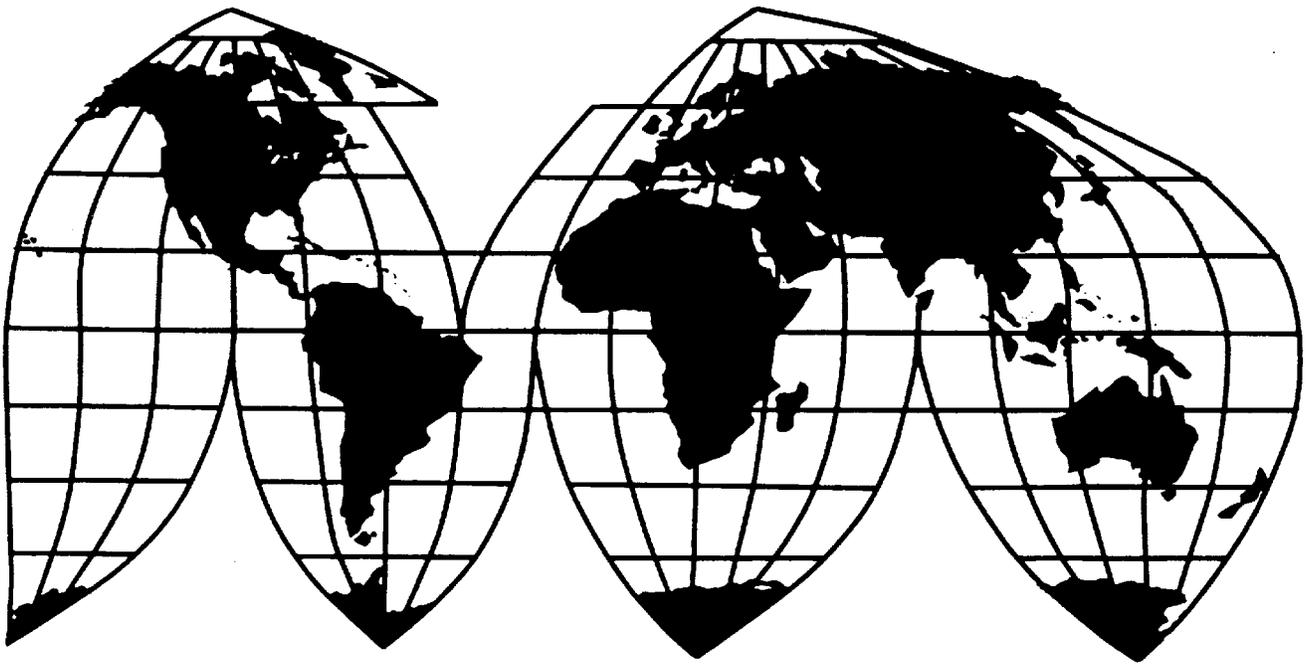
# Ferrovandium and Nitrided Vandium From Russia

Investigation No. 731-TA-702 (Second Review)

Publication 3887

September 2006

**U.S. International Trade Commission**



Washington, DC 20436

# U.S. International Trade Commission

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.
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**UNITED STATES INTERNATIONAL TRADE COMMISSION**

Investigation No. 731-TA-702 (Second Review)  
**FERROVANADIUM AND NITRIDED VANADIUM FROM RUSSIA**

**DETERMINATION**

On the basis of the record<sup>1</sup> developed in the subject five-year review, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act), that revocation of the antidumping duty order on ferrovandium and nitruded vanadium from Russia 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 this review on May 1, 2006 (71 F.R. 25609) and determined on August 4, 2006 that it would conduct an expedited review (71 F.R. 47523, August 17, 2006).

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



## VIEWS OF THE COMMISSION

Based on the record in this five-year review, we determine under section 751(c) of the Tariff Act of 1930, as amended (“the Act”), that revocation of the antidumping duty order on ferrovanadium and nitrided vanadium from Russia 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

On May 19, 1995, the Commission found that an industry in the United States was materially injured by reason of imports of ferrovanadium and nitrided vanadium sold at less than fair value from Russia.<sup>1</sup> The Department of Commerce (“Commerce”) published an antidumping duty order on imports of ferrovanadium and nitrided vanadium from Russia on July 10, 1995.<sup>2</sup>

On June 5, 2000, the Commission instituted the first five-year review with respect to this order.<sup>3</sup> In that review, the Commission received a response from The Ferroalloys Association Vanadium Committee (the “TFA Committee”), whose members included Gulf, Bear, Shieldalloy, USV, and other firms involved in the sale of ferrovanadium in the United States.<sup>4</sup> The Commission also received a joint response from the only two producers/exporters of subject merchandise from Russia: Vanadium Tulachermet (“Tulachermet”) and Chusovskoy Metallurgical Works (“Chusovskoy”).<sup>5</sup>

On September 1, 2000, the Commission proceeded to a full review of the antidumping duty order on ferrovanadium and nitrided vanadium from Russia,<sup>6</sup> on the basis that the domestic and respondent interested group responses were adequate.<sup>7</sup> In May 2001, the Commission determined that revocation of the order would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>8</sup>

The Commission instituted this second five-year review on May 1, 2006.<sup>9</sup> The Commission received one domestic interested party response, filed jointly by the Vanadium Producers and Reclaimers Association (“VPRA”) and VPRA members Gulf, Gulf’s wholly-owned subsidiary Bear, and Metallurg

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<sup>1</sup> Ferrovanadium and Nitrided Vanadium from Russia, Inv. No. 731-TA-702 (Final), USITC Pub. 2904 (June 1995)(“USITC Pub. 2904”).

<sup>2</sup> 60 Fed. Reg. 35550 (July 10, 1995).

<sup>3</sup> 65 Fed. Reg. 35668 (June 5, 2000).

<sup>4</sup> The full names of these members of the TFA Committee were Bear Metallurgical Corporation (“Bear”), Shieldalloy Metallurgical Corporation (“Shieldalloy”), Gulf Chemical & Metallurgical Corporation (“Gulf”), and U.S. Vanadium Corporation (“USV”), a U.S. subsidiary of Strategic Minerals Corporation (“Stratcor Corporation”). CS Metals of Louisiana was also a member of this Committee. Ferrovanadium and Nitrided Vanadium from Russia, Inv. No. 731-TA-702 (Review), USITC Pub. 3420 (May 2001) (“USITC Pub. 3420”) at 3, n.6.

<sup>5</sup> USITC Pub. 3420 at 4. Chusovskoy was named Chusovoy Metallurgical Works or Chusovoy in the original investigation. USITC Pub. 2904 at II-27. USITC Pub. 3420 at IV-2.

<sup>6</sup> 65 Fed. Reg. 55047 (Sept. 12, 2000).

<sup>7</sup> USITC Pub. 3420 at Appendix A, Explanation of Commission Determination on Adequacy.

<sup>8</sup> 66 Fed. Reg. 28540 (May 23, 2001). See also 66 Fed. Reg. 30694 (June 7, 2001) (continuation of antidumping duty order by Commerce).

<sup>9</sup> 71 Fed. Reg. 25609 (May 1, 2006).

Vanadium Corporation (“MVC”), which participated in previous proceedings as Shieldalloy.<sup>10</sup> The Commission did not receive responses from any foreign producers or exporters of ferrovanadium or nitrated vanadium from Russia, or any U.S. importers of subject merchandise.

On August 4, 2006, the Commission determined that the domestic interested party response was adequate, and that the respondent interested party response was inadequate. It determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930, as amended.<sup>11 12 13</sup>

## 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.”<sup>14</sup> 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.”<sup>15</sup> The Commission’s practice in five-year reviews is to look to the like product definition from the original determination and any previous five-year reviews and consider whether the record indicates any reason to revisit that definition.<sup>16</sup>

Commerce defined the subject merchandise in this review as:

Ferrovanadium and nitrated vanadium, regardless of grade, chemistry, form or size, unless expressly excluded from the scope of this order. Ferrovanadium includes alloys containing ferrovanadium as the predominant element by weight (i.e., more weight than any other element, except iron in some instances) and at least 4 percent by weight of iron. Nitrated vanadium includes compounds containing vanadium as the predominant element, by weight, and at least 5 percent, by weight, of nitrogen. Excluded from the scope of the order are vanadium additives other than ferrovanadium and nitrated vanadium, such as vanadium-aluminum master alloys, vanadium chemicals, vanadium

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<sup>10</sup> At the time of the Commission’s first five-year review of this antidumping duty order, MVC conducted its vanadium operations as Shieldalloy Metallurgical Corporation. VPR’s only other member, Stratcor Corporation, elected not to participate in this proceeding. VPR Response at 2, n. 3. In 2004, Stratcor Corporation consolidated two subsidiaries, including USV, into a new subsidiary, Stratcor, Inc., which we reference in these Views as Stratcor. CR at I-16, n.91; PR at I-13, n.91.

<sup>11</sup> 19 U.S.C. § 1675(c)(3).

<sup>12</sup> Chairman Daniel R. Pearson and Commissioner Deanna Tanner Okun voted to conduct a full review due to changes in the conditions of competition in the U.S. market for ferrovanadium. See Explanation of Commission Determination on Adequacy, CR at Appendix A.

<sup>13</sup> 71 Fed. Reg. 47523 (August 17, 2006); see also Explanation of Commission Determination on Adequacy, Confidential Report, Memorandum INV-DD-134 (August 30, 2006) (“CR”) at Appendix A and Public Staff Report (“PR”) at Appendix A.

<sup>14</sup> 19 U.S.C. § 1677(4)(A).

<sup>15</sup> 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, 96<sup>th</sup> Cong., 1<sup>st</sup> Sess. 90-91 (1979).

<sup>16</sup> See *Stainless Steel Sheet and Strip from France, Germany, Italy, Japan, Korea, Mexico, Taiwan and the United Kingdom*, Inv. Nos. 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.

waste and scrap, vanadium-bearing raw materials, such as slag, boiler residues, fly ash, and vanadium oxides.<sup>17</sup>

Ferrovandium and nitrated vanadium are common alloying agents used to improve the hardness and ductility of carbon-alloy, high-strength low-alloy, and full-alloy steels. It is the vanadium contained in ferrovandium and nitrated vanadium that produces the desired enhancements. Ferrovandium, an iron and vanadium (FeV) compound or a mixture of pure vanadium and FeV, is commercially sold as chunks of pulverized metal.<sup>18</sup> Nitrated vanadium is a vanadium-nitrogen compound that is commercially sold as pellets of metal.<sup>19</sup> Firms sell ferrovandium in grades ranging from 40 percent to 80 percent vanadium content by weight. All ferrovandium, however, is sold on a per-pound of vanadium basis.<sup>20</sup>

The scope definition set out above is unchanged from Commerce's previous five-year review determination and the original investigation. In the original investigation, the Commission defined a single domestic like product, ferrovandium and nitrated vanadium, consistent with the scope of the investigation.<sup>21</sup> In the first review, the Commission found that nitrated vanadium had not been produced in the United States since 1992, and defined the domestic like product to be ferrovandium, the product most like ferrovandium and most similar in characteristics and uses to nitrated vanadium.<sup>22</sup>

In this second review, the record again reflects that nitrated vanadium is not produced in the United States.<sup>23</sup> VPRA stated that it agrees with the Commission's definition of the domestic like product in the first review.<sup>24</sup> There is no new information obtained during this second review that would suggest any reason for revisiting the Commission's like product definition in the first five-year review. Based on the record, therefore, the product most like ferrovandium and most similar in characteristics and uses to nitrated vanadium that is produced in the United States is ferrovandium. Accordingly, we find one domestic like product consisting of ferrovandium.<sup>25</sup>

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<sup>17</sup> Final Results of Expedited Sunset Review: Ferrovandium and Nitrated Vanadium from Russia, 71 Fed. Reg. 44998, (August 8, 2006).

<sup>18</sup> CR at I-10-11; PR at I-8-9.

<sup>19</sup> CR at I-10-11; PR at I-8-9.

<sup>20</sup> CR at I-11; PR at I-9.

<sup>21</sup> USITC Pub. 2904 at I-8.

<sup>22</sup> USITC Pub. 3420 at 5. Commissioner Bragg dissented as to the definition of the domestic like product, and defined the domestic like product as ferrovandium and nitrated vanadium. *Id.* at 5, n.22.

<sup>23</sup> CR at I-14, I-16-17 & n.90; PR at I-12-14 & n.90.

<sup>24</sup> VPRA Response at 17.

<sup>25</sup> In the original determination, the Commission defined a single domestic like product consisting of ferrovandium and nitrated vanadium, coextensive with Commerce's scope. In the first review, the Commission found that "[t]he record reflects that the similarities between ferrovandium and nitrated vanadium that the Commission found in its original determination remain true today" and that "[t]he record indicates that there have been no other significant changes in the nature, uses, and manufacture of ferrovandium and nitrated vanadium since the original investigation." USITC Pub. 3420 at 5. Nitrated vanadium has not been produced in the United States since 1992. In this second review, there is no record evidence to suggest that there have been any changes in the similarities between ferrovandium and nitrated vanadium. Thus, based on these similarities, Commissioner Koplán would include nitrated vanadium in the domestic like product definition, if U.S. production of nitrated vanadium resumed.

## 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.”<sup>26</sup>

In the original determination, the Commission defined the domestic industry as consisting of domestic producers of ferrovanadium and nitrided vanadium, including Shieldalloy (now MVC), Stratcor, \*\*\*, and toll producer Bear.<sup>27</sup>

In the first review, the Commission found that the domestic industry consisted of the domestic producers of ferrovanadium: Bear and Shieldalloy. The Commission did not include Gulf or USV which manufactured an intermediate product (vanadium pentoxide), but not ferrovanadium.<sup>28</sup>

In the second review, Bear and MVC are the only two firms that produce ferrovanadium in the United States. Gulf provides raw material to Bear, and is a wholesaler of domestically produced ferrovanadium. In December 2005, Gulf acquired 100 percent of Bear, an increase from its prior 49.5 percent ownership interest.<sup>29</sup> VPRA urges the Commission to define the domestic industry as Gulf and MVC in this review, due to Gulf’s acquisition of Bear.<sup>30</sup> VPRA provided production data for Bear and MVC, and shipment data for Gulf, Bear, and MVC.<sup>31</sup> Pursuant to the statute, the Commission does not examine the effects of subject imports on overall corporate operations, but only on the operations producing the like product.<sup>32</sup> Moreover, Bear remains a separate corporate entity, with its own legal identity, regardless of whether it has a parent corporation. Because we find that Bear is the actual producer of ferrovanadium, we do not include Gulf in the domestic industry.

Based on the above, and given our definition of the domestic like product, we define the domestic industry as the domestic producers of ferrovanadium: Bear and MVC.

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<sup>26</sup> 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).

<sup>27</sup> Ferrovanadium and Nitrided Vanadium from Russia, Inv. No. 731-TA-702, (Final) USITC Pub. 2904 (June 1995) at I-8-10, Confidential Version at 10-12.

<sup>28</sup> USITC Pub. 3420 at 6-7, Confidential Version at 9. Commissioner Bragg included toll producer Gulf in the domestic industry. USITC Pub. 3420 at 7, n.35. Commissioner Miller included both tollees Gulf and USV in the domestic industry. Separate Views of Commissioner Marcia E. Miller on the Definition of the Domestic Industry, USITC Pub. 3420 at 22, Confidential Version at 2-3.

<sup>29</sup> CR at I-16; PR at I-13.

<sup>30</sup> VPRA Response at 18.

<sup>31</sup> VPRA Response at 14.

<sup>32</sup> 19 U.S.C. § 1677(4)(D). See also e.g., General Motors Corp. v. United States, 827 F. Supp. 774, 780 (Ct. Int’l Trade 1993) (the statute “clearly provides” that effects of dumped imports be assessed to production of the like product, in that case minivans, not other types of vehicles produced by the corporations comprising the U.S. minivan industry); Outboard Engines from Japan, Inv. No. 731-TA-1069 (Preliminary), USITC Pub. 3673 at 24, n. 165 (March 2004) (noting that consistent with the statute, the Commission was only examining financial data pertaining to operations producing the like product “not the overall operations of its parent company”). See also, e.g., Color Television Receivers from China, Inv. No. 731-TA-1034 (Final), USITC Pub. 3695 (May 2004) at 18, n. 105 (noting the focus is on U.S. production operations, even if the firm is a multinational corporation).

#### IV. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY IF THE ANTIDUMPING DUTY ORDER IS 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.”<sup>33</sup> 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 its restraining effects on volumes and prices of imports.”<sup>34</sup> Thus, the likelihood standard is prospective in nature.<sup>35</sup> The U.S. Court of International Trade has found that “likely,” as used in the five-year review provisions of the Act, means “probable,” and the Commission applies that standard in five-year reviews.<sup>36</sup>

<sup>37</sup> <sup>38</sup>

The statute states that “the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.”<sup>39</sup> According to

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<sup>33</sup> 19 U.S.C. § 1675a(a).

<sup>34</sup> 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.

<sup>35</sup> While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued [sic] prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

<sup>36</sup> See NMB Singapore Ltd. v. United States, 288 F. Supp. 2d 1306, 1352 (Ct. Int’l Trade 2003) (“‘likely’ means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)”), aff’d without opinion, 140 Fed. Appx. 268 (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’”).

<sup>37</sup> 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).

<sup>38</sup> 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.

<sup>39</sup> 19 U.S.C. § 1675a(a)(5).

the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ timeframe applicable in a threat of injury analysis in original investigations.”<sup>40 41</sup>

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.”<sup>42</sup> It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if 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).<sup>43</sup>

No respondent interested party has participated in this review. The record, therefore, contains limited information with respect to the ferrovanadium and nitrated vanadium industry in Russia. Accordingly, we rely on available information when appropriate, which consists primarily of information from the original investigation and the first five-year review, information submitted in this second review by the domestic producers, and information collected in this second five-year review.<sup>44 45</sup>

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<sup>40</sup> SAA at 887. Among the factors that the Commission should consider in this regard are “the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities.” *Id.*

<sup>41</sup> In analyzing what constitutes a reasonably foreseeable time, Commissioner Koplan 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 occur in predicting events into the more distant future.

<sup>42</sup> 19 U.S.C. § 1675a(a)(1).

<sup>43</sup> 19 U.S.C. § 1675a(a)(1). There have been no duty absorption findings by Commerce with respect to the order under review. CR at I-4; PR at I-4. 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.

<sup>44</sup> 19 U.S.C. § 1677e(a) authorizes the Commission to “use the facts otherwise available” in reaching a determination when: (1) necessary information is not available on the record or (2) an interested party or other person withholds information requested by the agency, fails to provide such information in the time, form, or manner requested, significantly impedes a proceeding, or provides information that cannot be verified pursuant to section 782(i) of the Act. 19 U.S.C. § 1677e(a). The verification requirements in section 782(i) are applicable only to Commerce. 19 U.S.C. § 1677m(i). See *Titanium Metals Corp.*, 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.”).

<sup>45</sup> 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 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  
(continued...)

## 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.”<sup>46</sup> The following conditions of competition are relevant to our determination.

Steel production drives demand for ferrovanadium. During the original investigation and first review, the steel industry accounted for the vast majority of ferrovanadium consumption.<sup>47</sup> In 2005, data reported by the U.S. Geological Survey indicated that the U.S. steel industry accounted for all ferrovanadium consumption.<sup>48</sup> It is the chemical element, vanadium, contained in ferrovanadium, that produces the desired enhancements in steel alloys.<sup>49</sup> Because only small quantities are necessary, ferrovanadium accounts for only a small portion of the cost of steel production.<sup>50</sup> For this reason, and because there are no good substitutes for ferrovanadium in steel production, demand for ferrovanadium is not price-sensitive.<sup>51</sup> While the current level of apparent U.S. consumption is unclear from the limited record in this expedited review, the record reflects that apparent U.S. consumption of ferrovanadium has increased since the original investigation, and that it remains at relatively high levels.<sup>52</sup>

In the first review, the Commission found that the world market for vanadium consisted of relatively few producers whose individual actions influenced the balance between supply and demand.<sup>53</sup> Information gathered in the current review continues to reflect that the U.S. market for ferrovanadium is sensitive to world market events triggered by these major players,<sup>54</sup> such that small increases in supply can have relatively large impacts on price.<sup>55</sup> Industry sources also indicate that U.S. and world vanadium prices are affected, with delays, by changes in downstream steel prices.<sup>56</sup>

The Commission found in the first review that vanadium pentoxide was an intermediate product in most ferrovanadium production, including the production process used by Bear and the Russian

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<sup>45</sup> (...continued)

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.

<sup>46</sup> 19 U.S.C. § 1675a(a)(4).

<sup>47</sup> CR at I-26; PR at I-19.

<sup>48</sup> CR at I-26; PR at I-19.

<sup>49</sup> CR at I-10; PR at I-8.

<sup>50</sup> CR at I-12; PR at I-10. CR/PR at Table I-3. USITC Pub. 3420 at 10.

<sup>51</sup> VPRA Response at 15-16.

<sup>52</sup> CR/PR at Table I-6.

<sup>53</sup> USITC Pub. 3420 at 10; see also, USITC Pub. 3420 at 11, n.66 (discussion of impact on world market of changes in supply of vanadium slag from Russia). Russia has vanadium mineral deposits. CR at I-34; PR at I-24. At the time of the first review, Russia was one of the three largest vanadium producing countries, and there was testimony that Russia was a major supplier of vanadium to the world market. Confidential Staff Report, First Review at IV-1. Hearing Transcript in the First Review (March 15, 2001) (“Tr.”) 25 (Kevin Jones, Bear).

<sup>54</sup> CR at I-34-35; PR at I-24-25.

<sup>55</sup> VPRA Response at 16-17.

<sup>56</sup> CR at I-26; PR at I-19.

producers.<sup>57</sup> Vanadium pentoxide was produced most commonly through secondary recovery from steel slags and residue; it was traded worldwide, and accounted for most of the cost of the ferrovanadium produced using this process.<sup>58</sup> There is no indication on this record that these conditions have changed.<sup>59</sup>

The record in the original investigation reflects that the \*\*\*.<sup>60</sup> In the first review, market participants testified that there was a close relationship between the cost of raw materials such as vanadium slag and the world price of vanadium pentoxide.<sup>61</sup> Purchase contracts for vanadium slag were often tied to the world price for vanadium pentoxide.<sup>62</sup> The Commission also found in the first review that prices for vanadium pentoxide moved in tandem with the prices for ferrovanadium.<sup>63</sup> There is no indication that these conditions have changed. Evidence in the second review indicates that U.S. spot prices for vanadium pentoxide continue to closely mirror prices for ferrovanadium.<sup>64</sup> Thus, while prices for ferrovanadium and vanadium pentoxide have fluctuated widely, and have increased overall during this review period, these fluctuations and increases in ferrovanadium prices have mirrored the price trends for the intermediate product.<sup>65</sup>

The U.S. market for ferrovanadium is currently supplied by domestic producers Bear and MVC, as well as by nonsubject imports. There have been no subject imports in the U.S. market since 1996.<sup>66</sup>

The domestic industry held an estimated \*\*\* percent of the U.S. market in 2005.<sup>67</sup> During the first review, Bear operated as a toll producer, converting vanadium pentoxide produced by Gulf and other firms into ferrovanadium. Although Gulf has now acquired 100 percent of Bear, Bear continues to convert vanadium pentoxide produced by other firms, including Gulf, into ferrovanadium.<sup>68</sup> MVC, a

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<sup>57</sup> USITC Pub. 3420 at 10.

<sup>58</sup> USITC Pub. 3420 at 10-11.

<sup>59</sup> The U.S. vanadium industry relies extensively on imports of vanadium-bearing materials. The U.S. Geological Survey indicated in 2004 that the primary import source of vanadium for consumption in the U.S. market was ferrovanadium (44.7 percent), followed by ash, ore, residues and slag (34.8 percent), vanadium pentoxide (18.2 percent), other vanadium oxides (2.0 percent), and vanadium-bearing master alloys. CR at I-30 & n.140; PR at I-21 & n.140.

<sup>60</sup> Figure 5, Confidential Staff Report in Original Investigation, INV-S-082 (June 15, 1995).

<sup>61</sup> Tr. at 64-65 (Robert Bunting, USV). The market participants in the first review also spoke of the world price for vanadium, which they characterized as directly linked to the prices for the raw materials containing vanadium. Id. at 47-48, 63-65.

<sup>62</sup> Tr. at 48-49; see, generally, Tr. at 45-49 (Testimony of Robert Bunting, USV, James Carter, Shieldalloy, and Kevin Jones, Bear).

<sup>63</sup> USITC Pub. 3420 at 11.

<sup>64</sup> CR/PR at Figure I-2 and Figure I-3 (U.S. prices for vanadium pentoxide and spot prices for ferrovanadium).

<sup>65</sup> CR/PR at Figure I-2 and Figure I-3.

<sup>66</sup> CR/PR at Table I-5.

<sup>67</sup> CR/PR at Table I-6.

<sup>68</sup> CR at I-8 & n.39; PR at I-7 & n.39. Gulf produces vanadium pentoxide through reducing vanadium pentoxide in the presence of steel scrap or direct reduction in an electric arc furnace. CR at I-13-14 & n.71; PR at I-11 & n.71. Gulf as well as other firms, including Stratcor, ship and market the ferrovanadium produced by Bear. CR at I-16-17 & n.96; PR at I-14 & n.96. USV is now Stratcor. CR at I-16 & n.91; PR at I-13 & n.91.

smaller producer than Bear,<sup>69</sup> uses vanadium slag as a raw material input to produce ferrovanadium.<sup>70</sup>

At the time of the first review, there were two producers of subject merchandise in Russia: Tulachermet and Chusovskoy. The record reflects that both of these producers continue to produce subject merchandise.<sup>71</sup> Beginning in late 1999, after the antidumping duty order was imposed, Tulachermet began to ship a large quantity of the vanadium pentoxide it produced in Russia to the Czech Republic and Belgium, where it was further processed into ferrovanadium for eventual export to the United States.<sup>72</sup>

VPRA maintains that Tulachermet continues to produce vanadium pentoxide in Russia and converts this intermediate material into ferrovanadium in Europe,<sup>73</sup> particularly in the Czech Republic, rather than converting it in Russia.<sup>74</sup> In 2002, as U.S. imports of ferrovanadium from the Czech Republic increased substantially,<sup>75</sup> the record reflects that the Czech firm Nikom increased its conversion of Tulachermet's Russian vanadium oxide into ferrovanadium that was then exported to the United States.<sup>76</sup> Tulachermet acquired 50 percent of Nikom in mid-2005, which reportedly allowed Tulachermet exclusive rights to Nikom's ferrovanadium conversion capacity.<sup>77</sup>

Nonsubject imports had a significant presence in the U.S. market at the time of the first review, and remain at comparable levels, \*\*\*, of apparent U.S. consumption in this review.<sup>78</sup> In the first review, purchasers reported that nonsubject imports were comparable to the domestic product in terms of price, quality, and availability, and that they were used in the same applications as the domestic product.<sup>79</sup> The origin of the nonsubject imports, however, has changed significantly since the first review. Following the imposition of antidumping duty orders in 2003 on imports from South Africa and China, imports from these sources fell while imports from the Czech Republic and Swaziland have increased.<sup>80</sup> As noted,

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<sup>69</sup> MVC produced \*\*\* million pounds contained vanadium of ferrovanadium in 2005, while Bear produced \*\*\* million pounds contained vanadium of ferrovanadium in that year. VPRA Response at 14.

<sup>70</sup> CR at I-13; PR at I-11. The record reflects that this production process incurs higher production costs than producing ferrovanadium from vanadium pentoxide because it requires the production of vanadium pentoxide as an intermediate product. CR at I-29-30 & n.141; PR at I-21 & n.141.

<sup>71</sup> VPRA Response at 5.

<sup>72</sup> First Review Confidential Report, Memorandum INV-Y-072 (April 13, 2001) at IV-3. The antidumping duty order was imposed in 1995.

<sup>73</sup> We do not include Russia in our references to Europe in these Views, given the references to exports of subject merchandise to Europe, but the U.S. Geological Survey pricing data contained in Table I-12, and Figure I-5 and I-6, may include prices for ferrovanadium in Russia as well as in other European countries.

<sup>74</sup> VPRA Response at 7.

<sup>75</sup> CR/PR at Table I-5.

<sup>76</sup> VPRA Response at 16.

<sup>77</sup> VPRA Response at 8. Moreover, in 2004, Tulachermet appointed a U.S. firm as its North American sales agent for the ferrovanadium it converted in the Czech Republic. As a result, the record reflects that Tulachermet has an established channel of distribution in the United States in the event that the order is revoked. VPRA Response at 8 & n.22.

<sup>78</sup> Nonsubject imports had an estimated U.S. market share of \*\*\* percent in 2005, and \*\*\* percent in 2000. CR/PR at Table I-6.

<sup>79</sup> USITC Pub. 3420 at 12.

<sup>80</sup> CR/PR at Table I-5. In 2003, antidumping duty orders were imposed on imports of ferrovanadium from China and South Africa, which VPRA states "resulted in the effective cessation of U.S. imports from these two countries." VPRA Response at 16. Ferrovanadium from China and South Africa, Inv. No. 731- (continued...)

imports from the Czech Republic to some degree are the result of toll production on behalf of subject producer Tulachermet.

In the first review, purchasers indicated that quality and price were the dominant factors in purchasing decisions, and they anticipated that, if the order were lifted, subject imports would be generally interchangeable with the domestic product.<sup>81</sup> VPRA reports that a high degree of substitutability remains between domestic and Russian ferrovanadium. It also indicates that costs to produce ferrovanadium have recently increased, including the cost of energy, raw materials, health care and labor.<sup>82</sup>

### C. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the antidumping duty order 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.<sup>83</sup> In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.<sup>84</sup>

In the original determination, the Commission found that the volume and market share of subject imports increased substantially throughout the period of investigation. The rate of increase in subject import volume significantly outpaced the rate of increase in overall domestic consumption for ferrovanadium and nitrated vanadium.<sup>85</sup> Subject imports from Russia increased from \*\*\* pounds contained vanadium in 1992 to \*\*\* million pounds contained vanadium in 1994. Subject imports’ share of the U.S. market, measured in pounds contained vanadium, increased from \*\*\* percent to \*\*\* percent.<sup>86</sup> The Commission further found that subject imports captured a substantially increasing share of the U.S. market by quantity and value over the period of investigation, which was largely at the expense of the

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<sup>80</sup> (...continued)

TA-986-987 (Final) (Jan. 2003) (USITC Pub. 3570). Nonsubject imports from the Czech Republic first entered the U.S. market in 1995, and increased in 1996, after the order on subject imports from Russia was imposed. The volume of nonsubject imports from the Czech Republic has fluctuated since 1996, but was at its highest level in 2005. Nonsubject imports from Swaziland increased sharply in 2003 and 2004, and decreased precipitously in 2005. CR/PR at Table I-5.

<sup>81</sup> In fact, there was evidence that in the event that the order were lifted, the Russian product would be an even closer substitute with the domestic product than before, because Tulachermet had begun to produce an 80-percent grade ferrovanadium, the \*\*\* produced by Bear. USITC Pub. 3420 at 12, Confidential Version at 18.

<sup>82</sup> VPRA Response at 12.

<sup>83</sup> 19 U.S.C. § 1675a(a)(2).

<sup>84</sup> 19 U.S.C. § 1675a(a)(2)(A-D).

<sup>85</sup> USITC Pub. 2904 at I-17.

<sup>86</sup> CR/PR at Table I-5.

domestic industry.<sup>87</sup> Therefore, it found the volume and market share of subject imports, as well as the increases in volume and market share, to be significant.<sup>88</sup>

In the first five-year review, the Commission found that subject import volume from Russian producers Tulachermet and Chusovskoy would likely be significant if the order were revoked. The Commission observed that immediately following imposition of the order, subject imports' share of apparent U.S. consumption fell dramatically, and that no subject imports had been in the U.S. market since 1996.<sup>89</sup> The Commission found that there was significant excess production capacity in Russia. The capacity utilization rate for the Russian industry was \*\*\* percent in 2000.<sup>90</sup> Excess capacity in Russia to produce ferrovanadium and nitrated vanadium totaled \*\*\* million pounds contained vanadium in 2000, equivalent to \*\*\* percent of apparent U.S. consumption for the same year.<sup>91</sup>

Most of this excess capacity was held by Tulachermet, the larger Russian producer in terms of capacity, which operated at \*\*\* percent production capacity in its ferrovanadium operations in 2000.<sup>92</sup> Tulachermet stated that \*\*\*, in order to eliminate the need to pay converters for converting vanadium pentoxide into ferrovanadium.<sup>93</sup> Chusovskoy, the other producer, was operating at \*\*\* in its ferrovanadium operations, but at \*\*\* in its nitrated vanadium operations.<sup>94</sup>

The Commission found that the Russian industry became increasingly export-oriented over the period of the first review, and that the Russian industry had exhibited substantial flexibility and speed in shifting sales between national markets. Furthermore, higher prices in the U.S. market were an incentive for the Russian producers to export ferrovanadium and nitrated vanadium to the United States. The Commission concluded that the likely volume of subject imports from Russia would be significant within a reasonably foreseeable time if the order were revoked.<sup>95</sup>

In the current review, the Russian industry data continue to show that subject producers remain export-oriented and flexible in their ability to change export markets.<sup>96</sup> The volume of Russian exports to third-country markets has increased from the first review period to the present one. During the first review period, exports by subject producers to third country markets increased from \*\*\* million pounds contained vanadium in 1995 to \*\*\* million pounds contained vanadium in 2000.<sup>97</sup> Available *Global Trade Atlas* data show that Russian exports of ferrovanadium to third-country markets, primarily to Europe, are estimated to have further increased from 6.8 million pounds contained vanadium in 2000 to

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<sup>87</sup> USITC Pub. 2904 at I-17.

<sup>88</sup> USITC Pub. 2904 at I-18.

<sup>89</sup> USITC Pub. 3420 at 18-19.

<sup>90</sup> CR/PR at Table I-8.

<sup>91</sup> USITC Pub. 3420 at 12-13, Confidential Version at 20.

<sup>92</sup> USITC Pub. 3420 at 13, Confidential Version at 20.

<sup>93</sup> USITC Pub. 3420 at 13-14, Confidential Version at 20-21.

<sup>94</sup> USITC Pub. 3420 at 13, Confidential Version at 20.

<sup>95</sup> USITC Pub. 3420 at 13-16.

<sup>96</sup> VPRA Response at 6.

<sup>97</sup> CR/PR at Table I-8.

9.1 million pounds contained vanadium in 2005.<sup>98</sup> By contrast, home market shipments of subject merchandise declined as a share of total shipments from \*\*\* percent in 1992 to \*\*\* percent in 2000.<sup>99</sup>

VPRA reports that both Tulachermet and Chusovskoy remain in operation.<sup>100</sup> Our most current data for the Russian producers reflect production capacity of \*\*\* million pounds contained vanadium in 2000.<sup>101</sup> The sharp increase in subject imports during the original investigation and the substantial excess capacity reported in the first review demonstrate that these foreign producers have the ability to rapidly increase imports to the United States.

In addition to being export-oriented, subject producers would have incentives to redirect exports from other markets to the United States in the absence of the order. The United States is an attractive, large market for ferrovandium.<sup>102</sup> While Europe currently is the main market for exports of Russian ferrovandium,<sup>103</sup> prices in the United States are generally higher than prices in Europe.<sup>104</sup> Thus, there would be an incentive for Russian producers to redirect their exports of ferrovandium from European countries to the United States to take advantage of a large, lucrative market, if the order were revoked.

Russian producer Tulachermet has indicated that, if the order were revoked, it would increase exports to the United States. Russian producers shipped subject merchandise directly to the United States prior to the imposition of the antidumping duty order,<sup>105</sup> but \*\*\*.<sup>106</sup> Tulachermet's representative stated that if the order were revoked, it would redirect its toll conversion of vanadium pentoxide in Europe, such as in the Czech Republic, to Russia, to avoid paying the toll converters in Europe.<sup>107</sup>

Imports of ferrovandium from the Czech Republic to the United States were 3.2 million pounds contained vanadium in 2005.<sup>108</sup> According to VPRA, much of those imports were produced from vanadium pentoxide from Russia, and were toll converted by Nikom on behalf of Tulachermet.<sup>109</sup> As noted, Tulachermet experienced relatively low rates of capacity utilization at its Russian facility during the first review. Thus, the record reflects that if the order were revoked, Tulachermet has the capacity and would have the incentive to significantly increase its exports of subject merchandise from Russia to the United States by redirecting substantial quantities of the vanadium pentoxide it has toll converted in Europe, and particularly in the Czech Republic, back to Russia for production in that country, and ultimately export the subject product to the United States.

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<sup>98</sup> CR/PR at Table I-9. Measured in gross weight, *Global Trade Atlas* data reflect that Russian exports of ferrovandium increased from 13.0 million pounds gross weight in 2000 to 17.6 million pounds gross weight in 2005. CR/PR at Table I-10.

<sup>99</sup> CR/PR at Table I-8.

<sup>100</sup> VPRA Response at 5.

<sup>101</sup> CR/PR at Table I-8.

<sup>102</sup> CR at I-27; PR at I-20. Apparent U.S. consumption in the United States was \*\*\* million pounds contained vanadium in 1992, and an estimated \*\*\* million pounds contained vanadium in 2005. CR/PR at Table I-6.

<sup>103</sup> CR at I-35; PR at I-25. CR/PR at Table I-10.

<sup>104</sup> CR/PR at Table I-12, Figure I-6.

<sup>105</sup> CR/PR at Table I-8.

<sup>106</sup> Confidential Staff Report, First Review, Memorandum INV-Y-072 (April 13, 2001) at D-11.

<sup>107</sup> Tr. at 127-128 (Testimony of Olga Molokina); see also Tr. at 167 (Testimony of economist Seth Kaplan).

<sup>108</sup> CR/PR at Table I-5.

<sup>109</sup> VPRA Response at 7-8.

As for Chusovskoy, it operated at low capacity utilization rates (\*\*\*) percent) with respect to nitrided vanadium in the first review.<sup>110</sup> It would have an incentive to increase its exports to the United States if the order were revoked to increase production and take advantage of U.S. prices that are generally higher than European prices.

In sum, subject producers are likely to increase exports to the United States significantly upon revocation of the antidumping duty order, given the rapid increase in subject imports to the United States in the original investigation; subject producers' export orientation, their substantial and increasing exports, and their apparent substantial capacity and excess capacity; the incentive to take advantage of generally higher prices in the U.S. market than in Europe; and the apparent cost savings for Tulachernet if it redirects toll conversion of vanadium pentoxide in the Czech Republic back to Russia. 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 in the reasonably foreseeable future, if the order were revoked.

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

In evaluating the likely price effects of subject imports if the order under review were revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to the domestic like product and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.<sup>111</sup>

In the original determination, the Commission found that subject imports and the domestic product were generally interchangeable and served as good substitutes. It found that underselling was significant and that adverse price effects had resulted in price declines and lost sales and lost revenues, notwithstanding an increase in apparent U.S. consumption.<sup>112</sup> The domestic industry's largest price declines occurred in 1993, which was when the largest increase in the volume of subject imports occurred.<sup>113</sup> It also found that domestic producers were not able to increase their prices in 1994 to levels corresponding to earlier periods. The Commission concluded that the prices of the subject imports had a significant depressing or suppressing effect on the prices of the domestic like product.<sup>114</sup>

In the first review, the Commission reiterated that the domestic and subject product were substitutable and that price was an important factor in purchasing decisions.<sup>115</sup> Due to the lack of subject imports from Russia, no importer price data were available for the Russian product for the review period. The Commission found in the first review that prices for ferrovanadium in the United States were significantly higher than in Europe, and that this price differential would provide an incentive for Russian producers to re-enter the market if the order were revoked.<sup>116</sup> When asked about the likely effects of revocation of the order on the U.S. market, four out of the seven purchasers who gave usable responses stated that revocation would cause either prices to fall or the price differential between the U.S. market

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<sup>110</sup> USITC Pub. 3420 at 13, Confidential Version at 19.

<sup>111</sup> 19 U.S.C. § 1675a(a)(3). The SAA states that “[c]onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices.” SAA at 886.

<sup>112</sup> USITC Pub. 2904 at I-18.

<sup>113</sup> USITC Pub. 2904 at I-18.

<sup>114</sup> USITC Pub. 2904 at I-20.

<sup>115</sup> USITC Pub. 3420 at 16.

<sup>116</sup> USITC Pub. 3420 at 16.

and the world market to decrease.<sup>117</sup> The Commission found that the volume of aggressively priced, substitutable subject imports in the U.S. market would likely be significant, and would likely be priced to gain market share.<sup>118</sup>

Many of the conditions that informed our analysis in the first review remain unchanged in the current review. Given the absence of subject imports since 1996, we do not have data to make comparisons of prices for domestic and subject ferrovanadium in the U.S. market. Our record contains no information of a change in product specifications or characteristics that would be contrary to the Commission's prior finding in the first review that domestic and nonsubject imports are largely interchangeable, and that subject imports of ferrovanadium would likely be interchangeable with the domestic like product if subject imports re-entered the market.<sup>119</sup> Europe currently is the primary market for exports of ferrovanadium from Russia, and European spot prices have generally been lower than U.S. prices.<sup>120</sup>

We also observe, based on U.S. Geological Survey data, that U.S. and European ferrovanadium prices have fluctuated widely and overall have increased in tandem with the prices for the intermediate product, vanadium pentoxide. In line with prices for the intermediate materials, U.S. prices for ferrovanadium in 2005 and 2006 were significantly higher than in 2001, and there was a spike in both European and U.S. prices from December 2004 through July 2005.<sup>121</sup> The limited record of this review indicates that other domestic industry costs have risen as well.<sup>122</sup>

With respect to likely price effects, we consider (as discussed above) that the volume of subject imports from Russia is likely to be significant if the order on ferrovanadium from Russia is revoked. Russian producers have sufficient underutilized production capacity so as to export significant volumes of subject merchandise to the U.S. market in that event. As we have previously discussed, the ferrovanadium market is price sensitive, and a small increase in supply can have a significant negative impact on prices. If the order were revoked, the likely significant volume of lower-priced subject imports would likely put downward pressure on domestic prices in this price sensitive industry.

Further, with respect to the price at which subject imports will likely enter the United States, we note that Tulachermet's representative informed the Commission in the first review that it would redirect some of its vanadium pentoxide conversion operations to Russia if the order were revoked.<sup>123 124</sup>

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<sup>117</sup> USITC Pub. 3420 at 17.

<sup>118</sup> USITC Pub. 3420 at 16-17.

<sup>119</sup> In the first review, the Commission found that nonsubject imports were comparable to the domestic product in terms of price, quality and availability, and that they were used in the same applications as the domestic product. It further noted that in the original determination, the Commission had found that subject imports and the domestic like product generally were interchangeable and served as good substitutes, and that if subject imports re-entered the U.S. market they would likely be an even closer substitute for the domestic product than in the original investigation, because Tulachermet had begun production of an 80 percent grade ferrovanadium, the \*\*\* produced by Bear. USITC Pub. 3420 at 12, Confidential Version at 18.

<sup>120</sup> CR at I-35; PR at I-25. CR/PR at Table I-12 and Figure I-6.

<sup>121</sup> CR/PR at Table I-12, Figure I-5 and Figure I-6.

<sup>122</sup> VPRA Response at 12. CR/PR at Figure I-2.

<sup>123</sup> Tr. at 127-128 (Testimony of Olga Molokina); see also Tr. at 167 (Testimony of economist Seth Kaplan).

<sup>124</sup> Vice Chairman Aranoff and Commissioner Okun find that if Tulachermet redirects some of its vanadium pentoxide conversion from the Czech Republic to Russia, nonsubject imports from the Czech Republic to the United States would likely decrease. They find, however, that it is likely that the volume of the increase in subject imports from Russia would be substantially larger than the volume of the decline in nonsubject imports from the Czech Republic, given the apparent substantial unused production capacity of both subject producers, and the incentives for  
(continued...)

As discussed in our volume analysis, Tulachermet informed the Commission in the first review that producing ferrovanadium from vanadium pentoxide in Russia for export to the United States would be less expensive and more profitable than producing it in the Czech Republic.

Imports from the Czech Republic are already sold at higher prices in the U.S. market than in the world market generally, (using values as a proxy for prices), and they are sold at lower prices in the U.S. market than domestic industry shipments.<sup>125</sup> Based on these facts, we find it likely that upon revocation, the subject producers would have the ability and an incentive to export subject imports at lower prices than those for imports from the Czech Republic to the United States, in order to regain market share. Given higher U.S. prices relative to European prices, subject producers would likely sell at somewhat higher prices in the U.S. market than in Europe, while still underselling the domestic industry's prices.

Based on this record, we find it likely that, absent the antidumping duty order, competitive conditions would return to those prevailing prior to the imposition of the order, including the importance of price in the market, the likely substitutability of domestic and subject product, and the fact that demand is not price sensitive, such that small changes in volume can have large effects on prices. We find that, if the order is revoked, significant volumes of subject imports would be likely to significantly undersell the domestic like product to gain market share. Accordingly, and given the negative price effects of lower-priced subject imports in the original investigation, the underselling by subject imports during the original investigation, and the incentive to lower prices to obtain market share in the large U.S. market, we find that the likely significant volume of subject imports would be likely to have significant depressing or suppressing effects on the prices of the domestic like product within a reasonably foreseeable time.

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

In evaluating the likely impact of imports of subject merchandise if the antidumping duty order were revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.<sup>126</sup> All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.<sup>127</sup> As instructed by the statute, we

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<sup>124</sup> (...continued)

the Russian producers to export to the large U.S. market at prices generally higher than in Europe.

<sup>125</sup> For example, in 2005 U.S. imports of ferrovanadium from the Czech Republic were sold at higher average unit values (AUVs) in the U.S. market (\$29.13 per pound contained vanadium), CR/PR at Table I-5, Commerce data in VPRA's Response, Appendix A, than estimated in the world market generally (\$20.76 per pound contained vanadium), CR/PR at Table I-9, Global Trade Atlas data. We note that the data on imports from the Czech Republic would include duties, taxes, customs charges and shipping costs.

In 2005, AUVs for domestic U.S. shipments of ferrovanadium (\$30.13 per pound contained vanadium) were somewhat higher than AUVs for imports of ferrovanadium from the Czech Republic to the United States. (\$29.13 per pound contained vanadium). CR/PR at Table I-4 and Table I-5.

<sup>126</sup> 19 U.S.C. § 1675a(a)(4).

<sup>127</sup> 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. Commerce expedited its determination in its second five year review of ferrovanadium and nitrided vanadium from

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have considered the extent to which any improvement in the state of the domestic industry is related to the order at issue and whether the industry is vulnerable to material injury if the order is revoked.<sup>128</sup>

In its original determination, the Commission found that the large and increasing volume and market share of the subject imports captured U.S. market share at the expense of the domestic industry, while subject imports depressed or suppressed domestic prices to a significant degree. The subject imports negatively impacted key domestic industry indicators, including shipments, employment, sales revenue, and market share, and prevented the domestic industry from taking full advantage of declining costs and an expanding U.S. market.<sup>129</sup>

In the first review, the Commission found that following the imposition of the order, the condition of the domestic industry improved at the same time that the Russian product left the U.S. market. The domestic industry's improved condition continued through 1998, but then its production levels and prices declined. Total sales and toll processing for Bear and Shieldalloy, production, capacity utilization, and operating income all increased to a peak in 1998, and then \*\*\* fell. Domestic producers Bear and Shieldalloy's combined data reflected an increase in operating income from 1995 to 1998, but operating \*\*\* in 1999 and 2000. Based on those indicators, the Commission found that the domestic industry was vulnerable.<sup>130</sup>

The Commission stated that it had found that revocation of the antidumping duty order likely would lead to significant increases in the volume of subject imports at prices that likely would significantly depress or suppress U.S. prices. The Commission reasoned that, given the generally substitutable nature of the subject and domestic prices, the likely significant volume of subject imports, when combined with the expected negative price effects of those imports, likely would have a significant adverse impact on the industry's production, shipments, sales, and revenues. This reduction in the industry's production, sales, and revenues, in turn, would likely have a direct adverse impact on the industry's profitability and employment levels, as well as its ability to raise capital and make and maintain necessary capital investments.<sup>131</sup>

In this second review, VPRA does not present any arguments on the vulnerability of the domestic industry. The record indicates that domestic production was higher in 2005 than in the original investigation and comparable to production levels in the first review.<sup>132</sup> Similarly, we find that domestic shipments were higher in 2005 than in the original investigation and approximate to those in the first review.<sup>133</sup> However, there is no information in the record pertaining to many of the financial and trade indicators, such as operating income, capacity, capacity utilization rates, and employment levels, that we generally consider in assessing whether the domestic industry is in a weakened condition as contemplated by the statute. The limited evidence in this expedited review is insufficient for us to make a finding on whether the domestic industry producing ferrovandium is vulnerable.

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<sup>127</sup> (...continued)

Russia and found that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the following margins: Galt Alloys, Inc., 3.75 percent; Gesellschaft far Elektrometallurgie m.b.H. (and its related companies Shieldalloy Metallurgical Corporation, and Metallurg, Inc.), 11.72 percent; Odermet, 10.10 percent; and Russia-wide rate, 108.00 percent. CR/PR at Table I-1.

<sup>128</sup> The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission "considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." SAA at 885.

<sup>129</sup> USITC Pub. 2904 at I-20-21.

<sup>130</sup> USITC Pub. 3420 at 17-18, Confidential Version at 28-29.

<sup>131</sup> USITC Pub. 3420 at 18-19.

<sup>132</sup> CR/PR at Table I-4.

<sup>133</sup> CR/PR at Table I-4 & n.4.

We find that if the order is revoked, subject imports would be likely to re-enter the U.S. market in large quantities at the expense of the domestic industry. As discussed above, revocation of the antidumping duty order likely would lead to significant increases in the volume of subject imports at prices that would likely undersell the domestic like product and significantly suppress or depress U.S. prices. In addition, the likely volume and price effects of the 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 revenues. This reduction in the industry's production, shipments, sales, and revenue levels would in turn likely 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 recent years, the domestic industry has made significant capital investments, which could be jeopardized by likely significant volumes of lower-priced subject imports in the U.S. market.<sup>134</sup>

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

### **CONCLUSION**

For the foregoing reasons, we determine that revocation of the antidumping duty order on ferrovanadium and nitrided vanadium from Russia would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

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<sup>134</sup> VPRA Response at 12.



## INTRODUCTION

### Background

On May 1, 2006, the United States International Trade Commission (“Commission”) gave notice, pursuant to section 751(c) of the Tariff Act of 1930 (“the Act”),<sup>1</sup> that it had instituted a review to determine whether revocation of the antidumping duty order on ferrovanadium and nitrated vanadium from Russia would likely lead to the continuation or recurrence of material injury to a domestic industry within a reasonably foreseeable time.<sup>2</sup> On August 4, 2006, the Commission determined that the domestic interested party response to its notice of institution was adequate,<sup>3</sup> but that the respondent interested party response was inadequate.<sup>4</sup> The Commission found no other circumstances that would warrant conducting a full review.<sup>5</sup> Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.<sup>6</sup> Information relating to the background of this five-year review is presented in the tabulation below.

<b>Effective date</b>	<b>Action</b>
July 10, 1995	Commerce’s antidumping duty order (60 FR 35550)
June 7, 2001	Commerce’s continuation of antidumping duty order after first five-year review (66 FR 30694)
May 1, 2006	Commerce’s initiation and Commission’s institution of second five-year review (71 FR 25568 and 25609)
August 4, 2006	Commission’s determination to conduct expedited review (71 FR 47523, August 17, 2006)
August 8, 2006	Commerce’s final results of expedited sunset review (71 FR 44998)
September 18, 2006	Commission’s vote
September 28, 2006	Commission’s determination transmitted to Commerce

### The Original Investigation and First Review

On May 31, 1994, Shieldalloy Metallurgical Corp. (“Shieldalloy”) filed a petition with Commerce and the Commission alleging that an industry in the United States was materially injured by reason of

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<sup>1</sup> 19 U.S.C. § 1675(c).

<sup>2</sup> 71 FR 25609, May 1, 2006. All interested parties were requested to respond to this notice by submitting the information requested by the Commission. Notices pertaining to this review, as well as the Commission's statement on adequacy, are contained in app. A.

<sup>3</sup> The Commission found the responses submitted by Bear Metallurgical Co. (“Bear”), Gulf Chemical & Metallurgical Corp. (“Gulf”), Metallurg Vanadium Corp. (“Metallurg”), and The Vanadium Producers and Reclaimers Association (“VPR Association”) to be individually adequate. *Re: Ferrovanadium and Nitrated Vanadium from Russia, Investigation No. 731-TA-702 (Second Review)*, Schmeltzer, Aptaker, & Shepard, RC., (“Domestic interested parties’ response to the notice of institution”).

<sup>4</sup> The Commission did not receive a response from any importer or foreign producer of ferrovanadium and nitrated vanadium to its notice of institution.

<sup>5</sup> Chairman Daniel R. Pearson and Commissioner Deanna Tanner Okun concluded that the domestic group response for this review was adequate and the respondent group response was inadequate, but that changes in the conditions of competition in the U.S. market for ferrovanadium warranted a full review.

<sup>6</sup> 71 FR 47523, August 17, 2006. See the Commission’s website (<http://www.usitc.gov>) for Commission votes on whether to conduct an expedited or full review.

less-than-fair-value (“LTFV”) imports of ferrovanadium and nitrided vanadium from Russia.<sup>7</sup> On May 19, 1995, the Commission made a final affirmative determination that domestic producers were materially injured by reason of LTFV imports of ferrovanadium and nitrided vanadium from Russia.<sup>8</sup> Consequently, on July 10, 1995, Commerce issued an antidumping duty order instructing the U.S. Customs Service (“Customs”)<sup>9</sup> to impose antidumping duties on imports of ferrovanadium and nitrided vanadium from Russia.<sup>10</sup>

On June 5, 2000, the Commission gave notice, pursuant to section 751(c) of the Act, that it had instituted a review to determine whether revocation of the antidumping duty order on ferrovanadium and nitrided vanadium from Russia would likely lead to the continuation or recurrence of material injury to a domestic industry within a reasonably foreseeable time.<sup>11</sup> On September 1, 2000, the Commission determined that both domestic and respondent interested party group responses to its notice of institution (65 FR 35668) were adequate.<sup>12</sup> Accordingly, the Commission determined that it would conduct a full five-year review pursuant to section 751(c)(3) of the Act.<sup>13</sup> On May 3, 2001, the Commission determined that revocation of the antidumping duty order on ferrovanadium and nitrided vanadium from Russia would likely lead to the continuation or recurrence of material injury to a domestic industry within a reasonably foreseeable time.<sup>14</sup> Consequently, on June 7, 2001, Commerce published notice of the continuation of the antidumping duty order on ferrovanadium and nitrided vanadium from Russia.<sup>15</sup> Table I-1 presents the weighted-average LTFV dumping margins of the original antidumping duty order, which Commerce subsequently determined to be the rates at which firms would be likely to resume dumping into the United States were the discipline of the order removed in the first and second five-year reviews of this order.

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<sup>7</sup> 59 FR 29617, June 8, 1994.

<sup>8</sup> 60 FR 35923, July 12, 1995. Vice Chairman Nuzum also found that the record in the original investigation supported an affirmative determination of threat of material injury. Commissioner Crawford found that the domestic industry producing ferrovanadium and nitrided vanadium was neither materially injured nor threatened with material injury by reason of LTFV imports from Russia.

<sup>9</sup> U.S. Customs Service is now U.S. Customs and Border Protection, part of the U.S. Department of Homeland Security.

<sup>10</sup> 60 FR 35550.

<sup>11</sup> 65 FR 35668.

<sup>12</sup> In the first review, the domestic interested party group consisted of The Ferroalloys Association Vanadium Committee (“FAV Committee”) and its individual members, Bear, Gulf Chemical, Shieldalloy, and Strategic Mineral Corporation (“Stratcor”); while the respondent interested party group consisted of Vanadium Tulachermet (“Tulachermet”) and Chustovskoy Metallurgical Works (“Chustovskoy”).

<sup>13</sup> 65 FR 55047, September 12, 2000.

<sup>14</sup> 66 FR 28540, May 23, 2001.

<sup>15</sup> 66 FR 30694.

**Table I-1**  
**Ferrovandium and nitrated vanadium: Commerce’s original LTFV dumping margins and subsequent likely dumping margins, 1995, 2000, 2006**

Manufacturer/Producer/Exporter	Rate (percent ad valorem)
Galt Alloys, Inc.	3.75
Gesellschaft far Elektrometallurgie m.b.H. (and its related companies Shieldalloy Metallurgical Corporation, and Metallurg, Inc.)	11.72
Odermet	10.10
Russia-wide rate	108.00

Source: *Notice of Antidumping Order: Ferrovandium and Nitrated Vanadium From the Russian Federation*, 60 FR 35550, July 10, 1995; *Final Results of Expedited Sunset Review: Ferrovandium and Nitrated Vanadium From Russia*, 65 FR 60168, October 10, 2000; and *Final Results of Expedited Sunset Review: Ferrovandium and Nitrated Vanadium from Russia*, 71 FR 44998, August 8, 2006.

### Commerce’s Administrative Reviews

On August 15, 1996, Commerce initiated an administrative review of its antidumping duty order for imports of ferrovandium and nitrated vanadium from Galt Alloys, Inc. (“Galt”) and Odermet Limited (“Odermet”) in Russia.<sup>16</sup> On August 7, 1997, Commerce rescinded in part the administrative review for Odermet since Odermet did not ship subject merchandise to the United States within the period of review, and made a preliminary determination that imports of ferrovandium and nitrated vanadium from Galt were subject to a firm-specific margin of 34.73 percent.<sup>17</sup> On December 15, 1997, Commerce made a final determination that Galt’s exports of ferrovandium and nitrated vanadium from Russia to the United States were subject to a firm-specific margin of 34.66 percent.<sup>18</sup>

On August 15, 1996, Commerce initiated an administrative review of its antidumping duty order for imports of ferrovandium and nitrated vanadium from Galt in Russia.<sup>19</sup> On March 17, 1998,

<sup>16</sup> 61 FR 42416.

<sup>17</sup> 62 FR 42492. The 34.73 percent margin for Galt was based on a weighed average of margins for shipments it made of subject merchandise to the United States from two producers of ferrovandium and nitrated vanadium in Russia, Tulachermet and Chusovoy. Commerce applied adverse facts available for Galt’s shipments of Chusovoy’s subject merchandise at 88.63 percent, while Commerce calculated a dumping margin for Galt’s shipments of Tulachermet’s subject merchandise based on a normal value calculation Commerce uses for non-market economies (“NMEs”), and due to the absence of several factor inputs used surrogate country production factors in the calculation of the Tulachermet rate. Russia obtained a market economy designation at Commerce on April 1, 2002.

<sup>18</sup> 62 FR 65656. Since Chusovoy and Tulachermet, themselves, did not receive firm-specific rates from the original LTFV investigation or any subsequent Commerce review, the 108.00 percent “Russia-wide rate” applies to any shipments of their subject merchandise to the United States other than through Galt or firms otherwise identified in table I-1 (*i.e.* Odermet and GfE).

Additionally, Commerce noted in its decision memorandum for this second five-year review that RTI International Metals Inc. (“RTI”) (then known as RMI Titanium Co.) acquired Galt in 1997 and now primarily focuses on scrap processing in the titanium industry as part of RTI’s Titanium Group. *Issues and Decision Memorandum for the Final Results of the Expedited Sunset Review of the Antidumping Duty Order on Ferrovandium and Nitrated Vanadium from Russia*, Commerce Public Memorandum ADCVD2: DJG (“Commerce Decision Memo”), August 1, 2006.

<sup>19</sup> 61 FR 42416.

Commerce rescinded the administrative review for Galt since Galt did not ship subject merchandise to the United States within the period of review.<sup>20</sup>

Commerce has not conducted any new shipper reviews in relation to the antidumping duty order on ferrovandium and nitrated vanadium from Russia.<sup>21</sup> Commerce has not made any scope clarifications, rulings, or changed circumstances determinations over the history of the order.<sup>22</sup> Commerce has not made any findings of duty absorption.<sup>23</sup>

### **Commerce's Final Results of Expedited Sunset Review**

On August 8, 2006, Commerce determined that revocation of the antidumping duty order on ferrovandium and nitrated vanadium from Russia would be likely to lead to continuation or recurrence of dumping into the United States at the rates found in the original LTFV investigation.<sup>24</sup>

### **Distribution of Continued Dumping and Subsidy Offset Act Funds**

Since 2001, qualified U.S. producers of ferrovandium and nitrated vanadium have been eligible to receive disbursements from Customs under the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"), also known as the Byrd Amendment. Since the enactment of the CDSOA, no U.S. producer has received funds as a result of the antidumping duty order on ferrovandium and nitrated vanadium from Russia.<sup>25</sup>

### **Related Investigations**

On December 19, 2002, the Commission determined that an industry in the United States was materially injured by reason of LTFV imports of ferrovandium from China and South Africa.<sup>26</sup> On January 28, 2003, Commerce issued antidumping duty orders on imports of ferrovandium from South Africa at a 116.00 percent rate for all firms, and on imports of ferrovandium from China at rates ranging from 12.97 percent to 66.71 percent.<sup>27</sup>

## **THE SUBJECT PRODUCT**

### **Commerce's Scope and Tariff Treatment**

The imported product subject to the antidumping duty order under review as defined by Commerce is as follows:

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<sup>20</sup> 62 FR 65656.

<sup>21</sup> Commerce Decision Memo, August 1, 2006.

<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

<sup>24</sup> 71 FR 44998. *See* table I-1 for the actual rates.

<sup>25</sup> Customs' CDSOA Annual Reports, found at [http://www.cbp.gov/xp/cgov/import/add\\_cvd/cont\\_dump/](http://www.cbp.gov/xp/cgov/import/add_cvd/cont_dump/).

<sup>26</sup> 68 FR 2361, January 16, 2003.

<sup>27</sup> 68 FR 4169 and 4186.

*ferrovanadium and nitrated vanadium, regardless of grade, chemistry, form or size, unless expressly excluded from the scope of this order. Ferrovanadium includes alloys containing ferrovanadium as the predominant element by weight (i.e., more weight than any other element, except iron in some instances) and at least 4 percent by weight of iron. Nitrated vanadium includes compounds containing vanadium as the predominant element, by weight, and at least 5 percent, by weight, of nitrogen. Excluded from the scope of the order are vanadium additives other than ferrovanadium and nitrated vanadium, such as vanadium-aluminum master alloys, vanadium chemicals, vanadium waste and scrap, vanadium-bearing raw materials, such as slag, boiler residues, fly ash, and vanadium oxides.*<sup>28</sup>

The products subject to this review are currently classifiable under subheadings and statistical reporting numbers 2850.00.20, 7202.92.00, 7202.99.8040,<sup>29</sup> 8112.40.3000,<sup>30</sup> and 8112.40.6000 of the Harmonized Tariff Schedule of the United States (“HTSUS”).<sup>31</sup> Table I-2 presents the current tariff rates of the categories identified above.

**Table I-2  
Ferrovanadium and nitrated vanadium: HTSUS rates, 2006**

HTSUS provision	Article description	General	Special	Column 2
		Rates (percent ad valorem)		
2850	Hydrides, nitrides, azides, silicides and borides, whether or not chemically defined, other than compounds which are also carbides of heading 2849:			
2850.00.2000	Of vanadium <sup>1</sup> . . . . .	5.5	( <sup>2</sup> )	40.0
7202	Ferroalloys:			
	Other: <sup>3</sup>			
7202.92.0000	Ferrovanadium . . . . .	4.2	( <sup>4</sup> )	25.0
	Other: <sup>5</sup>			
7202.99.8040 <sup>7</sup>	Other <sup>6</sup> . . . . .	5.0	( <sup>4</sup> )	25.0
	Other <sup>8</sup>			

Table continued next page.

<sup>28</sup> *Final Results of Expedited Sunset Review: Ferrovanadium and Nitrated Vanadium from Russia*, 71 FR 44998, August 8, 2006.

<sup>29</sup> *Ibid.* While the final results of Commerce’s expedited sunset review indicate that statistical reporting number 7202.99.5040 of the HTSUS may be used to classify merchandise subject to the antidumping duty under review, it does not take into account Presidential Proclamation 7689 (68 FR 39795, July 2, 2003) which modified the HTSUS by removing the subheading 7202.99.50 and replacing it with two new subheadings: 7202.99.20, applicable to calcium silicon, which was previously not provided for; and, 7202.99.80, which retained the “other” category.

<sup>30</sup> While 8112.40.30 was included in the list of HTSUS subheadings provided by Commerce to Customs in its original antidumping duty order (60 FR 35550, July 10, 1995) and subsequent continuation order (66 FR 30694, June 7, 2001), merchandise properly classified under subheading 8112.40.30 is explicitly excluded from the scope of this order, *i.e.* vanadium metal waste and scrap.

<sup>31</sup> 71 FR 44998, August 8, 2006. Although the HTSUS provisions are provided for convenience and customs purposes, the written description remains dispositive.

**Table I-2--Continued**  
**Ferrovandium and nitrated vanadium: HTSUS rates, 2006**

HTSUS provision	Article description	General	Special	Column 2
		Rates ( <i>percent ad valorem</i> )		
8112	Berillium, chromium, germanium, vanadium, gallium, hafnium, indium, niobium (columbium), rhenium and thallium, and articles of these metals, including waste and scrap:  Vanadium:			
8112.40.3000	Waste and scrap <sup>9</sup> . . . . .	Free	( <sup>10</sup> )	Free
8112.40.6000	Other . . . . .	2.0	( <sup>4</sup> )	25.0

Note.--Presidential Proclamation 7689 (68 FR 39795, July 2, 2003) deleted an HTSUS subheading previously applicable to this review (7202.99.50) and replaced it with a new subheading (7202.99.80), adding a separate and new HTSUS subheading for calcium silicon (7202.99.20). Prior to this proclamation, calcium silicon was properly classified under the catchall "other" ferroalloys category.

- <sup>1</sup> This HTS provision applies to nitrated vanadium.
- <sup>2</sup> A Generalized System of Preferences ("GSP") duty free rate applies to product imported from Russia under this HTSUS number, absent the antidumping duty order in effect on the subject merchandise.
- <sup>3</sup> Ferroalloys other than ferromanganese, ferrosilicon, ferrosilicon manganese, ferrochromium, ferrosilicon chromium, ferromolybdenum, ferrotungsten and ferrosilicon tungsten.
- <sup>4</sup> No special rates apply to product imported from Russia under this HTSUS number.
- <sup>5</sup> Ferroalloys other than those listed in footnote 3 to this table and the following additional ferroalloys: ferrotitanium, ferrosilicon titanium, ferrovandium, and ferromagnesium.
- <sup>6</sup> Ferroalloys other than those listed in footnotes 3 and 5 to this table and the following additional ferroalloys: ferrozirconium, and calcium silicon.
- <sup>7</sup> 7202.99.5040 is the applicable HTSUS statistical reporting prior to July 2, 2003.
- <sup>8</sup> Ferroalloys other than those listed in footnotes 3, 5, and 6 to this table and ferrophosphorus. Although the applicable rates are given at the preceding 8-digit HTSUS code for "other," i.e. 7202.99.80.
- <sup>9</sup> While this statistical reporting number was included in the list of potential HTSUS provisions under which subject merchandise might enter the United States, material properly classified under this number is outside the scope of the antidumping duty order on ferrovandium and nitrated vanadium from Russia.
- <sup>10</sup> Special rates have not been applied to product imported under this HTSUS number as both the normal trade relations and non normal trade relations status countries are provided entry without duty.

Source: HTSUS (2006); *Presidential Proclamation 7689 To Modify Duty-Free Treatment Under the Generalized System of Preferences*, 68 FR 39795, July 2, 2003; and *Final Results of Expedited Sunset Review: Ferrovandium and Nitrated Vanadium from Russia*, 71 FR 44998, August 8, 2006.

**Previous Domestic Like Product, Domestic Industry, and Related Party Determinations**

In the original investigation, the Commission determined that there was a single domestic like product including ferrovandium and nitrated vanadium, regardless of grade, chemistry, form, or size.<sup>32</sup> In the first five-year review, the Commission determined that, because nitrated vanadium had not been produced in the United States since 1992 and because there were no significant changes in the nature, use, and production of ferrovandium and nitrated vanadium, the domestic like product consisted of

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<sup>32</sup> *Ferrovandium and Nitrated Vanadium from Russia, Inv. No. 731-TA-702 (Final)*, USITC Publication 2904, ("USITC Publication 2904") pp. I-6 to I-8. The Commission found that the similarities between ferrovandium and nitrated vanadium (such as end use application, related prices, and vanadium content) outweigh their differences (production, limited interchangeability). The issue of the grade of ferrovandium was not specifically addressed.

ferrovanadium.<sup>33</sup> In a related investigation on ferrovanadium from China and South Africa, the Commission determined that low-vanadium content grade and ASTM standard grade ferrovanadium do not constitute separate like products.<sup>34</sup> In this second five-year review, the domestic interested parties argue for a single domestic like product consisting of ferrovanadium.<sup>35</sup>

In the original investigation, the Commission determined that three firms performed sufficient domestic like product (*i.e.*, ferrovanadium and nitrated vanadium) production-related activities between 1992 and 1994 to be considered domestic producers: Metallurg (then Sheildalloy), Bear, and Stratcor.<sup>36</sup> Additionally, the Commission determined in the origination investigation that \*\*\* was engaged in sufficient production-related activities to qualify as a domestic producer.<sup>37</sup> In the first five-year review, the Commission determined that Metallurg (then Shieldalloy) and Bear were domestic producers of the domestic like product (*i.e.*, ferrovanadium).<sup>38</sup> The Commission expressly excluded the tollees Gulf and Stratcor (then U.S. Vanadium or USV).<sup>39</sup> In a related investigation on ferrovanadium from China and South Africa, the Commission determined Bear, Metallurg (then Sheildalloy), and International Specialty Alloys (“ISA”)<sup>40</sup> were domestic producers of the domestic like product (*i.e.*, ferrovanadium). The Commission again excluded the tollees Gulf and Stratcor (then USV), from the domestic industry.<sup>41</sup> In this second five-year review, the domestic interested parties argue that the Commission should consider

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<sup>33</sup> *Ferrovanadium and Nitrated Vanadium from Russia, Inv. No. 731-TA-702 (Review)*, USITC Publication 3570, (“USITC Publication 3570”) p. 5. The issue of the grade of ferrovanadium was not specifically addressed.

<sup>34</sup> USITC Publication 3570, pp. 8 to 9. The Commission found that all grades of ferrovanadium were potentially interchangeable, share physical characteristics, contain vanadium. The Commission also found that U.S. producers had the potential ability to produce either grade, had overlapping distribution channels, and their products displayed strong price correlation.

<sup>35</sup> Domestic interested parties’ response to the notice of institution, p. 17.

<sup>36</sup> USITC Publication 2904, p. I-9. These three firms actually transformed raw material inputs into ferrovanadium or nitrated vanadium.

<sup>37</sup> *Ferrovanadium and Nitrated Vanadium from Russia, Inv. No. 731-TA-702 (Final)*, Views of the Commission, (“Original views”) p. 12; *See also* USITC Publication 2904, p. I-9. \*\*\* produced an intermediate product and \*\*\*.

<sup>38</sup> USITC Publication 3420, p. 6. Commissioner Bragg dissented and determined that Gulf was also part of the domestic industry in the first five-year review. *See* USITC Publication 3420, fn. 35.

<sup>39</sup> USITC Publication 3420, p. 6. While Stratcor/USV produced the domestic like product (*i.e.*, ferrovanadium and nitrated vanadium) during the original investigation, it did not produce the domestic like product (*i.e.*, ferrovanadium) over the period of the first five-year review. \*\*\* production of vanadium pentoxide for production into ferrovanadium in their toll relationship with Bear did not constitute production of the domestic like product, ferrovanadium, and thus they were not included in the domestic industry.

<sup>40</sup> ISA was not identified as a producer of ferrovanadium in the domestic interested parties’ response to the notice of institution in this second five-year review. *See* domestic interested parties’ response to the notice of institution, p. 2. A review of ISA’s website indicates that it produces vanadium master alloys for the titanium industry. “Vanadium Based Master Alloys,” International Speciality Alloys, found at [http://www.specialtyalloys.com/v\\_alloys.htm](http://www.specialtyalloys.com/v_alloys.htm). It appears that ISA had converted small quantities of vanadium pentoxide into ferrovanadium for another firm during the period reviewed during the first review. *See* USITC Publication 3570, p. 9, fn. 50.

<sup>41</sup> USITC Publication 3570, pp. 10-11. Despite their exclusion, the Commission recognized that Gulf and Stratcor had substantial ferrovanadium-related production activities and that, as appropriate, the Commission would consider the condition of Stratcor and Gulf in its assessment of the impact of subject imports on the domestic industry.

Gulf as part of the domestic industry because as of mid-December 2005, Gulf acquired 100 percent of Bear's common stock, making Bear Gulf's wholly owned subsidiary.<sup>42</sup>

In the original investigation, the Commission determined that two firms qualified as related parties due to their imports of LTFV merchandise: Metallurg (then Shieldalloy) and Stratcor.<sup>43</sup> However, the Commission determined that appropriate circumstances did not exist to exclude either firm from the domestic industry.<sup>44</sup> In the first five-year review, the Commission did not make a related parties determination,<sup>45</sup> as \*\*\*.<sup>46</sup> In this second five-year review, the domestic interested parties argue that there are no related party issues.<sup>47</sup>

### Physical Characteristics and Uses

Ferrovandium and nitrated vandium are common alloying agents used to improve the hardness and ductility of carbon-alloy, high-strength low-alloy ("HSLA"), and full-alloy steels.<sup>48</sup> Ferrovandium and nitrated vandium are not commercially used in other applications of vandium.<sup>49</sup> It is the vandium element for which the ferrovandium and nitrated vandium are primarily purchased as it is the vandium itself that produces the desired enhancements in steel alloys.<sup>50</sup> Vandium is a chemical element, with an atomic number 23, which is found naturally in a variety of minerals, certain ores, and residuals from organic compounds, namely crude oil.<sup>51</sup> Pure vandium is a soft and ductile, gray-white metal.

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<sup>42</sup> Domestic interested parties' response to the notice of institution, p. 18. For most of the period under review, however, Bear was the toll producer for Gulf's vandium pentoxide, in the same manner as it had been during the first review when the Commission determined it was not a domestic producer of ferrovandium. The practical implications of the inclusion or exclusion of Gulf within the definition of the domestic industry for the period prior to its acquisition of Bear for the purpose of this review, however, are limited because the Commission has not collected any new financial information related to the production of ferrovandium in the United States for the purposes of this expedited five-year review. The Commission does not seek financial information in its notices of institution in five-year reviews.

<sup>43</sup> USITC Publication 2904, p. I-12.

<sup>44</sup> USITC Publication 2904, pp. I-12 to I-13.

<sup>45</sup> USITC Publication 3420, p. 7.

<sup>46</sup> Confidential staff report INV-Y-072 (April 13, 2001), p. I-16; *See also* USITC Publication 3420, p. I-9.

<sup>47</sup> Domestic interested parties' response to the notice of institution, p. 13.

<sup>48</sup> An estimated 93-94 percent of the use of vandium in the United States relates to its use as an alloying agent in steel production. *Vandium Statistics and Information*, U.S. Geological Survey Mineral Commodity Summaries, January 13, 2006.

<sup>49</sup> Confidential staff report INV-S-082 (June 15, 1995), p. I-6; *See also* USITC Publication 2904, p. II-6. Other uses for vandium include (i) being part of other specialty alloys, such as titanium alloys used in the aerospace industry (while some producers of these alloys may occasionally purchase ferrovandium, most purchase a vandium-aluminum for their titanium alloys as iron content is not desired), (ii) use of vandium pentoxide as a catalyst in sulfuric acid production, (iii) use of vandium dioxide as an infrared barrier in windows manufacturing, (iv) use of vandium pentoxide in ceramics as a color, and (v) as a key element in various compounds used in vandium redox batteries, one of several types of commercially viable rechargeable batteries.

<sup>50</sup> USITC Publication 2904, p. II-6.

<sup>51</sup> *Vandium Facts*, VPR Association, found at <http://www.vpra.org/Vandium%20Facts.htm>. In fact, vandium was first discovered by Andrés Manuel del Río in 1801 within ore from Mexico which contained vandium.

However, due to similarities in the physical properties of vandium with chromium, Manuel del Río's discovery was  
(continued...)

Ferrovanadium, an iron and vanadium (FeV) compound or a mixture of pure vanadium and FeV,<sup>52</sup> is commercially sold as chunks of pulverized metal. Nitrided vanadium, a vanadium-nitrogen compound, is commercially sold as pellets of metal.<sup>53</sup> When added to molten steel, vanadium forms stable carbides and stable nitrides, which result in the desired improvements to the overall alloy (*i.e.*, increased hardness and ductility).<sup>54</sup> Figure I-1 graphically presents ferrovanadium and nitrided vanadium.

**Figure I-1**  
**Ferrovanadium and nitrided vanadium: Samples**



Ferrovanadium



Nitrided vanadium

Source: *Vanadium Alloys for Steel*, Stratcor website, <http://www.stratcor.com/steel/steel.html>.

Firms sell ferrovanadium in grades ranging from 40 percent vanadium content by weight to 80 percent vanadium content by weight;<sup>55</sup> however, all ferrovanadium regardless of vanadium content is sold on a per pound of vanadium basis.<sup>56</sup> While the American Society for Testing and Materials (“ASTM”) maintains only a single standard for ferrovanadium at the 75 to 85 percent contained vanadium range,<sup>57</sup> the lack of a standard for lower grades of ferrovanadium does not imply that those products are of poor quality or that demand does not exist for them.<sup>58</sup> ASTM standard ferrovanadium can be used in

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<sup>51</sup> (...continued)

mistakenly rejected by the scientific community at the time. Nils Gabriel Sefström (re)discovered the element in 1830 and named it “vanadium” after the Scandinavian goddess of love and beauty, Vanadis. Henry Ford is widely accredited for beginning the U.S. vanadium industry in the early twentieth century by his choice to “import” a metallurgist from France to replicate the crack-resistant gears of a French luxury car he examined, which contained vanadium alloy gears, for use in the Model T. In spite of additional end-use discoveries for vanadium in the twentieth century, its use as an additive to steel alloys remains its primary end-use industrial application.

<sup>52</sup> 42 to 48 percent vanadium content ferrovanadium is a homogenous solid made out of the compound FeV, while 75 to 85 percent vanadium content ferrovanadium is a solid-state solution of FeV with pure vanadium, V.

<sup>53</sup> Nitrided vanadium is no longer produced in the United States. Unlike ferrovanadium, nitrided vanadium does not contain iron and is, therefore, not considered a ferroalloy.

<sup>54</sup> Confidential staff report INV-Y-072 (April 13, 2001), p. I-10; *See also* USITC Publication 3420, p. I-6.

<sup>55</sup> USITC Publication 2904, p. II-5.

<sup>56</sup> USITC Publication 2904, p. II-7. The domestic interested parties reported trade data in pounds of contained vanadium for the purposes of this review. *See* Domestic interested parties’ response to the notice of institution, p. 14.

<sup>57</sup> ASTM Standard A 102-93 “Standard Specification for Ferrovanadium,” from *Annual Book of ASTM Standards*, Volume 01.02 Ferrous Castings; Ferroalloys, p. 73.

<sup>58</sup> *Ferrovanadium from China and South Africa, Inv. Nos. 731-TA-986 and 987 (Final)*, USITC Publication 3570 (continued...)

most all alloying applications, while certain end uses may allow the use of the lower grade ferrovanadium or nitrided vanadium.<sup>59</sup>

The U.S. Geological Survey maintains that the three primary end uses for vanadium are all as an alloying agent in steel production: an estimated 29.9 percent for carbon alloy steel, 37.6 percent for full-alloy (including tool and stainless steel), and 24.9 percent for HSLA steel in 2005.<sup>60</sup> The quantity of vanadium added as a percentage to the overall resulting steel alloy by weight depends on end-use:<sup>61</sup> in HSLA steel, in which vanadium is typically microalloyed with nitrogen and carbon, vanadium typically accounts for between 0.02 to 0.10 percent of the end product by weight;<sup>62</sup> in certain high alloy steels such as tool steel, vanadium can account for up to 5 percent of the end product by weight;<sup>63</sup> but most purchasers from the original investigation indicated that vanadium accounted for less than 1 percent of their end product by weight.<sup>64</sup> Nitrided vanadium can be used in only certain end-use applications, namely HSLA steel in which nitrogen content is not considered a contaminant, while ferrovanadium can be used in all end-use applications.<sup>65</sup> The choice of a grade of ferrovanadium also depends largely on its end-use application; steel applications requiring low residual chemistry and/or higher vanadium content by weight of end product, such as the high-alloy steels (tool, stainless, *et cetera*), typically specify the use of ASTM standard ferrovanadium, while less demanding end composition products such as basic carbon steel typically may use lower grades of ferrovanadium.<sup>66</sup>

Table I-3 presents information on ferrovanadium-related end uses of vanadium, typical grades used, and estimated weight ranges of vanadium in end-use products.

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<sup>58</sup> (...continued)

(“USITC Publication 3570”), pp. I-7 to I-8.

<sup>59</sup> USITC Publication 2904, pp. II-7 to II-8.

<sup>60</sup> *Vanadium Statistics and Information*, U.S. Geological Survey Mineral Yearbook, 2005 data, found at <http://minerals.usgs.gov/minerals/pubs/commodity/vanadium/index.html>. For a total of 92.6 percent of U.S. vanadium consumption. Additional end-use applications include catalysts (the dominant use), ceramics, electronics, and vanadium chemicals. These other end uses for vanadium typically do not consume ferrovanadium, but other vanadium derivatives.

<sup>61</sup> USITC Publication 2904, p. II-6.

<sup>62</sup> USITC Publication 3420, p. I-6. *And* USITC Publication 2904, p. II-6. Typically, steel producers seek to limit nitrogen content in high alloy steels such as tool steel because of the brittling effect of the presence of these atoms in the alloy.

<sup>63</sup> USITC Publication 3420, p. I-6. *And* USITC Publication 2904, p. II-6. *See also* “CPM Wear Resistant Tool Steels” from Crucible Service, <http://www.crucibleservice.com/products/CPM/toolSteel/index.cfm>.

<sup>64</sup> USITC Publication 2904, p. II-6.

<sup>65</sup> USITC Publication 2904, pp. II-7 to II-8.

<sup>66</sup> USITC Publication 2904, p. II-7.

**Table I-3  
Ferrovanadium and nitrided vanadium: Primary end uses, typical grades, and estimated weight ranges**

Primary end use	Typical grade used <sup>1</sup>	Estimated weight range of vanadium in end product
Carbon alloy steel	Low vanadium content ferrovanadium	Not separately specified in earlier reports, typically less than 1 percent <sup>2</sup>
HSLA steel	Nitrided vanadium	Typically 0.02 to 0.10 percent
High alloy steels	ASTM standard vanadium	Up to 3 to 5 percent
<p><sup>1</sup> It is technically possible to use a non-typical grade product for any of the listed end uses, but to do so might cause the producer to incur greater costs or change its production processes.</p> <p><sup>2</sup> In the original investigation it was found that ferrovanadium typically accounted for less than 1 percent of its end products by weight.</p> <p>Source: USITC Publications 2904 and 3420.</p>		

### Production Process

There are two common production processes used in the manufacture of ferrovanadium: silicothermic reduction and aluminothermic reduction.<sup>67</sup> Silicothermic reduction produces low vanadium content grade ferrovanadium through a reduction of vanadium pentoxide extracted from vanadium-bearing slag or other vanadium-containing materials.<sup>68</sup> Metallurg (formerly Shieldalloy) uses this two step process at its Cambridge, OH facility.<sup>69</sup> Aluminothermic reduction produces high vanadium content grade (*i.e.*, ASTM standard) ferrovanadium through a reduction of vanadium pentoxide in the presence of steel scrap or by direct reduction in an electric arc furnace.<sup>70</sup> Gulf (formerly Bear) uses this one step process at its Butler, PA facility.<sup>71</sup> Vanadium-bearing slag and other vanadium-containing materials, such as vanadium-containing ash from power generation facilities and vanadium-contaminated spent catalysts from oil refining, are the main raw material inputs in the silicothermic reduction process.<sup>72</sup> Vanadium pentoxide is the main raw material input in the aluminothermic reduction process.<sup>73</sup> Ferrovanadium, once formed, is poured molten into molds, solidified, and then crushed to size before being packaged for

<sup>67</sup> USITC Publication 3420, p. I-7.

<sup>68</sup> USITC Publication 2904, p. II-10. *See also* *Vanadium Statistics and Information*, U.S. Geological Survey Mineral Yearbook, 2005, found at <http://minerals.usgs.gov/minerals/pubs/commodity/vanadium/index.html>.

<sup>69</sup> USITC Publication 3420, p. I-7. Metallurg can produce ASTM grade ferrovanadium only through further processing.

<sup>70</sup> USITC Publication 2904, p. II-10. *See also* *Vanadium Statistics and Information*, U.S. Geological Survey Mineral Yearbook, 2005, found at <http://minerals.usgs.gov/minerals/pubs/commodity/vanadium/index.html>.

<sup>71</sup> USITC Publication 3420, p. I-7. Gulf can produce low vanadium content ferrovanadium only through further processing.

<sup>72</sup> USITC Publication 2904, pp. II-9 to II-10. In the silicothermic two-step continuous process, vanadium pentoxide is formed between steps, so modification of the production process to use vanadium pentoxide as a raw material input is possible, however, undesirable due to costs, both implicit (purchasing vanadium pentoxide) and explicit (modifying the continuous process).

<sup>73</sup> USITC Publication 2904, p. II-10. In the aluminothermic process, vanadium-bearing materials have previously been processed into vanadium pentoxide at other facilities.

transport.<sup>74</sup> Production of nitrided vanadium involves a different process from ferrovanadium that subjects the raw material input vanadium pentoxide to a nitrogen atmosphere under certain conditions which forces the vanadium to form a vanadium-nitrogen compound (*i.e.*, nitrided vanadium) containing approximately 80 percent vanadium and 7 to 12 percent nitrogen by weight.<sup>75</sup> Stratcor, the only firm to have produced nitrided vanadium in the United States, ceased U.S. production in July 1992 in favor of importing from its subsidiary in South Africa.<sup>76</sup>

### **Channels of Distribution**

In the original investigation, most U.S. importers and U.S. producers sold their material directly to end users, although some subject merchandise from Russia had to be crushed and repackaged prior to resale.<sup>77</sup> In the first five-year review, the channels of distribution had not changed significantly from the original investigation. It was noted that there were some metal distributors that purchased ferrovanadium for resale (and sometimes remix product) but the majority of material was sold by the U.S. producer/tollee and/or U.S. importer directly to steel producing firms.<sup>78</sup> There is no new information in this second five-year review indicating a change to the channels of distribution for ferrovanadium and/or nitrided vanadium; the majority of purchasers buy crushed ferrovanadium or nitrided vanadium, packaged to various sizes, from U.S. suppliers for use as a raw material input in their production of steel.<sup>79</sup>

### **Interchangeability**

In the original investigation, the Commission found that subject imports and the domestic like product (*i.e.*, ferrovanadium and nitrided vanadium) were interchangeable and serve as good substitutes.<sup>80</sup> Significantly, 75 percent of the responding U.S. purchasers reported that there were no significant differences between U.S. and Russian ferrovanadium, and U.S. producers indicated no significant quality differences between Russian produced and domestically produced ferrovanadium and nitrided vanadium.<sup>81</sup> In the first five-year review, the Commission found that conditions had not materially changed since the original investigation and that Russian product was likely to be as or even more substitutable for the domestic like product (*i.e.*, ferrovanadium) than in the original investigation.<sup>82</sup> All reporting U.S. purchasers and most reporting U.S. importers of ferrovanadium indicated Russian product was used interchangeably with domestic product.<sup>83</sup> The domestic interested parties contend that the high

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<sup>74</sup> USITC Publication 2904, pp. II-10 to II-11.

<sup>75</sup> USITC Publication 2904, p. II-11.

<sup>76</sup> USITC Publication 2904, p. II-13.

<sup>77</sup> USITC Publication 2904, pp. II-8 to II-9 and II-13.

<sup>78</sup> USITC Publication 3420, p. I-8.

<sup>79</sup> *Ibid.*

<sup>80</sup> USITC Publication 2904, p. 18.

<sup>81</sup> USITC Publication 2904, pp. II-32 to II-33.

<sup>82</sup> USITC Publication 3420, p. 12. Testimony at the hearing in the first review indicated that one Russian producer had begun producing the ASTM standard grade ferrovanadium, which had not been the case at the time of the original investigation. *See* USITC Publication 3420, p. 12 and fn. 78.

<sup>83</sup> USITC Publication 3420, p. II-3.

degree of substitutability between domestic and Russian ferrovanadium remains accurate today.<sup>84</sup> There are no respondent interested parties participating in this review. There is no new information on the record on Russian production since the first review to indicate a change in the interchangeability of Russian produced and domestically produced ferrovanadium.

## THE INDUSTRY IN THE UNITED STATES

### U.S. Producers

There are currently two U.S. producers of ferrovanadium: Gulf, through its wholly owned subsidiary Bear, and Metallurg.<sup>85</sup> In December 2005, Gulf acquired 100 percent of Bear, an increase from its previous 49.5 percent stake.<sup>86</sup> Prior to December 2005, Bear toll produced ferrovanadium for Gulf and other firms from raw materials they supplied (*i.e.*, vanadium pentoxide).<sup>87</sup> Gulf, through its wholly owned subsidiary Bear, continues to toll produce ferrovanadium from raw materials supplied by other firms in the United States over the period of review.<sup>88</sup> Stratcor, a former U.S. producer of ferrovanadium and of nitrided vanadium,<sup>90</sup> is still active in the ferrovanadium and nitrided vanadium markets in the United States but not as a U.S. producer.<sup>91</sup> Metallurg and Gulf/Bear have been the only U.S. producers of ferrovanadium since 1993 when Stratcor closed its ferrovanadium factory in Niagara Falls, NY, as part of its Chapter 11 restructuring.<sup>92</sup> There are currently no known U.S. producers of nitrided vanadium.

### U.S. Producers' Production, Shipments, Employment, and Financial Data

In the original investigation, U.S. producers' U.S. shipments decreased over the period of investigation by both quantity and value, and the unit value of U.S. producers' U.S. shipments in 1994

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<sup>84</sup> Domestic interested parties' response to the notice of institution, p. 12.

<sup>85</sup> Domestic interested parties' response to the notice of institution, p. 2.

<sup>86</sup> *Ibid.*, p. 13 and fn. 35.

<sup>87</sup> *Ibid.* *See also* USITC Publication 2904, p. II-13.

<sup>88</sup> Domestic interested parties' response to the notice of institution, pp. 14 and 15.

<sup>89</sup> \*\*\* is the other major tollee for Bear/Gulf. Since Gulf's acquisition of Bear took place in December 2005, Bear and Metallurg (formerly Shieldalloy) were the major U.S. producers over the period of review.

<sup>90</sup> Stratcor closed its nitrided vanadium product line in July 1992 and separately shut down its ferrovanadium facility in Niagara Falls, NY, in December 1993. *See* USITC Publication 2904, pp. II-13 to II-14. Stratcor was recently acquired by Evarz Group S.A. (Luxemburg). *See* "Vanadium April 2006," U.S. Geological Survey, found at <http://minerals.usgs.gov/minerals/pubs/commodity/vanadium/>.

<sup>91</sup> Domestic interested parties' response to the notice of institution, p. 15. *See also* USITC Publication 3420, p. I-9. In the original investigation, Stratcor was identified as Stratcor. In the first review, Stratcor was identified as U.S. Vanadium Corporation ("U.S. Vanadium"), one of its wholly-owned subsidiaries. In this review, Stratcor is again identified as Stratcor, the parent firm. Prior to July 2004, Stratcor (*i.e.* Strategic Mineral Corporation) owned two wholly owned subsidiaries: U.S. Vanadium and Stratcor Performance Materials, Inc. Since July 2004, Stratcor consolidated these two entities into a single wholly owned subsidiary, Stratcor, Inc. *See* "Strategic Minerals Establishes New Vanadium Subsidiary in U.S.," Stratcor Press Release, July 1, 2004.

<sup>92</sup> USITC Publication 2904, p. II-14. Stratcor continued to produce vanadium pentoxide at its Hot Springs, AR plant, and \*\*\* toll convert this material into ferrovanadium for sale in the United States. *See* First review staff report INV-Y-072 (April 13, 2001), p. I-15; USITC Publication 3420, p. I-9.

\*\*\* the unit value in 1992.<sup>93</sup> In the first five-year review, the quantity of U.S. producers' U.S. shipments increased between 1995 and 1998, but then decreased between 1998 and 2000; while the value fluctuated.<sup>94</sup> The unit value of U.S. producers' U.S. shipments was \*\*\* percent lower in 2000 than in 1995.<sup>95</sup> In this second five-year review, data on U.S. producers' U.S. shipments are only available for Metallurg and Gulf/Bear.<sup>96</sup> Notably, U.S. producers' U.S. shipments' unit value in 2005 is \*\*\* times the unit value of U.S. producers' U.S. shipments in 2000.<sup>97</sup>

Table I-4 presents information on production, shipments, employment, and financial data for U.S. producers' ferrovanadium operations from 1992 to 2000 and 2005. In 2005, U.S. producers had \*\*\* more production of ferrovanadium than in 2000.

**Table I-4**  
**Ferrovanadium and nitrated vanadium: U.S. producers' production, shipments, employment, and financial data, 1992-2000 and 2005**

\* \* \* \* \*

At the time of the first review, U.S. producers apparently shifted to supplying more of the ASTM standard material and less of the lower grades of ferrovanadium;<sup>98</sup> however, both the ASTM standard ferrovanadium and lower grades of ferrovanadium are commercially available today.<sup>99</sup>

In the original investigation, the Commission determined that the domestic industry (defined as actual producers, tollers, and tollees with significant U.S. ferrovanadium or nitrated vanadium-related production) was materially injured based, in part, on operating losses in 1992 and 1993, and low profitability in 1994, the year in which Stratcor was no longer producing ferrovanadium itself but having its vanadium pentoxide converted into ferrovanadium under a toll arrangement with Bear.<sup>100</sup> In the first five-year review, the Commission found that the revocation of the antidumping duty order on ferrovanadium and nitrated vanadium from Russia would be likely to lead to the continuation or

<sup>93</sup> Confidential staff report INV-S-082 (June 15, 1995), p. I-22; *See also* USITC Publication 2904, p. II-15.

<sup>94</sup> USITC Publication 3420, p. III-1.

<sup>95</sup> *Ibid.*

<sup>96</sup> Domestic interested parties' response to the notice of institution, pp. 14 and 15. Data on \*\*\* U.S. commercial shipments \*\*\* are not available as that firm, \*\*\*, has not participated in this second five-year review. Therefore, a comparison between U.S. producers' U.S. shipments by quantity and by value between 2005 and earlier periods is not possible. However, the domestic interested parties estimated that \*\*\*, which would indicate that \*\*\* most likely shipped \*\*\* pounds contained vanadium of ferrovanadium in 2005. This estimate would suggest that the quantity of U.S. producers' U.S. shipments were approximately \*\*\* pounds contained vanadium in 2005, or nearly the same quantity (\*\*\*) of U.S. producers' U.S. shipments as in 2000.

<sup>97</sup> *See* figure I-2.

<sup>98</sup> USITC Publication 3420, p. I-5. This shift apparently related to a change in the production mix of a single firm, \*\*\*. *See* Confidential staff report INV-Y-072 (April 13, 2001), pp. I-9 to I-10.

<sup>99</sup> *See* "Ferrovan<sup>TM</sup>" at Metallurg's website <http://www.metallurgvanadium.com/ferovan.html> (42 to 48 percent grade), *and see* "Products" at Bear's website, <http://www.bearmet.com/products.htm> (ASTM, 75 to 85 percent grade). In the final investigation on ferrovanadium from China and South Africa in 2002, there was evidence presented that while Bear typically produced ASTM standard ferrovanadium and Shieldalloy (now Metallurg) typically produced lower grades of ferrovanadium, both had the capability to produce either. USITC Publication 3570, p. I-6.

<sup>100</sup> USITC Publication 2904, p. I-21.

recurrence of material injury to the domestic industry (only the actual producers and tollers), in part, because of the vulnerability of domestic producers operating in aggregate with operating \*\*\* in 1998 and 1999.<sup>101</sup> As the Commission does not request financial data in its notices of institution, financial data on U.S. producers' ferrovanadium operations are not available in this expedited review. The domestic interested parties note, however, that "the domestic industry producing ferrovanadium has made significant capital investments in recent years" consistent with growth in demand for ferrovanadium from the U.S. steel industry.<sup>102</sup> The domestic interested parties argue that revocation of the order would "jeopardize the future of the domestic industry's current and planned investments in the United States."<sup>103</sup>

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

### U.S. Importers

There are currently no known U.S. importers importing ferrovanadium or nitrated vanadium from Russia.<sup>104</sup> There have been no known imports of ferrovanadium or nitrated vanadium from Russia since 1996.<sup>105</sup> In the original investigation, approximately a dozen firms had been identified as importers of subject merchandise, including the petitioner (*i.e.*, Metallurg, at the time Shieldalloy) and Stratcor.<sup>106</sup> In the first review, none of the respondent U.S. importers reported imports of subject merchandise.<sup>107</sup> U.S. importer Galt, which as an exporter of record in the original investigation received a firm-specific margin of 3.75 percent,<sup>108</sup> was the only known firm to import/export ferrovanadium or nitrated vanadium from Russia following the application of antidumping duties.<sup>109</sup> Galt's dumping margin was revised on

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<sup>101</sup> USITC Publication 3420, p. I-18. Bear, which operated as a toller, reported a \*\*\* income margin, while Metallurg (then Shieldalloy), which was an integrated ferrovanadium producer, reported a \*\*\* income margin. First review views, fn. 128; *See also* USITC Publication 3420, p. 18, fn.128. Gulf and Stratcor were referenced as \*\*\* of the firms in the domestic industry and that they could be adversely affected by the revocation of the order, which in turn would further harm the domestic industry. *See* USITC Publication 3420, pp. 28 to 30.

<sup>102</sup> Domestic interested parties' response to the notice of institution, p. 12. Additionally, data on U.S. producers' U.S. shipments indicate unit values in 2005 were \*\*\* times greater than in 2000. However, the domestic interested parties note that since an historic high of \$60.00 per pound contained vanadium in April 2005, U.S. ferrovanadium prices have declined to \$18.78 per pound contained vanadium in March 2006. *Ibid*, p. 17. Staff notes that \$18.78 per pound contained vanadium represents \*\*\* times the value of vanadium in 2000.

<sup>103</sup> Domestic interested parties' response to the notice of institution, p. 13.

<sup>104</sup> Domestic interested parties' response to the notice of institution, pp. 13 and 14.

<sup>105</sup> Domestic interested parties' response to the notice of institution, p. 4. *See also* table I-5 of this report.

<sup>106</sup> USITC Publication 2904, p. II-14. Stratcor was \*\*\* of ferrovanadium from Russia in the original investigation, accounting for approximately \*\*\* of reported imports in 1993 and \*\*\* in 1994. Shieldalloy's (now Metallurg) imports of Russian ferrovanadium accounted for approximately \*\*\* of reported imports in 1993 and \*\*\* in 1994. The remaining importers were independent metals trading companies, including \*\*\*; others were not identified. *See* confidential staff report INV-S-082 (June 15, 1995), p. I-21.

<sup>107</sup> USITC Publication 3420, p. I-9.

<sup>108</sup> 60 FR 35550, July 10, 1995.

<sup>109</sup> Domestic interested parties' response to the notice of institution, p. 13.

December 15, 1997, following an administrative review by Commerce to 34.66 percent.<sup>110</sup> No new information on U.S. importers has been collected in this second five-year review.

### **U.S. Imports**

As previously stated, there are currently no known U.S. importers of ferrovandium or nitrated vanadium from Russia as there are currently no known imports of ferrovandium or nitrated vanadium from Russia.<sup>111</sup> Galt, which was the only U.S. firm to import product from Russia following the application of the antidumping duty order, last imported subject merchandise in 1996 and is believed to no longer operate as a supplier in the ferrovandium industry.<sup>112</sup> Since the application of the antidumping duties on ferrovandium and nitrated vanadium, Russian producer Tulachermet entered into a toll agreement with Czech and Belgian ferrovandium producers. Under this agreement Tulachermet ships its vanadium pentoxide to them for conversion to ferrovandium and that product is then either shipped to purchasers in Europe or the United States.<sup>113</sup> The domestic interested parties not only indicate that this tolling arrangement still exists,<sup>114</sup> but that higher volumes of this material have entered the U.S. market since the application of the antidumping duty orders on ferrovandium from China and South Africa.<sup>115</sup> Additionally, Russian producer Tulachermet purchased 50 percent of Nikom AS, the Czech ferrovandium conversion facility, in 2005.<sup>116</sup> Separately and relatedly, the domestic interested parties note that following the imposition of antidumping duties on ferrovandium from South Africa, the South African ferrovandium producer Xstrata began exporting ferrovandium from Swaziland.<sup>117</sup>

Table I-5 presents information on U.S. imports of ferrovandium (and nitrated vanadium between 1992 and 1994) by source since the original investigation.<sup>118</sup>

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<sup>110</sup> 62 FR 65656. The revision upward is due to the application of the 108.00 percent Russia-wide rate to the share of Galt's imports related to ferrovandium produced by Chusovoy because Chusovoy failed to cooperate fully in the administrative review. Following these revisions Galt ceased importing ferrovandium from Russia. Galt currently operates in the titanium industry, which uses separate vanadium-derivative products as raw material inputs, such as various grades of a vanadium-aluminum master alloy.

<sup>111</sup> Domestic interested parties' response to the notice of institution, pp. 13 and 14.

<sup>112</sup> Domestic interested parties' response to the notice of institution, p. 4. *See also* Commerce decision memo, fn. 4 and attachments.

<sup>113</sup> Confidential staff report INV-Y-072 (April 13, 2001), p. IV-3; *See also* USITC Publication 3420, pp. IV-1 and IV-2.

<sup>114</sup> Domestic interested parties' response to the notice of institution, p. 7.

<sup>115</sup> Domestic interested parties' response to the notice of institution, p. 16.

<sup>116</sup> Domestic interested parties' response to the notice of institution, p. 8 and app. B, which is "Vanadium Update June 2005," U.S. Geological Survey, September 2005.

<sup>117</sup> Domestic interested parties' response to the notice of institution, p. 16.

<sup>118</sup> Nitrated vanadium is only included in data from the original investigation, 1992 to 1994. The domestic interested parties indicate that data included in the "basket" HTS category for nitrated vanadium, 2849.90.5000, contains information that is not reliable. Specifically, the domestic interested parties indicate that the imports from Russia under this category are goods other than nitrated vanadium. Domestic interested parties' response to the notice of institution, fn. 6. The quantity of imports from Russia under this category accounted for the majority of imports in all years except 2005. Notably absent from the data under this HTS statistical reporting number are Stratcor's imports of nitrated vanadium from its related firm in South Africa.

**Table I-5**  
**Ferrovanadium and nitrided vanadium:<sup>1</sup> U.S. imports, by source, 1992-2005**

Item	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
	Quantity (in 1,000 pounds contained vanadium)													
Russia	***	***	***	352	155	0	0	0	0	0	0	0	0	0
China	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	499	554	925	435	826	1,469	992	109	0	0	1
Czech Republic	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	636	1,073	141	45	71	1,183	738	2,619	568	3,052	3,188
South Africa	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	110	509	776	414	1,483	1,059	2,475	441	0	0	0
Swaziland	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	0	0	0	0	0	0	0	0	1,044	2,013	785
All others	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	2,712	1,846	2,216	2,687	1,869	1,812	1,412	2,391	1,352	1,500	887
Subtotal, nonsubject	***	***	***	3,957	3,982	4,059	3,581	4,249	5,523	5,617	5,560	2,964	6,564	4,861
Total imports	***	***	***	4,309	4,138	4,059	3,581	4,249	5,523	5,617	5,560	2,964	6,564	4,861
Landed, duty-paid value (in 1,000 dollars)														
Russia	***	***	***	2,087	1,520	0	0	0	0	0	0	0	0	0
China	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	4,555	3,720	7,405	4,449	3,861	6,270	3,744	349	0	0	16
Czech Republic	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	3,560	7,189	995	556	361	5,753	2,901	9,227	3,043	36,545	92,848
South Africa	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	947	3,684	6,513	4,560	6,991	5,536	9,588	1,644	0	0	0
Swaziland	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	0	0	0	0	0	0	0	0	5,744	14,966	17,282
All others	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	19,973	13,156	18,379	30,396	10,296	8,647	5,461	9,037	6,116	13,588	26,315
Subtotal, nonsubject	***	***	***	29,035	27,748	33,291	39,960	21,509	26,205	21,695	20,257	14,903	65,098	136,461
Total imports	***	***	***	31,122	29,268	33,291	39,960	21,509	26,205	21,695	20,257	14,903	65,098	136,461
Unit value (per pound contained vanadium)														
Russia	\$***	\$***	\$***	\$5.93	\$9.79	( <sup>3</sup> )								
China	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	9.13	6.72	\$8.00	\$10.23	\$4.67	\$4.27	\$3.78	\$3.20	( <sup>3</sup> )	( <sup>3</sup> )	\$28.21
Czech Republic	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	5.60	6.70	7.07	12.28	5.06	4.86	3.93	3.52	\$5.36	\$11.97	29.13
South Africa	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	8.61	7.23	8.39	11.01	4.72	5.23	3.87	3.73	( <sup>3</sup> )	( <sup>3</sup> )	( <sup>3</sup> )
Swaziland	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>3</sup> )	5.50	7.44	22.00							
All others	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	7.36	7.13	8.29	11.31	5.51	4.77	3.87	3.78	4.52	9.06	29.66
Subtotal, nonsubject	***	***	***	7.34	6.97	8.20	11.16	5.06	4.74	3.86	3.64	5.03	9.92	28.07
Total imports	***	***	***	7.22	7.07	8.20	11.16	5.06	4.74	3.86	3.64	5.03	9.92	28.07

Table continued on next page.

Table I-5--*Continued*Ferrovanadium and nitrated vanadium:<sup>1</sup> U.S. imports, by source, 1992-2005

Item	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
	Share of quantity (in percent)													
Russia	***	***	***	8.2	3.7	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
China	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	11.6	13.4	22.8	12.1	19.4	26.6	17.7	2.0	0.0	0.0	0.0
Czech Republic	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	14.8	25.9	3.5	1.3	1.7	21.4	13.1	47.1	19.2	46.5	65.6
South Africa	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	2.6	12.3	19.1	11.6	34.9	19.2	44.1	7.9	0.0	0.0	0.0
Swaziland	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	35.2	30.7	16.1
All others	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	62.9	44.6	54.6	75.0	44.0	32.8	25.1	43.0	45.6	22.9	18.2
Subtotal, nonsubject	***	***	***	91.8	96.2	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Total imports	***	***	***	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Share of value (in percent)														
Russia	***	***	***	6.7	5.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
China	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	14.6	12.7	22.2	11.1	18.0	23.9	17.3	1.7	0.0	0.0	0.0
Czech Republic	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	11.4	24.6	3.0	1.4	1.7	22.0	13.4	45.6	20.4	56.1	68.0
South Africa	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	3.0	12.6	19.6	11.4	32.5	21.1	44.2	8.1	0.0	0.0	0.0
Swaziland	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	38.5	23.0	12.7
All others	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	64.2	45.0	55.2	76.1	47.9	33.0	25.2	44.6	41.0	20.9	19.3
Subtotal, nonsubject	***	***	***	93.3	94.8	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Total imports	***	***	***	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

<sup>1</sup> Data on imports of nitrated vanadium are only included in years 1992 to 1994.

<sup>2</sup> Data on imports broken out based on nonsubject sources were not provided in the original investigation.

<sup>3</sup> Not applicable.

Note.--Import data in 2003, 2004, and 2005 are based on modifications provided by the U.S. Census Bureau in relation to errors in official Commerce statistics. See domestic interested parties' response to the notice of institution, app. A.

Source: Confidential staff report INV-S-082 (June 15, 1995), p. I-46; USITC Publication 2904, p. II-29; Confidential revision to the staff report INV-Y-083, table G-1; And Domestic interested parties' response to the notice of institution, app. A.

## Apparent U.S. Consumption

Data are not readily available to definitively calculate apparent U.S. consumption of ferrovanadium and nitrated vanadium in 2005.<sup>119</sup> In the original investigation, the market share of U.S. producers' U.S. shipments by quantity of apparent U.S. consumption decreased from \*\*\* percent in 1992 to \*\*\* percent in 1994.<sup>120</sup> In the first five-year review, the market share of U.S. producers' U.S. shipments by quantity of apparent U.S. consumption first increased from \*\*\* percent in 1995 to \*\*\* percent in 1998, then decreased to \*\*\* percent in 2000. In this second five-year review, staff estimates that apparent U.S. consumption of ferrovanadium and nitrated vanadium has not changed dramatically in 2005 compared to data observed during the period of the first five-year review (*i.e.*, 1995-2000).<sup>121</sup>

In the original investigation, the Commission found that demand for ferrovanadium and nitrated vanadium was driven by demand for downstream steel alloys.<sup>122</sup> At the time of the original investigation, the principal use (93 to 95 percent) of ferrovanadium and nitrated vanadium consumption was accounted for by use in the steel industry,<sup>123</sup> and prices for these products responded to changes in demand for downstream steel products.<sup>124</sup> In the first five-year review, the Commission again found demand for ferrovanadium was a function of downstream demand for steel production.<sup>125</sup> At the time of the first five-year review, the principal use (90 percent) of vanadium was for ferrovanadium which was used in the iron and steel industry,<sup>126</sup> and prices for ferrovanadium responded to changes in overall steel demand.<sup>127</sup> The domestic interested parties maintain that the same demand conditions from the original investigation and the first review prevail in the ferrovanadium market today.<sup>128</sup> In 2005, the U.S. Geological Survey data indicate that all ferrovanadium consumed in the United States can be accounted for by the steel

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<sup>119</sup> Data on Stratcor's U.S. shipments of material converted to ferrovanadium by Bear are unavailable. Additionally, data on Stratcor's import of nitrated vanadium are not readily available.

<sup>120</sup> Confidential staff report INV-S-082 (June 15, 1995), table 14; *See also* USITC Publication 2904, table 14.

<sup>121</sup> Based on an estimate provided by the domestic interested parties in their response to the notice of institution, staff calculates U.S. producers' U.S. shipments to equal approximately \*\*\* pounds contained vanadium, data in table I-5 indicate 4.9 million pounds contained vanadium of imports of ferrovanadium, and data from the first review indicate that for the purpose of measuring imports of nitrated vanadium U.S. importers' questionnaire responses were used. In the first review, imports of nitrated vanadium averaged \*\*\* pounds contained vanadium (based in large part on \*\*\*). Using the average of imports of nitrated vanadium for the purpose of estimating imports of nitrated vanadium in 2005, staff estimates that U.S. producers held approximately \*\*\* percent market share in 2005. This methodology might \*\*\* U.S. producers' share of apparent U.S. consumption to the degree to which U.S. importers have \*\*\* the quantity of their imports of nitrated vanadium since the first five-year review.

<sup>122</sup> USITC Publication 2904, p. I-13.

<sup>123</sup> USITC Publication 2904, p. II-6.

<sup>124</sup> USITC Publication 2904, p. II-31.

<sup>125</sup> USITC Publication 3420, p. 10.

<sup>126</sup> USITC Publication 3420, p. I-6 fn. 9.

<sup>127</sup> USITC Publication 3420, p. V-3.

<sup>128</sup> Domestic interested parties' response to the notice of institution, p. 15.

industry,<sup>129</sup> and industry sources indicate that U.S. and world vanadium prices continue to follow, with delay, changes in downstream steel prices.<sup>130</sup>

The domestic interested parties contend that U.S. producers of ferrovanadium have made significant capital investments in recent years due to increased demand for ferrovanadium from the U.S. steel industry, which they accredit to being the largest consumer of ferrovanadium in the United States.<sup>131</sup> The domestic interested parties credit the application of antidumping duties on China and South Africa as having a restrictive effect on the supply of imported ferrovanadium in the U.S. market; although, they indicate that, following the application of the orders on China and South Africa, the supply of foreign produced ferrovanadium increased from other sources, namely from the Czech Republic (produced from Russian vanadium pentoxide) and Swaziland.<sup>132</sup> According to industry sources, an increase in the demand of HSLA and full-alloy (*i.e.*, specialty) steels in the United States in recent years has in turn supported strong demand for vanadium.<sup>133</sup> A recent research partnership between the U.S. military and U.S. ferrovanadium producers and tollees seeks to expand the application of vanadium-bearing steel alloys in military applications.<sup>134</sup> Allegedly, overall world demand conditions for ferrovanadium, especially increased demand for vanadium-alloyed steel in China, continue to have a restrictive effect on U.S. supply conditions.<sup>135</sup>

Table I-6 present data on apparent U.S. consumption.

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<sup>129</sup> *Vanadium Statistics and Information*, U.S. Geological Survey Mineral Yearbook, 2005 data, found at <http://minerals.usgs.gov/minerals/pubs/commodity/vanadium/index.html>. The survey indicates that vanadium is consumed in United States in three forms: ferrovanadium (84.1 percent), vanadium oxides (8.8 percent), and other, primarily master alloys such as vanadium-aluminum for use in U.S. titanium industry (7.0 percent). The survey indicates that vanadium is used in either the steel industry (92.6 percent) or other industries, primarily titanium, chemical, and ceramic industries (7.5 percent). The chemical and ceramic industries use primarily vanadium pentoxide, while the titanium industry uses primarily vanadium in master alloys such as vanadium-aluminum, which is not a ferroalloy. In other words, all U.S. ferrovanadium consumption can be accounted for by the steel industry.

Vanadium pentoxide consumption can account for the remainder of U.S. steel producers' consumption of vanadium. In the original investigation, it was reported that steelmakers seldom use vanadium pentoxide in their steel production due to the additional costs involved in deoxidation (oxygen content in steel is generally considered a contaminant), but that it is possible. *See* USITC Publication 2904, p. II-7.

<sup>130</sup> "The Elasticity of Vanadium in a Surging Market," Stratcor, Robert M. Bunting, Ryan's Notes Ferroalloys Conference, Hollywood, Florida, October 26, 2004, found at <http://www.stratcor.com>. *See also* "A Feasible Strategy for Ferrovanadium: and The Windimurra Mine," Precious Metals Australia Limited, Roderick Smith, Ryan's Notes Ferroalloys Conference, Tucson, October 23-25, 2005, found at <http://www.pmal.com.au>.

<sup>131</sup> Domestic interested parties' response to the notice of institution, p. 12.

<sup>132</sup> Domestic interested parties' response to the notice of institution, p. 16. *See also* "U.S. imports" in this report for a discussion of nonsubject imports and the trade diversion effect of the antidumping duty orders on ferrovanadium.

<sup>133</sup> "The Elasticity of Vanadium in a Surging Market," Stratcor, Robert M. Bunting, Ryan's Notes Ferroalloys Conference, Hollywood, Florida, October 26, 2004, found at <http://www.stratcor.com>.

<sup>134</sup> "Creating a Stronger, Lighter U.S. Army," Vanadium Technology Partnership, found at <http://vanadiumtechnologypartnership.org/index.html>.

<sup>135</sup> "The Elasticity of Vanadium in a Surging Market," Stratcor, Robert M. Bunting, Ryan's Notes Ferroalloys Conference, Hollywood, Florida, October 26, 2004, found at <http://www.stratcor.com>. *And* "A Feasible Strategy for Ferrovanadium: and The Windimurra Mine," Precious Metals Australia Limited, Roderick Smith, Ryan's Notes Ferroalloys Conference, Tucson, October 23-25, 2005, found at <http://www.pmal.com.au>. *See also* "world demand" in this report for a discussion of recent supply and demand trends world-wide.

**Table I-6  
Ferrovanadium and nitrated vanadium: Apparent U.S. consumption, 1992-2000 and 2005**

\* \* \* \* \*

**PRICING DATA**

**Raw Material Inputs**

U.S. producers use one of four main raw material inputs in the production of ferrovanadium: vanadium pentoxide; vanadium-bearing slag;<sup>136</sup> vanadium-bearing ash;<sup>137</sup> and, vanadium-bearing spent catalysts<sup>138</sup> from oil refining.<sup>139</sup> The U.S. Geological Survey indicates that the U.S. vanadium industry relies extensively on imports of vanadium-bearing materials, although it has been noted that recycling activities related to vanadium recovery have played an increasingly pivotal role in the supply of raw materials in the ferrovanadium market.<sup>140</sup> Figure I-2 presents data on U.S. vanadium pentoxide spot prices, one of the four raw material inputs U.S. producers use.<sup>141</sup>

**Figure I-2  
Vanadium pentoxide: Prices, 1999-2005**

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<sup>136</sup> Slag is the waste skimmed off of molten iron in steel production.

<sup>137</sup> Vanadium-bearing ash is a waste product from certain energy firms that burn heavy crude. Heavy crude comes from Venezuela and has a high vanadium content, which makes the crude less desirable for commercial use as greater effort would be required to purify this product in oil refining.

<sup>138</sup> Spent catalysts are catalysts that have become unusable due to vanadium contamination. This should be differentiated from the use of vanadium pentoxide as a separate catalyst in oil refining and in the production of sulfuric acid. Generally, used vanadium pentoxide catalyst is either recycled back into vanadium pentoxide or disposed. Other contaminants from spent vanadium pentoxide catalysts typically make the product difficult to use in the manufacture of ferrovanadium.

An important new source of vanadium for U.S. producers of ferrovanadium will be vanadium recovered from tar sands in Alberta, Canada. In December 2005, Gulf announced the construction of a full-service spent catalyst processing facility in Alberta, Canada, to meet the needs of “increased capacity expected from the exploration and production of oil sand deposits located throughout Alberta.” *See* “Gulf Expands into Canada,” Gulf’s website, found at <http://www.gulfchem.com/whatsNew.html>.

<sup>139</sup> Confidential staff report INV-S-082 (June 15, 1995), p. I-13 and figure 5; *See also* USITC Publication 2904, p. II-9 to II-10 and figure 5. U.S. producers do not produce ferrovanadium from mined vanadium.

<sup>140</sup> “Vanadium,” Mineral Commodity Summaries, U.S. Geological Survey, 2006, found at <http://minerals.usgs.gov/minerals/pubs/commodity/vanadium/>. The U.S. Geological Survey indicates that in 2004 the primary import source of vanadium for consumption in the U.S. market relates to ferrovanadium (44.7 percent), followed by ash, ore, residues, and slag (34.8 percent), vanadium pentoxide (18.2 percent), other vanadium oxides (2.0 percent), and vanadium-bearing master alloys (0.2 percent).

<sup>141</sup> For the other raw material inputs, prices are not readily available. Also, U.S. ferrovanadium producers that produce ferrovanadium from vanadium-bearing slag incur greater production costs than U.S. ferrovanadium producers that produce the product from vanadium pentoxide, because in the process of producing ferrovanadium the former must first make vanadium pentoxide as an intermediary product in their production, even if the production process is continuous.

## Price Data

In the original investigation, Russian-origin ferrovanadium undersold the domestic like product in 6 out of 9 quarters for which data were available.<sup>142</sup> A price comparison between domestic nitrated vanadium and Russian-origin nitrated vanadium was not possible since Stratcor had ceased production of that material before Russian material was present in the market.<sup>143</sup> In the first review, a price comparison between subject imports and domestically produced ferrovanadium was not possible because the only known importer, Galt, did not provide data on its sales of Russian-origin ferrovanadium in the United States.<sup>144</sup> Price data were not collected in this second five-year review. Information on spot prices for ferrovanadium in the United States were compiled by the U.S. Geological Survey from Ryan's Notes (a ferroalloy industry publication) and are presented in table I-7 and figure I-3.

**Table I-7**  
**Ferrovanadium: U.S. spot prices, high values, 2001-05**

Month	2001	2002	2003	2004	2005
	Unit value (per pound contained vanadium)				
January	\$4.00	\$3.80	\$4.50	\$8.77	\$25.75
February	4.25	3.80	4.65	13.26	26.59
March	4.50	3.70	5.66	13.50	36.56
April	4.50	3.60	6.25	13.25	58.78
May	4.50	4.25	6.17	13.90	58.78
June	4.50	5.00	5.77	12.44	48.63
July	4.50	5.25	5.50	11.60	35.83
August	4.30	5.15	5.50	11.02	24.56
September	4.00	5.00	5.49	11.03	22.00
October	4.00	4.69	5.52	13.04	26.81
November	4.00	4.40	5.54	16.97	24.79
December	3.90	4.49	5.99	23.14	22.17

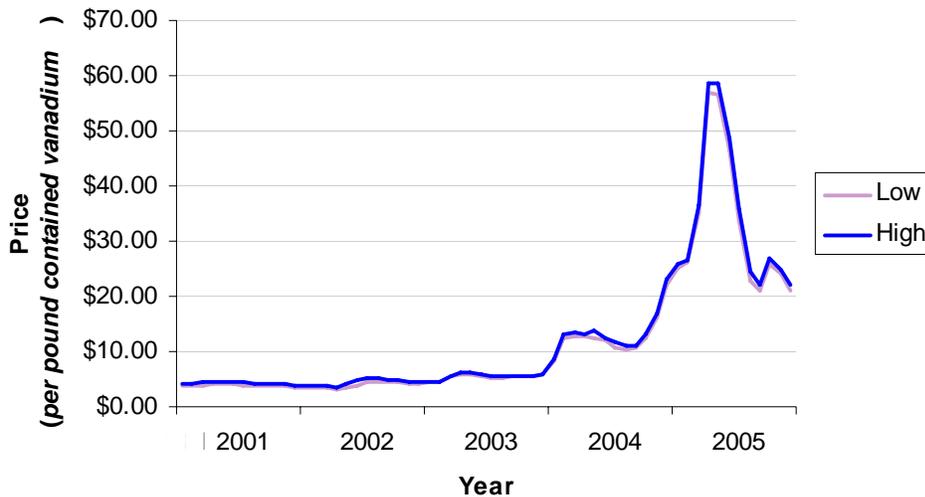
Source: U.S. Geological Survey, Mineral Industry Surveys (presented in the domestic interested parties' response to the notice of institution, app. C).

<sup>142</sup> Confidential staff report INV-S-082 (June 15, 1995), table 15; *See also* USITC Publication 2904, table 15. These 6 instances occurred in the last six quarters of the period of the original investigation.

<sup>143</sup> USITC Publication 2904, table 15.

<sup>144</sup> USITC Publication 3420, pp. V-2 to V-3. Galt ceased importing Russian-origin ferrovanadium in 1996 following the institution of an administrative review by Commerce on Galt's imports.

**Figure I-3**  
**Ferrovanadium: U.S. spot-market price, 2001-05**



Source: Table I-7.

### THE INDUSTRY IN RUSSIA

In the original investigation, there were only two Russian producers of ferrovanadium and nitrified vanadium (Tulachermet and Chusovoy, now Chustovskoy) whose production declined from \*\*\* million pounds of ferrovanadium in 1992 to \*\*\* million pounds in 1994, representing a decline in capacity utilization from \*\*\* percent in 1992 to \*\*\* percent in 1994.<sup>145</sup> In the first five-year review, Russian producers reported decreasing production between 1995 and 1997 and increasing production between 1997 and 2000, resulting in similar trends in their capacity utilization, which began the period at \*\*\* percent, decreased to \*\*\* percent by 1997, but then reached \*\*\* percent in 2000.<sup>146</sup> The domestic interested parties indicate that, “{t}o the best of {their} knowledge, the Russian ferrovanadium industry continues to have excess ferrovanadium capacity, remains export-oriented and flexible as to export markets.”<sup>147</sup> One industry source indicates that, after increasing between 1998 and 2000, Russian production of vanadium-containing compounds remained constant between 2000 and 2002, but then decreased significantly in late 2002 and in 2003 due to “output problems” before returning to their 2000

<sup>145</sup> Confidential staff report INV-S-082 (June 15, 1995), table 12; *See also* USITC Publication 2904, table 12.

<sup>146</sup> Confidential staff report INV-Y-072 (April 13, 2001), table IV-3; *See also* USITC Publication 3420, table IV-3. While the quantity data for the two periods were reported in different units (pounds in the original investigation, and pounds contained vanadium in the first review), a conversion based on the weight of vanadium within lower grade ferrovanadium (42 to 50 percent) indicates Russian production in 1994 equal to approximately \*\*\* million pounds contained vanadium at the 42 percent level to \*\*\* million pounds contained vanadium at the 50 percent level. As most Russian ferrovanadium was of a grade containing 50 percent of contained vanadium, data submitted in the first review indicate a continual decrease in the production of ferrovanadium from Russia between 1992 and 1997.

<sup>147</sup> Domestic interested parties’ response to the notice of institution, p. 6.

to 2002 levels in 2004.<sup>148</sup> Additionally, this source indicates that the Russian government holds strategic stockpiles of vanadium, which it might have released in part in 2004.<sup>149</sup>

Table I-8 presents data on the Russian industry from the original investigation and the first five-year review.

**Table I-8**  
**Ferrovandium and nitrided vanadium: Capacity, production, inventories, and shipments in Russia, 1992-2000**

\* \* \* \* \*

## THE GLOBAL MARKET

Important known and commercially exploitable mineral deposits with vanadium exist both within and outside the United States. Currently exploited vanadium-laden deposits are located in China, Russia, South Africa, Western Australia, and New Zealand. Several South American countries, including Brazil, also have proven reserves of vanadium-laden magnetite deposits. Important known crude oils and tar sands with vanadium exist in Australia, Canada, Venezuela, and a number of countries in the Middle East. Previously exploited, but not yet exhausted, reserves of vanadium exist in phosphorous ore and uranium ore deposits in the United States.<sup>150</sup> As there is currently little mined production of vanadium in the United States,<sup>151</sup> U.S. ferrovandium producers generally purchase imported and domestically recovered (namely from oil refining) raw material inputs, such as vanadium pentoxide and vanadium-bearing slag.<sup>152</sup>

Industry literature indicates that the U.S. market for ferrovandium is sensitive to global supply and demand changes,<sup>153</sup> and that the U.S. ferrovandium market remains attractive to foreign firms with vanadium operations.<sup>154</sup> The domestic interested parties indicate that strong demand for ferrovandium

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<sup>148</sup> “The Elasticity of Vanadium in a Surging Market,” Stratcor, Robert M. Bunting, Ryan’s Notes Ferroalloys Conference, Hollywood, Florida, October 26, 2004, found at <http://www.stratcor.com>.

<sup>149</sup> Ibid. The Russian vanadium reserves are most likely vanadium pentoxide and not FeV. The U.S. Defense National Stockpile Center ceased stocking vanadium pentoxide in 1994. The South African government is known to stockpile significant quantities of vanadium pentoxide.

<sup>150</sup> “The Production and Use of Vanadium World Wide,” from *Vanadium Application Technology: The Use of Vanadium in Steel*, Vanadium International Technical Committee (“VANITEC”) International Symposium, Guilin, China, November 6, 2000.

<sup>151</sup> Some U.S. uranium mining includes vanadium co-production.

<sup>152</sup> *Vanadium Statistics and Information*, U.S. Geological Survey Mineral Commodity Summaries, January 13, 2006. See also *Vanadium Facts*, VPR Association website, found at <http://www.vpra.org/Vanadium%20Facts.htm>.

<sup>153</sup> “Vanadium,” Minerals Yearbook, 2004, found at <http://minerals.usgs.gov/minerals/pubs/commodity/vanadium/>. See also “The Elasticity of Vanadium in a Surging Market,” Stratcor, Robert M. Bunting, Ryan’s Notes Ferroalloys Conference, Hollywood, Florida, October 26, 2004, found at <http://www.stratcor.com>.

<sup>154</sup> Precious Metals Australia in a feasibility study of reopening the Windimurra Mine, Australia (it had operated between 2000 and 2003, but closed in 2003 due to the oversupply and low unit cost of vanadium in the world market) directly references the fact that the United States has zero tariffs on Australian origin ferrovandium due to the US-Australia Free Trade Agreement (“FTA”), while the United States has 116 percent antidumping duties on ferrovandium from South Africa, 67 percent on China, and 108 percent on Russia. “A Feasible Strategy for Ferrovandium: and The Windimurra Mine,” Precious Metals Australia Limited, Roderick Smith, Ryan’s Notes

(continued...)

in China's steel industry applied upward price pressure on the U.S. market in 2004.<sup>155</sup> Additionally, the domestic interested parties imply that a plant closure (Vantech) in South Africa and a mine closure (Windimurra) by Xstrata, a multinational minerals firm with headquarters in Switzerland, contributed to global supply shortages in 2003.<sup>156</sup>

Global Trade Atlas data provide some indication of global trade in ferrovanadium. Major known producers of ferrovanadium, such as China, South Africa, and Russia, and the known Czech conversion facility are all represented in these aggregated data.<sup>157</sup> These data, however, appear to have significant misreporting in certain periods, namely 2000 and 2005.<sup>158</sup> The European market is Russia's primary ferrovanadium export destination. According to data submitted by the domestic interested parties European spot market prices for ferrovanadium are lower in most comparisons to U.S. spot market prices.<sup>159</sup> They contend that, therefore, in the absence of the antidumping duty order Russian producers would shift exports of ferrovanadium to the United States.<sup>160</sup>

Table I-9 presents data on global exports of ferrovanadium by source from 2000 to 2005. Table I-10 presents information of exports of ferrovanadium from Russia by destinations from 2000 to 2005. Table I-11 and figure I-4 present data on other countries' imports of Russian ferrovanadium from 2003 to 2005. Table I-12 presents data on European and U.S. spot-market prices, high values. Figure I-5 graphically presents data on European spot-market prices, 2001 to 2005. Figure I-6 graphically presents high values for European and U.S. spot-market prices, 2001 to 2005.

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<sup>154</sup> (...continued)

Ferroalloys Conference, Tucson, October 23-25, 2005, found at <http://www.pmal.com.au>.

<sup>155</sup> Domestic interested parties' response to the notice of institution, p. 17.

<sup>156</sup> Domestic interested parties' response to the notice of institution, p. 16.

<sup>157</sup> Swaziland does not appear as an exporter of ferrovanadium in these data.

<sup>158</sup> *See* note to table I-9 for more information.

<sup>159</sup> Domestic interested parties' response to the notice of institution, pp. 10 to 11.

<sup>160</sup> Domestic interested parties' response to the notice of institution., p. 11.

**Table I-9**  
**Ferrovanadium: Global export data by source, 2000-05**

Source	2000	2001	2002	2003	2004	2005
	Quantity (in 1,000 pounds gross weight)					
Russia	13,012	14,762	10,666	12,736	19,116	17,564
China	6,775	4,652	3,702	3,847	6,237	7,934
Czech Republic	6,484	4,839	6,504	6,640	7,533	5,761
South Africa	142,061	22,104	22,410	38,515	34,130	174,776
Swaziland	0	0	0	0	0	0
All others	16,649	15,122	26,874	18,949	26,742	81,708
Total	184,981	61,478	70,156	80,687	93,758	287,743
Value (in 1,000 dollars)						
Russia	27,851	26,365	20,119	38,482	129,808	297,423
China	20,480	11,708	9,027	13,354	48,978	149,240
Czech Republic	26,659	17,059	19,320	25,800	57,996	96,859
South Africa	29,719	43,607	45,354	91,572	232,887	401,976
Swaziland	0	0	0	0	0	0
All others	54,833	43,199	45,393	68,623	154,822	464,988
Total	159,542	141,938	139,213	237,831	624,491	1,410,486
Unit value (per pound gross weight)						
Russia	\$2.14	\$1.79	\$1.89	\$3.02	\$6.79	\$16.93
China	3.02	2.52	2.44	3.47	7.85	18.81
Czech Republic	4.11	3.53	2.97	3.89	7.70	16.81
South Africa	0.21	1.97	2.02	2.38	6.82	2.30
Swaziland	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )
All others	3.29	2.86	1.69	3.62	5.79	5.69
Average	0.86	2.31	1.98	2.95	6.66	4.90
Share of quantity (in percent)						
Russia	7.0	24.0	15.2	15.8	20.4	6.1
China	3.7	7.6	5.3	4.8	6.7	2.8
Czech Republic	3.5	7.9	9.3	8.2	8.0	2.0
South Africa	76.8	36.0	31.9	47.7	36.4	60.7
Swaziland	0.0	0.0	0.0	0.0	0.0	0.0
All others	9.0	24.6	38.3	23.5	28.5	28.4
Total	100.0	100.0	100.0	100.0	100.0	100.0
Share of value (in percent)						
Russia	17.5	18.6	14.5	16.2	20.8	21.1
China	12.8	8.2	6.5	5.6	7.8	10.6
Czech Republic	16.7	12.0	13.9	10.8	9.3	6.9
South Africa	18.6	30.7	32.6	38.5	37.3	28.5
Swaziland	0.0	0.0	0.0	0.0	0.0	0.0
All others	34.4	30.4	32.6	28.9	24.8	33.0
Total	100.0	100.0	100.0	100.0	100.0	100.0

Table continued on next page.

**Table I-9--Continued**  
**Ferrovandium: Global export data by source, 2000-05**

Source	2000	2001	2002	2003	2004	2005
	Estimated quantity (1,000 pounds contained vanadium) <sup>2</sup>					
Russia	6,766	7,676	5,546	6,623	9,940	9,133
China	5,081	3,489	2,776	2,885	4,678	5,951
Czech Republic	5,252	3,920	5,268	5,379	6,102	4,666
South Africa	115,070	17,904	18,152	31,197	27,645	141,568
Swaziland	0	0	0	0	0	0
All others	13,319	12,097	21,499	15,159	21,394	65,366
Total	145,488	45,086	53,242	61,243	69,759	226,685
Estimated unit value (per pound contained vanadium)						
Russia	\$4.12	\$3.43	\$3.63	\$5.81	\$13.06	\$32.56
China	4.03	3.36	3.25	4.63	10.47	25.08
Czech Republic	5.08	4.35	3.67	4.80	9.50	20.76
South Africa	0.26	2.44	2.50	2.94	8.42	2.84
Swaziland	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )
All others	4.12	3.57	2.11	4.53	7.24	7.11
Average	1.10	3.15	2.61	3.88	8.95	6.22
<p><sup>1</sup> Not applicable.</p> <p><sup>2</sup> Staff converted a country's reported exports of ferrovandium from gross weight to weight of contained vanadium based on the second unit of quantity of U.S. imports from that country. This methodology resulted in assigning the following ratios: Czech Republic, 81 percent; Swaziland, 81 percent; China, 75 percent; South Africa, 81 percent; Austria, 78 percent; Canada, 80 percent; Russia, 52 percent; and All others, 80 percent. This methodology might over or underestimate the actually quantities of contained vanadium to the degree to which countries export different grades of ferrovandium to markets other than the United States.</p> <p>Note.—Data for quantity of ferrovandium exported from South Africa in 2000 appear to be misreported. Checking the South African's government's trade data website (<a href="http://www.thedti.gov.za">http://www.thedti.gov.za</a>), it appears that two months of reported exports to the United States are the cause of the error. For most months and most countries the unit values reported range from 40 to 70 Rand per unit of quantity, while the exports to the United States reported for the months of May and June in 2000 calculate to be less than 0.20 Rand per unit of quantity. Staff was unable to find an explanation for the difference in the South African price in 2005 from other countries' prices.</p> <p>Source: Global Trade Atlas.</p>						

**Table I-10**  
**Ferrovanadium: Russian export data by destination, 2000-05**

Destination	2000	2001	2002	2003	2004	2005
	Quantity (in 1,000 pounds gross weight)					
Netherlands	10,560	10,121	7,529	9,138	13,587	13,164
Ukraine	68	489	1,248	2,538	3,907	3,426
Sweden	0	0	0	108	551	902
Czech Republic	77	168	0	293	384	42
Germany	1,080	1,508	880	381	229	0
All other destinations	1,226	2,476	1,010	278	459	31
Total	13,012	14,762	10,666	12,736	19,116	17,564
Value (in 1,000 dollars)						
Netherlands	21,827	16,501	13,485	28,940	96,594	223,561
Ukraine	178	829	2,138	6,427	21,603	54,771
Sweden	0	0	0	252	4,318	17,977
Czech Republic	144	475	0	1,094	2,894	557
Germany	3,475	4,026	2,238	917	888	0
All other destinations	2,227	4,534	2,258	852	3,511	557
Total	27,851	26,365	20,119	38,482	129,808	297,423
Unit value (per pound of gross weight)						
Netherlands	\$2.07	\$1.63	\$1.79	\$3.17	\$7.11	\$16.98
Ukraine	2.60	1.69	1.71	2.53	5.53	15.99
Sweden	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	2.33	7.83	19.94
Czech Republic	1.87	2.83	( <sup>1</sup> )	3.73	7.54	13.30
Germany	3.22	2.67	2.54	2.40	3.87	( <sup>1</sup> )
All other destinations	1.82	1.83	2.24	3.07	7.66	18.05
Average	2.14	1.79	1.89	3.02	6.79	16.93
Share of quantity (in percent)						
Netherlands	81.2	68.6	70.6	71.8	71.1	74.9
Ukraine	0.5	3.3	11.7	19.9	20.4	19.5
Sweden	0.0	0.0	0.0	0.8	2.9	5.1
Czech Republic	0.6	1.1	0.0	2.3	2.0	0.2
Germany	8.3	10.2	8.2	3.0	1.2	0.0
All other destinations	9.4	16.8	9.5	2.2	2.4	0.2
Total	100.0	100.0	100.0	100.0	100.0	100.0
Share of value (in percent)						
Netherlands	78.4	62.6	67.0	75.2	74.4	75.2
Ukraine	0.6	3.1	10.6	16.7	16.6	18.4
Sweden	0.0	0.0	0.0	0.7	3.3	6.0
Czech Republic	0.5	1.8	0.0	2.8	2.2	0.2
Germany	12.5	15.3	11.1	2.4	0.7	0.0
All other destinations	8.0	17.2	11.2	2.2	2.7	0.2
Total	100.0	100.0	100.0	100.0	100.0	100.0

Table continued on next page.

**Table I-10--Continued**

**Ferrovanadium: Russian export data by destination, 2000-05**

Source	2000	2001	2002	2003	2004	2005
	Estimated quantity (in 1,000 pounds contained vanadium) <sup>2</sup>					
Netherlands	5,491	5,263	3,915	4,752	7,065	6,845
Ukraine	36	255	649	1,320	2,031	1,782
Sweden	0	0	0	56	287	469
Czech Republic	40	87	0	152	199	22
Germany	562	784	457	198	119	0
All other destinations	637	1,287	525	144	238	16
Total	6,766	7,676	5,546	6,623	9,940	9,133
Estimated unit value (per pound contained vanadium)						
Netherlands	\$3.97	\$3.14	\$3.44	\$6.09	\$13.67	\$32.66
Ukraine	5.01	3.26	3.29	4.87	10.63	30.74
Sweden	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	4.49	15.07	38.34
Czech Republic	3.59	5.45	( <sup>1</sup> )	7.18	14.51	25.57
Germany	6.19	5.13	4.89	4.62	7.45	( <sup>1</sup> )
All other destinations	3.49	3.52	4.3	5.9	14.72	34.7
Average	4.12	3.43	3.63	5.81	13.06	32.56
<sup>1</sup> Not applicable. <sup>2</sup> These quantities have been converted using the assumption that the 52 percent contained vanadium grade ferrovanadium Russian producers exported in the original investigation to the United States is the same grade of ferrovanadium they currently export to other markets.						
Source: Global Trade Atlas.						

**Table I-11**

**Ferrovanadium: Select countries' imports of Russian ferrovanadium, 2003-05**

Importing country	2003	2004	2005
	Quantity (in 1,000 pounds gross weight)		
Netherlands	4,868	7,670	6,596
Ukraine	3,743	4,907	4,414
Japan	132	928	1,362
Sweden	179	511	895
Germany	520	141	29
Estimated quantity (in 1,000 pounds contained vanadium) <sup>1</sup>			
Netherlands	2,531	3,988	3,430
Ukraine	1,947	2,552	2,295
Japan	69	483	708
Sweden	93	266	465
Germany	271	73	15
Value (in 1,000 dollars)			
Netherlands	17,822	56,744	123,322
Ukraine	10,053	29,344	71,060
Japan	306	7,120	35,417
Sweden	444	4,249	19,354
Germany	1,642	851	288

Table continued on next page.

Table I-11--Continued

Ferrovandium: Select countries' imports of Russian ferrovandium, 2003-05

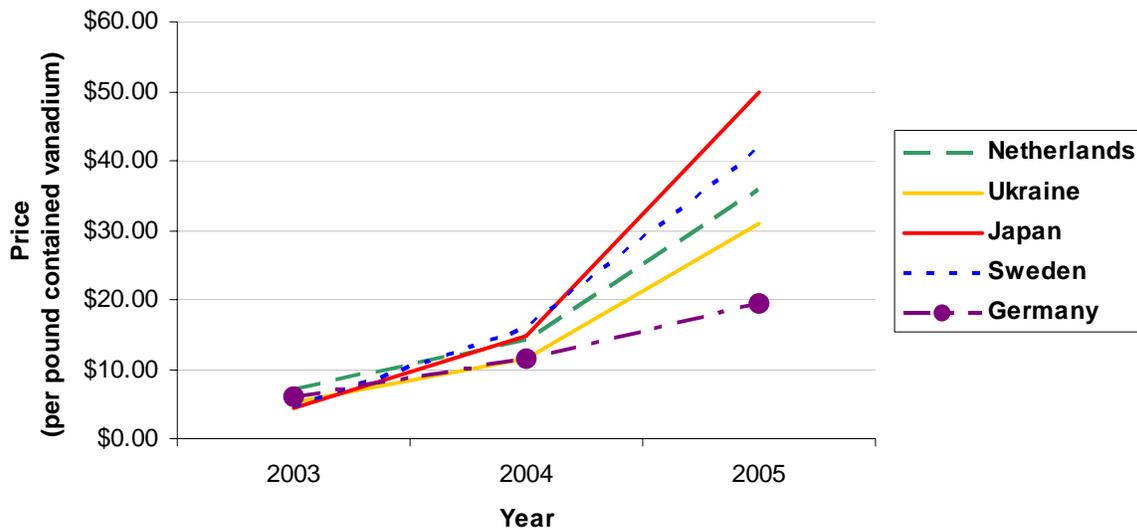
Importing country	2003	2004	2005
	Unit value (per pound of gross weight)		
Netherlands	\$3.66	\$7.40	\$18.70
Ukraine	2.69	5.98	16.10
Japan	2.31	7.67	25.99
Sweden	2.49	8.31	21.62
Germany	3.16	6.03	10.05
Estimated unit value (per pound of contained vanadium)			
Netherlands	\$7.04	\$14.23	\$35.95
Ukraine	5.16	11.5	30.96
Japan	4.45	14.75	49.99
Sweden	4.78	15.98	41.58
Germany	6.07	11.6	19.32

<sup>1</sup> The conversion factor used was 0.52, which is based on the historical shipments of Russian ferrovandium to the United States during the original investigation. This methodology for estimating the contained vanadium of Russian ferrovandium may over- or underestimate the actual contained vanadium in Russian ferrovandium, based on whether Russia's historical shipments of ferrovandium to the United States actually reflect the current grade of ferrovandium being exported from Russia to other countries.

Source: Global Trade Atlas.

Figure I-4

Ferrovandium: Estimated unit value of imported Russian ferrovandium in select third-country markets, 2003-05



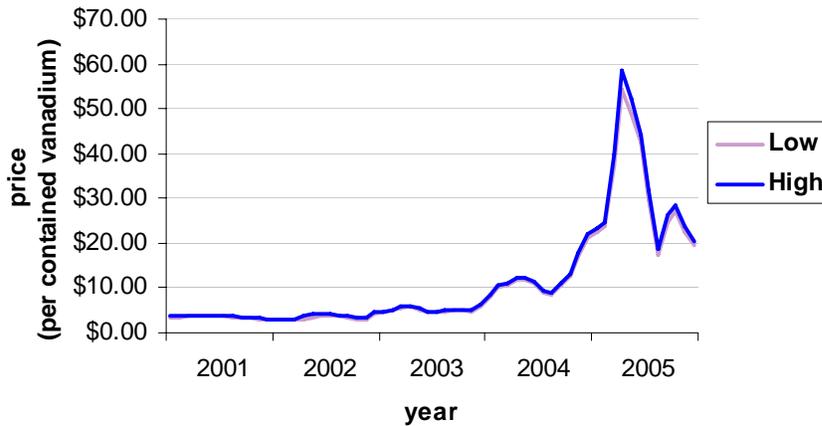
Source: Table I-11.

**Table I-12**  
**Ferrovanadium: Monthly European and U.S. spot prices, high values, January 2001-March 2006**

Month	Year/ source		Month	Year/ source	
	2001			2004	
	U.S.	European		U.S.	European
January	\$4.00	\$3.70	January	\$8.77	\$8.28
February	4.25	3.74	February	13.26	10.63
March	4.50	3.86	March	13.50	11.16
April	4.50	3.90	April	13.25	12.20
May	4.50	3.93	May	13.90	12.42
June	4.50	3.91	June	12.44	11.40
July	4.50	3.86	July	11.60	9.48
August	4.30	3.70	August	11.02	9.05
September	4.00	3.54	September	11.03	11.14
October	4.00	3.43	October	13.04	13.28
November	4.00	3.36	November	16.97	17.63
December	3.90	3.06	December	23.14	22.03
	2002			2005	
	U.S.	European		U.S.	European
	January	\$3.80		\$2.88	January
February	3.80	2.86	February	26.59	24.61
March	3.70	3.18	March	36.56	39.92
April	3.60	3.74	April	58.78	58.72
May	4.25	4.08	May	58.78	52.16
June	5.00	4.08	June	48.63	44.28
July	5.25	4.08	July	35.83	31.85
August	5.15	3.92	August	24.56	18.65
September	5.00	3.81	September	22.00	26.41
October	4.69	3.33	October	26.81	28.52
November	4.40	3.21	November	24.79	23.59
December	4.49	4.49	December	22.17	20.41
	2003			2006	
	U.S.	European		U.S.	European
	January	\$4.50		\$4.63	January
February	4.65	5.10	February	20.19	21.21
March	5.66	5.86	March	19.39	18.70
April	6.25	5.92			
May	6.17	5.38			
June	5.77	4.80			
July	5.50	4.71			
August	5.50	4.88			
September	5.49	5.24			
October	5.52	5.03			
November	5.54	4.96			
December	5.99	6.17			

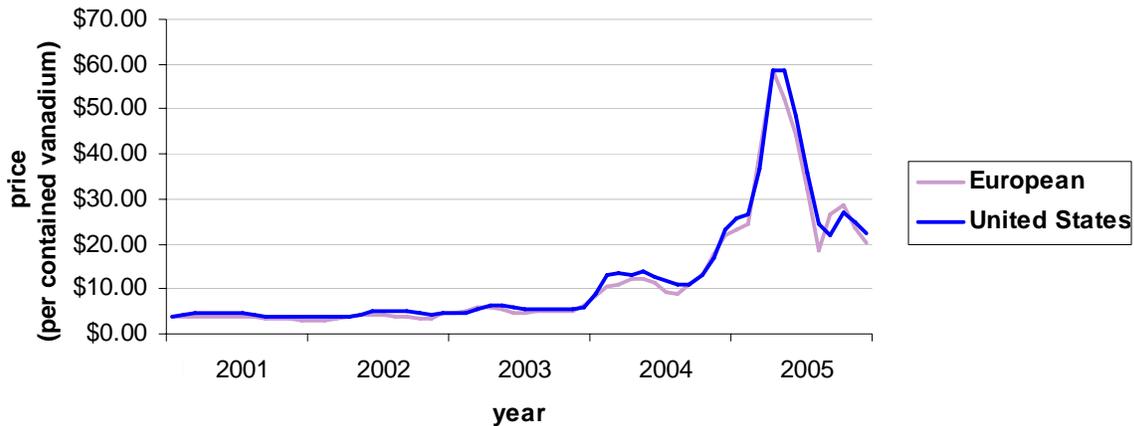
Source: Table I-7 and U.S. Geological Survey, Mineral Industry Survey (as presented in the domestic interested parties' response to the notice of institution, app. C).

**Figure I-5**  
**Ferrovanadium: European spot prices, 2001-05**



Source: Table I-12 and the U.S. Geological Survey, Mineral Industry Survey (as presented in the domestic interested parties' response to the notice of institution, app. C).

**Figure I-6**  
**Ferrovanadium: European and U.S. spot market prices, high values, 2001-05**



Source: Table I-12.

There are no known antidumping duty orders on ferrovanadium or nitrated vanadium in third-country markets.<sup>161</sup>

<sup>161</sup> Specifically, staff confirmed that no antidumping duty orders exist on Russian ferrovanadium or nitrated vanadium in Australia (<http://www.customs.gov.au/>), Brazil ([www.desenvolvimento.gov.br/](http://www.desenvolvimento.gov.br/)), Canada (<http://www.cbsa-asfc.gc.ca/>), European Union ([http://europa.eu/index\\_en.htm](http://europa.eu/index_en.htm)), or India (<http://commerce.nic.in>).

**APPENDIX A**

***FEDERAL REGISTER* NOTICES AND THE COMMISSION'S  
STATEMENT ON ADEQUACY**



consideration, the deadline for responses is June 20, 2006. Comments on the adequacy of responses may be filed with the Commission by July 14, 2006. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

**DATES:** *Effective Date:* May 1, 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 this review may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

**SUPPLEMENTARY INFORMATION:**

*Background.* On July 10, 1995, the Department of Commerce issued an antidumping duty order on imports of ferrovanadium and nitrided vanadium from Russia (60 FR 35550). Following five-year reviews by Commerce and the Commission, effective June 7, 2001, Commerce issued a continuation of the antidumping duty order on imports of ferrovanadium and nitrided vanadium from Russia (66 FR 30694). The Commission is now conducting a second review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

*Definitions.* The following definitions apply to this review:

regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

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**INTERNATIONAL TRADE COMMISSION**

[Investigation No. 731-TA-702 (Second Review)]

**Ferrovanadium and Nitrided Vanadium from Russia**

**AGENCY:** International Trade Commission.

**ACTION:** Institution of a five-year review concerning the antidumping duty order on ferrovanadium and nitrided vanadium from Russia.

**SUMMARY:** The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on ferrovanadium and nitrided vanadium from Russia 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;<sup>1</sup> to be assured of

<sup>1</sup>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. 06-5-152, expiration date June 30, 2008. Public reporting burden for the request is estimated to average 10 hours per response. Please send comments

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

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

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise*. In its original determination, the Commission found one *Domestic Like Product* including both ferrovanadium and nitrided vanadium. Noting in its full five-year review determination that nitrided vanadium had not been produced in the United States since 1992, the Commission determined that, based on the record, the product most like ferrovanadium and most similar in characteristics and uses to nitrided vanadium that was produced in the United States at that time was ferrovanadium. Accordingly, the Commission found one *Domestic Like Product* consisting of ferrovanadium. One Commissioner defined the *Domestic Like Product* differently in the first five-year review determination.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product*, or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission found one *Domestic Industry* consisting of ferrovanadium and nitrided vanadium producers, including certain toll-producers. In its full five-year review determination, the Commission found one *Domestic Industry* consisting of ferrovanadium producers, including a toll-producer of the *Domestic Like Product*. The Commission, however, did not include tollees Gulf and USV in the *Domestic Industry* because those firms produced vanadium pentoxide, an intermediate product, not ferrovanadium, the *Domestic Like Product*. Two Commissioners defined the *Domestic Industry* differently in the first five-year review determination.

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

*Participation in the review and public service list.* Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to

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

Former Commission employees who are seeking to appear in Commission five-year reviews are 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 this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Certification.* Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to

use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix

3. *Written submissions.* Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is June 20, 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 an expedited or full review. The deadline for filing such comments is July 14, 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 review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

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

*Information to Be Provided in Response to this Notice of Institution:*

As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address 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 this review by providing information requested by the Commission.

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

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

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the Subject Country that currently export or have exported *Subject Merchandise* to the United States or other countries after 2000.

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

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

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

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

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

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production; 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 the *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 Country* after 2000, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country*, and such merchandise from other countries.

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

Issued: April 24, 2006.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E6-6361 Filed 4-28-06; 8:45 am]

**BILLING CODE 7020-02-P**

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**(A-821-807)**

**Final Results of Expedited Sunset  
Review: Ferrovandium and Nitrided  
Vanadium from Russia**

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

**SUMMARY:** On May 1, 2006, the Department of Commerce (“the Department”) initiated a sunset review of the antidumping duty order on ferrovanadium and nitrided vanadium from Russia pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”). The Department conducted an expedited (120-day) sunset review of this order. As a result of this sunset review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping. The dumping margins are identified in the *Final Results of Review* section of this notice.

**EFFECTIVE DATE:** August 8, 2006.

**FOR FURTHER INFORMATION:** David Goldberger or Brandon Farlander, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4136 or (202) 482-0182, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background:**

On May 1, 2006, the Department published the notice of initiation of the second sunset review of the antidumping duty order on ferrovanadium and nitrided vanadium from Russia pursuant to section 751(c) of the Act. *See Initiation of Five-year (“Sunset”) Reviews*, 71 FR 25568 (May 1, 2006). The Department received the Notice of Intent to Participate from the Vanadium Producers and Reclaimers Association (VPRRA) and its members: Gulf Chemical and Metallurgical Corporation and its wholly owned subsidiary, Bear Metallurgical Corporation; and Metallurgical Vanadium

Corporation (collectively “the domestic interested parties”), within the deadline specified in 19 CFR 351.218(d)(1)(i). The domestic interested parties claimed interested party status under section 771(9)(C) and (E) of the Act, as manufacturers of a domestic-like product in the United States, and a trade or business association of a majority of whose members manufacture, produce, or wholesale a domestic like product in the United States. We received complete substantive responses from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). We received no responses from any respondent interested parties. As a result, pursuant to section 751(c)(4)(A) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited (120-day) sunset review of the order.

**Scope of the Order**

The products covered by the order are ferrovanadium and nitrided vanadium, regardless of grade, chemistry, form or size, unless expressly excluded from the scope of this order. Ferrovanadium includes alloys containing ferrovanadium as the predominant element by weight (*i.e.*, more weight than any other element, except iron in some instances) and at least 4 percent by weight of iron. Nitrided vanadium includes compounds containing vanadium as the predominant element, by weight, and at least 5 percent, by weight, of nitrogen.

Excluded from the scope of the order are vanadium additives other than ferrovanadium and nitrided vanadium, such as vanadium-aluminum master alloys, vanadium chemicals, vanadium waste and scrap, vanadium-bearing raw materials, such as slag, boiler residues, fly ash, and vanadium oxides.

The products subject to this order are currently classifiable under subheadings 2850.00.20, 7202.92.00, 7202.99.5040, 8112.40.3000, and 8112.40.6000 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope is dispositive.

**Analysis of Comments Received**

All issues raised in this review are addressed in the “Issues and Decision Memorandum for the Final Results Expedited Sunset Review of the Antidumping Duty Order on Ferrovanadium and Nitrided Vanadium from Russia” (“Decision Memo”), which is hereby adopted by this notice. The issues discussed in the Decision Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the orders were to be revoked. Parties can find a complete discussion of all issues raised in these reviews and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B-099 of the main Commerce building.

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

**Final Results of Review**

We determine that revocation of the antidumping duty order on ferrovanadium and nitrided vanadium from Russia would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Manufacturers/Exporters/Producers	Weighted Average Margin (percent)
Galt Alloys, Inc .....	3.75
Gesellschaft für Elektrometallurgie m.b.H. (and its related companies Shieldalloy Metallurgical Corporation and Metallurg, Inc.) .....	11.72
Odermet .....	10.10
All Other Russian Manufacturers and Exporters* .....	108.00

\* Prior to Russia’s graduation to market-economy status, this rate was referred to as the Russia-wide rate.

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 orders is hereby requested. Failure to

comply with the regulations and terms of an APO is a violation which is subject to sanction.

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

Dated: August 1, 2006.

**David M. Spooner,**  
Assistant Secretary for Import Administration.

[FR Doc. E6-12812 Filed 8-7-06; 8:45 am]

**BILLING CODE 3510-DS-S**

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**INTERNATIONAL TRADE  
COMMISSION****Investigation No. 731-TA-702 (Second  
Review); Ferrovandium and Nitrided  
Vanadium From Russia**

**AGENCY:** United States International  
Trade Commission.

**ACTION:** Scheduling of an expedited five-  
year review concerning the antidumping  
duty order on ferrovandium and  
nitrided vanadium from Russia.

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

**DATES:** *Effective Date:* August 4, 2006.

**FOR FURTHER INFORMATION CONTACT:**  
Russell Duncan (202-708-4727), 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](http://www.usitc.gov)). The public record for  
this review may be viewed on the

Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

**SUPPLEMENTARY INFORMATION:**

*Background:* On August 4, 2006, the Commission determined that the domestic interested party group response to its notice of institution (71 FR 25609, May 1, 2006) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.<sup>1</sup> Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.<sup>2</sup>

*Staff report:* A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on August 30, 2006, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

*Written submissions:* As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,<sup>3</sup> and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before September 5, 2006, and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may

submit a brief written statement (which shall not contain any new factual information) pertinent to the review by September 5, 2006. However, should the Department of Commerce extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. 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 review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

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

Issued: August 14, 2006.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E6-13596 Filed 8-16-06; 8:45 am]

**BILLING CODE 7020-02-P**

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## **EXPLANATION OF COMMISSION DETERMINATION ON ADEQUACY**

in

*Ferrovandium and Nitrided Vanadium from Russia*

Inv. No. 731-TA-702 (Second Review)

On August 4, 2006, the Commission determined that it should proceed to an expedited review in the subject five-year review pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(3)(B).<sup>1</sup>

The Commission determined that the domestic interested party group response to the notice of institution was adequate. The Commission received one response to the notice of institution filed jointly by the Vanadium Producers and Reclaimers Association (“VPRA”), and from VPRA members Gulf Chemical & Metallurgical Corporation (“Gulf”), Gulf’s wholly-owned subsidiary Bear Metallurgical Company (“Bear”) and Metallurg Vanadium Corporation (“MVC”). Bear and MVC reported that they accounted for one hundred percent of domestic production of ferrovandium in 2005. Because the Commission received adequate responses from two producers that apparently account for one hundred percent of domestic production of ferrovandium, the Commission determined that the domestic interested party group response was adequate.<sup>2</sup>

The Commission did not receive a response from any respondent interested party, and therefore determined that the respondent interested party group response to the notice of institution was inadequate. In the absence of an adequate respondent interested party group response, and any other circumstances that it deemed warranted proceeding to a full review, the Commission determined to conduct an expedited review. A record of the Commissioners’ votes is available from the Office of the Secretary and the Commission’s web site (<http://www.usitc.gov>).

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<sup>1</sup> Chairman Daniel R. Pearson and Commissioner Deanna Tanner Okun voted to conduct a full review due to changes in the conditions of competition in the U.S. market for ferrovandium.

<sup>2</sup> The Commission defined the domestic like product to be ferrovandium in the first review, as there was no domestic production of nitrided vanadium during the first review, and the Commission found ferrovandium to be the product most similar to nitrided vanadium in characteristics and uses. VPRA has not raised any issues in its response to the Commission’s notice of institution that would warrant revisiting the Commission’s definition, including any indication that nitrided vanadium is currently produced in the United States. VPRA agrees with the Commission’s definition of the domestic like product as ferrovandium, for purposes of this second review.