Silicomanganese from Australia

Investigation No. 731-TA-1269 (Final)

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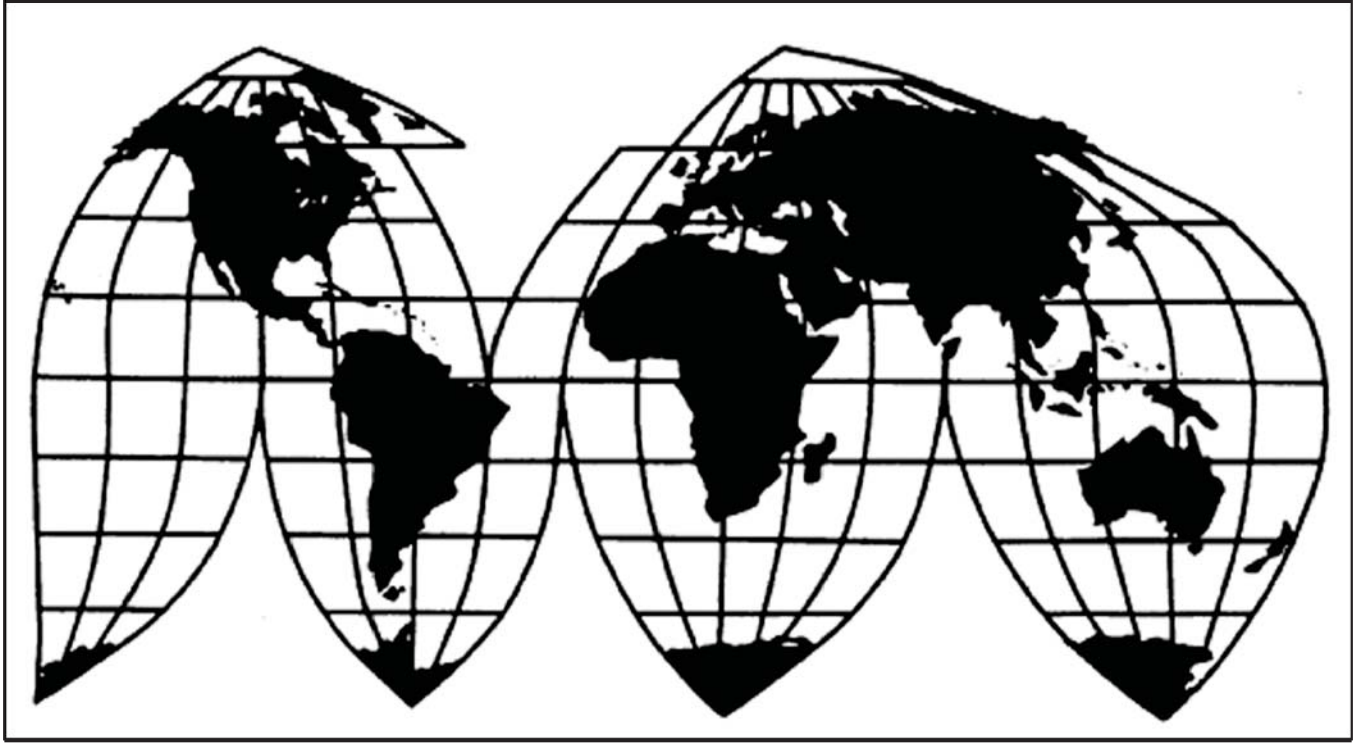
U.S. International Trade Commission



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

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UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-1269 (Final)
Silicomanganese from Australia

DETERMINATION

On the basis of the record[1] developed in the subject investigation, the United States International Trade Commission ("Commission") determines, pursuant to the Tariff Act of 1930 ("the Act"), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports of silicomanganese from Australia, provided for in subheading 7202.30.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce ("Commerce") to be sold in the United States at less than fair value ("LTFV").

BACKGROUND

The Commission, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)), instituted this investigation effective February 19, 2015, following receipt of a petition filed with the Commission and Commerce by Felman Production LLC, Letart, West Virginia. The Commission scheduled the final phase of the investigation following notification of a preliminary determination by Commerce that imports of silicomanganese from Australia were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of October 21, 2015 (80 FR 63833). The hearing was held in Washington, DC, on February 11, 2016, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

Views of the Commission

Based on the record in the final phase of this investigation, we find that an industry in the United States is not materially injured or threatened with material injury by reason of imports of silicomanganese from Australia found by the U.S. Department of Commerce ("Commerce") to be sold in the United States at less than fair value.[1]

I. Background

On February 19, 2015, Felman Production, LLC ("Felman Production"), a domestic producer of silicomanganese, filed the petition in this investigation. Petitioner, along with Eramet Marietta, Inc. ("Eramet"), the only other domestic producer of silicomanganese during the January 2012-September 2015 period of investigation ("POI"), appeared at the hearing and submitted joint prehearing and posthearing briefs.

Two respondent entities jointly participated in the final phase of this investigation. Tasmanian Electro Metallurgical Company Pty, Ltd. ("TEMCO"), the sole producer of silicomanganese in Australia, and Samancor AG ("Samancor"),[2] an importer of subject merchandise affiliated with TEMCO, appeared at the hearing and submitted joint prehearing and posthearing briefs.

U.S. industry data are based on the questionnaire responses of two domestic producers that accounted for 100 percent of domestic production of silicomanganese during the POI.[3] U.S. import data are based on the questionnaire responses of 14 U.S. importers of silicomanganese from Australia, which accounted for 100 percent of subject imports during the POI.[4] Information on the silicomanganese industry in Australia is based on the questionnaire response of the sole producer of subject merchandise during the POI.[5]

[1] Whether establishment of an industry in the United States is materially retarded is not an issue in this investigation.

[2] In the preliminary phase of this investigation, BHP Billiton Marketing, Inc. ("BMI"), which had imported subject merchandise from Australia, appeared as a respondent. At that time, BMI and TEMCO were affiliated with one another because they were owned by BHP Holdings (Resources) Inc. ("BHP Billiton") in a 60/40 joint venture with Anglo American Alloys (USA). In May 2015, BHP Billiton spun off certain assets, including its 60 percent interest in TEMCO and Samancor, which had been acting as BHP Billiton's global distributor, to create South32, a wholly independent global metals and mining company. After the spinoff, Samancor assumed the responsibility of importing subject merchandise from Australia. Confidential Report, Memorandum INV-OO-016 (Feb. 29, 2016) ("CR") at I-4 n.7, Public Report ("PR") at I-3 n.7; Respondents Prehearing Br. at 3 n.3, 7; Hearing Tr. at 140-42 (Tidey).

[3] CR at I-5, PR at I-3.

[4] CR at IV-1, PR at IV-1.

[5] CR at VII-3, PR at VII-2.

II. Domestic Like Product

A. In General

In determining whether an industry in the United States is materially injured or threatened with material injury by reason of imports of subject merchandise, the Commission first defines the "domestic like product" and the "industry."[6] Section 771(4)(A) of the Tariff Act of 1930, as amended ("the Tariff 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."[7] In turn, the Tariff Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation."[8]

The decision regarding the appropriate domestic like product in an investigation is a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[9] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[10] The Commission looks for clear dividing lines among possible like products and disregards minor variations.[11] Although the Commission must accept Commerce's determination as to the scope of the imported merchandise that is subsidized or sold at less than fair value,[12] the Commission determines what domestic product is like the imported articles Commerce has identified.[13]

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[6] 19 U.S.C. § 1677(4)(A).

[7] 19 U.S.C. § 1677(4)(A).

[8] 19 U.S.C. § 1677(10).

[9] *See*, *e.g.*, *Cleo Inc. v. United States*, 501 F.3d 1291, 1299 (Fed. Cir. 2007); *NEC Corp. v. Department of Commerce*, 36 F. Supp. 2d 380, 383 (Ct. Int'l Trade 1998); *Nippon Steel Corp. v. United States*, 19 CIT 450, 455 (1995); *Torrington Co. v. United States*, 747 F. Supp. 744, 749 n.3 (Ct. Int'l Trade 1990), *aff'd*, 938 F.2d 1278 (Fed. Cir. 1991) ("every like product determination 'must be made on the particular record at issue' and the 'unique facts of each case'"). The Commission generally considers a number of factors, including the following: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes, and production employees; and, where appropriate, (6) price. *See Nippon*, 19 CIT at 455 n.4; *Timken Co. v. United States*, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996).

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

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

[12] *See*, *e.g., USEC, Inc. v. United States*, 34 Fed. Appx. 725, 730 (Fed. Cir. 2002) ("The ITC may not modify the class or kind of imported merchandise examined by Commerce."); *Algoma Steel Corp. v.*

(Continued...)

B. Product Description

Commerce defined the scope of the imported merchandise under investigation as follows:

> {A}ll forms, sizes, and compositions of silicomanganese, except low-carbon silicomanganese, including silicomanganese briquettes, fines, and slag. Silicomanganese is properly classifiable under subheading 7202.30.0000 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Low-carbon silicomanganese is excluded from the scope of this investigation. Low-carbon silicomanganese is classifiable under HTSUS subheading 7202.30.0000.[14]

Silicomanganese is a metallic ferroalloy composed principally of manganese, silicon, and iron. It is produced in a number of grades and sizes and is consumed in bulk form primarily in the production of steel as a source of both silicon and manganese, although some silicomanganese is used as an alloying agent in the production of iron castings. Manganese, intentionally present in nearly all steels, is used as a steel desulfurizer and deoxidizer. By removing sulfur from steel, manganese prevents the steel from becoming brittle during the hot rolling process. In addition, manganese increases the strength and hardness of steel. Silicon is a deoxidizer, aiding in making steels of uniform chemistry and mechanical properties. As such, it is not retained in the steel, but forms silicon oxide, which separates from the steel as a component of the slag.

Silicomanganese generally contains 65 to 68 percent manganese and about 17 percent silicon. The ASTM specification for silicomanganese, ASTM A 483, designates three grades, "A," "B," and "C," that are differentiated by their silicon and carbon contents.[15]

C. Arguments of the Parties

Petitioner asks the Commission to find a single domestic like product that is coextensive with Commerce's scope, as the Commission found in its preliminary determination.[16] Respondents do not contest this domestic like product definition.[17]

(…Continued)
United States, 688 F. Supp. 639, 644 (Ct. Int'l Trade 1988), *aff'd*, 865 F.3d 240 (Fed. Cir.), *cert. denied*, 492 U.S. 919 (1989).

[13] *Hosiden Corp. v. Advanced Display Mfrs.*, 85 F.3d 1561, 1568 (Fed. Cir. 1996) (the Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); *Cleo*, 501 F.3d at 1298 n.1 ("Commerce's {scope} finding does not control the Commission's {like product} determination."); *Torrington*, 747 F. Supp. at 748-52 (affirming the Commission's determination defining six like products in investigations in which Commerce found five classes or kinds).

[14] *Silicomanganese from Australia*, 81 Fed. Reg. 8682 (Feb. 22, 2015) ("Commerce Final AD Determination").

[15] CR at I-11, PR at I-11.

D. Domestic Like Product Analysis

In our preliminary determination, we found that all domestically produced silicomanganese is manufactured using the same basic raw materials, manufacturing facilities, production processes, and employees, and is used for the same purposes. We also found that all domestically produced silicomanganese is sold through the same channels of trade and is readily interchangeable within grades. We consequently defined a single domestic like product, consisting of all silicomanganese, excluding low-carbon silicomanganese, coextensive with the scope.[18]

The record in the final phase of this investigation does not contain any new information concerning the domestic like product factors, and there is no argument that the Commission should adopt a definition of the domestic like product different from that in the preliminary determination.[19] Therefore, for the same reasons set forth in the preliminary determination, we define a single domestic like product consisting of all silicomanganese that is coextensive with the scope definition.

III. Domestic Industry

The domestic industry is defined as the domestic "producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[20] 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.

We must determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to section 771(4)(B) of the Tariff Act. This provision allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise

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(…Continued)

[16] Domestic Producers Prehearing Br. at 18.

[17] Respondents did not address the issue of domestic like product in their briefs or hearing testimony.

[18] *Silicomanganese from Australia*, Inv. No. 731-TA-1269 (Preliminary), USITC Pub. 4528 at 6-8 (April 2015) ("Preliminary Determination").

[19] *See generally* CR at I-11-15, PR at I-8-10.

[20] 19 U.S.C. § 1677(4)(A).

or which are themselves importers.[21] Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each investigation.[22]

During the POI, two firms manufactured silicomanganese in the United States: Felman Production and Eramet.[23]

Domestic producer *** is a related party because ***, imported subject merchandise during the POI.[24] *** and ***.[25] ***.[26]

*** is the *** in this investigation and was the *** of the two domestic producers during the POI, accounting for *** percent of domestic production in 2014.[27] *** imports of subject merchandise occurred ***, and were in relatively small amounts. Specifically, *** imported *** short tons of silicomanganese from Australia ***, which were equivalent to *** percent of *** U.S. production that year, and *** short tons ***, which were equivalent to *** percent of its production in ***.[28] Consequently, *** principal interest appears to be in domestic production. In addition, the record does not indicate that it derived any benefit from *** importation of subject merchandise.[29] [30] Accordingly, we find that appropriate

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

[22] The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party include the following:

(1) the percentage of domestic production attributable to the importing producer;

(2) the reason the U.S. producer has decided to import the product subject to investigation (whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market);

(3) whether inclusion or exclusion of the related party will skew the data for the rest of the industry;

(4) the ratio of import shipments to U.S. production for the imported product; and

(5) whether the primary interest of the importing producer lies in domestic production or importation. *Changzou Trina Solar Energy Co. v. USITC*, 100 F. Supp. 3d 1314, 1329 (Ct. Int'l Trade 2015); *see also Torrington Co. v. United States*, 790 F. Supp. at 1168.

[23] CR at II-1, PR at II-1.

[24] CR at IV-1, PR at IV-1; *see* 19 U.S.C. § 1677(4)(B)(ii)(III). In the preliminary phase of the investigation, the Commission determined that *** was a related party but that appropriate circumstances did not exist to exclude it from the domestic industry. Preliminary Determination, USITC Pub. 4528 at 10; Confidential Preliminary Determination, EDIS Doc. 555369 at 12-14.

[25] CR at III-2, PR at III-1; *see also* 19 U.S.C. § 1677(4)(B)(i).

[26] CR at I-4 n.8, III-2; PR at I-4 n.8, III-1.

[27] CR/PR at Table III-1.

[28] CR at III-11, PR at III-5; CR/PR at Table III-6.

[29] CR/PR at Table VI-2. *** from 2012 to 2014, and the company was *** in 2013, 2014, and both interim periods. *** ratio of operating income to net sales was ***; it was *** percent in interim 2014 and *** percent in interim 2015. *See id.*

circumstances do not exist to exclude *** from the definition of the domestic industry. We therefore define the domestic industry as all U.S. producers of silicomanganese, namely Felman Production and Eramet.

IV. Material Injury by Reason of Subject Imports[31]

Based on the record in the final phase of this investigation, we find that an industry in the United States is not materially injured by reason of imports of silicomanganese from Australia that Commerce has found to be sold in the United States at less than fair value.

A. Legal Standards

In the final phase of antidumping and countervailing duty investigations, the Commission determines whether an industry in the United States is materially injured or threatened with material injury by reason of the imports under investigation.[32] In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[33] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[34] In assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[35] No single factor is dispositive, and all relevant factors are considered "within the

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(…Continued)

[30] Vice Chairman Pinkert does not rely upon related parties' financial performance in determining whether to exclude them from the domestic industry. *See Allied Mineral Products v. United States*, 28 CIT 1861, 1865-67 (2004).

[31] Pursuant to Section 771(24) of the Tariff Act, imports from a subject country of merchandise corresponding to a domestic like product that account for less than three percent of all such merchandise imported into the United States during the most recent 12 months for which data are available preceding the filing of the petition shall be deemed negligible. 19 U.S.C. §§ 1671b(a), 1673b(a), 1677(24)(A)(i), 1677(24)(B); *see also* 15 C.F.R. § 2013.1 (developing countries for purposes of 19 U.S.C. § 1677(36)). Negligibility is not an issue in this investigation. During the most recent 12-month period preceding the filing of the petition, February 2014 to January 2015, subject imports from Australia accounted for 14.9 percent of total U.S. imports of silicomanganese. CR at IV-7, PR at IV-6.

[32] 19 U.S.C. §§ 1671d(b), 1673d(b). The Trade Preferences Extension Act of 2015, Pub. L. 114-27, amended the provisions of the Tariff Act pertaining to Commission determinations of material injury and threat of material injury by reason of subject imports in certain respects. We have applied these amendments here.

[33] 19 U.S.C. § 1677(7)(B). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each {such} factor ... and explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B).

[34] 19 U.S.C. § 1677(7)(A).

[35] 19 U.S.C. § 1677(7)(C)(iii).

context of the business cycle and conditions of competition that are distinctive to the affected industry."[36]

Although the statute requires the Commission to determine whether the domestic industry is "materially injured or threatened with material injury by reason of" unfairly traded imports,[37] it does not define the phrase "by reason of," indicating that this aspect of the injury analysis is left to the Commission's reasonable exercise of its discretion.[38] In identifying a causal link, if any, between subject imports and material injury to the domestic industry, the Commission examines the facts of record that relate to the significance of the volume and price effects of the subject imports and any impact of those imports on the condition of the domestic industry. This evaluation under the "by reason of" standard must ensure that subject imports are more than a minimal or tangential cause of injury and that there is a sufficient causal, not merely a temporal, nexus between subject imports and material injury.[39]

In many investigations, there are other economic factors at work, some or all of which may also be having adverse effects on the domestic industry. Such economic factors might include nonsubject imports; changes in technology, demand, or consumer tastes; competition among domestic producers; or management decisions by domestic producers. The legislative history explains that the Commission must examine factors other than subject imports to ensure that it is not attributing injury from other factors to the subject imports, thereby inflating an otherwise tangential cause of injury into one that satisfies the statutory material injury threshold.[40] In performing its examination, however, the Commission need not isolate

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[36] 19 U.S.C. § 1677(7)(C)(iii).

[37] 19 U.S.C. §§ 1671d(a), 1673d(a).

[38] *Angus Chemical Co. v. United States*, 140 F.3d 1478, 1484-85 (Fed. Cir. 1998) ("{T}he statute does not 'compel the commissioners' to employ {a particular methodology}."), *aff'g,* 944 F. Supp. 943, 951 (Ct. Int'l Trade 1996).

[39] The Federal Circuit, in addressing the causation standard of the statute, observed that "{a}s long as its effects are not merely incidental, tangential, or trivial, the foreign product sold at less than fair value meets the causation requirement." *Nippon Steel Corp. v. USITC*, 345 F.3d 1379, 1384 (Fed. Cir. 2003). This was further ratified in *Mittal Steel Point Lisas Ltd. v. United States*, 542 F.3d 867, 873 (Fed. Cir. 2008), where the Federal Circuit, quoting *Gerald Metals, Inc. v. United States*, 132 F.3d 716, 722 (Fed. Cir. 1997), stated that "this court requires evidence in the record 'to show that the harm occurred "by reason of" the LTFV imports, not by reason of a minimal or tangential contribution to material harm caused by LTFV goods.'" *See also Nippon Steel Corp. v. United States*, 458 F.3d 1345, 1357 (Fed. Cir. 2006); *Taiwan Semiconductor Industry Ass'n v. USITC*, 266 F.3d 1339, 1345 (Fed. Cir. 2001).

[40] SAA at 851-52 ("{T}he Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports."); S. Rep. 96-249 at 75 (1979) (the Commission "will consider information which indicates that harm is caused by factors other than less-than-fair-value imports."); H.R. Rep. 96-317 at 47 (1979) ("in examining the overall injury being experienced by a domestic industry, the ITC will take into account evidence presented to it which demonstrates that the harm attributed by the petitioner to the subsidized or dumped imports is attributable to such other factors;" those factors include "the volume and prices of nonsubsidized imports or imports sold at fair value, contraction in demand or changes in patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, (Continued...)

the injury caused by other factors from injury caused by unfairly traded imports.[41] Nor does the "by reason of" standard require that unfairly traded imports be the "principal" cause of injury or contemplate that injury from unfairly traded imports be weighed against other factors, such as nonsubject imports, which may be contributing to overall injury to an industry.[42] It is clear that the existence of injury caused by other factors does not compel a negative determination.[43]

Assessment of whether material injury to the domestic industry is "by reason of" subject imports "does not require the Commission to address the causation issue in any particular way" as long as "the injury to the domestic industry can reasonably be attributed to the subject imports" and the Commission "ensure{s} that it is not attributing injury from other sources to the subject imports."[44] [45] Indeed, the Federal Circuit has examined and affirmed various Commission methodologies and has disavowed "rigid adherence to a specific formula."[46]

(…Continued)
developments in technology and the export performance and productivity of the domestic industry"); *accord Mittal Steel*, 542 F.3d at 877.

[41] SAA at 851-52 ("{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports."); *Taiwan Semiconductor Industry Ass'n,* 266 F.3d at 1345 ("{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports ... . Rather, the Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports." (emphasis in original)); *Asociacion de Productores de Salmon y Trucha de Chile AG v. United States*, 180 F. Supp. 2d 1360, 1375 (Ct. Int'l Trade 2002) ("{t}he Commission is not required to isolate the effects of subject imports from other factors contributing to injury" or make "bright-line distinctions" between the effects of subject imports and other causes.); *see also Softwood Lumber from Canada*, Inv. Nos. 701-TA-414 and 731-TA-928 (Remand), USITC Pub. 3658 at 100-01 (Dec. 2003) (Commission recognized that "{i}f an alleged other factor is found not to have or threaten to have injurious effects to the domestic industry, *i.e*., it is not an 'other causal factor,' then there is nothing to further examine regarding attribution to injury"), *citing Gerald Metals,* 132 F.3d at 722 (the statute "does not suggest that an importer of LTFV goods can escape countervailing duties by finding some tangential or minor cause unrelated to the LTFV goods that contributed to the harmful effects on domestic market prices.").

[42] S. Rep. 96-249 at 74-75; H.R. Rep. 96-317 at 47.

[43] *See Nippon Steel Corp*., 345 F.3d at 1381 ("an affirmative material-injury determination under the statute requires no more than a substantial-factor showing. That is, the 'dumping' need not be the sole or principal cause of injury.").

[44] *Mittal Steel*, 542 F.3d at 877-78; *see also id.* at 873 ("While the Commission may not enter an affirmative determination unless it finds that a domestic industry is materially injured 'by reason of' subject imports, the Commission is not required to follow a single methodology for making that determination ... {and has} broad discretion with respect to its choice of methodology.") *citing United States Steel Group v. United States*, 96 F.3d 1352, 1362 (Fed. Cir. 1996) and S. Rep. 96-249 at 75. In its decision in *Swiff-Train v. United States*, 792 F.3d 1355 (Fed. Cir. 2015), the Federal Circuit affirmed the Commission's causation analysis as comporting with the Court's guidance in *Mittal*.

[45] Vice Chairman Pinkert and Commissioner Kieff do not join this paragraph or the following three paragraphs. They point out that the Federal Circuit, in *Bratsk*, 444 F.3d 1369, and *Mittal Steel*, held that the Commission is *required*, in certain circumstances when analyzing present material injury, to consider a particular issue with respect to the role of nonsubject imports, without reliance upon (Continued...)

The Federal Circuit's decisions in *Gerald Metals, Bratsk*, and *Mittal Steel* all involved cases where the relevant "other factor" was the presence in the market of significant volumes of price-competitive nonsubject imports. The Commission interpreted the Federal Circuit's guidance in *Bratsk* as requiring it to apply a particular additional methodology following its finding of material injury in cases involving commodity products and a significant market presence of price-competitive nonsubject imports.[47] The additional "replacement/benefit" test looked at whether nonsubject imports might have replaced subject imports without any benefit to the U.S. industry. The Commission applied that specific additional test in subsequent cases, including the *Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago* determination that underlies the *Mittal Steel* litigation.

Mittal Steel clarifies that the Commission's interpretation of *Bratsk* was too rigid and makes clear that the Federal Circuit does not require the Commission to apply an additional test nor any one specific methodology; instead, the court requires the Commission to have "evidence in the record" to "show that the harm occurred 'by reason of' the LTFV imports," and requires that the Commission not attribute injury from nonsubject imports or other factors to subject imports.[48] Accordingly, we do not consider ourselves required to apply the replacement/benefit test that was included in Commission opinions subsequent to *Bratsk*.

The progression of *Gerald Metals, Bratsk*, and *Mittal Steel* clarifies that, in cases involving commodity products where price-competitive nonsubject imports are a significant factor in the U.S. market, the Court will require the Commission to give full consideration, with adequate explanation, to non-attribution issues when it performs its causation analysis.[49]

(…Continued)
presumptions or rigid formulas. The Court has not prescribed a specific method of exposition for this consideration. *Mittal Steel* explains as follows:

> What *Bratsk* held is that "where commodity products are at issue and fairly traded, price competitive, non-subject imports are in the market," the Commission would not fulfill its obligation to consider an important aspect of the problem if it failed to consider whether non-subject or non-LTFV imports would have replaced LTFV subject imports during the period of investigation without a continuing benefit to the domestic industry. 444 F.3d at 1369. Under those circumstances, *Bratsk* requires the Commission to consider whether replacement of the LTFV subject imports might have occurred during the period of investigation, and it requires the Commission to provide an explanation of its conclusion with respect to that factor.

542 F.3d at 878.

[46] *Nucor Corp. v. United States*, 414 F.3d 1331, 1336, 1341 (Fed. Cir. 2005); *see also Mittal Steel*, 542 F.3d at 879 ("*Bratsk* did not read into the antidumping statute a Procrustean formula for determining whether a domestic injury was 'by reason' of subject imports.").

[47] *Mittal Steel*, 542 F.3d at 875-79.

[48] *Mittal Steel*, 542 F.3d at 873 (quoting from *Gerald Metals*, 132 F.3d at 722), 875-79 & n.2 (recognizing the Commission's alternative interpretation of *Bratsk* as a reminder to conduct a non-attribution analysis).

[49] To that end, after the Federal Circuit issued its decision in *Bratsk*, the Commission began to present published information or send out information requests in the final phase of investigations to producers in nonsubject countries that accounted for substantial shares of U.S. imports of subject merchandise (if, in fact, there were large nonsubject import suppliers). In order to provide a more (Continued...)

The question of whether the material injury threshold for subject imports is satisfied notwithstanding any injury from other factors is factual, subject to review under the substantial evidence standard.[50] Congress has delegated this factual finding to the Commission because of the agency's institutional expertise in resolving injury issues.[51]

B. Conditions of Competition and the Business Cycle

The following conditions of competition inform our analysis of whether there is material injury by reason of subject imports.

1. Demand Considerations

U.S. demand for silicomanganese is derived from demand for the downstream products in which it is used, particularly steel long products.[52] In 2014, five purchasers, ***, accounted for *** percent of apparent U.S. consumption, with *** being the largest end user of silicomanganese in the United States.[53] Silicomanganese accounts for a very small share of the total cost of the final steel product, only one to two percent of the total cost of steel production in electric arc furnaces, integrated mills, and foundries.[54]

Both petitioner and respondents state that demand for silicomanganese decreased over the POI.[55] Apparent U.S. consumption of silicomanganese decreased from 2012 to 2014 and was lower in interim 2015 than in interim 2014. It increased from 447,831 short tons in 2012 to 469,790 short tons in 2013 before decreasing to 427,011 short tons in 2014, resulting in an overall decline of 4.6 percent from 2012 to 2014. It was 286,295 short tons in interim 2015, 5.9 percent lower than in interim 2014 when it was 304,088 short tons.[56]

(…Continued)
complete record for the Commission's causation analysis, these requests typically seek information on capacity, production, and shipments of the product under investigation in the major source countries that export to the United States. The Commission plans to continue utilizing published or requested information in the final phase of investigations in which there are substantial levels of nonsubject imports.

[50] We provide below a full analysis of other factors alleged to have caused any material injury experienced by the domestic industry.

[51] *Mittal Steel*, 542 F.3d at 873; *Nippon Steel Corp*., 458 F.3d at 1350, *citing U.S. Steel Group*, 96 F.3d at 1357; S. Rep. 96-249 at 75 ("The determination of the ITC with respect to causation is ... complex and difficult, and is a matter for the judgment of the ITC.").

[52] CR at II-13, PR at II-7.

[53] CR at II-2-3, PR at II-2.

[54] CR at II-13, PR at II-8.

[55] CR at II-14, PR at II-8; Hearing Tr. at 49 (Levy), 210 (Kaplan). A plurality of market participants reported that since the beginning of the POI, demand for silicomanganese in the United States fluctuated or decreased primarily due to the declining demand for steel products. CR at II-14, PR at II-8.

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

2. Supply Considerations

During the POI, the U.S. silicomanganese market was supplied by the domestic industry, subject imports from Australia, and nonsubject imports. Because the domestic industry does not have the capacity to supply the entirety of U.S. demand, imports of silicomanganese are necessary to supply the U.S. silicomanganese market.[57]

Felman Production and Eramet were the only domestic producers of silicomanganese during the POI.[58] The domestic industry's share of the U.S. market decreased by *** percentage points from 2012 to 2014, falling from *** percent in 2012 to *** percent in 2013 and *** percent in 2014. The domestic industry's market share was *** percent in interim 2014 and *** percent in interim 2015.[59] Both domestic producers experienced furnace production changes during the POI. In June 2013, Felman Production idled all three of its furnaces, which had been dedicated to silicomanganese production. Felman Production restarted silicomanganese production on two of its furnaces in July and August 2014 after it successfully obtained a special rate for its electricity contract with West Virginia's Public Service Commission.[60] Eramet has two furnaces of different sizes with which it makes silicomanganese and ferromanganese. In 2013, Eramet ***. Additionally, during four periods between 2013 and interim 2015, Eramet ***.[61] Consequently, the domestic industry's capacity decreased from 2012 to 2014.[62]

Subject imports' share of the U.S. market increased by *** percentage points from 2012 to 2014, increasing from *** percent in 2012 to *** percent in 2013 before declining to *** percent in 2014. Their market share was *** percent in interim 2014 and *** percent in interim 2015.[63] TEMCO is the sole producer of silicomanganese in Australia. From March 2012 through July 2012, TEMCO idled all four of its furnaces, one of which had been used to produce silicomanganese and three of which had been used to produce ferromanganese.[64] Since

[57] CR at II-1, PR at II-1.

[58] CR at II-1, PR at II-1.

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

[60] CR at III-3, PR at III-2; Domestic Producers Posthearing Br. at II-43, III-1-2. Felman Production's third furnace remains idle. CR at III-3, PR at III-2.

[61] CR at III-4-5; PR at III-2. *** with Felman Production's temporary suspension of production from June 2013 to July 2014. CR at III-4-5, PR at III-2. Accordingly, for the first two of these periods and most of the third period, there was ***.

[62] CR at III-5, PR at III-3. The domestic industry's reported capacity was *** short tons in 2012, *** short tons in 2013, and *** short tons in 2014. It was *** short tons in interim 2014 and *** short tons in interim 2015. CR/PR at Table III-2. We note that reported capacity data do not take into account Felman Production's furnace shutdowns. If Felman Production's furnace shutdowns are taken into account, the domestic industry's adjusted capacity was *** short tons in 2012, *** short tons in 2013, *** short tons in 2014, *** short tons in interim 2014, and *** short tons in interim 2015. CR/PR at Table III-2 note.

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

[64] CR at VII-3-4, PR at VII-3.

restarting its furnaces in July 2012, TEMCO has produced silicomanganese on two furnaces and ferromanganese on the remaining two furnaces.[65] In December 2015, ***.[66]

Nonsubject imports held the largest share of the U.S. market during the POI. Their market share increased by 12.1 percentage points from 2012 to 2014, decreasing from 61.4 percent in 2012 to 59.1 percent in 2013 before increasing to 73.5 percent in 2014. Their market share was 77.3 percent in interim 2014 and 59.7 percent in interim 2015.[67] The largest nonsubject sources of silicomanganese to the U.S. market during the POI were Georgia and South Africa, which together accounted for *** percent of total imports and *** percent of nonsubject imports in 2014.[68] Domestic producer Felman Production is affiliated with Georgian Manganese LLC ("Georgian Manganese"), a nonsubject producer and exporter of silicomanganese located in Georgia; both companies are wholly owned by GAA.[69] Imports of silicomanganese from China, India, Kazakhstan, Ukraine, and Venezuela are currently subject to antidumping duty orders in the United States.[70]

3. Substitutability and Other Conditions

The record indicates that there is a high degree of substitutability between domestically produced silicomanganese and the subject imports.[71] Both of the U.S. producers, all importers, and all purchasers reported that the domestic like product and subject imports are "always" or "frequently" interchangeable. Most purchasers also indicated that the domestic like product and subject merchandise were comparable with respect to the 15 product factors referenced in the questionnaire.[72]

Most silicomanganese sold in the U.S. market is of similar composition, generally containing 65 to 68 percent manganese and about 17 percent silicon ("standard grade silicomanganese").[73] Also sold in the U.S. market is silicomanganese containing 72 percent manganese ("high grade silicomanganese"). High grade silicomanganese is produced by Felman Production's affiliate, Georgian Manganese, and is imported from Georgia by Felman Trading,

[65] CR at VII-4, PR at VII-3.

[66] CR at VII-6-7, PR at VII-4; Respondents Posthearing Br. at 11-13, Ex. 1 at 42-44.

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

[68] CR at II-12, PR at II-7. Subject producer TEMCO is affiliated with Samancor Manganese, which produced and exported silicomanganese in South Africa before permanently ceasing production in February 2012. Samancor Manganese currently is a major producer of ferromanganese. Both companies share the same parent company, previously BHP Billiton in a 60/40 joint venture with Anglo American Alloys (USA), and now South32. CR at VII-17, PR at VII-10.

[69] CR at III-2, PR at III-1. During the POI, Georgian Manganese was the largest nonsubject supplier of silicomanganese. CR at IV-3, PR at IV-3.

[70] CR at I-5-8, PR at I-4-6.

[71] CR at II-15-16, PR at II-10.

[72] CR/PR at Table II-9.

[73] CR at I-11, PR at I-9.

the only importer of silicomanganese from Georgia.[74] Although some U.S. steel mills are unable to use high grade silicomanganese in place of standard grade silicomanganese due to their production processes or end use products,[75] many U.S. steel mills find the two grades to be interchangeable. Seven out of ten purchasers reported that imports from Georgia were "always" or "frequently" interchangeable with the domestic like product and subject imports.[76] Moreover, high grade silicomanganese and standard grade silicomanganese are similarly priced on a manganese content per pound basis,[77] and all U.S. steel mills that currently consume the high grade product have used the standard grade product for the same purposes.[78] Indeed, Felman Production reported that *** U.S. mills switched from standard grade to high grade silicomanganese during the current POI.[79] Taking these factors into account, we find that high grade silicomanganese and standard grade silicomanganese can be used interchangeably for a significant proportion of applications.[80]

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[74] CR at I-12, PR at I-9. High grade silicomanganese is produced only in Georgia. Hearing Tr. at 103 (Rochussen). High grade silicomanganese accounted for *** percent of Felman Trading's U.S. shipments of imports from Georgia in 2012, *** percent in 2013, *** percent in 2014, and *** percent in interim 2015. CR at I-13 n.32, PR at I-9 n.32.

[75] High grade silicomanganese contains a higher amount of phosphorus than standard grade silicomanganese. Certain steel products, such as structural steel beams and energy tubular products, are particularly sensitive to phosphorus content. CR at I-12, PR at I-9.

[76] CR/PR at Table II-10; *see also* *** Supplemental Questionnaire and Posthearing Questions Response dated Feb. 17, 2016 at Question 8 (stating that the products are frequently interchangeable, discussing the relatively simple process of switching between them, and noting that the company currently has *** that use 72 percent and 65 percent silicomanganese interchangeably); Staff Email Correspondence with *** dated Feb. 16, 2016 (confirming that the company ***; Staff Email Correspondence with *** dated Feb. 16, 2016 (noting that their company had ***); Staff Email Correspondence with *** dated Feb. 17, 2016 (stating that the two grades of silicomanganese are interchangeable).

[77] CR at I-13, PR at I-9. ***. *See id.*; *see also* *** Supplemental Questionnaire and Posthearing Questions Response dated Feb. 17, 2016 at Question 8 (stating that there is ***).

[78] Hearing Tr. at 83 (Nuss).

[79] Domestic Producers Posthearing Br. at II-17 (showing a net increase of *** short tons of high grade silicomanganese at the mills that switched during the POI).

[80] Although the petitioner argues in the final phase of this investigation that there is limited interchangeability between high grade and standard grade silicomanganese, this assertion is both unsupported by the record and inconsistent with prior representations it made to the Commission. As discussed above, the record shows that the majority of responding purchasers reported that the imports from Georgia, which are predominantly high grade silicomanganese, are always or frequently interchangeable with the domestic like product and subject imports, which consist of standard grade silicomanganese. Petitioner emphasizes the fact that *** mills only purchased standard grade silicomanganese during the POI, while a smaller number of mills purchased the high grade product. Domestic Producers Posthearing Br. at II-17 (stating that *** mills purchased only high grade silicomanganese, *** purchased test quantities but did not purchase any high grade product to use at their mills, and *** mills switched between standard and high grade to some extent). The simple fact that a larger number of mills did not purchase high grade silicomanganese is not by itself evidence that the two grades are not interchangeable. Additionally, in the 2013 five-year reviews of the antidumping (Continued...)

We also find that price is an important factor in purchasing decisions in the U.S. silicomanganese market, although non-price factors are important as well. When asked about the significance of differences other than price between the domestic like product and subject imports, both U.S. producers reported that factors other than price were "sometimes" or "never" important, but a majority of importers reported that other factors were "frequently" or "sometimes" important, and a majority of purchasers reported that factors other than price were "always," "frequently," or "sometimes" important.[81] Additionally, an equal number of purchasers reported availability, quality, and reliability of supply in addition to price as being "very important" factors in purchasing decisions.[82]

Another condition of competition relevant to our analysis is the prevalence of contracts in the silicomanganese market. In 2014, the majority of all U.S. silicomanganese purchases for which the Commission collected data, *** percent, were made under contract.[83] In 2014, U.S. producers reported making all of their U.S. commercial shipments under contracts, with the vast majority occurring under long-term and annual contracts.[84] That same year, responding importers reported making *** percent of their U.S. commercial shipments of subject imports from Australia pursuant to contracts, with the majority of sales occurring under annual contracts, and *** percent based on sales in the spot market.[85]

In setting contract prices, suppliers of silicomanganese typically tie the prices to published price indices, most commonly *Ryan's Notes*.[86] *Ryan's Notes* publishes prices that are

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(…Continued)
duty orders on silicomanganese from India, Kazakhstan, and Venezuela, a Felman Trading official testified that "silicomanganese with higher manganese content is readily replaced with standard grade product." Respondents Posthearing Br. at 7, Ex. 1 at 4 (quoting Testimony of M. Sossonko, Sales Manager for Felman Trading, *Silicomanganese from India, Kazakhstan, and Venezuela*, Inv. Nos. 731-TA-929-931 (Second Reviews)). In those full reviews, the Commission found "a moderate-to-high degree of substitutability among silicomanganese produced in the United States and that imported from subject and nonsubject sources." *Silicomanganese from India, Kazakhstan, and Venezuela*, Inv. Nos. 731-TA-929-931 (Second Reviews), USITC Pub. 4424 at 21 (Sept. 2013).

[81] CR/PR at Table II-12.

[82] CR/PR at Table II-7.

[83] CR at V-9-10, PR at V-6.

[84] CR/PR at Table V-2. In 2014, U.S. producers reported making *** percent of their U.S. commercial shipments pursuant to long-term contracts, *** percent pursuant to annual contracts, and the remaining *** percent pursuant to short-term contracts. *See id.* Long-term contracts *** and two to three years for importers in 2014, while the average period covered by short-term contracts was *** and 30 to 180 days for importers. ***. CR at V-10-11, PR at V-6.

[85] CR/PR at Table V-2. With respect to their contract sales, importers of silicomanganese from Australia reported making *** percent of their U.S. commercial shipments pursuant to long-term contracts, *** percent pursuant to annual contracts, and *** pursuant to short-term contracts. *Id.*

[86] ***. CR at V-5, PR at V-4. Four importers reported using price indices as a basis for sales prices for long-term contracts, nine importers reported using them for annual contracts, three importers reported using them for short-term contracts, and six importers reported using them for spot sales. Three purchasers reported using price indices as a basis for sales prices for long-term contracts, eight (Continued...)

based on spot market sales of standard grade silicomanganese in the U.S. market. It verifies each spot market transaction "with both buyers and sellers, and when this is not possible, third and fourth parties are consulted."[87] *Ryan's Notes* is published twice a week, and therefore price information is quickly disseminated throughout the market.[88] Contract prices tend to be formulas that are discounts off of one of these published price indices, so sales prices under contracts fluctuate according to changes in published prices.[89]

Another relevant condition of competition concerns a contract dispute between ***[90] and ***,[91] the *** of silicomanganese in the U.S. market.[92] ***.[93] ***.[94] ***.[95] Consequently, when ***.[96] ***.[97] Additionally, ***.[98] ***,[99] ***.[100]

C. Volume of Subject Imports

Section 771(7)(C)(i) of the Tariff Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[101]

The volume of subject imports increased from 2012 to 2014, both in absolute terms and relative to apparent U.S. consumption. Subject import volume increased from *** short tons in

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purchasers reported using them for annual contracts, five purchasers reported using them for short-term contracts, and one purchaser reported using them for spot sales. CR at V-5-6, PR at V-4.

[87] CR at V-5 n.7, PR at V-4 n.7.

[88] CR at V-4-5, PR at V-4.

[89] CR at V-6-7, PR at V-5; *see also* Domestic Producers Prehearing Br. at 2.

[90] As previously discussed, *** affiliate, ***, handles all third party sales of silicomanganese produced by ***. CR at I-4 n.8, III-2; PR at I-4 n.8, III-1.

[91] ***. CR at II-3 n.9, PR at II-2 n.9.

[92] CR/PR at Table II-1.

[93] *** dated Dec. 15, 2015, Supplement to Question III-22 at 2-3; Domestic Producers Prehearing Br. at 60.

[94] *** dated Dec. 15, 2015, Supplement to Question III-22 at 3; Domestic Producers Posthearing Br. at II-1.

[95] Domestic Producers Posthearing Br. at II-1.

[96] *** dated Dec. 15, 2015, Supplement to Question III-22 at 4.

[97] *** dated Dec. 15, 2015, Supplement to Question III-22 at 4-5.

[98] ***. *** Supplemental Questionnaire and Post Hearing Questions Response dated Feb. 17, 2016 at Question 5.

[99] *** Supplemental Questionnaire and Post Hearing Questions Response dated Feb. 17, 2016 at Question 4; Domestic Producers Prehearing Br. at 59-63; Domestic Producers Posthearing Br. at II-1-5, III-3-4. ***. CR at II-3 n.9, PR at II-2 n.9; Respondents Prehearing Br. at 54. ***. *** Supplemental Questionnaire and Post Hearing Questions Response dated Feb. 17, 2016 at Question 1. Additionally, ***. *See* Domestic Producers Posthearing Br. at II-3.

[100] *** dated Dec. 15, 2015 at Question III-2(e)(iii).

[101] 19 U.S.C. § 1677(7)(C)(i).

2012 to *** short tons in 2013 before declining to *** short tons in 2014. Subject imports were *** short tons in interim 2014 and lower, at *** short tons, in interim 2015.[102]

As a share of apparent U.S. consumption, U.S. shipments of subject imports increased from *** percent in 2012 to *** percent in 2013 before declining to *** percent in 2014. Their market share was *** percent in interim 2014 and *** percent in interim 2015.[103] Meanwhile, the domestic industry's market share declined from *** percent in 2012 to *** percent in 2013 and *** percent in 2014. The domestic industry's share was *** percent in interim 2014 and *** percent in interim 2015.[104]

We conclude that the volume of subject imports and the increase in that volume are significant both in absolute terms and relative to apparent consumption. We note, however, that the principal increase in subject import volume occurred between 2012, a year during which TEMCO temporarily suspended silicomanganese production for four months, and 2013.[105] Thus, imports from Australia were at particularly low levels in 2012.[106] Additionally, the increase in subject import volume from 2012 to 2013 occurred during the period ***.[107] Moreover, for the reasons discussed below, we find that this volume of subject imports did not have a significant impact on the domestic industry.

D. Price Effects of the Subject Imports

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

(I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and

(II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.[108]

As discussed above, the record indicates that there is a high degree of substitutability between subject imports from Australia and the domestic like product and that price, along with availability, quality, and reliability of supply, are very important in purchasing decisions. [109]

The Commission requested that domestic producers and importers of subject merchandise provide quarterly data for the total quantity and f.o.b. value of four pricing

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[102] CR/PR at Table IV-2.

[103] CR/PR at Table C-1. Although subject import volume was lower in interim 2015 than in interim 2014, subject imports' market share was higher in interim 2015 than in interim 2014 due to shipments of subject merchandise from inventories. CR at IV-9, PR at IV-7.

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

[105] CR at VII-3-4, PR at VII-3.

[106] CR/PR at Table D-1; *see also* Respondents Posthearing Br. at Ex. 1 at 9.

[107] In its questionnaire response, *** stated that ***. *** dated Dec. 15, 2015 at Question III-2(e)(iii).

[108] 19 U.S.C. § 1677(7)(C)(ii).

[109] CR at II-16, PR at II-10; CR/PR at Table II-7.

products.[110] Of the four pricing products, the vast majority of sales of the domestic product and subject imports were of product 1 and product 2. Both domestic producers and eight importers submitted data, which were equivalent to approximately *** percent of the domestic industry's U.S. shipments and *** percent of U.S. commercial shipments of subject imports from Australia during the POI.[111] Based on the questionnaire responses submitted in the final phase of this investigation, subject imports oversold the domestic like product in *** out of *** quarterly comparisons. Subject imports undersold the domestic like product in *** quarterly comparisons, *** of which were for product 1, which accounted for significantly less volume than product 2.[112] Subject imports oversold the domestic like product in *** out of *** quarterly comparisons for product 2.[113] The quarters in which subject imports oversold the domestic like product involved sales of *** short tons, while the quarters in which subject imports undersold the domestic product involved *** short tons of subject imports. The volume of subject imports in quarters in which subject imports oversold the domestic like product amounted to *** percent of the volume of subject imports accounted for in the pricing data.[114] The volume of subject imports in quarters in which subject imports undersold the domestic like product amounted to *** percent of the volume of subject imports accounted for in the pricing data.[115]

We have considered petitioner's argument that the pricing data for product 2 in certain questionnaire responses are unreliable and find that it is unsupported by the record. Petitioner argues that the pricing data for product 2 (contract sales to steel producers), which show subject imports ***, are flawed and that the Commission should therefore disregard these data. In particular, petitioner contends that the pricing data submitted by *** show that the average prices reported for product 2 were *** and that these data cannot be reconciled with the importers' statements that their contract prices are set at discounts from the published prices in *Ryan's Notes*.[116] The record indicates, however, that not all ***.[117] Additionally,

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[110] CR at V-13, PR at V-7. All four products are defined as standard grade (65-68 percent) silicomanganese. The products differ, however, with respect to the purchaser and type of sale. Product 1 is sold to distributors under contracts. Product 2 is sold to steel producers under contracts. Product 3 is sold to distributors as spot sales. Product 4 is sold to steel producers as spot sales. *See id.*

[111] CR at V-13, PR at V-8.

[112] CR/PR at Tables V-3-4. Spot sales by domestic producers and subject importers were small and intermittent throughout the POI. For product 3 (spot sales to distributors), domestic producers reported data for *** quarters and importers reported data for *** quarters. For product 4 (spot sales to steel producers), domestic producers reported data for *** quarters and importers reported data for *** quarters. CR/PR at Tables V-5-6. For all four pricing products combined, the subject imports' quarterly margins of overselling ranged from *** to *** percent, and the quarterly margins of underselling ranged from *** to *** percent. CR/PR at Table V-8.

[113] CR/PR at Table V-8.

[114] CR/PR at Table V-8.

[115] CR/PR at Table V-8.

[116] Domestic Producers Prehearing Br. at 39-47; Domestic Producers Posthearing Br. at II-31-33; Hearing Tr. at 96 (Levy). Petitioner also argues that product 2 pricing data are flawed because importers included fixed pricing data, which are not comparable to the domestic producers' long-term contract (Continued...)

contract prices are often tied to published pricing from the month, or quarter, prior to delivery.[118] Consequently, we would not expect that contract prices would necessarily be less than index prices at any given time. Additionally, even after being notified about the pricing issues petitioner raised, *** confirmed that the data reported for product 2 were accurate.[119] *** submitted revisions to the data reported for product 2, but the revised data continued to show ***.[120]

We have also considered the average unit values of U.S. shipments of the domestic like product and of U.S. shipments of subject merchandise, which similarly show that U.S. shipments of subject imports were priced higher than U.S. shipments of the domestic like product in each year of the POI and both interim periods.[121] Based on the record, which shows that the subject imports predominantly oversold the domestic like product, we do not find that there has been significant underselling by the subject imports.

In analyzing whether the subject imports depressed domestic prices to a significant degree, we have considered movements in quarterly prices for the domestic like product over the POI. We observe that in the first half of 2012, the market experienced a price spike when BHP Billiton permanently ceased silicomanganese production at its South African facility and TEMCO temporarily suspended operations for four months. Consequently, prices for domestically produced products 1 and 2 increased.[122] As the market adjusted and the price spike abated, domestic prices began to decline in the second half of 2012 before subject imports entered the U.S. market in larger volumes.[123] In 2013 and 2014, domestic prices remained stable and even increased in the first two quarters of 2014 despite the increased

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prices that are based on published price indices. Domestic Producers Posthearing Br. at II-33. Such pricing data, however, are properly included under product 2, which includes all contract sales to steel producers regardless of the pricing measure used. Petitioner had the opportunity to request the Commission to use separate pricing products that might have captured the difference, but instead it requested that the Commission combine all sales, including spot sales, regardless of pricing measures used into a single pricing product for distributors and a single pricing product for steel producers. *See generally* Domestic Producers Comments on Draft Questionnaires dated Oct. 19, 2015.

[117] For instance, ***. *** Supplemental Questionnaire and Post Hearing Questions Response dated Feb. 17, 2016 at Question 7. Similarly, ***. *See* Staff Email Correspondence with *** dated Feb. 16, 2016.

[118] CR at V-7, PR at V-5.

[119] CR at V-23 n.23, PR at V-10 n.23.

[120] CR at V-23 n.23, PR at V-10 n.23.

[121] CR/PR at Table C-1. Petitioner argues that the Commission should consider the average unit values of imports, and not of U.S. shipments, because U.S. shipments of subject imports reflected all sales regardless of whether those sales were contract sales based on published prices indices or spot transactions based on fixed prices. Domestic Producers Posthearing Br. at II-38. However, comparing the average unit values of imports to the average unit values of U.S. shipments of the domestic like product would not necessarily be comparable as the data are at different levels of trade.

[122] CR/PR at Tables V-3-4.

[123] CR/PR at Tables V-3-4.

presence of subject imports in the U.S. market.[124] During interim 2015, the volume of U.S. shipments of subject imports increased again and prices decreased as demand and raw material costs declined.[125] Thus, the price declines can be attributed, at least in part, to the declines in demand and raw material costs.

We also observe that there is no evidence that sales of subject imports were directly influencing the prices published in the price indices, to which most of the domestic producers' contract prices are tied.[126] As explained above, the price indices publish prices that are based on spot sales of standard grade silicomanganese.[127] The record indicates, however, that *** and only a small volume of subject imports during the POI were sold in the spot market.[128] Moreover, neither ***, and ***.[129] The record consequently demonstrates both that movements in prices for the domestic like product were not associated clearly with changes in subject import volumes and that there is a lack of relationship between the subject imports and the prices reflected in the published indices on which the domestic producers base their contract sales. For these reasons, we cannot find that subject imports depressed prices for the domestic like product to a significant degree.

We also note that subject imports were not the lowest priced imports in the market during the POI. Pricing data collected for certain nonsubject imports show that they were generally priced lower than the subject imports from Australia and may have contributed to the decline in domestic prices. The Commission collected pricing data for imports from Georgia and South Africa, which together accounted for roughly half of apparent U.S. consumption for most of the POI.[130] The pricing data for standard grade silicomanganese from these two countries show that the nonsubject imports were priced lower than the subject imports from Australia in *** of 44 comparisons.[131] These data also show that U.S. shipments of imports from South Africa accounted for the largest volume of sales in the spot market and therefore were more likely to influence the published price indices.[132]

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[124] CR/PR at Tables V-3-4, C-1.

[125] CR/PR at Tables VI-3, C-1.

[126] CR/PR at V-5-6, PR at V-5.

[127] Hearing Tr. at 131-32 (Rochussen).

[128] CR at V-24, PR at V-11.

[129] Respondents Prehearing Br. at 41-42. Petitioner argues that the amount of discount offered to purchasers during contract negotiations is informed by the average unit values of subject imports. *See* Domestic Producers Prehearing Br. at 23-24; Domestic Producers Posthearing Br. at II-24. However, representatives for Felman Production and Eramet stated that they were unaware of any price negotiations in which purchasers referred to average unit values of subject imports to obtain a greater discount. Hearing Tr. at 130-31 (Rochussen, Nuss). Moreover, in their questionnaire responses, *** reported the use of import statistics in setting contract prices. CR at V-5, PR at V-4.

[130] Nonsubject imports from Georgia and South Africa combined accounted for about *** percent of apparent U.S. consumption in 2012, *** percent in 2013, *** percent in 2014, *** percent in interim 2014, and *** percent in interim 2015. CR/PR at Table C-1.

[131] CR/PR at Table E-5.

[132] The total volume of subject imports reported for pricing products 3 and 4 (spot sales) was *** short tons, while the volume of nonsubject imports from South Africa reported for the same (Continued...)

We also examined whether the effect of the subject imports was to prevent price increases for the domestic like product that otherwise would have occurred. We observe that during 2012 to 2014, annual fluctuations in raw material costs were modest,[133] while demand, as measured by apparent U.S. consumption, declined from 2012 to 2014. Both apparent U.S. consumption and raw material costs were lower during interim 2015 than during interim 2014.[134] Between 2013 and 2014, the domestic industry was able to increase sales prices as raw material costs increased, despite declining apparent U.S. consumption.[135] In interim 2015, as noted above, the industry's sales prices declined, but raw material costs and apparent U.S. consumption declined as well.[136] In these circumstances, we would not typically expect to see appreciable price increases beyond what the industry attained in 2014. Indeed, neither domestic producer reported that it had to roll back announced price increases.[137]

We acknowledge that the domestic industry's cost of goods sold ("COGS") as a share of net sales rose from 2012 to 2014. It increased from *** percent in 2012 to *** percent in 2013 and then decreased to *** percent in 2014.[138] Those fluctuations are largely explained by movements in prices and production, not changes in costs. Petitioner argues that the increase in volume of low-priced subject imports caused the domestic industry to experience a decline in sales and prices of domestically produced silicomanganese, which unfavorably affected its ratio of COGS to sales.[139] The domestic industry's lower sales, however, reflected reductions in the domestic industry's capacity and production – specifically, Felman Production's decision to idle its furnaces in 2013 and Eramet's decision that year ***.[140] We cannot conclude that these *** were the result of low-priced subject imports, as petitioners contend.[141] As explained above,

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(…Continued)
products was *** short tons and the volume from Georgia was *** short tons. Calculated from CR/PR at Tables V-5-6, E-3-4. *** CR at V-7-8, PR at V-5.

[133] CR at V-1. PR at V-1.

[134] CR/PR at Table IV-5. Moreover, the domestic industry's supply to the U.S. market was substantially higher in interim 2015 than in interim 2014 despite lower demand. *See* CR/PR at Tables III-2, IV-5. The domestic industry's increased supply while demand was declining created an environment that was inimical to price increases. Consequently, petitioner's theories concerning a "second wave" assault of subject imports, Domestic Producers Posthearing Br. at I-13-14, cannot explain the domestic industry's price levels in interim 2015.

[135] *See* CR/PR at Tables III-4, VI-3 (showing the unit value of the domestic industry's raw materials increased by $***/short ton between 2013 and 2014 and the unit value of the industry's U.S. shipments increased $***/short ton during the same period).

[136] *See* CR/PR at Tables III-4, VI-3 (showing the unit value of the domestic industry's raw materials declined by $***/short ton between interim 2014 and interim 2015 and the unit value of the industry's U.S. shipments declined by $***/short ton during the same period).

[137] CR at V-26, PR at V-11.

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

[139] CR at VI-5, PR at VI-2; Domestic Producers Prehearing Br. at 35. The domestic industry's ratio of COGS to sales was somewhat lower in interim 2015 than in interim 2014; its capacity and production were both higher in interim 2015 than in interim 2014. CR/PR at Tables III-2, VI-1.

[140] CR at III-3-5; PR at III-2.

[141] Domestic Producers Prehearing Br. at 35.

subject imports did not significantly undersell the domestic like product, and the record does not support a finding that subject imports were responsible for declining prices during portions of the POI.[142] Consequently, we do not find that the subject imports prevented price increases which otherwise would have occurred to a significant degree.

For the above reasons, we conclude that subject imports did not have significant effects on prices for the domestic like product.

E. Impact of the Subject Imports[143]

Section 771(7)(C)(iii) of the Tariff Act provides that examining the impact of subject imports, the Commission "shall evaluate all relevant economic factors which have a bearing on the state of the industry."[144] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, gross profits, net profits, operating profits, cash flow, return on investment, return on capital, ability to raise capital, ability to service debts, research and development, and factors affecting domestic prices. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[145]

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[142] We have also considered whether the domestic industry lost sales or revenue to subject imports from Australia. During the preliminary phase of the investigation, Felman Production reported *** lost sales allegations totaling $***, and ***. *** reported that they had to reduce prices and provided *** lost revenue allegations totaling $***. Purchasers confirmed only *** of the lost sales allegations, and no purchasers reported that U.S. producers had reduced their prices in order to compete with the prices of subject imports. CR/PR at Tables F-1-2. *** did not confirm any of *** lost sales allegations. CR/PR at Table F-1. ***. *** dated Dec. 15, 2015 at Question III-2(e)(iii).

In the final phase of the investigation, ***, and both U.S. producers reported that they had to reduce prices. Of the 17 responding purchasers, *** reported that they had shifted purchases of silicomanganese from the U.S. producers to subject imports. Two of the purchasers, ***, reported that price was the reason for the shift. Only one of the responding purchasers reported that U.S. producers had reduced prices in order to compete with subject imports. CR/PR at Tables V-9-10. While we have considered this data, our analysis of the entire record, for the reasons stated above, indicates that the subject imports did not significantly undersell the domestic like product or have significant price-depressing or suppressing effects.

[143] The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). In its final determination of sales at less value Commerce found an antidumping duty margin of 12.03 percent for subject imports from Australia. Commerce Final AD Determination, 81 Fed. Reg. at 8684.

[144] 19 U.S.C. § 1677(7)(C)(iii); *see also* SAA at 851 and 885 ("In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.").

[145] 19 U.S.C. § 1677(7)(C)(iii). This provision was recently amended by the Trade Preferences Extension Act of 2015, Pub. L. 114-27.

The performance indicators for the domestic industry reflect declines for most of the POI, with some improvement in interim 2015 relative to interim 2014. The domestic industry's capacity,[146] production,[147] capacity utilization,[148] and shipments[149] all declined from 2012 to 2014, although they were all higher in interim 2015 than in interim 2014.[150] Inventories rose from 2012 to 2014 and were higher in interim 2015 than in interim 2014.[151]

The domestic industry's number of production related workers,[152] hours worked,[153] and wages paid[154] declined from 2012 to 2014. Each of these indicators, however, was higher in interim 2015 than in interim 2014.[155] Productivity decreased from 2012 to 2013, increased from 2013 to 2014, and was higher in interim 2015 than in interim 2014.[156]

The domestic industry's revenues declined from 2012 to 2014, but were higher in interim 2015 than in interim 2014.[157] The industry experienced *** in 2013, 2014, and both

[146] The domestic industry's production capacity decreased from *** short tons in 2012 to *** short tons in 2013 and *** short tons in 2014. It was *** short tons in interim 2014 and *** short tons in interim 2015. CR/PR at Table C-1. The decline in production capacity from 2012 to 2014 was due to ***. As previously discussed, Felman Production *** its furnace shutdowns. CR at III-3 n.12, PR at III-2 n.12. If Felman Production's furnace shutdowns are taken into account, the domestic industry's adjusted capacity was *** short tons in 2012, *** short tons in 2013, *** short tons in 2014, *** short tons in interim 2014, and *** short tons in interim 2015. CR/PR at Table III-2 note.

[147] Domestic industry production decreased from *** short tons in 2012 to *** short tons in 2013 and *** short tons in 2014. It was *** short tons in interim 2014 and *** short tons in interim 2015. CR/PR at Table C-1.

[148] The domestic industry's capacity utilization rate decreased by *** percentage points from 2012 to 2014, falling from *** percent in 2012 to *** percent in 2013 and *** percent in 2014. It was *** percent in interim 2014 and *** percent in interim 2015. CR/PR at Table C-1.

[149] The domestic industry's U.S. shipments, by quantity, decreased from *** short tons in 2012 to *** short tons in 2013 and *** short tons in 2014. They were *** short tons in interim 2014 and *** short tons in interim 2015. CR/PR at Table C-1.

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

[151] Inventories decreased from *** short tons in 2012 to *** short tons in 2013, then increased to *** short tons in 2014. They were *** short tons in interim 2014 and *** short tons in interim 2015. CR/PR at Table III-5.

[152] The number of workers employed by the domestic industry fell from *** in 2012 to *** in 2013 and *** in 2014. It was *** in interim 2014 and *** in interim 2015. CR/PR at Table C-1.

[153] Total hours worked decreased from *** hours in 2012 to *** hours in 2013 and *** hours in 2014. They were *** hours in interim 2014 and *** hours in interim 2015. CR/PR at Table C-1.

[154] Wages paid decreased from $*** in 2012 to $*** in 2013 and $*** in 2014. They were $*** in interim 2014 and $*** in interim 2015. CR/PR at Table C-1.

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

[156] Productivity per 1,000 hours decreased from *** short tons in 2012 to *** short tons in 2013, before increasing to *** short tons in 2014. It was *** short tons in interim 2014 and *** short tons in interim 2015. CR/PR at Table C-1.

[157] The domestic industry's revenues decreased from $*** in 2012 to $*** in 2013 and $*** in 2014. They were $*** in interim 2014 and $*** in interim 2015. CR/PR at Table C-1.

interim periods.[158] Its ratio of operating income to net sales fell from 2012 to 2014, and was *** during both interim periods.[159] The industry's net income decreased from 2012 to 2013, improved in 2014, and improved again in interim 2015, though it *** from 2013 through the remainder of the POI.[160]

The domestic industry's capital expenditures[161] and research and development expenses[162] declined from 2012 to 2014. They were higher in interim 2015 than in interim 2014.[163]

We find that the declines in the domestic industry's output, employment, and financial performance during the POI were not caused by the subject imports. As discussed above, subject imports did not have any significant effects on the industry's prices during the POI. Similarly, the record does not support a finding that the decisions of both domestic producers to cut production from 2013 to 2014, leading to declines in output, market share, employment, and revenues, were due to subject imports. The domestic producers have repeatedly argued that declining market conditions, allegedly caused by the subject imports, forced them to reduce production of silicomanganese during the POI.[164] As explained above, however, the record does not show that subject imports were having a significant impact on the domestic industry's prices or on broader market prices, either by significantly underselling the domestic like product or by influencing the published price indices through spot sales.[165] In addition, demand, as measured by apparent U.S. consumption, declined between 2013 and 2014, which presumably contributed to declining market conditions at that time.[166] Consequently, we do not find that subject imports were responsible for the market conditions that caused the domestic producers to reduce production of silicomanganese during the POI.

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[158] The domestic industry's operating income decreased from $*** in 2012 to *** in 2013, and then improved to *** in 2014. It had *** in interim 2014 and *** in interim 2015. CR/PR at Table C-1. The industry's gross profits declined from $*** in 2012 to *** in 2013, and then improved to *** in 2014. Gross profits were *** in interim 2014 and *** in interim 2015. CR/PR at Table VI-1.

[159] As a ratio to net sales, the domestic industry's operating ratio decreased from *** percent in 2012 to *** percent in 2013, before improving to *** percent in 2014. It was *** percent in interim 2014 and *** percent in interim 2015. CR/PR at Table C-1.

[160] The domestic industry's net income decreased from $*** in 2012 to *** in 2013, before improving to *** in 2014. It was *** in interim 2014 and *** in interim 2015. CR/PR at Table C-1.

[161] The domestic industry's capital expenditures decreased from $*** in 2012 to $*** in 2013 and $*** in 2014. They were $*** in interim 2014 and $*** million in interim 2015. CR/PR at Table VI-5.

[162] Research and development expenses decreased from $*** in 2012 to $*** in 2013 and $*** in 2014. They were $*** in interim 2014 and $*** in interim 2015. CR/PR at Table VI-5.

[163] CR/PR at Table VI-5.

[164] *See, e.g.*, Hearing Transcript at 35, 63-64 (Nuss), 41 (Rochussen).

[165] Counsel for the domestic industry testified at the hearing that "{o}ne can observe market price trends in the marketplace by reference to these published indices themselves, which of course are a reflection of what's happening in the spot market," which confirms that market prices are inherently tied to the published price indices. Hearing Tr. at 48 (Levy).

[166] *See* CR/PR at Table C-1.

Additionally, beginning in 2013, Felman Production lost silicomanganese sales and market share ***.[167]

The domestic industry also appears to have lost sales to nonsubject imports from Georgia, the largest source of supply to the U.S. silicomanganese market in 2013, 2014, and both interim periods.[168] Nonsubject imports from Georgia increased their share from *** percent in 2012 to *** percent in 2013 and *** percent in 2014. Their share was *** percent in interim 2014 and *** percent in interim 2015.[169] As noted above, these imports from Georgia were sourced from Felman Production's affiliate, Georgian Manganese, and all nonsubject imports from Georgia were imported by Felman Trading. The volume of high grade silicomanganese from Georgia increased throughout the POI and accounted for *** percent of nonsubject imports from Georgia in interim 2015.[170] Although Felman Production argues that its affiliates would not "cannibalize" the domestic industry's sales in favor of imports,[171] the record shows that Felman Trading has ***.[172] Therefore, any new sales of high grade silicomanganese were at the expense of standard grade silicomanganese, which could have been supplied by the domestic industry.[173]

Finally, we observe that despite the increase in subject imports' market presence in interim 2015 relative to interim 2014, the domestic industry's market share was *** percentage points higher in interim 2015 than in interim 2014.[174] Moreover, many of the domestic industry's trade and financial indicators, such as production, U.S. shipments, net sales, and revenue, rose between the interim periods,[175] although prices for the domestic like product declined in interim 2015, which caused the domestic industry to experience increased operating ***.[176] The domestic industry's improved experience in interim 2015 reflects a lack of correlation between the presence of subject imports in the U.S. market and the domestic

[167] *** dated Dec. 15, 2015 at Question III-2(e)(iii).

[168] CR/PR at Table C-1. In 2012, nonsubject imports from Georgia held the third largest share of the market after the domestic industry and nonsubject imports from South Africa. *See id.*

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

[170] High grade silicomanganese accounted for *** percent of the U.S. shipments of imports from Georgia in 2012, *** percent in 2013, and *** percent in 2014. CR at I-13 n.32, PR at I-9 n.32.

[171] Domestic Producers Prehearing Br. at 67-68.

[172] *** Supplemental Questionnaire and Post Hearing Questions Response dated Feb. 17, 2016 at Question 8 and Attachment 2 (touting the benefits of high grade silicomanganese).

[173] Felman Production states that it is more efficient for it to produce standard grade silicomanganese at its West Virginia facility and more efficient for Georgian Manganese to produce the high grade product in Georgia. Domestic Producers Posthearing Br. at II-15. Felman Production also acknowledges that mills generally convert from standard grade to high grade silicomanganese, so that sales of the high grade product come at the expense of sales of standard grade silicomanganese. *See* Domestic Producers Posthearing Br. at II-17.

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

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

[176] Petitioner states that silicomanganese sales in Europe also experienced a decline in prices during this time period. Domestic Producers Posthearing Br. at II-46-47.

industry's output and financial performance. Moreover, as discussed above, the price levels the domestic industry experienced during interim 2015 were not a result of the subject imports.

In view of the foregoing, we find that subject imports from Australia have not had a significant impact on the domestic industry. We accordingly determine that the domestic industry is not materially injured by reason of subject imports from Australia.[177]

V. Threat of Material Injury by Reason of Subject Imports

A. Legal Standard

Section 771(7)(F) of the Tariff Act directs the Commission to determine whether the U.S. industry is threatened with material injury by reason of the subject imports by analyzing whether "further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted."[178] The Commission may not make such a determination "on the basis of mere conjecture or supposition," and considers the threat factors "as a whole" in making its determination whether dumped or subsidized imports are imminent and whether material injury by reason of subject imports would occur unless an order is issued.[179] In making our

[177] Vice Chairman Pinkert and Commissioner Kieff find that the Commission's conclusions in this investigation are corroborated by Bratsk/Mittal considerations. They note that the parties agree that silicomanganese is a commodity product, Domestic Producers Prehearing Br. at 19-20; Respondents' Prehearing Brief at 9; Domestic Producers Posthearing Brief at 1-2; Respondents' Posthearing Brief, Ex. 1, at 40, and the record demonstrates that price-competitive nonsubject imports are a significant presence in the U.S. market, CR at Table C-1 and E-16, Table E-5. Consequently, they have considered whether the domestic industry would have been better off had the subject imports exited the market during the period of investigation. *Bratsk*, 444 F.3d at 1375; *Mittal Steel*, 542 F.3d at 878. They find that a benefit to the domestic industry under those circumstances would have been very unlikely. Over the period of investigation, subject imports never exceeded *** short tons, or *** percent of the U.S. market, in any given year. CR at Table C-1. Meanwhile, nonsubject imports ranged between 275,046 and 313,948 tons and had a market share ranging between 59.1 percent and 77.3 percent. *Id*. In addition, silicomanganese sourced in nonsubject countries could have replaced subject imports. The volume of global exports from nonsubject countries during the period of investigation dwarfed the volume of exports by Australian producer TEMCO and indicates the ability of nonsubject producers to ship a sufficient volume to the United States to replace imports from Australia. *Id.* at VII-6. Moreover, the volume of nonsubject imports increased from year to year over the period, and they demonstrated a tendency to replace subject imports, notably from 2013 to 2014, when subject imports declined by *** tons and nonsubject imports increased by 36,000 tons. *Id.* at Table C-1. There also would likely have been no price benefit to domestic producers in the absence of subject imports. Quarterly pricing data indicate that nonsubject imports (from Georgia and South Africa) undersold subject imports during the period, regardless of whether one focuses entirely on prices for standard grade product or focuses on prices for high grade product that are converted on a contained manganese basis and combined with prices for standard grade product. *Id.* at E-16, Table E-5.

[178] 19 U.S.C. § 1677(7)(F)(ii).

[179] 19 U.S.C. § 1677(7)(F)(ii).

determination, we consider all statutory threat factors that are relevant to these investigations.[180]

1. Likely Volume of Subject Imports

As discussed above, the volume of subject imports from Australia remained relatively flat for the last two years of the POI and interim 2015. After increasing by *** short tons from 2012 to 2013, import volume remained relatively steady at *** short tons in 2013 and *** short tons in 2014. Subject import volume was *** short tons in interim 2014 and *** short tons in interim 2015.[181]

The record in the final phase of this investigation does not indicate that the volume of subject imports from Australia observed in 2013, 2014, and interim 2015 is likely to increase in the imminent future. TEMCO's capacity ***;[182] its capacity utilization increased throughout the

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[180] These factors are as follows:

. . . (II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,

(III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,

(IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices and are likely to increase demand for further imports,

(V) inventories of the subject merchandise,

(VI) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products,

…

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

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

19 U.S.C. § 1677(7)(F)(i). To organize our analysis, we discuss the applicable statutory threat factors using the same volume/price/impact framework that applies to our material injury analysis. Statutory threat factors (II), (III), (V), and (VI) are discussed in the analysis of subject import volume. Statutory threat factor (IV) is discussed in the analysis of subject import price effects. Statutory factors (VIII) and (IX) are discussed in the analysis of impact. Statutory factors (I) concerning subsidies and (VII) concerning agricultural products are inapplicable to this investigation.

[181] CR/PR at Table IV-2. Subject imports' market share, after increasing by *** percentage points from 2012 to 2013, was *** percent in 2013 and *** percent in 2014. It was *** percent in interim 2014 and *** percent in interim 2015. CR/PR at Table IV-5.

[182] CR at VII-4, PR at VII-3. TEMCO's reported capacity increased from *** short tons in 2012 to *** short tons in 2013 before decreasing to *** short tons in 2014. CR/PR at Table VII-1. It was *** in both interim periods. *See id.*

POI, and in interim 2015 TEMCO had ***.[183] In December 2015, TEMCO suffered a ***. TEMCO ***.[184] Additionally, *** as a result of a region-wide electricity shortage. This shortage was caused by a December 2015 outage in the Basslink undersea power cable, which connects Tasmania to the national electricity grid and provides significant contingency power to Hydro Tasmania, and an unprecedented drought, leaving water levels used to generate the majority of Tasmania's electricity at record lows.[185] Consequently, TEMCO is ***.[186] TEMCO's production is therefore unlikely to increase in the imminent future.

Petitioner argues that TEMCO has the ability and incentive to increase the volume of subject imports to the U.S. market by shifting production from ferromanganese to silicomanganese.[187] Although it is possible for TEMCO to produce silicomanganese on all four of its furnaces, ***.[188] TEMCO states that producing silicomanganese on two furnaces and ferromanganese on two furnaces *** and is its optimal allocation of production. Therefore, we do not find it likely that TEMCO would have the incentive to shift production from ferromanganese to silicomanganese, thus changing its optimal duplex configuration.[189]

Inventories of subject merchandise increased from 2012 to 2014, and inventories of silicomanganese in Australia were at elevated levels in interim 2015.[190] This information does not detract from our finding that increased imports of subject merchandise from Australia are unlikely. As previously discussed, ***, will likely remain *** in the imminent future due to a region-wide electricity shortage.[191] While this ***.[192]

In light of the foregoing, we find that there is unlikely to be a significant increase in subject imports from Australia in the imminent future.[193]

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[183] CR/PR at Table VII-1. TEMCO's capacity utilization was *** percent in 2012, *** percent in 2013, and *** percent in 2014. It was *** percent in interim 2014 and *** percent in interim 2015. *See id.*

[184] CR at VII-6-7, PR at VII-4; Respondents Prehearing Br. at 67-68.

[185] CR at VII-7, PR at VII-4; Respondents Posthearing Br. at 11-13, Ex. 1 at 42-44.

[186] CR at VII-6-7, PR at VII-4; Respondents Posthearing Br. at 11-13, Ex. 1 at 42-44.

[187] Domestic Producers Prehearing Br. at 73-78; Domestic Producers Posthearing Br. at II-55-57.

[188] CR at VII-9, PR at VII-5.

[189] CR at VII-4, PR at VII-3; Respondents Prehearing Br. at 73-75.

[190] CR/PR at Table VII-1. TEMCO's end-of-period inventories in Australia were *** short tons in 2012, *** short tons in 2013, and *** short tons in 2014. They were *** short tons in interim 2014 and *** short tons in interim 2015. *See id.*

End-of-period U.S. inventories of subject merchandise were *** short tons in 2012, *** short tons in 2013, and *** short tons in 2014. They were *** short tons in interim 2015 and *** short tons in interim 2015. CR/PR at Table VII-3.

[191] CR at VII-6-7; PR at VII-4.

[192] Respondents Posthearing Br. at 14-15.

[193] There are no known antidumping findings in other countries concerning silicomanganese from Australia. CR at VII-11, PR at VII-6.

2. Likely Price Effects of Subject Imports

We have found above that underselling of the domestic like product by subject imports from Australia, which occurred in only *** out of *** quarterly comparisons, was not significant. We also found that subject imports from Australia did not cause significant price effects because they were not responsible for the price declines of the domestic like product and unfavorable changes in the domestic industry's ratio of COGS to sales. Nothing in the record indicates that subject imports are likely to be sold more frequently or in larger volumes on the spot market and thereby have a greater influence on the published price indices.

Because the record provides no indication that the volume of subject imports is likely to change appreciably from the levels observed in 2013, 2014, and interim 2015, and because nothing in the record indicates a likely change in the subject imports' method of sale, we find that subject imports are similarly unlikely to cause significant price effects in the imminent future. We consequently find that imports of subject merchandise from Australia are unlikely to enter the U.S. market at prices that are likely to have significant depressing or suppressing effects on domestic prices or that are likely to increase demand for further imports.

3. Likely Impact

As discussed above, we have found that it is likely that the volume of subject imports from Australia in the imminent future will remain at or near the volumes observed during 2013, 2014, and interim 2015. Further, subject imports from Australia are not likely to enter the U.S. market at prices that are likely to have a suppressing or depressing effect on the domestic industry's prices, or to increase demand for further imports.

Although the domestic industry encountered declines in its performance over the POI, we do not find that these were due to subject imports from Australia. Given our conclusions that the volume of subject imports from Australia is not likely to increase significantly from the 2013, 2014, and interim 2015 levels in the imminent future and are not likely to have significant adverse price effects, we find that subject imports from Australia are not likely to have a significant impact on the domestic industry. We further note that Felman Trading has secured substantial sales with ***.[194] Therefore, we do not find that material injury by reason of subject imports would occur absent issuance of an antidumping duty order.

Accordingly, we conclude that the domestic silicomanganese industry is not threatened with material injury by reason of subject imports of silicomanganese from Australia.

VI. Conclusion

For the reasons stated above, we determine that an industry in the United States is not materially injured nor threatened with material injury by reason of subject imports of silicomanganese from Australia that are sold in the United States at less than fair value.

[194] Domestic Producers Posthearing Br. at I-5, Ex. 5.

PART I: INTRODUCTION

BACKGROUND

This investigation results from a petition filed with the U.S. Department of Commerce ("Commerce") and the U.S. International Trade Commission ("USITC" or "Commission") by Felman Production LLC ("Felman"), Letart, West Virginia, on February 19, 2015, alleging that an industry in the United States is materially injured and threatened with material injury by reason of less-than-fair-value ("LTFV") imports of silicomanganese[1] from Australia. The following tabulation provides information relating to the background of this investigation.[2] [3]

Effective date	Action
February 19, 2015	Petition filed with Commerce and the Commission; institution of Commission investigation (80 FR 10511, February 26, 2015)
March 17, 2015	Commerce's notice of initiation (80 FR 13829, March 17, 2015)
April 7, 2015	Commission's preliminary determination (80 FR 19354, April 10, 2015)
September 25, 2015	Commerce's preliminary determination (80 FR 57787, September 25, 2015); scheduling of final phase of Commission investigation (80 FR 63833, October 21, 2015)
February 11, 2016	Commission's hearing
February 22, 2016	Commerce's final determination (81 FR 8682, February 22, 2016)
March 11, 2016	Commission's vote
April 6, 2016	Commission's views

[1] See the section entitled "The Subject Merchandise" in *Part I* of this report for a complete description of the merchandise subject to this investigation.

[2] Pertinent *Federal Register* notices are referenced in appendix A, and may be found at the Commission's website (www.usitc.gov).

[3] Appendix B presents the hearing witness list.

STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

Statutory criteria

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

> *shall consider (I) the volume of imports of the subject merchandise, (II) the effect of imports of that merchandise on prices in the United States for domestic like products, and (III) the impact of imports of such merchandise on domestic producers of domestic like products, but only in the context of production operations within the United States; and. . . may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.*

Section 771(7)(C) of the Act (19 U.S.C. § 1677(7)(C)) further provides that--[4]

> *In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States is significant.. . .In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether. . .(I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.. . . In examining the impact required to be considered under subparagraph (B)(i)(III), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to. . . (I) actual and potential decline in output, sales, market share, gross profits, operating profits, net profits, ability to service debt, productivity, return on investments, return on assets, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, (IV) actual and potential negative effects on the existing development and production efforts of the*

[4] Amended by PL 114-27 (as signed, June 29, 2015), Trade Preferences Extension Act of 2015.

domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and (V) in {an antidumping investigation}, the magnitude of the margin of dumping.

In addition, Section 771(7)(J) of the Act (19 U.S.C. § 1677(7)(J)) provides that—[5]

(J) EFFECT OF PROFITABILITY.—The Commission may not determine that there is no material injury or threat of material injury to an industry in the United States merely because that industry is profitable or because the performance of that industry has recently improved.

Organization of report

Part I of this report presents information on the subject merchandise, the dumping margin, and domestic like product. *Part II* of this report presents information on conditions of competition and other relevant economic factors. *Part III* presents information on the condition of the U.S. industry, including data on capacity, production, shipments, inventories, and employment. *Parts IV* and *V* present the volume of subject imports and pricing of domestic and imported products, respectively. *Part VI* presents information on the financial experience of U.S. producers. *Part VII* presents the statutory requirements and information obtained for use in the Commission's consideration of the question of threat of material injury as well as information regarding nonsubject countries.

MARKET SUMMARY

Silicomanganese generally is consumed in bulk form primarily by the steel industry as a source of both silicon and manganese, although some silicomanganese is used as an alloying agent in the production of iron castings. The U.S. producers of silicomanganese are Eramet Marietta, Inc. ("Eramet") and Felman, while Tasmanian Electro Metallurgical Company ("TEMCO") is the sole Australian producer of silicomanganese.[6] The leading U.S. importers of silicomanganese from Australia are Samancor AG ("Samancor")[7] and The David J. Joseph

[5] Amended by PL 114-27 (as signed, June 29, 2015), Trade Preferences Extension Act of 2015.

[6] TEMCO is affiliated with the U.S. importer Samancor.

[7] In the preliminary phase of this investigation, BHP Billiton Marketing, Inc. ("BMI") appeared before the Commission as an importer respondent interested party. At that time, and through May 2015, BMI was owned by BHP Holdings (Resources) Inc. ("BHP Billiton"), which in turn owned in a 60/40 joint venture with Anglo American the Australian silicomanganese producer TEMCO. In May 2015, BHP Billiton demerged certain assets to create an independent global metals and mining company, South32. South32 is completely distinct and independent of BHP Billiton. As a result of implementation of the demerger, Samancor and TEMCO were collective assets which formed part of the South32 group of companies while BMI remains a subsidiary of the BHP Billiton Group. In this report, "Samancor" refers to the U.S. importer and the importing operations of its predecessor firm, BMI.

Company ("DJJ"). Leading importers of silicomanganese from nonsubject countries (primarily Georgia and South Africa) include Felman Trading[8] and ***. U.S. purchasers of silicomanganese are typically steel producers. These purchasers include Nucor, Gerdau, CMC, Steel Dynamics, and Arcelor Mittal.

Apparent U.S. consumption of silicomanganese totaled approximately 427,000 short tons ($465 million) in 2014. Currently, Felman and Eramet are the only known producers of silicomanganese in the United States. U.S. producers' U.S. shipments of silicomanganese totaled *** short tons ($***) in 2014, and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value. U.S. shipments of imports from Australia totaled *** short tons ($***) in 2014 and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value. U.S. shipments of imports from nonsubject sources totaled *** short tons ($***) in 2014 and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value.

SUMMARY DATA AND DATA SOURCES

A summary of data collected in this investigation is presented in appendix C, table C-1. Except as noted, U.S. industry data are based on questionnaire responses of two firms that accounted for 100 percent of U.S. production of silicomanganese during 2014. U.S. imports are based on questionnaire responses that account for all U.S. imports from Australia and over 90 percent of imports from nonsubject countries.

PREVIOUS AND RELATED INVESTIGATIONS

Silicomanganese has been the subject of two grouped investigations and subsequent five-year reviews in the United States. There are antidumping duty orders in place on imports of silicomanganese from China, India, Kazakhstan, Ukraine, and Venezuela, following affirmative five-year review determinations in 2012 and 2013.[9]

Following a petition filed on November 12, 1993, by Elkem Metals Co. (predecessor firm to Eramet) and the Oil, Chemical and Atomic Workers ("OCAW") Local 3-639, the Commission conducted antidumping duty investigations on silicomanganese from Brazil, China, Ukraine, and

[8] U.S. producer Felman and U.S. importer Felman Trading are direct subsidiaries of parent company Georgian American Alloys, Inc. ("GAA"). GAA is based in Miami, FL, where it controls all of its operations, both in the Republic of Georgia and West Virginia. Hearing transcript, p. 25 (Powell). Felman Trading is the sales arm of GAA. Conference Transcript, p. 48 (Nuss). GAA also owns Georgian silicomanganese producer Georgian Manganese, LLC ("Georgian Manganese"), the source of Felman Trading's imported Georgian silicomanganese.

[9] *Silicomanganese from the People's Republic of China and Ukraine: Continuation of Antidumping Duty Orders*, 77 FR 66956, November 8, 2012; and *Silicomanganese From India, Kazakhstan, and Venezuela: Continuation of Antidumping Duty Orders*, 78 FR 60846, October 2, 2013.

Venezuela.[10] On October 31, 1994, Commerce made final affirmative LTFV determination regarding silicomanganese from Brazil, China, and Venezuela. In addition, on October 31, 1994, an agreement was signed suspending the antidumping investigation on silicomanganese from Ukraine.[11] On December 14, 1994, the Commission completed its original investigations concerning silicomanganese from Brazil, China, Ukraine, and Venezuela. It determined that an industry in the United States was materially injured or threatened with material injury by reason of LTFV imports of silicomanganese from Brazil, China, and Ukraine. The Commission further determined that an industry in the United States was not materially injured or threatened with material injury, and the establishment of an industry in the United States was not materially retarded, by reason of LTFV imports from Venezuela. After receipt of the Commission's final determinations, Commerce issued antidumping duty orders on imports of silicomanganese from Brazil and China.[12]

On November 2, 1999, the Commission instituted the first five-year reviews of the antidumping duty orders on imports of silicomanganese from Brazil and China and the suspended investigation on silicomanganese from Ukraine. In January 2001, the Commission completed its full first five-year reviews and determined that revocation of the antidumping duty orders on silicomanganese from Brazil and China and termination of the suspension agreement on silicomanganese from Ukraine would be likely to lead to continuation or recurrence of material injury to an industry in the United States within the reasonably foreseeable time. Subsequently, Commerce issued a continuation of the antidumping duty orders on silicomanganese from Brazil and China and the suspended antidumping duty investigation on silicomanganese from Ukraine. On July 19, 2001, the Government of Ukraine submitted a memorandum to Commerce officially requesting termination of the suspension agreement on silicomanganese from Ukraine and, effective September 17, 2001, Commerce issued an antidumping duty order.[13]

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[10] *Silicomanganese from Brazil, the People's Republic of China, Ukraine, and Venezuela, Inv. Nos. 731-TA-671-674 (Final)*, USITC Publication 2836, December 1994, p. I-3.

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

[12] *Notice of Antidumping Duty Order: Silicomanganese from Brazil*, 59 FR 66003, December 22, 1994; and *Notice of Antidumping Duty Order: Silicomanganese from the People's Republic of China*, 59 FR 66003, December 22, 1994.

[13] *Silicomanganese from Brazil, China, and Ukraine, Inv. Nos. 731-TA-671-673 (Third Review)*, USITC Publication 4354, October 2012, pp. I-2-I-3.

On January 3, 2006, the Commission instituted the second five-year reviews of the antidumping duty orders on imports of silicomanganese from Brazil, China, and Ukraine. In August 2006, the Commission completed its expedited second five-year reviews and determined that revocation of the antidumping duty orders on silicomanganese from Brazil, China, and Ukraine would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. Subsequently, Commerce issued a continuation of the antidumping duty orders on silicomanganese from Brazil, China, and Ukraine.[14]

On August 1, 2011, the Commission instituted the third five-year reviews of the antidumping duty orders on imports of silicomanganese from Brazil, China, and Ukraine. In October 2012, the Commission completed its full third five-year reviews. It determined that revocation of the antidumping duty order on silicomanganese from Brazil would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time and that revocation of the antidumping duty orders on silicomanganese from China and Ukraine would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[15] Subsequently, Commerce issued a continuation of the antidumping duty orders on silicomanganese from China and Ukraine.[16]

Following petitions filed by Eramet and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5-0639, on April 6, 2001, the Commission conducted antidumping duty investigations on imports of silicomanganese from India, Kazakhstan, and Venezuela.[17] Following notification of a final determination by Commerce that imports of silicomanganese from India, Kazakhstan, and Venezuela were being sold at LTFV, the Commission determined on May 16, 2002 that a domestic industry was materially injured by reason of LTFV imports of silicomanganese from India, Kazakhstan, and Venezuela.18 Commerce published the antidumping duty orders on silicomanganese from India, Kazakhstan, and Venezuela on May 23, 2002.19 Effective October 2013, following second full five-year

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[14] *Silicomanganese from Brazil, China, and Ukraine, Inv. Nos. 731-TA-671-673 (Third Review)*, USITC Publication 4354, October 2012, p. I-3.

[15] *Silicomanganese from Brazil, China, and Ukraine, Inv. Nos. 731-TA-671-673 (Third Review)*, USITC Publication 4354, October 2012, p. 1.

[16] *Silicomanganese from the People's Republic of China and Ukraine: Continuation of Antidumping Duty Orders*, 77 FR 66956, November 8, 2012.

[17] *Silicomanganese from India, Kazakhstan, and Venezuela*, Investigation Nos. 731-TA-929-931 (Second Review), USITC Publication 4424, September 2013, p. I-2.

[18] *Silicomanganese from India, Kazakhstan, and Venezuela, Inv. Nos. 731-TA-929-931 (Final)*, USITC Publication 3505 (May 2002).

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

reviews, Commerce continued the antidumping duty orders on silicomanganese from India, Kazakhstan, and Venezuela.[20]

NATURE AND EXTENT OF SALES AT LTFV

Sales at LTFV

On February 22, 2016, Commerce published a notice in the *Federal Register* of its final determination of sales at LTFV with respect to imports from Australia.[21] Table I-1 presents Commerce's dumping margin with respect to imports of silicomanganese from Australia.

Table I-1
Silicomanganese: Commerce's final weighted-average LTFV margins with respect to imports from Australia

Producer or exporter	Final dumping margin (*percent*)
Tasmanian Electro Metallurgical Company Pty Ltd	12.03
All others	12.03

Source: 81 FR 8682, February 22, 2016.

THE SUBJECT MERCHANDISE

Commerce's scope

Commerce has defined the scope of this investigation as follows:

> *The scope of this investigation covers all forms, sizes and compositions of silicomanganese, except low-carbon silicomanganese, including silicomanganese briquettes, fines, and slag. Silicomanganese is properly classifiable under subheading 7202.30.0000 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Low-carbon silicomanganese is excluded from the scope of this investigation. Low-carbon silicomanganese is classifiable under HTSUS subheading 7202.30.0000. The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope is dispositive.*[22]

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[20] *Silicomanganese from India, Kazakhstan, and Venezuela: Continuation of Antidumping Duty Orders*, 78 FR 60846, October 2, 2013.

[21] *Silicomanganese from Australia: Final Determination of Sales at Less Than Fair Value*, 81 FR 8682, February 22, 2016.

[22] *Silicomanganese from Australia: Final Determination of Sales at Less Than Fair Value*, 81 FR 8682, February 22, 2016.

Tariff treatment

Silicomanganese is classifiable in the Harmonized Tariff Schedule of the United States ("HTS") under subheading 7202.30.00 as "ferrosilicon manganese." The normal trade relations rate of duty for silicomanganese under HTS subheading 7202.30.00 is 3.9 percent *ad valorem.* Imports of silicomanganese from Australia are eligible for duty-free entry under the United States-Australia Free Trade Agreement, upon proper importer claim.[23] Silicomanganese produced in certain designated beneficiary developing countries under the Generalized System of Preferences (GSP) is eligible for duty-free entry.[24] GSP-eligible sources of silicomanganese include Georgia and South Africa; products of Brazil, which is a designated beneficiary developing country, are excluded from duty-free entry under the GSP due to competitive need limitations.

THE PRODUCT

Description and applications

Silicomanganese is a metallic silvery ferroalloy[25] composed principally of manganese, silicon, and iron.[26] It is produced in a number of grades and sizes. It is consumed in the production of steel. Manganese, intentionally present in nearly all steels, is a steel desulfurizer and deoxidizer. By removing sulfur from steel, manganese prevents the steel from becoming brittle during the hot-rolling process. In addition, manganese increases the strength and hardness of steel. Silicon is a deoxidizer, aiding in making steels of uniform chemistry and mechanical properties. As such, it is not retained in the steel, but forms silicon oxide, which separates from the steel as a component of the slag.

Silicomanganese generally contains 65 to 68 percent manganese and about 17 percent silicon. The ASTM specification for silicomanganese, ASTM A 483, designates three grades, "A,"

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[23] Such goods must be wholly obtained or produced in Australia or the United States or, in the alternative, any nonoriginating inputs used in a shipment must be classified in a HS chapter other than chapter 72. See HTS general note 28(n)/72.1.

[24] Prior legal authority for the GSP program expired on July 31, 2013 (19 U.S.C. section 2465). Its application was restored by the Trade Preference Extension Act of 2015, with retroactive effect, as of July 29, 2015 for a two and one-half year period. U.S. importers can be reimbursed for tariffs paid on eligible products during the gap period from July 31, 2013 through July 28, 2015, if they made a claim for GSP at the time of entry that asserted compliance with the program's rules. Products of South Africa continued to be eligible for duty-free entry under the African Growth and Opportunity Act during that GSP gap.

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

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

"B," and "C", which are differentiated by their silicon and carbon contents.[27] Purchasers of silicomanganese—steel producing companies—often have proprietary specifications for silicomanganese, but these generally are centered around Grade B, with some variations.[28] Silicomanganese is a commodity product and the producers' output is generally acceptable for most uses. Silicomanganese is sold in bulk in pieces of fairly uniform sizes. A typical size of silicomanganese is 3 inches by 1/4 inch.[29]

A grade of silicomanganese containing a somewhat higher level of manganese—72 percent in contrast to a range of 65 to 68 percent in standard silicomanganese—is produced at Georgian Manganese, in the Republic of Georgia, affiliated with Felman and Felman Trading. This so-called "high grade" silicomanganese also contains a higher amount of the element phosphorus than does standard silicomanganese.[30] Certain steel products, such as structural steel beams and energy tubular products, are more sensitive to phosphorus content than others; as a result, not all producers are able to utilize "high grade" silicomanganese and must limit their purchases to standard grade.[31] High grade silicomanganese is, however, said to be preferred by some steel companies and accounted for the vast majority of the U.S. imports of silicomanganese from Georgia.[32] High grade silicomanganese from Georgia is sold at a higher price than that of standard grade silicomanganese, in relation to its higher manganese content.[33] Because of the non-standard chemical analysis of high grade silicomanganese, ***[34]

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[27] According to the ASTM standard specification, each of the three grades must contain 65 to 68 percent manganese, a maximum of 0.20 percent phosphorus, and a maximum of 0.04 percent sulfur, by weight. Grade A contains 18.5 to 21.0 percent silicon and a maximum of 1.5 percent carbon. Grade B contains 16.0 to 18.5 percent silicon and a maximum of 2.0 percent carbon. Grade C contains 12.5 to 16.0 percent silicon and a maximum of 3.0 percent carbon. Additionally, the content of minor elements arsenic, tin, lead, chromium, nickel, and molybdenum, is limited. See ASTM A 483-04 (approved 2004), *Standard Specification for Silicomanganese*, tables 1 and 2 (chemical requirements).

[28] Hearing transcript, pp. 31-32 (Nuss).

[29] The dimensions refer to the openings in the standard screens or sieves that are used to size silicomanganese. The first number refers to the screen through which the material must pass, and the second number refers to the screen on which the material is retained, with smaller particles passing through to be recycled or sold as a smaller size. Silicomanganese is a friable product, susceptible to appreciable reduction in size by repeated handling.

[30] Both the high manganese content and the high phosphorus content of the "high grade" silicomanganese produced by Georgian Manganese are due to the chemical composition of the manganese ore from the mine that it owns and that is located nearby the smelter. To produce standard silicomanganese at that plant, it would have to import manganese ore rather than consume its own ore. Hearing transcript, p. 70, (Nuss).

[31] Hearing transcript, p. 85, (Rochussen).

[32] Conference transcript, p. 50 (Nuss). Felman Trading's high grade silicomanganese accounted for *** percent of its U.S. shipments in 2012, *** percent in 2013, *** percent in 2014, and *** percent in January-September 2015. Felman Trading's importers' questionnaire response, II-7 and supplemental pricing data for sales of imported high grade Georgian product.

[33] Conference transcript, p. 50 (Nuss).

[34] Domestic producers' posthearing brief, p. I-8, attachment 6.

The use of silicomanganese depends upon the steelmaking practices of the steel producer. Silicomanganese may be introduced directly into a steelmaking furnace or added as a chemistry addition/deoxidizer to molten steel at a separate ladle-metallurgy station. As a furnace addition, it is typically used in larger lump sizes and melted along with other steelmaking raw materials; as a ladle addition, silicomanganese is used in smaller sizes. Silicomanganese is mostly consumed by electric-arc-furnace steelmakers in the production of long products, including concrete-reinforcing bar, merchant bar and structural shapes. Steel for sheet products such as hot-rolled sheet, cold-rolled sheet and corrosion-resistant sheet is generally deoxidized using aluminum rather than silicon; as a result, silicomanganese is not used. Because it is added to steel in small quantities, silicomanganese accounts for only a small share of the total cost of end-use steel mill products.

Low-carbon silicomanganese (also called ferromanganese-silicon) containing around 60 percent of manganese with around 30 percent of silicon and less than 0.10 percent carbon is excluded from the scope of this investigation. Low-carbon silicomanganese is used as an alternative to low-carbon ferromanganese, electrolytic manganese or ferrochrome silicon in the production of stainless steel. It is also used in the production of certain high-strength low-alloy (HSLA) steels replacing more costly low-carbon ferromanganese and manganese metal, provided that the high silicon content can be tolerated.[35] Low-carbon silicomanganese is produced by upgrading standard grade material by the addition of silicon wastes from the ferrosilicon industry.[36] It is produced in Norway by a firm related to Eramet, in India, South Africa and possibly other countries. Low-carbon silicomanganese was not produced in the United States during the period of investigation nor was it imported from Australia.[37]

Manufacturing Process

Silicomanganese is produced by smelting together, in a submerged-arc melting furnace, sources of silicon, manganese and iron, along with reducing agents, usually coke or coal. The principal sources of manganese are manganese ore and ferromanganese slag, which is a byproduct of ferromanganese production. The raw materials are combined in a "charge" and introduced into a furnace where an electrical transformer system delivers high-current, low-voltage electricity to the charge through carbon electrodes. The charge is heated to a temperature of 1300 to 1400 degrees centigrade. Impurities from the ore or other manganese sources are released and form slag, which rises to the top of the furnace and floats on top of molten silicomanganese. Following smelting, molten metal and slag are removed or "tapped" from the furnace and separated. The molten silicomanganese is poured into large molds (called

[35] *Ferroalloys & Alloying Additives Online Handbook – Manganese*. http://amg-v.com/manganesepage.html. Accessed March 19, 2015.

[36] Olsen, S.E. and M. Tangstad, *Silicomanganese Production-Process Understanding, in Proceedings*: Tenth International Ferroalloys Congress, 2004. p. 231.

[37] Conference transcript, p. 15 (Levy) and p. 24 (Nuss) and importers' questionnaire responses.

"chills"), where it cools and hardens. Once the alloy has hardened, the chills are emptied and the alloy is crushed and sized for sale. [38]

Domestic producer Eramet produces silicomanganese at a plant in Marietta, Ohio, that it purchased in July 1999.[39] Eramet also produces other manganese ferroalloys at that plant. Silicomanganese is manufactured in the same or similar facilities as those used to produce high-carbon ferromanganese. Eramet consumes most of its high-carbon ferromanganese production for the production of downstream refined ferromanganese products.

Domestic producer Felman produces silicomanganese at a plant in Letart, West Virginia that was once dedicated to the production of silicon alloys. Felman reopened the plant as a producer of silicomanganese in September 2006. Felman produces only silicomanganese. The production process for all silicomanganese producers is the same, with some variation in raw materials based upon local availability.

DOMESTIC LIKE PRODUCT ISSUES

No issues with respect to domestic like product have been raised in this investigation. The domestic producers' propose a single domestic like product, consisting of all silicomanganese produced in the United States. Domestic producers' counsel also asserts that this is consistent with prior proceedings, in which the Commission defined the domestic like product as all silicomanganese, coextensive with Commerce's scope.[40]

In their post-conference brief, respondents TEMCO and Samancor indicated that, for purposes of the preliminary phase of the investigation, they did not contest the domestic like product definition proposed by petitioner.[41] Further, respondents have not made any domestic like product arguments during the course of the final phase of this investigation.

[38] Conference transcript, p. 25 (Nuss).
[39] Hearing transcript, p. 38 (Rochussen).
[40] Domestic producers' prehearing brief, p. 18.
[41] Respondents' postconference brief, p. 5.

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

U.S. MARKET CHARACTERISTICS

Silicomanganese is used by steel producers as a source of silicon (a deoxidizer) and manganese (a deoxidizer and desulfurizer). It is mostly used in steel long products produced in electric arc furnace mini-mills such as bar, rod, beams, and rails.[1] Long products, in turn, are used primarily in construction and infrastructure.

The U.S. silicomanganese market is supplied by two U.S. producers as well as imports, because U.S. producers do not currently have the capacity to supply all U.S. demand.[2] During January 2012-September 2015, Felman Trading served the U.S. market through Felman's U.S. production and through its imports from Georgia ***.[3] Eramet primarily served the U.S. market through its U.S. production *** during January 2012-September 2015. Importer Samancor supplied the U.S. market through its imports from Australia and South Africa ***. ***, some Australian silicomanganese was imported directly from TEMCO by U.S. distributor *** that is related to a U.S. steel producer ***.[4] Nonsubject imports are the largest source of supply in the U.S. market (*** percent of apparent consumption and *** percent of total imports in 2014), of which the largest sources are Georgia and South Africa.

Most silicomanganese sold in the U.S. market is of similar chemical composition.[5] There are three basic grades of standard silicomanganese (grades A, B, and C) determined by the levels of manganese, silicon, carbon, phosphorus, and sulfur contained in the silicomanganese. U.S. producers' silicomanganese meets grade B standards whereas the Australian product generally conforms to grade C. There is reportedly no price difference for grade B versus grade C. The majority of steel producers will use both grades, although some will not use grade C because of the carbon and/or silicon content.[6] Most silicomanganese from Georgia has a higher manganese content.[7]

Apparent U.S. consumption of silicomanganese decreased irregularly during 2012-14. Overall, apparent U.S. consumption in 2014 was 4.6 percent lower than in 2012.

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[1] Hearing transcript, p. 31 (Nuss).

[2] Hearing transcript, p. 34 (Nuss) and p. 74 (Rochussen).

[3] As discussed in Part I, Felman Trading markets and sells silicomanganese produced by U.S. producer Felman and silicomanganese that it (Felman Trading) imports and purchases.

[4] *** imports accounted for approximately *** percent of total imports in 2014, and *** percent of imports from Australia.

[5] These standards are a minimum of 65 percent manganese, 16 percent silicon, and a cap on impurities such as carbon, phosphorus, and sulfur. Conference transcript, p. 33 (Rochussen).

[6] Conference transcript, p. 122 (Kylander).

[7] Conference transcript, p. 27 (Nuss).

U.S. PURCHASERS

The Commission received 17 usable questionnaire responses from firms, all in the steel industry, that bought silicomanganese during January 2012-September 2015.[8] Two responding purchasers (***) are distributors and 14 are end users (steel producers); *** reported that it is both a distributor and an end user. Responding U.S. purchasers were located throughout the United States. The largest purchasers of silicomanganese are *** (table II-1), which accounted for *** percent of U.S. apparent consumption in 2014.[9] Each steel mill specifies the chemical composition it requires in its request for quotation and suppliers must present a certificate of analysis.[10] Purchases of U.S. product decreased from 2012 to 2014, while purchases of Australian product increased. Purchases from nonsubject countries, including Georgia and South Africa, also increased over the period.

Table II-1

Silicomanganese: Top five purchasers' purchases, in short tons, by country, January 2012-September 2015

* * * * * * *

CHANNELS OF DISTRIBUTION

U.S. producers and importers sold mainly to end users, as shown in table II-2. ***.[11]

U.S. producers sold *** percent of their commercial shipments to end users in 2012, which declined to *** percent in 2014. Importers of Australian product sold *** percent to end users in 2012. The share dropped to *** percent in 2013, when ***, and then increased to *** percent in 2014 when ***. ***. *** of the remaining *** importers of Australian silicomanganese sold to *** and *** sold to *** in 2014. Nonsubject imports were *** sold to end users. In 2014, *** percent of imports from Georgia, *** percent of imports from South Africa, and *** percent of imports from all other sources were sold to end users.[12]

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[8] Of the 17 responding purchasers, 11 purchased the domestic silicomanganese, 13 purchased imports of the subject merchandise from Australia, 5 purchased imports of silicomanganese from Georgia, 12 purchased imports of silicomanganese from South Africa, and 14 purchased imports of silicomanganese from other sources from January 2012-September 2015.

[9] ***.

***.

[10] Conference transcript, pp. 33-34, 63 (Rochussen).

[11] These distributor sales were to ***.

[12] Percentages are of U.S. commercial shipments of imports.

Table II-2
Silicomanganese: U.S. producers' and importers' U.S. commercial shipments, by sources and channels of distribution, January 2012-September 2015

* * * * * * *

GEOGRAPHIC DISTRIBUTION

U.S. producers and importers of Australian product reported selling silicomanganese in all regions in the contiguous United States (table II-3). ***. Most responding importers (6 of 9) reported selling to the Midwest and/or Central Southwest.

Most U.S. producers' sales were shipped between 101 and 1,000 miles of the production facility: *** percent of U.S. producers' sales were within 100 miles of the production facility, *** percent were between 101 and 1,000 miles, and *** percent were over 1,000 miles. Importers of Australian product sold *** percent within 100 miles of their U.S. point of shipment, *** percent between 101 and 1,000 miles, and *** percent over 1,000 miles.

Table II-3
Silicomanganese: Geographic market areas in the United States served by U.S. producers and importers of silicomanganese from Australia

Region	U.S. producers	Importers of Australian silicomanganese
Northeast	2	3
Midwest	2	6
Southeast	2	4
Central Southwest	1	6
Mountain	1	3
Pacific Coast	1	2
Other[1]	0	0
All regions (except Other)	1	0
Reporting firms	2	9

[1] All other U.S. markets, including AK, HI, PR, and VI.

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

SUPPLY AND DEMAND CONSIDERATIONS

U.S. supply

Domestic production

Based on available information, U.S. producers of silicomanganese have the ability to respond to changes in demand with large changes in the quantity of shipments of U.S.-produced silicomanganese to the U.S. market. The main contributing factors to this degree of

responsiveness of supply are the availability of unused capacity and inventories, and some ability to produce alternate products.

Industry capacity

According to Felman, silicomanganese is highly capital intensive and producers must produce at or near full capacity to achieve production efficiencies.[13] Domestic silicomanganese capacity utilization decreased from *** percent in 2012 to *** percent in 2014.[14] [15] The decline was the result of a combined *** percent decrease in production and ***. However, these capacity data have not been adjusted to reflect Felman's shut down of its West Virginia plant in 2013-2014 (see note at table III-2 for adjusted data). TEMCO contends that ***.[16] This relatively low level of unadjusted capacity utilization suggests that U.S. producers may have a substantial ability to increase production of silicomanganese in response to an increase in prices.

Alternative markets

U.S. producers' exports, as a percentage of total shipments, decreased irregularly from *** percent in 2012 to *** percent in 2014.[17] U.S. producers' principal export markets are ***. The low level of exports indicates that U.S. producers may have a limited ability to shift shipments between the U.S. market and other markets in response to price changes.

Inventory levels

U.S. producers' inventories, as a ratio to total shipments, increased irregularly from *** percent in 2012 to *** percent in 2014.[18] These high inventory levels suggest that U.S. producers may have substantial ability to respond to changes in demand with changes in the quantity shipped from inventories.

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[13] Hearing transcript, p. 33.

[14] Capacity utilization was *** percent in January-September 2014 and *** percent in January-September 2015.

[15] Capacity utilization including ferromanganese was higher during the period, *** percent in 2012 and *** percent in 2014.

[16] Respondents' prehearing brief, Exh. 21, pp. 55-56.

[17] Exports were *** percent of total shipments in January-September 2014 and *** percent in January-September 2015.

[18] Inventories were *** percent of total shipments in January-September 2014 and *** percent in January-September 2015.

Production alternatives

Felman indicated that it does not produce other products on the same equipment used to produce silicomanganese. Eramet reported that it also produces ferromanganese and that it takes *** days and costs about *** to switch production. During the period of investigation, ***.[19]

Supply constraints

*** reported ***. *** ***.[20] Felman's plant was idle from June 2013 to July 2014, during which time Felman Trading supplied contractual customers from inventories of U.S.-produced silicomanganese and with grade B silicomanganese from its Georgian plant.[21] ***.

Subject imports from Australia[22]

Based on available information, Australian producer TEMCO has the ability to respond to changes in demand with moderate changes in the quantity of silicomanganese shipments to the U.S. market. The main contributing factors to this degree of responsiveness of supply are ***. Supply responsiveness is constrained by ***.

Industry capacity

TEMCO's capacity utilization increased from *** percent in 2012 to *** percent in 2014.[23] [24] Production capacity increased *** percent from 2012 to 2014, and production increased *** percent between 2012 and 2014. This relatively high level of capacity utilization suggests that TEMCO may have a limited ability to increase production of silicomanganese in response to an increase in prices.

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[19] Eramet January 12, 2016 response to staff questions.

[20] ***. Domestic producers' postconference brief, p. 35.

Purchaser *** stated that ***.

[21] Conference transcript, pp. 21, 27 (Nuss). Domestic producers' postconference brief, p. 27. Felman's idle in production is discussed in greater detail in Part III.

[22] The Commission received one questionnaire response from the Australian producer, TEMCO. Its exports accounted for *** percent of imports of silicomanganese from Australia.

[23] TEMCO's capacity utilization was *** percent in January-September 2014 and *** percent in January-September 2015.

[24] TEMCO's combined capacity utilization for silicomanganese and ferromanganese increased from *** percent in 2012 to *** percent in 2014.

Alternative markets

The United States was TEMCO's *** during 2012-14. The share of TEMCO's total shipments to the U.S. market increased from *** percent in 2012 to *** percent in 2014. Shipments to the Australian home market declined from *** percent in 2012 to *** percent in 2014. Shipments to other markets decreased from *** percent in 2012 to *** percent in 2014. TEMCO's principal other market is ***.[25]

Inventory levels

TEMCO's inventories, as a share of total shipments, increased from *** percent in 2012 to *** percent in 2014.[26] These inventory levels suggest that TEMCO may have some ability to respond to changes in demand with changes in the quantity shipped from inventories. Respondents stated that inventory levels in 2014 were artificially low because shipments in September 2014 were unusually high, and uncrushed material was unusually high because crushing equipment had been out of operation. Respondents stated that inventory levels at the end of 2015 were somewhat higher than normal due to an absence of production problems and a decrease in demand.[27]

Production alternatives

TEMCO also produces ferromanganese. TEMCO has four furnaces; two currently produce ferromanganese and two produce silicomanganese.[28] According to TEMCO, this is the optimal configuration and changing would be less efficient for overall operations and would have significant costs.[29] It stated that ***.

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[25] TEMCO's export shipments to the United States were *** percent of total shipments in January-September 2014 and *** percent in January-September 2015. TEMCO's export shipments to other markets were *** percent of total shipments in January-September 2014 and *** percent in January-September 2015. TEMCO expects the proportion of total export sales to other markets to *** in 2015 and 2016 relative to 2014.

[26] TEMCO's inventories were *** percent of total shipments in January-September 2014 and *** percent in January-September 2015. TEMCO projected inventories to be at *** percent of total shipments in 2015 and *** percent in 2016.

[27] Hearing transcript, p. 147 (Tidey).

[28] In 2012, leading up to TEMCO's temporary production shutdown, it ran three furnaces producing ferromanganese and one furnace producing silicomanganese. This closure was due in part to increased import costs including electricity. Hearing transcript, p. 143 (Tidey).

[29] Conference transcript, p. 80 (Anderson); hearing transcript, pp. 143, 146 (Tidey).

Supply constraints

TEMCO's silicomanganese production was shut down from February to June 2012, and was fully back online by August 2012.[30] ***. Respondents stated that due to antidumping duties against a number of large silicomanganese producers and to the historically small market share of U.S. producers, the U.S. market was more dependent on South African and Australian imports than other markets and thus more affected by the closures.[31]

Nonsubject imports

Imports of silicomanganese from nonsubject countries accounted for *** percent of total imports during 2012-14. The largest sources of nonsubject imports were Georgia and South Africa. Combined, these countries accounted for *** percent of total imports and *** percent of nonsubject imports in 2014.

New suppliers

Three of 15 purchasers indicated that new suppliers entered the U.S. market since January 1, 2012. Purchaser *** cited a new mill (***) in South Africa that principally sells product on a short-term contract and spot basis. Gerdau reported that ***.

U.S. demand

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

End uses

U.S. demand for silicomanganese depends on the demand for U.S.-produced downstream products. The primary end use for silicomanganese is the production of steel long products. *** stated that demand for silicomanganese is largely derived from demand for steel products in which it is used.

[30] In addition, in February 2012, TEMCO's related company Samancor Manganese permanently shuttered its South African silicomanganese operations. Conference transcript, pp. 77, 108 (Anderson); hearing transcript, p. 142 (Tidey).

[31] Hearing transcript, p. 144 (Tidey).

Cost share

Silicomanganese accounts for a very small share of the cost of the end-use products in which it is used. It reportedly accounts for 1 to 2 percent of the cost of steel production in electric arc furnaces, integrated mills, and foundries.

Business cycles

Four of 13 responding importers and three of 16 responding purchasers indicated that the market was subject to business cycles or other conditions of competition. U.S. producers indicated that the market was not subject to these conditions. Of the responding importers and purchasers, two importers (***) and two purchasers (***), stated that the market is subject to business cycles and is primarily based on the demand for steel. *** also reported that demand has decreased due to a high level of finished steel imports in 2015. Two of the four importers, ***, stated that the market is subject to distinct conditions of competition. *** reported that the silicomanganese market is dependent on the steel operating rate and steel grades in production, that recent reductions in oil prices have affected steel production costs, and that U.S. steel production declined in 2015.

Demand trends

Most firms reported that U.S. demand for silicomanganese and demand outside the United States had fluctuated or decreased since January 1, 2012 (table II-4), primarily due to declining demand for steel products, as well as general economic conditions. Both domestic producers and TEMCO stated that demand declined over the period.[32] U.S. producer and importer *** reported that silicomanganese demand tracks crude steel production, particularly for long products used in construction and infrastructure.[33]

[32] Hearing transcript, p. 49 (Levy), p. 210 (Kaplan).
[33] See also Hearing transcript, p. 120 (Rochussen).

Table II-4

Silicomanganese: Firms' responses regarding U.S. demand and demand outside the United States

Item	Increase	No change	Decrease	Fluctuate
Demand in the United States				
U.S. producers	0	0	0	2
Importers	0	1	4	8
Purchasers	1	1	7	4
Demand outside the United States				
U.S. producers	0	0	0	2
Importers	1	1	4	5
Purchasers	1	1	4	5
Demand for purchasers' final products				
Purchasers	0	4	6	6

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

U.S. production of hot-rolled steel long products decreased very slightly from 23.3 million metric tons in 2012 to 23.2 million metric tons in 2013 and increased to 24.2 million metric tons in 2014 (3.6 percent increase from 2012 to 2014).[34] Total electric arc furnace steel production increased from 52.4 million metric tons in 2012 to 52.7 million metric tons in 2013 to 55.4 million metric tons in 2014 (5.8 percent increase from 2012 to 2014).[35] [36]

Substitute products

A combination of high-carbon ferromanganese and ferrosilicon can substitute for silicomanganese. Both U.S. producers, 6 of 13 importers, and 10 of 17 purchasers reported substitutes including ferromanganese and ferrosilicon. One factor limiting substitution is that some steel producers may not have the facilities to store or handle substitute materials.[37]

Neither U.S. producer and only two responding importers and four responding purchasers reported that prices of substitutes affect silicomanganese prices. U.S. producer *** reported that there is an indirect impact on prices in the longer term as steel mills shift to alloy use. U.S. producer *** noted that silicomanganese prices tend to track ferromanganese and ferrosilicon prices. It stated that steel makers do not generally switch from one source of manganese and silicon to another, although some will if it is cost effective. Importers *** reported that some steel mills will switch between these products when relative prices change. Purchaser *** stated that although the relative prices of substitutes could theoretically lead to substitution and could affect silicomanganese prices, substitution is rare due to other metallurgical and operational issues.

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[34] World Steel Association, *Steel Statistical Yearbook 2015*, p. 33.

[35] U.S. Geological Survey, *Mineral Commodity Summaries*, January 2015, pp. 78-79.

[36] Steel shipments from U.S. mills for the first eleven months of 2015 were down 11.4 percent compared to 2014 for the same period, according to American Iron and Steel Institute. Respondents' prehearing brief, p. 11.

[37] Petition, p. 7.

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported silicomanganese depends upon such factors as relative prices, quality (e.g., levels of silicon and manganese, levels of other chemicals, consistency, and lump size), and conditions of sale (e.g., price discounts/ rebates, lead times between order and delivery dates, payment terms, product services, etc.). Based on available data, staff believes that there is a high degree of substitutability between domestically produced silicomanganese and silicomanganese imported from Australia.

Lead times

Domestically produced silicomanganese is primarily produced-to-order whereas subject imports are sold primarily from U.S. inventories. U.S. producers reported that *** percent of their 2014 sales were produced-to-order. U.S. producer *** reported a lead time of *** days.

U.S. importers of Australian product reported that in 2014, *** percent of their sales were from U.S. inventory, with five importers reporting lead times between 5 days and 30 days, one importer reporting *** days, and one reporting *** days.[38] Importers reported that *** percent of sales were from foreign inventory[39] and the remaining *** percent were produced-to-order.[40]

Knowledge of country sources

Eleven purchasers indicated they had marketing or pricing knowledge of domestic product, nine of Australian product, eight of Georgian product, nine of South African product, and seven of other nonsubject countries, including ***.

As shown in table II-5, the majority of purchasers reported that they never make purchasing decisions based on the producer or country of origin. The two purchasers that usually make decisions based on the producer do so to ensure that requirements are met and for reliability of supply. Five of the seven purchasers that reported that they sometimes make decisions based on the country of origin cited different reasons. *** cited the importance of political and economic stability for a reliable supply chain. *** cited a preference but not a requirement for domestic product for a portion of its silicomanganese requirements. *** stated that it would sometimes consider the country of origin if it were aware of legislation requiring it to do so. *** stated that it commits large purchase volumes pursuant to contracts with *** major global suppliers to ensure security of supply. *** stated that it avoids countries that exploit human rights. Felman stated that purchasers are not concerned with supplier or country of origin and that they split their sources of supply to protect themselves.[41]

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[38] Produced-to-order and inventory percentages are averages weighted by importers' reported 2014 commercial shipment quantities.

[39] Lead times of *** days reported by *** and *** days reported by ***.

[40] Lead times of at *** days reported by *** and *** days reported by ***.

[41] Hearing transcript, pp. 33, 68 (Nuss). Eramet concurred. Hearing transcript, p. 75 (Rochussen).

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

Purchaser/Customer Decision	Always	Usually	Sometimes	Never
Purchaser makes decision based on producer	0	2	5	10
Purchaser's customers make decision based on producer	0	0	2	13
Purchaser makes decision based on country	1	0	7	9
Purchaser's customers make decision based on country	0	0	3	11

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

Factors affecting purchasing decisions

The most often cited top three factors firms consider in their purchasing decisions for silicomanganese were price (16 firms), quality, including chemistry and acceptability (15 firms), and availability/reliability of supply (11 firms) as shown in table II-6. Price was the most frequently cited first-most important factor (cited by 8 firms), followed by quality and availability (4 firms each); quality was the most frequently reported second-most and third-most important factor.

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

Factor	First	Second	Third	Total
Price/cost	8	4	4	16
Quality/chemistry/acceptability	4	6	5	15
Availability/reliability of supply	4	4	3	11
Other[1]	1	2	4	7

[1] Other factors include extension of credit, delivery, location, packaging, product consistency, and payment terms.

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

The majority of purchasers (11 of 17) reported that they usually purchase the lowest-priced product. Reasons for not purchasing the lowest-priced product include reliability and security of supply/availability, product quality, dependability, proximity, credit terms, service, and delivery. *** stated that it contracts with *** global suppliers for a large portion of its purchases because security of supply is its primary consideration. It further stated that its additional silicomanganese needs are sourced on the open market where price plays a role although volume needs and ability to meet delivery requirements remain the primary purchase criteria.

When asked if they purchased silicomanganese from one source although a comparable product was available at a lower price from another source, two purchasers reported reasons including low phosphate content and that contracts are awarded based on price, quality, logistics, customer service, and availability. *** stated that "on an average delivered basis, it costs more for it to purchase silicomanganese from ***".

Importance of specified purchase factors

Purchasers were asked to rate the importance of 15 factors in their purchasing decisions (table II-7). The factors rated as "very important" by most purchasers were availability, price, quality meets industry standards, and reliability of supply (16 each), followed by delivery time and product consistency (14 each). Felman stated that while it has long-standing customers, these customers routinely solicit bids from multiple suppliers, sometimes up to a dozen suppliers, and make their purchasing decisions based almost completely on price.[42]

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

Factor	Very important	Somewhat important	Not important
Availability	16	1	0
Delivery terms	9	7	1
Delivery time	14	2	1
Discounts offered	9	5	3
Extension of credit	6	8	3
Minimum quantity requirements	5	10	2
Packaging	5	6	6
Price	16	1	0
Product consistency	14	3	0
Product range	1	9	7
Quality exceeds industry standards	4	6	7
Quality meets industry standards	16	1	0
Reliability of supply	16	0	1
Technical support/service	2	10	5
U.S. transportation costs	9	8	0

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

Respondents stated that reliability of supply is a major purchasing factor because steel mills require significant and consistent supply of silicomanganese to remain operational.[43]

Supplier certification

Thirteen of 17 responding purchasers require their suppliers to become certified or qualified to sell silicomanganese to their firm. Purchasers reported that the time to qualify a new supplier ranged from 1 to 120 days, with most reporting 30 days or shorter. Processes most cited include trial and test samples for quality and compatibility, and ISO certification. Only two purchasers reported that a domestic or foreign supplier had failed in its attempt to qualify product, or had lost its approved status since 2012. *** reported that it is currently investigating the failure of material from *** to comply with consumption requirements during a trial. *** stated that ***.

[42] Hearing transcript, p. 33 (Nuss).
[43] Hearing transcript, pp. 156, 163 (Kylander, Kaplan).

Changes in purchasing patterns

Purchasers were asked about changes in their purchasing patterns from different sources since January 1, 2012 (table II-8). Reasons reported for changes in sourcing included change in grade used, competitiveness, phosphate content, price, and changes in plant operations, including Felman's shutdown in 2013-14. Ten of 16 responding purchasers reported that they had changed suppliers since January 1, 2012. Specifically, firms dropped or reduced purchases from AMCI-DCM and CCMA. Samancor was dropped because of non-competitiveness (***), change in import terms (***), and the shuttering of its South African facility (***). Felman was dropped because of lack of competitiveness and idled production (***). Firms added or increased purchases from Minerais, Ferro Atlantica, Medima, CCMA, Glencore, DJJ, Dongbu, and Julimar Trading because of competitive pricing. *** stated that it is open to changing at least a portion of its supply base on an annual basis and could potentially switch suppliers on a quarterly basis for spot requirements.

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

Source of purchases	Did not purchase	Decreased	Increased	Constant	Fluctuated
United States	4	6	0	0	5
Australia	3	3	2	1	7
Georgia	8	0	2	0	3
South Africa	3	2	4	1	4
Other	3	4	4	0	6

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

Importance of purchasing domestic product

Most (15 of 17) purchasers reported that purchasing U.S.-produced product was not an important factor in their purchasing decisions. No purchaser reported that domestic product was required by law and only one reported that it was required by their customers (for 2 percent of its purchases). One purchaser (***) reported that it considers domestic supply more secure than foreign supply and that it prefers to support U.S. manufacturing. *** size requirement for silicomanganese means that it seeks to avert supply risk by splitting the business between several suppliers, usually using a combination of domestic and foreign suppliers.

Comparisons of domestic products, subject imports, and nonsubject imports

Purchasers were asked a number of questions comparing silicomanganese produced in the United States, Australia, and nonsubject countries. First, purchasers were asked for a country-by-country comparison on the same 15 factors (table II-9) for which they were asked to rate the importance.

Most responding purchasers reported that U.S., Australian, and nonsubject silicomanganese were comparable on all factors. A plurality of purchasers rated the sources as comparable with respect to price, although 5 of 14 purchasers reported that U.S. prices were higher than those of subject imports.

Table II-9
Silicomanganese: Purchasers' comparisons between U.S.-produced and imported product

Factor	U.S. vs. Australia			U.S. vs. nonsubject			Australia vs. nonsubject		
	S	C	I	S	C	I	S	C	I
Availability	3	10	1	1	10	1	1	10	1
Delivery terms	2	12	0	1	11	0	0	11	1
Delivery time	5	9	0	2	10	0	0	11	1
Discounts offered	1	12	1	1	10	1	0	12	0
Extension of credit	1	12	0	0	12	0	0	12	0
Minimum quantity requirements	1	13	0	0	12	0	0	11	1
Packaging	1	13	0	1	11	0	0	12	0
Price[1]	2	7	5	1	7	4	0	11	1
Product consistency	1	12	1	0	12	0	0	11	1
Product range	0	14	0	0	12	0	0	12	0
Quality exceeds industry standards	0	14	0	0	12	0	0	11	1
Quality meets industry standards	0	14	0	0	12	0	0	11	1
Reliability of supply	2	11	1	2	9	1	1	11	0
Technical support/service	1	13	0	1	11	0	0	12	0
U.S. transportation costs[1]	4	9	1	2	9	1	0	12	0

[1] A rating of superior means that price/U.S. transportation costs is generally lower. For example, if a firm reported "U.S. superior," it meant that the U.S. product was generally priced lower than the imported product.

Note.--S=first listed country's product is superior; C=both countries' products are comparable; I=first list country's product is inferior.

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

Comparison of U.S.-produced and imported silicomanganese

In order to determine whether U.S.-produced silicomanganese can generally be used in the same applications as imports, U.S. producers, importers, and purchasers were asked whether the products can "always," "frequently," "sometimes," or "never" be used interchangeably. As shown in table II-10, both U.S. producers reported that silicomanganese from Australia, South Africa, and other nonsubject countries were *** interchangeable while silicomanganese from Georgia is *** interchangeable with domestic and Australian product. Importers and purchasers reported that the domestic and Australian products were "always" or "frequently" interchangeable, as well as South African and other nonsubject imports. Felman

stated that silicomanganese produced by Felman, Eramet, and TEMCO is essentially the same and completely substitutable with one another.[44]

Table II-10

Silicomanganese: Interchangeability between silicomanganese produced in the United States and in other countries, by country pairs

Country pair	Number of U.S. producers reporting				Number of U.S. importers reporting				Number of purchasers reporting			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. subject countries:												
U.S. vs. Australia	***	***	***	***	6	6	0	0	9	5	0	0
Nonsubject countries comparisons:												
U.S. vs. Georgia	***	***	***	***	3	3	5	1	4	3	3	0
U.S. vs. South Africa	***	***	***	***	7	6	0	0	9	4	0	0
U.S. vs. Other countries	***	***	***	***	5	6	0	0	8	5	0	0
Australia vs. Georgia	***	***	***	***	2	3	5	1	4	3	3	0
Australia vs. South Africa	***	***	***	***	5	6	0	1	9	4	0	0
Australia vs. Other countries	***	***	***	***	6	5	0	0	8	5	0	0
Georgia vs. South Africa	***	***	***	***	5	4	2	1	7	3	1	0
Georgia vs. Other countries	***	***	***	***	6	3	2	0	6	3	1	0
South Africa vs. Other countries	***	***	***	***	5	5	0	1	8	4	0	0

Note.—A=Always, F=Frequently, S=Sometimes, N=Never.

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

Importers and purchasers provided mixed responses regarding the interchangeability of Georgian product. Half or fewer of responding importers but 7 of 10 purchasers reported that Georgian product was "always" or "frequently" interchangeable with domestic and Australian product; *** reported that Georgian product was "sometimes" interchangeable with domestic and Australian product. Some responses regarding limited interchangeability noted that mills have particular composition requirements and "high" grade (72% manganese content) silicomanganese from Georgia is not interchangeable with standard grade silicomanganese at certain mills due to these requirements. Felman stated that because each steel mill is configured to produce steel using specific inputs, including silicomanganese with certain chemical compositions, standard grade and high grade silicomanganese are not readily interchangeable.[45] TEMCO stated that 65% and 72% silicomanganese are interchangeable and compete directly with each other.[46] *** also stated that products are generally interchangeable if ***.[47]

[44] Hearing transcript, p. 33 (Nuss).
[45] Hearing transcript, p. 32 (Nuss).
[46] Respondents' prehearing brief, Exh. 21, pp. 9-12; hearing transcript, p. 153 (Kylander).
[47] ***. See *** attachment to importer questionnaire response.

When asked about the interchangeability of high grade and standard grade silicomanganese, purchaser *** stated that the two are in fact interchangeable, but cannot be changed with great frequency. It continued that the decision to convert is generally a long term decision. *** stated that the two grades cannot be combined during the steel melting process, therefore each mill that is converted has to diminish inventory before bringing in new inventory and switching back and forth with any frequency opens the opportunity for errors in the production process.[48] *** stated that the mixing of grades becomes a very real issue when a mill is receiving multiple truckloads per day from different suppliers and has limited storage space.[49] *** stated that high grade Georgian silicomanganese is interchangeable for most consumers provided they can work with the slightly elevated phosphorus levels and can recover the added manganese units.[50] ***.[51]

Nine of 17 responding purchasers reported that domestically produced product and Australian product "always" met minimum quality specifications (table II-11).

Table II-11
Silicomanganese: Ability to meet minimum quality specifications, by source[1]

Source	Always	Usually	Sometimes	Rarely or never	Don't know
United States	9	5	0	0	3
Australia	9	4	1	0	3
Nonsubject countries	3	6	0	0	6
Other[2]	5	2	0	0	3

[1] Purchasers were asked how often domestically produced or imported silicomanganese meets minimum quality specifications for their own or their customers' uses.
[2]Other sources include Mexico, Norway, and South Africa.

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

In addition, producers, importers, and purchasers were asked to assess how often differences other than price were significant in sales of silicomanganese from the United States, Australia, or nonsubject countries. U.S. producer *** reported that there are sometimes significant differences other than price across all countries while *** reported that there are never significant differences other than price except with respect to product from Georgia (table II-12). Most responding importers and purchasers also reported that differences other than price were only sometimes or never significant. *** stated that it has substantial volume purchase requirements and that security of supply is a primary criterion as is acceptability of material. *** stated that transportation and logistics are always critical.

[48] Staff email correspondence with *** on February 17, 2016.
[49] Staff email correspondence with *** on February 16, 2016.
[50] Staff email correspondence with *** on February 22, 2016.
[51] Staff email correspondence with *** on February 16-17, 2016.

Table II-12

Silicomanganese: Significance of differences other than price between silicomanganese produced in the United States and in other countries, by country pair

Country pair	Number of U.S. producers reporting				Number of U.S. importers reporting				Number of purchasers reporting			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. subject countries:												
U.S. vs. Australia	***	***	***	***	0	1	7	3	1	3	4	6
Nonsubject countries comparisons:												
U.S. vs. Georgia	***	***	***	***	0	1	8	2	1	1	5	3
U.S. vs. South Africa	***	***	***	***	0	1	8	3	1	2	4	6
U.S. vs. Other countries	***	***	***	***	0	1	7	3	1	2	4	6
Australia vs. Georgia	***	***	***	***	0	1	8	2	1	1	4	4
Australia vs. South Africa	***	***	***	***	0	1	7	3	1	2	3	7
Australia vs. Other countries	***	***	***	***	0	1	7	3	1	2	4	6
Georgia vs. South Africa	***	***	***	***	0	1	7	3	1	2	4	5
Georgia vs. Other countries	***	***	***	***	0	1	7	3	1	2	4	3
South Africa vs. Other countries	***	***	***	***	0	1	7	3	1	2	3	6

Note.--A = Always, F = Frequently, S = Sometimes, N = Never.

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

ELASTICITY ESTIMATES

This section discusses elasticity estimates; parties were encouraged to comment on these estimates.

U.S. supply elasticity

The domestic supply elasticity[52] for silicomanganese measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of silicomanganese. The elasticity of domestic supply depends on several factors including the level of excess capacity, the ease with which producers can alter capacity, producers' ability to shift to production of other products, the existence of inventories, and the availability of alternate markets for U.S.-produced silicomanganese. Analysis of these factors earlier indicates that the U.S. industry has the ability to greatly increase or decrease shipments to the U.S. market; an estimate in the range of 4 to 8 is suggested.

[52] A supply function is not defined in the case of a non-competitive market.

U.S. demand elasticity

The U.S. demand elasticity for silicomanganese measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of silicomanganese. This estimate depends on factors discussed earlier such as the existence, availability, and commercial viability of substitute products, as well as the component share of the silicomanganese in the production of any downstream products. Eramet stated that demand for silicomanganese is inelastic.[53] Based on the available information, the aggregate demand for silicomanganese is likely to be relatively inelastic; a range of -0.25 to -0.75 is suggested.

Substitution elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.[54] Product differentiation, in turn, depends upon such factors as quality (e.g., chemistry, appearance, etc.) and conditions of sale (e.g., availability, sales terms/discounts/promotions, etc.). Based on available information, the elasticity of substitution between U.S.-produced silicomanganese and imported silicomanganese is likely to be in the range of 3 to 5.[55]

[53] Hearing transcript, p. 41 (Rochussen).

[54] The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and the domestic like products to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject products (or vice versa) when prices change.

[55] Petitioner contends that if "high grade" silicomanganese from Georgia were set aside, the substitution elasticity estimate would need to be adjusted upward to 5-8. Domestic producers' prehearing brief, fn 60.

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

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the dumping margin was presented in *Part I* of this report and information on the volume and pricing of imports of the subject merchandise is presented in *Part IV* and *Part V*. Information on the other factors specified is presented in this section and/or *Part VI* and (except as noted) is based on the questionnaire responses of two firms that accounted for all U.S. production of silicomanganese during January 2012-September 2015.

U.S. PRODUCERS

The Commission issued a U.S. producer questionnaire to two firms based on information contained in the petition. Eramet and Felman both provided usable data on their production operations and account for all known U.S. production of silicomanganese during 2012-September 2015.

Table III-1 lists U.S. producers of silicomanganese, their production locations, positions on the petition, and shares of total production.

Table III-1
Silicomanganese: U.S. producers of silicomanganese, their positions on the petition, production locations, and shares of reported production, 2014

Firm	Position on petition	Production location(s)	Share of production (percent)
Eramet	Support	Marietta, OH	***
Felman	Petitioner	Letart, WV	***
Total			100.0

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

Both U.S. producers are parts of multinational entities with silicomanganese production operations in foreign countries and U.S. import operations. Felman is owned by GAA (based in Miami, Florida) which also owns U.S. importer Felman Trading[1] and Georgian silicomanganese producer Georgian Manganese.[2] Eramet is owned by Eramet Holdings Manganese (based in Paris, France). Eramet is related to silicomanganese producers Eramet Norway (Norway), Comilog Moanda Metallurgical Complex (Gabon), Comilog Dunkerque (France), and Guilin Comilog Ferroalloy Co., Ltd. (China). Eramet also directly imported silicomanganese into the United States from ***.

[1] Felman Trading imported silicomanganese from *** and is responsible for the sales and marketing of Felman's domestically produced silicomanganese. Conference transcript, p. 48 (Nuss). Felman Trading also purchased from multiple sources, including ***.

[2] GAA controls all of its silicomanganese operations, both in the Republic of Georgia and West Virginia, from Miami, Florida. Hearing transcript, p. 25 (Powell).

U.S. producers reported experiencing several changes to their operations. In February 2012, Felman became a direct subsidiary of GAA. In December 2012, Felman negotiated a collective bargaining agreement with USW Local 5171, as amended by the Memorandum of Agreement in April 2014.[3] Eramet also reported a new labor contract, effective February 28, 2013. In May 2013, Felman commissioned a slag processing facility to eliminate the need for a third party processor. On August 30, 2013, after Felman idled its furnaces, Felman submitted an application to West Virginia's Public Service Commission for a 10-year special rate electric contract. In April 2014, West Virginia's Public Service Commission approved of a special rate for Felman's electricity contract which links Felman's electricity rate discount to its variable costs. The special rate agreement terminates June 30, 2024.[4]

Both firms also experienced changes affecting their furnaces. Felman experienced furnace shutdowns, whereas Eramet ***. Felman's three furnaces (named furnaces 2, 5, and 7), all of which were dedicated to producing silicomanganese, were idled, starting in June 2013.[5] In July 2014, Felman restarted one of its furnaces (furnace 2), then restarted a second furnace in August 2014 (furnace 5), citing modest price improvements and reduced costs resulting from a negotiation of its electricity contract.[6] As of the release date of this report, Felman had not yet restarted its third furnace (furnace 7). In November 2015, one of Felman's two operating furnaces reportedly experienced a "burn-through," damaging the furnace. According to the report, Felman is expected to operate only one furnace until mid-2016 -- possibly longer -- as repairs will take at least six months. Felman temporarily laid off about 40 percent of the plant's roughly 200 employees, citing the damaged furnace "and continuing poor market conditions."[7]

Eramet has two furnaces (named furnace 1 and furnace 12). In 2012, Eramet produced ***. In 2013, Eramet ***. Eramet explained that it ***.[8] There were, however, four periods during 2013-September 2015, when Eramet ***.[9] [10] *** with when all three of Felman's furnaces were idled. Accordingly, during these periods, there was ***.

---

[3] Felman President and CEO Mordechai Korf noting that this "brings Felman another step closer to resuming operation and further strengthens the plant." "Felman, USW in new labor deal at W.Va facility," American Metal Market, 2014 WLNR 16484436 (Apr. 18, 2014). Respondents' prehearing brief, Exh. 11.

[4] Domestic industry's posthearing brief, Part III – Answers to written questions, p. III-1-2.

[5] Domestic industry's prehearing brief, p. 5. Felman cites deterioration in U.S. market conditions as the reason for shutting down all of its furnaces. Hearing transcript, pp. 63 and 128 (Nuss).

[6] Conference transcript, p. 54 (Nuss).

[7] "Felman down to one furnace at West Virginia silicomanganese plant," Metals Daily, Vol. 5, Issue 5, January 8, 2016.

[8] Eramet January 12, 2016 response to staff questions.

[9] ***. The effect is a reduction in capacity of *** short tons in 2013, *** short tons in 2014, *** short tons in January-September 2014, and *** short tons in January-September 2015. Data presented in table III-2 reflect such adjustments.

[10] Eramet reported that ***, which represents ***.

U.S. PRODUCTION, CAPACITY, AND CAPACITY UTILIZATION

Table III-2 presents U.S. producers' production, capacity, and capacity utilization.[11] The reported capacity data do not account for when Felman idled its furnaces.[12] Annual capacity to produce silicomanganese in the United States decreased by *** percent from 2012 to 2013, and by *** percent from 2013-2014. The decrease in reported capacity was due to ***. Reported capacity for January-September 2015 was higher than reported capacity for January-September 2014.

U.S. production of silicomanganese decreased by *** percent from 2012 to 2013 then by *** percent from 2013 to 2014. *** reported decreasing year-on-year production, with *** accounting for *** percent of the decrease from 2012 to 2014. Production was higher in January-September 2015 compared to January-September 2014, with *** contributing to the increased level.[13] Changes in capacity utilization rates were consistent with changes in production, decreasing during 2012-14, and greater in January-September 2015 compared to January-September 2014.

Table III-2
Silicomanganese: U.S. producers' production, capacity, and capacity utilization, 2012-14, January-September 2014, and January-September 2015

* * * * * * *

[11] Producers were asked to describe the constraints that set the limits on production capacity. Eramet *** and Felman reported ***.

[12] Felman argues that the idled furnaces should be counted as available capacity, and that manufacturing can resume at any time, allowing approximately one week for ramp up. E-mail from ***, March 16, 2015.

[13] In response to staff questions inquiring why ***:

***.

As noted above, Felman began restarting some of its furnaces in August 2014, after it renegotiated its electricity contract and saw some price improvements. Price indices data, including *** are presented in figure V-3, showing prices rising in early 2014 followed by a general downward trend beginning in May.

Alternative products

Table III-3 presents U.S. producers' overall capacity and production. As noted above, ***. Total facility production decreased by *** percent from 2012 to 2014 but was *** percent greater in January-September 2015 compared to January-September 2014.

Production of silicomanganese accounted for *** percent of overall facility production in 2014, compared with *** percent in 2012, largely due to decreasing silicomanganese production and, to a lesser extent, increasing ferromanganese production. During January-September 2015, silicomanganese accounted for *** percent of overall facility production, compared to *** percent during January-September 2014.

Table III-3
Silicomanganese: U.S. producers' overall capacity and production, 2012-14, January-September 2014, and January-September 2015

* * * * * * *

U.S. PRODUCERS' U.S. SHIPMENTS AND EXPORTS

Table III-4 presents U.S. producers' U.S. shipments, export shipments, and total shipments. U.S. commercial shipments accounted for the vast majority of all shipments, with exports accounting for no more than *** percent of shipments during any period for which data were collected. No firm reported internal consumption or transfers.[14] The quantity of U.S. producers' U.S. shipments of silicomanganese decreased by *** percent from 2012 to 2013 and by *** percent from 2013 to 2014, for an overall decrease of *** percent from 2012 to 2014. The quantity of U.S. shipments in January-September 2015 was *** percent greater compared to January-September 2014. The value of U.S. producers' U.S. shipments' decreased by *** percent from 2012 to 2013 and by *** percent from 2013 to 2014, resulting in an overall decrease of *** percent during 2012-14. The value of U.S. shipments in January-September 2015 was *** percent greater compared to January-September 2014. The average unit value of U.S. shipments decreased by *** percent from 2012 to 2013, then increased by *** percent from 2013 to 2014, resulting in an overall decrease of *** percent from 2012 to 2014. The average unit value of U.S. shipments in January-September 2015 was *** percent less than it was in January-September 2014.

Table III-4
Silicomanganese: U.S. producers' U.S. shipments, exports shipments, and total shipments, 2012-14, January-September 2014, and January-September 2015

* * * * * * *

[14] U.S. commercial shipments reported by Felman are ***. ***.

U.S. PRODUCERS' INVENTORIES

Table III-5 presents U.S. producers' end-of-period inventories and the ratio of these inventories to U.S. producers' production, U.S. shipments, and total shipments. Inventories fluctuated over the period examined but were *** percent higher in 2014 compared to 2012 and ***. Eramet's and Felman's inventories ***, but *** accounted for *** short tons of the *** short tons increase in inventory from 2012 to 2014. *** . According to Felman, ***.[15] *** accounted for most of the increase in inventories in September 2015 compared to 2014 (*** of *** increase in short tons).

Table III-5
Silicomanganese: U.S. producers' inventories, 2012-14, January-September 2014, and January-September 2015

* * * * * * *

U.S. PRODUCERS' IMPORTS AND PURCHASES

U.S. producers' imports and purchases of silicomanganese are presented in table III-6. Neither Eramet nor Felman imported subject merchandise. Felman Trading, Felman's affiliated company, did import ***. Felman Trading reported that it imported subject merchandise ***.[16] Felman Trading is the sole U.S. importer of Georgian silicomanganese (all of which came from another affiliated company, Georgian Manganese), which was the *** source of silicomanganese in the United States during the period examined. Felman Trading reported that it imports silicomanganese from Georgia ***. ***. Eramet imported silicomanganese form ***. Eramet reported that it is ***.

Table III-6
Silicomanganese: U.S. producers' U.S. production, imports and purchases, 2012-14, January-September 2014, and January-September 2015

* * * * * * *

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

Table III-7 shows U.S. producers' employment-related data. Production and related workers, hours worked, and wages paid all essentially declined by *** from 2012 to 2014. ***: *** percent of the decrease in production and related workers, *** percent of decrease in

[15] E-mail from ***, March 26, 2015.

[16] E-mail from ***, March 26, 2015. Felman Trading imported *** short tons of silicomanganese from Australia in 2013 with an import average unit value of $***. Its commercial U.S. shipment unit value for these imports was $*** in 2013 and $*** in 2014.

hours worked, and *** percent of the decrease in wages paid. Felman ***. Eramet, however, ***. Eramet's reported *** in PRWs during ***.[17] In January-September 2015, production and related workers were *** greater compared to January-September 2014, hours worked were *** percent greater, and wages paid were *** percent greater. Productivity varied during the period examined, which was at its highest level in 2012 and was at its nadir during January-September 2014. Unit labor costs also varied during the period examined, with 2012 at its lowest level and January-September 2014 at its highest level.

Table III-7
Silicomanganese: Average number of production and related workers, hours worked, wages paid to such employees, hourly wages, productivity, and unit labor costs, 2012-14, January-September 2014, and January-September 2015

* * * * * * *

[17] Eramet reported *** PRWs for its silicomanganese operations 2012 and *** in 2014, compared to *** total PRWs in 2012 and *** in 2014. Eramet reported *** PRWs in January-September 2015 for its silicomanganese operations, compared to *** in January-September 2014. Counsel noted that ***, January 22, 2016.

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

U.S. IMPORTERS

The Commission issued importer questionnaires to 22 firms believed to be importers of silicomanganese, as well as to all U.S. producers of silicomanganese.[1] Usable questionnaire responses were received from 14 companies, representing all U.S. imports from Australia during January 2012-September 2015 under HTS statistical reporting number 7202.30.0000, a "basket" category.[2] Importer questionnaire responses also accounted for essentially all U.S. imports from Georgia and South Africa, and over 90 percent of imports from all other sources.[3] Table IV-1 lists all responding U.S. importers of silicomanganese from Australia and other sources, their locations, and their shares of U.S. imports, in 2014.

Several U.S. importers of silicomanganese are parts of multinational firms with silicomanganese operations in the United States and other countries. Like its predecessor firm BMI, importer Samancor is related to the sole Australian silicomanganese producer, TEMCO. Importer Felman Trading, an affiliate of the petitioner, is the sole U.S. importer of silicomanganese from Georgia, where its imported silicomanganese is produced by a related firm, Georgian Manganese. Eramet, the other U.S. producer, imported silicomanganese from Norway and Gabon, countries in which it has related producers.

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[1] The Commission issued questionnaires to those firms identified in the petition, along with firms that, based on a review of data provided by ***, may have accounted for more than one percent of total imports under HTS statistical reporting number 7202.30.0000 since 2012.

[2] Out-of-scope merchandise, low-carbon silicomanganese, is also classifiable under HTSUS statistical reporting number 7202.30.0000. The Commission's U.S. importers' questionnaires requested data on imports of low-carbon silicomanganese that entered under HTSUS statistical reporting number 7202.30.0000. Three importers reported imports of low-carbon silicomanganese, all of which were imported from nonsubject sources.

[3] Coverage was estimated by comparing questionnaire response data to official import statistics, adjusted to exclude imports of low-carbon silicomanganese reported in questionnaire responses.

Table IV-1
Silicomanganese: U.S. importers by source, 2014

Firm	Headquarters	Share of imports by source (percent)					
		Australia	Georgia	South Africa	All other sources	Nonsubject sources	Total imports
Allegheny Alloys[1]	Pittsburgh, PA	***	***	***	***	***	***
AMCI-DCM[2]	Fuerstenfeld, Austria	***	***	***	***	***	***
Camelot[3]	Mahwah, NJ	***	***	***	***	***	***
CCMA[4]	Amherst, NY	***	***	***	***	***	***
DJJ[5]	Cincinnati, OH	***	***	***	***	***	***
Eramet[6]	Marietta, OH	***	***	***	***	***	***
Felman[7]	Miami, FL	***	***	***	***	***	***
Glencore[8]	Stamford, CT	***	***	***	***	***	***
Medima	Clarence, NY	***	***	***	***	***	***
Millbank Materials[9]	Portland, OR	***	***	***	***	***	***
Minerais[10]	Hillsborough, NJ	***	***	***	***	***	***
Nizi[11]	Akron, OH	***	***	***	***	***	***
ProFound Alloys	McMurray, PA	***	***	***	***	***	***
Samancor[12]	Baar, Switzerland	***	***	***	***	***	***
Total		***	***	***	***	***	***

[1] Allegheny Alloys ***.
[2] AMCI-DCM ***.
[3] Camelot ***.
[4] CCMA ***.
[5] DJJ is owned by Nucor Corp., U.S.A.
[6] Eramet is owned by Eramet Holding Manganese, France.
[7] Felman is owned by Georgian American Alloys, U.S.A.
[8] Glencore ***.
[9] Millbank Materials ***
[10] Minerais ***.
[11] Nizi ***.
[12] Samancor is 60 percent owned by South32 Investment 12 BV (Netherlands) and 40 percent owned by Anglo American Luxembourg S.a.r.l (Luxembourg).

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

U.S. IMPORTS

Table IV-2 presents data for U.S. importers' U.S. imports of silicomanganese from Australia, Georgia, South Africa, and all other sources.[4] The total quantity of imports increased during 2012-14, but was lower in January-September 2015 compared to January-September 2014. While total imports increased by 0.5 percent from 2012 to 2013, imports from Australia increased by *** percent (*** short tons), more than offsetting the *** short ton decrease in imports from nonsubject sources, with the decrease in imports from South Africa accounting for *** short tons and the decrease from Georgia accounting for *** short tons. Imports from Australia were stable from 2013 to 2014 and were nearly the same in January-September 2015 compared to January-September 2014.

Imports from Georgia accounted for the largest share of imports during the period for which data were collected and imports from South Africa accounted for the second largest share. Imports from Georgia and South Africa each decreased from 2012 to 2013, increased from 2013 to 2014, and were lower in January-September 2015 compared to January-September 2014.

[4] Appendix D presents monthly import statistics for the period of 2010-2015.

Table IV-2
Silicomanganese: U.S. importers' U.S. imports by source, 2012-14, January-September 2014, and January-September 2015

Item	Calendar year			January to September	
	2012	2013	2014	2014	2015
	Quantity (short tons)				
U.S. importers' U.S. imports from.-- Australia	***	***	***	***	***
Georgia	***	***	***	***	***
South Africa	***	***	***	***	***
All other sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
Total U.S. imports	336,555	338,389	434,916	317,590	252,295
	Value (1,000 dollars)				
U.S. importers' U.S. imports from.-- Australia	***	***	***	***	***
Georgia	***	***	***	***	***
South Africa	***	***	***	***	***
All other sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
Total U.S. imports	360,626	318,323	445,829	322,062	241,360
	Unit value (dollars per short ton)				
U.S. importers' U.S. imports from.-- Australia	***	***	***	***	***
Georgia	***	***	***	***	***
South Africa	***	***	***	***	***
All other sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
Total U.S. imports	1,072	941	1,025	1,014	957

Table continued on next page.

Table IV-2--*Continued*
Silicomanganese: U.S. imports by source, 2012-14, January-September 2014, and January-September 2015

Item	Calendar year			January to September	
	2012	2013	2014	2014	2015
	Share of quantity (percent)				
U.S. importers' U.S. imports from.--					
Australia	***	***	***	***	***
Georgia	***	***	***	***	***
South Africa	***	***	***	***	***
All other sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
Total U.S. imports	100.0	100.0	100.0	100.0	100.0
	Share of value (percent)				
U.S. importers' U.S. imports from.--					
Australia	***	***	***	***	***
Georgia	***	***	***	***	***
South Africa	***	***	***	***	***
All other sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
Total U.S. imports	100.0	100.0	100.0	100.0	100.0
	Ratio to production (percent)				
U.S. importers' U.S. imports from.--					
Australia	***	***	***	***	***
Georgia	***	***	***	***	***
South Africa	***	***	***	***	***
All other sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
Total U.S. imports	***	***	***	***	***

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

During the period examined, the predecessor firm to Samancor, BMI, changed its marketing model for silicomanganese it sold in the United States. BMI shifted away from acting as the importer of record under its delivery duty paid ("DDP") marketing model to increasingly have purchasers act as the importers of record under its cost insurance freight ("CIF") marketing model. ***. For the period of ***.[5] Since the beginning in May 2015, however, ***.[6] Table IV-3 presents U.S. importers' U.S. imports from Australia by importing firm.

Table IV-3
Silicomanganese: U.S. importers' U.S. imports from Australia by firm, 2012-14, January-September 2014, and January-September 2015

* * * * * * *

NEGLIGIBILITY

The statute requires that an investigation be terminated without an injury determination if imports of the subject merchandise are found to be negligible.[7] Negligible imports are generally defined in the Tariff Act of 1930, as amended, as imports from a country of merchandise corresponding to a domestic like product where such imports account for less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which data are available that precedes the filing of the petition or the initiation of the investigation.[8] Imports from Australia accounted for 14.9 percent[9] of total imports of silicomanganese by quantity during February 2014 through January 2015.

APPARENT U.S. CONSUMPTION

Table IV-4 presents data on apparent U.S. consumption for silicomanganese. Apparent consumption data are based on U.S. producers' and importers' shipment data. Shipments of imports constitute the largest share of U.S. apparent consumption by quantity, increasing from *** percent in 2012 to *** percent in 2014, was *** percent in January-September 2014, and *** percent in January-September 2015. During January 2012 – September 2015, U.S. shipments of imports from Georgia were the largest source of silicomanganese in the United States, followed by shipments of imports from South Africa, U.S. producers' U.S. shipments, U.S. shipments of imports from Australia, and U.S. shipments of imports from all other

[5] Samancor's importers questionnaire response, revised January 12, 2016.
[6] Ibid.
[7] Sections 703(a)(1), 705(b)(1), 733(a)(1), and 735(b)(1) of the Act (19 U.S.C. §§ 1671b(a)(1), 1671d(b)(1), 1673b(a)(1), and 1673d(b)(1)).
[8] Section 771 (24) of the Act (19 U.S.C § 1677(24)).
[9] Based on official import statistics.

sources.[10] The quantity of apparent consumption fluctuated, increasing by 4.9 percent from 2012 to 2013, and then decreasing by 9.1 percent from 2013 to 2014, resulting in an overall decrease of 4.6 percent from 2012 to 2014. The quantity of apparent consumption was 5.9 percent lower during January-September 2015 compared to January-September 2014. The value of apparent consumption decreased from 2012 to 2013, from 2013 to 2014, and was lower in January-September 2015 compared to January-September 2014.

U.S. producers' U.S. shipments accounted for the largest share of U.S. apparent consumption by quantity in 2012, third largest share in 2013, fourth largest share in 2014, and fourth largest share in January-September 2015. U.S. producers' U.S. shipments decreased by *** percent from 2012 to 2013 and by *** percent from 2013 to 2014, resulting in an overall decrease of *** percent from 2012 to 2014. U.S. producers' market share also decreased, by almost *** percentage points from 2012 to 2013 and almost *** percentage points from 2013 to 2014, resulting in an overall decrease of *** percentage point during 2012-14. U.S. producers' U.S. shipments were *** percent greater in January-September 2015 compared to January-September 2014 which, in combination with lower shipments of imports during this period, resulted in greater U.S. producers' market share (*** percent in January-September 2015 compared to *** percent in January-September 2014). These changes were largely attributable to *** changes in operations noted earlier.

U.S. shipments of imports from Australia accounted for the fourth largest share of U.S. apparent consumption by quantity in during January 2012 – September 2015. Not including U.S. shipments from all other sources, U.S. shipments of imports from Australia accounted for the fourth largest share of U.S. apparent consumption in 2012, second largest share in 2013, third largest share in 2014, and third largest share in January-September 2015. The quantity of U.S. shipments of imports from Australia increased by *** percent from 2012 to 2013 (in 2013, Australia became the second largest source of supply for the U.S. market), but decreased by *** percent from 2013 to 2014, resulting in an overall increase of *** percent during 2012-14. Even as imports from Australia were lower in January-September 2015 compared to January-September 2015, U.S. shipments of import from Australia were *** percent greater, due to shipments from inventories.

U.S. shipments of imports from Georgia accounted for the single largest share of U.S. apparent consumption by quantity during January 2012-September 2015. U.S. shipments of imports from Georgia increased by *** percent from 2012 to 2014 but were *** percent lower in January-September 2015 compared to January-September 2014. U.S. shipments of imports from South Africa accounted for the second largest share of U.S. apparent consumption by quantity during January 2012-September 2015. Shipments of imports from South Africa decreased by *** percent from 2012 to 2013, but then increased by *** percent from 2013 to 2014, and were *** percent lower in January-September 2015 compared to January-September 2014.

[10] U.S. shipments of imports from all other sources include shipments from Bahrain, Brazil, Gabon, Indonesia, Italy, Mexico, Norway, Spain, and Zambia.

Table IV-4
Silicomanganese: U.S. shipments of domestic product, U.S. shipments of imports, and apparent U.S. consumption, 2012-14, January-September 2014, and January-September 2015

Item	Calendar year			January to September	
	2012	2013	2014	2014	2015
	Quantity (short tons)				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. importers' U.S. shipments of imports from.--					
Australia	***	***	***	***	***
Georgia	***	***	***	***	***
South Africa	***	***	***	***	***
All other sources	***	***	***	***	***
Nonsubject sources	275,046	277,703	313,948	235,023	170,805
Total U.S. importers' U.S. shipments	***	***	***	***	***
Apparent U.S. consumption	447,831	469,790	427,011	304,088	286,295
	Value (1,000 dollars)				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. importers' U.S. shipments of imports from.--					
Australia	***	***	***	***	***
Georgia	***	***	***	***	***
South Africa	***	***	***	***	***
All other sources	***	***	***	***	***
Nonsubject sources	330,882	284,078	340,614	253,698	178,827
Total U.S. importers' U.S. shipments	***	***	***	***	***
Apparent U.S. consumption	528,482	469,681	464,684	329,663	290,663

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

U.S. MARKET SHARES

U.S. market share data are presented in table IV-5.

Table IV-5
Silicomanganese: U.S. consumption and market shares, 2012-14, January-September 2014, and January-September 2015

Item	Calendar year			January to September	
	2012	2013	2014	2014	2015
	Quantity (short tons)				
Apparent U.S. consumption	447,831	469,790	427,011	304,088	286,295
	Share of quantity (percent)				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. importers' U.S. shipments of imports from.--					
Australia	***	***	***	***	***
Georgia	***	***	***	***	***
South Africa	***	***	***	***	***
All other sources	***	***	***	***	***
Nonsubject sources	61.4	59.1	73.5	77.3	59.7
Total U.S. importers' U.S. shipments	***	***	***	***	***
	Value (1,000 dollars)				
Apparent U.S. consumption	528,482	469,681	464,684	329,663	290,663
	Share of value (percent)				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. importers' U.S. shipments of imports from.--					
Australia	***	***	***	***	***
Georgia	***	***	***	***	***
South Africa	***	***	***	***	***
All other sources	***	***	***	***	***
Nonsubject sources	62.6	60.5	73.3	77.0	61.5
Total U.S. importers' U.S. shipments	***	***	***	***	***

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

PART V: PRICING DATA

FACTORS AFFECTING PRICES

Raw material costs

U.S. producers' total raw material costs accounted for *** percent to *** percent of the cost of goods sold during 2012-14. On a per-unit basis, U.S. producers' average unit raw material costs increased by *** percent from 2012 to 2013, then decreased by *** percent from 2013 to 2014.[1]

Raw materials used in the production of silicomanganese include sources containing manganese and silicon, as well as coking coal. Manganese for silicomanganese production is generally sourced from manganese ore and/or ferromanganese slag.[2] Manganese ore prices increased by 32 percent from January 2012 to April 2013 and then declined to near early-2012 levels in the latter half of 2014 and then declined further in 2015 (figure V-1), resulting in prices for manganese ore that were 36 percent lower in September 2015 than in January 2012. Electricity is also a major input cost.[3] National industrial electricity prices increased by 12.5 percent from January 2012 to September 2015 (figure V-2).[4]

[1] ***.

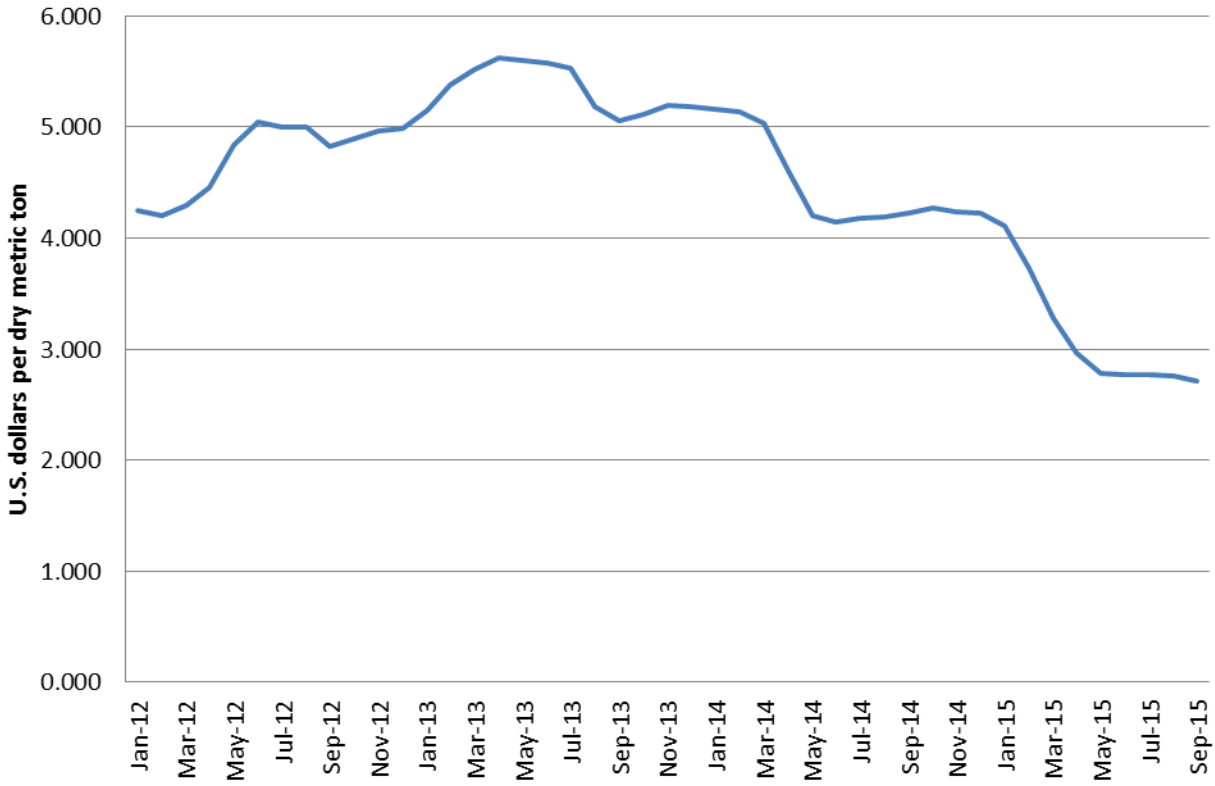
[2] Petition, p. 9. Eramet produces both ferromanganese and silicomanganese (some ferromanganese slag is used for silicomanganese production).

[3] Production of one short ton of silicomanganese requires 3,900 to 4,800 kilowatt hours of electricity. Petition, p. 9.

[4] Felman negotiated a special electricity rate in mid-2014. "Felman looks to restart output at end of July," *American Metal Market*, July 1, 2014.

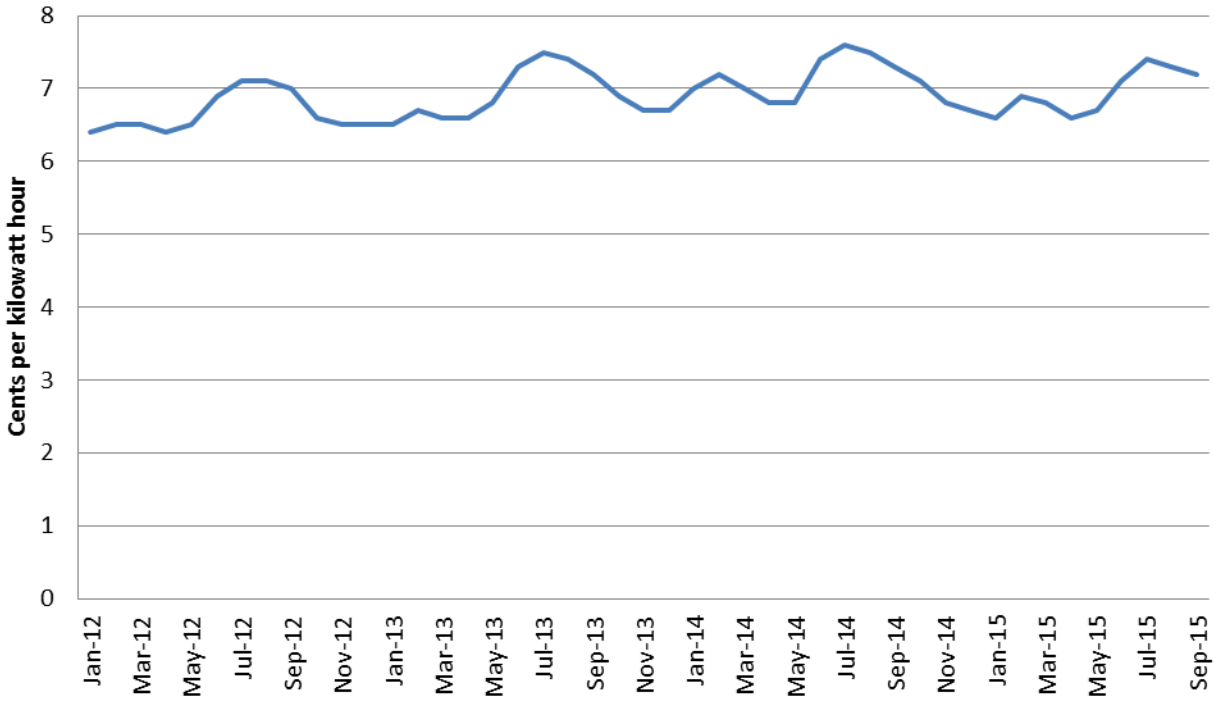
Figure V-1

Manganese ore: Monthly average prices of manganese ore with 44 percent manganese content, CIF Tianjin, China, January 2012-September 2015



Source: Platt's Metals Week, Monthly Price Report.

Figure V-2
Industrial electricity: Monthly average U.S. prices, January 2012-September 2015



Source: Short Term Energy Outlook, Energy Information Administration, www.eia.gov, December 24, 2015.

U.S. producers and half of responding importers (6 of 12) reported that raw material prices had fluctuated since January 1, 2012, while five responding importers reported that raw material prices had declined. *** reported that during 2012-14, manganese ore prices fluctuated, while silicon prices increased. It also stated that global manganese ore and silicon prices declined in 2015, due to appreciation of the U.S. dollar, slower economic growth, and reduced crude steel production, particularly in China (which is the predominant driver in the manganese ore market). ***. Importer *** reported an overall decrease in raw material prices, particularly for manganese, but that currencies and energy prices are volatile. Importer *** stated that energy and manganese ore prices have fallen. Importer *** stated that the price for manganese ore has been declining since July 2014.

U.S. inland transportation costs

*** 7 of 10 importers reported that they typically arrange transportation to their customers.[5] U.S. producers reported that their U.S. inland transportation costs ranged from ***

[5] Importer *** reported that it both arranged transportation for its customers and that its customers arranged for transportation because ***.

percent while importers reported costs of 2 to 5 percent. Purchasers reported that U.S. inland transportation costs ranged from 1 to 6 percent of the total delivered cost of U.S.-produced silicomanganese and 1 to 13 percent of cost of imports. Purchasers reported that these costs have fluctuated since January 1, 2012. Purchaser *** stated that the transportation cost share varies based on silicomanganese market prices. Purchaser *** stated that freight costs were stable but that the price of silicomanganese has decreased. Purchaser *** stated that fuel surcharges fluctuate based on oil pricing.

PRICING PRACTICES

Price Indices

Silicomanganese spot prices are published in publications such as Ryan's Notes, Platt's Metal Week, and American Metal Market.[6] Ryan's Notes publishes prices twice per week based on spot sales transactions.[7] For purchases of silicomanganese, steel producers use a bidding process for quarterly, semi-annual or annual bids, and seek bids from multiple suppliers.[8] Suppliers of silicomanganese typically base sales prices on these publications, most commonly Ryan's Notes. *** 12 of 13 responding importers reported that they base their sales prices on published price indices. Eleven of 17 responding purchasers stated that producers and/or importers base their sales prices on price indices, 8 of which stated that U.S. producers use price indices and 10 of which stated that importers use price indices. ***. Twelve importers reported basing sales prices on Ryan's Notes, seven on Platt's Metal Week, and three on American Metal Market. *** reported using import statistics. ***. Four importers reported using price indices as a base for sales prices for long-term contracts, nine for annual contracts, three for short-term contracts, and six for spot sales. Three purchasers reported that long-term contracts are based on price indices, eight reported annual contracts, five reported short-term contracts, and one reported spot sales.

---

[6] Domestic producers' postconference brief, p. 1. Conference transcript, p. 35 (Rochussen). Respondents argued that most of their contracts are with distributors and that contract prices are not included in the Platts or Ryan's Notes price indices. Hearing transcript, pp. 155, 238 (Kylander).

[7] Ryan's Notes published prices are for spot sales of bulk silicomanganese reported by sellers to buyers (no inter-firm trade) for silicomanganese meeting 65-68 percent manganese and 16-18.5 percent silicon, U.S. ex-warehouse or producing plant, duty-paid, cash/net 30.

"Telephone is the primary means that CRU RN uses to collect market intelligence and verify information received. Additional methods of communication are also used in order to further highlight weekly spot market fluctuations. Prices are closed spot market transactions. Terms and conditions not consistent with spot market industry standards are not considered in the price assessment. Price assessments reflect actual concluded spot deals and information is gathered through consultation with producers, buyers, traders and end users. Each transaction is verified with both buyers and sellers, and where this is not possible, third and fourth parties are consulted." CRU, Ryan's Notes https://www.ryansnotes.com/price-specs/index.asp, retrieved March 19, 2015.

[8] Conference transcript, p. 26 (Nuss) and p. 35 (Rochussen).

Generally, firms use the average low index value from the prior month as a base from which discounts are negotiated. ***. ***.[9] Importer *** reported that spot sales are based on publication prices while long-term contracts are based on Ryan's Notes minus a *** percent discount. Importer *** stated that its price formula is based on Platts and/or Ryan's Notes average low prices for a month, with a discount for large volume purchases by steel mills.[10] Among purchasers, *** stated that its ***. Purchaser *** stated that prices were based on Ryan's Notes low or the average of the high and low for the month prior to shipment less *** percent. Purchaser *** stated that both U.S. producers and importers use the low Ryan's Notes index from the month prior to delivery less a discount to the index as negotiated with each supplier. Purchaser *** stated that the typical formula is monthly pricing based on the selected index (or combination of indices) in the prior month's published average low price less an agreed upon discount. It stated that a similar quarterly pricing is also an option. It also stated that discounts can vary widely from year to year based on market conditions, the particular index selected, and whether the formula uses the low, mid, or high published number.

Firms were also asked if they had reported their sales or purchase prices to these price indices since January 1, 2012. ***. Only *** of twelve responding importers, ***, stated that it reported contract prices to an index (***). Only one of twelve responding purchasers, ***, responded that it has reported its purchases to an index; specifically, it reported its ***. All of these firms stated that they did not know if the prices were used in the published price index.***.[11]

As shown in figure V-3, silicomanganese spot sales prices published by Ryan's Notes increased by *** percent over the first 3 months of 2012 then declined to January 2012 levels by December 2012. Prices declined slightly in the latter half of 2013 and then increased somewhat in 2014. Prices have declined since May 2014 and were about *** percent below January 2012 prices in September 2015. Data from Platt's followed a similar trend. Parties attributed the price increase in early 2012 to the TEMCO (Australia) and Samancor (South Africa) plant closures.[12]

Figure V-3
Silicomanganese: U.S. prices, monthly, January 2012-September 2015

* * * * * * *

[9] ***.
[10] It also stated that for ***.
[11] ***
[12] Conference transcript, p. 64 (Levy), p. 77 (Anderson), pp. 129-20 (Kylander).

Pricing methods

*** importers reported using both transaction-by-transaction negotiations and contracts (table V-1). *** importers of Australian product reported selling mainly on a contract basis, although *** subject importers (table V-2).[13] ***. The majority of purchases, *** percent, were made under contracts in 2014.

Table V-1
Silicomanganese: U.S. producers and importers reported price setting methods, by number of responding firms[1]

* * * * * * *

Table V-2
Silicomanganese: U.S. producers' and importers' shares of U.S. commercial shipments by type of sale, 2014

* * * * * * *

***.

Most responding importers' long-term, annual, and short-term contracts do not contain price negotiation clauses and do not have meet or release provisions. Four importers fix both price and quantity for their short-term contracts and three fix price and quantity for annual contracts. Long-term contracts average 2-3 years in duration and short-term contracts average 30 to 180 days.

Two purchasers reported that they purchase product weekly, four purchase monthly, six purchase quarterly, three purchase annually, and 6 purchase semi-annually. *** stated that it purchases only when the need arises to fill existing sales and *** stated that it purchases sporadically. Only three of 17 responding purchasers reported that their purchasing patterns had changed in since 2012. *** stated that its purchases declined, particularly in 2015 and *** stated that its purchasing pattern fluctuates with steel demand. Twelve of 17 purchasers contact 1 to 10 suppliers before making a purchase and two purchasers contact up to 15 suppliers. *** contacts between 8 and 35 global suppliers, *** contacts between 12 and 24 global suppliers, and *** contacts between 40 and 45 global suppliers.

Sales terms and discounts

*** all nine responding importers typically quote prices on a delivered basis. ***. Nine of 13 importers reported no discounts, one reported quantity discounts, and three reported

[13] ***

other discounts. ***. *** eight of nine responding importers reported sales terms of net 30 days.[14] One importer also reported terms of net 60 days.[15]

Price leadership

Five responding purchasers reported that Felman was a price leader. *** stated that Felman is a big supplier of silicomanganese and that it mostly sells under contract but may also sell silicomanganese on the open market if it can get a higher price. *** stated that Felman entered the U.S. market with aggressive pricing to garner market share. *** stated that Felman is the largest domestic producer. *** stated that Felman used its off-shore Georgian supply to lead prices down. Purchasers also listed Glencore, South 32, Minerais, Eramet, CCMA, and TEMCO as price leaders. *** stated that TEMCO's Australian silicomanganese led U.S. prices down in 2013. *** stated that South 32 offers to sell at cheap prices to all traders, Minerais imports from South Africa and has a large market share, Eramet is a U.S. producer that tends to sell to maintain its market share, and CCMA is an aggressive price setter of late since Mexican costs of production have declined.

PRICE DATA

The Commission requested U.S. producers and importers to provide quarterly data for the total quantity and f.o.b. value of the following silicomanganese products shipped to unrelated U.S. customers during January 2012-September 2015.

Product 1.-- Standard grade (65-68% Mn) bulk silicomanganese sold to distributors under contracts

Product 2.-- Standard grade (65-68% Mn) bulk silicomanganese sold to steel producers under contracts

Product 3.-- Standard grade (65-68% Mn) bulk silicomanganese sold to distributors as spot sales

Product 4.-- Standard grade (65-68% Mn) bulk silicomanganese sold to steel producers as spot sales

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[14] Samancor reported that starting in 2012 and completed by July 2014, it shifted from acting as the importer of record and selling delivered duty paid (DDP) to selling on a CIF basis to U.S. importers. It reported that in doing so, it shifted costs and risk to its customers, and in doing so lost some customers. It reported that sales to distributors are priced lower since the importer carries inventory and pays warehousing and storage costs. Samancor currently negotiates prices with importers and the importer separately negotiates prices with end users. Conference transcript, p. 88 (Anderson), p. 105 (Chinoy), p. 123 (Kylander).

[15] ***.

Both U.S. producers and eight importers of Australian product provided usable pricing data for sales of the requested products, although not all firms reported pricing for all products for all quarters.[16] Pricing data reported by these firms accounted for approximately *** percent of U.S. producers' commercial shipments of silicomanganese and *** percent of U.S. commercial shipments of subject imports from Australia from January 2012-September 2015.[17] In 2014, ***.[18] To capture this change in practice, the Commission requested landed, duty-paid cost data.[19] The Australian cost data represents ***.

Price data for products 1-4 are presented in tables V-3 to V-6 and figures V-4 to V-7. Nonsubject country prices are presented in Appendix E.

Table V-3

Silicomanganese: Weighted-average f.o.b. prices and quantities of domestic and imported product 1[1] and margins of underselling/(overselling), by quarters, January 2012-September 2015

* * * * * * *

[16] Per-unit pricing data are calculated from total quantity and total value data provided by U.S. producers and importers. The precision of these figures may be affected by rounding, limited quantities, and producer or importer estimates.

[17] Australia pricing coverage was *** percent in 2012, *** percent in 2013, *** percent in 2014, and *** percent from January-September 2015. Five of these importers reported pricing data accounting for 100 percent of their commercial U.S. shipments. ***.

[18] ***.

[19] Firms were also asked to describe the types of costs incurred, such as logistics or supply chain costs, warehousing costs, compliance or customs costs, insurance costs, and currency conversion costs. ***. ***. Direct importers were also asked to indicate if they compare costs to U.S. importers and/or U.S. producers when determining whether to directly import or not. ***. Importers were also asked to identify the benefits of directly importing silicomanganese instead of purchasing silicomanganese from a U.S. producer or importer. ***.

Table V-4

Silicomanganese: Weighted-average f.o.b. prices and quantities of domestic and imported product 2[1] and margins of underselling/(overselling), by quarters, January 2012-September 2015

Period	United States		Australia[2]			Australia (cost)[2]	
	Price *($ per short ton)*	Quantity *(short tons)*	Price *($ per short ton)*	Quantity *(short tons)*	Margin *(percent)*	Price *(per short ton)*	Quantity *(short tons)*
2012:							
Jan.-Mar.	***	***	***	***	***	--	0
Apr.-June	***	***	***	***	***	--	0
July-Sept.	***	***	***	***	***	--	0
Oct.-Dec.	***	***	***	***	***	--	0
2013:							
Jan.-Mar.	***	***	1,084	9,257	***	--	0
Apr.-June	***	***	1,144	12,724	***	--	0
July-Sept.	***	***	1,108	12,234	***	--	0
Oct.-Dec.	***	***	1,137	8,086	***	--	0
2014:							
Jan.-Mar.	***	***	***	***	***	***	***
Apr.-June	***	***	1,175	11,527	***	***	***
July-Sept.	***	***	1,134	10,748	***	***	***
Oct.-Dec.	***	***	1,149	8,052	***	***	***
2015:							
Jan.-Mar.	***	***	***	***	***	***	***
Apr.-June	***	***	***	***	***	***	***
July-Sept.	***	***	***	***	***	***	***

[1] Product 2: Standard grade (65-68% Mn) bulk silicomanganese sold to steel producers under contracts.
[2] Values and quantities presented for the United States and Australia are the U.S. producers' and U.S. importer' sales of silicomanganese. Values and quantities presented for Australia (cost) are for imports rather than U.S. sales, and values are for the U.S. importer *** landed duty-paid cost of silicomanganese.

Note.-- Data include *** imports of silicomanganese from Australia from *** and represents ***.

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

Table V-5

Silicomanganese: Weighted-average f.o.b. prices and quantities of domestic and imported product 3[1] and margins of underselling/(overselling), by quarters, January 2012-September 2015

* * * * * * *

Table V-6

Silicomanganese: Weighted-average f.o.b. prices and quantities of domestic and imported product 4[1] and margins of underselling/(overselling), by quarters, January 2012-September 2015

* * * * * * *

Figure V-4

Silicomanganese: Weighted-average prices and quantities of domestic and imported product 1[1], by quarters, January 2012-September 2015

* * * * * * *

Figure V-5

Silicomanganese: Weighted-average prices and quantities of domestic and imported product 2[1], by quarters, January 2012-September 2015

* * * * * * *

Figure V-6

Silicomanganese: Weighted-average prices and quantities of domestic and imported product 3[1], by quarters, January 2012-September 2015

* * * * * * *

Figure V-7

Silicomanganese: Weighted-average prices and quantities of domestic and imported product 4[1], by quarters, January 2012-September 2015

* * * * * * *

Petitioners stated the data in Product 1 are reasonable but that the Product 2 data are "profoundly flawed."[20] In particular, Felman argues that Product 2 data from *** appear to be reasonable but that data reported for the same product by *** cannot be correct as the reported pricing data "almost always reflect a ***".[21] TEMCO stated that Product 2 pricing data are reliable.[22] [23]

Price trends

Overall, reported prices for silicomanganese declined slightly over the period. Similar to the trends shown in figure V-3, U.S. producers' and importers' contract prices to distributors and steel producers (products 1 and 2) increased from first quarter 2012 to second quarter 2012 then declined until first quarter 2013, increased slightly in 2014, and declined in 2015.[24] The quantities of spot sales (products 3 and 4) reported by U.S. producers and importers of Australian product were much smaller than that of contract sales.

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[20] Domestic producers' prehearing brief, p. 7.

[21] Domestic producers' prehearing brief, p. 11.

[22] Respondents' posthearing bief, p. 4-6

[23] Staff contacted *** regarding data issues identified in Domestic producers' posthearing brief. Staff received revisions from *** which are reflected in this final report.

[24] Respondents argued that the permanent plant closure in South Africa and the temporary closure of TEMCO in 2012 contributed to artificially high prices in 2012. Hearing transcript, pp. 143-44 (Tidey).

Table V-7 summarizes the price trends, by product and by country. As shown in the table, domestic contract prices to distributors (product 1) and to steel producers (product 2) decreased on average by *** percent and *** percent, respectively, during January 2012-September 2015 while import contract prices to distributors and steel producers decreased on average by *** percent and *** percent, respectively. Spot sales by U.S. producers and subject importers were sporadic and infrequent; therefore, trends are not reported for products 3 and 4.[25]

Table V-7

Silicomanganese: Summary of weighted-average f.o.b. prices for products 1-4 from the United States and Australia

* * * * * * *

Price comparisons

As shown in table V-8, prices for silicomanganese imported from Australia were below those for U.S.-produced product in *** of *** instances (*** short tons), *** of which were for product 1; margins of underselling ranged from *** to *** percent. In the remaining *** instances, including *** instances for product 2, prices for silicomanganese from Australia were between *** and *** percent above prices for the domestic product.

Table V-8

Silicomanganese: Instances of underselling/overselling and the range and average of margins, by product, January 2012-September 2015

* * * * * * *

LOST SALES AND LOST REVENUE

In the preliminary phase of the investigation, the Commission requested U.S. producers to report any instances of lost sales or revenue they experienced due to competition from imports of silicomanganese from Australia since 2012. Felman reported *** lost sales allegations totaling $*** and involving *** short tons of silicomanganese. ***. Staff contacted all *** purchasers named in the allegations. *** provided *** lost revenue allegations totaling $*** and involving *** short tons of silicomanganese.[26]

In the final phase of the investigation, both U.S. producers reported that they had to reduce prices but neither reported that it had to roll back announced price increases, and ***. Staff sent purchaser questionnaires to 28 purchasers and received responses from 17

[25] U.S. producers reported *** quarters of data for products 3 and 4 combined and importers reported only five quarters of data for these two pricing products.

[26] See Appendix F for lost sales and lost revenue details from the preliminary phase.

purchasers.[27] Responding purchasers reported purchasing *** short tons of silicomanganese from the United States and Australia during 2012-14 (table V-9).[28] TEMCO stated that ***.[29] Felman states that it had accumulated U.S. origin inventory that it could have sold at a fair price during the shutdown.[30]

Of the 17 responding purchasers, 4 (***) reported that they had shifted purchases of silicomanganese from U.S. producers to subject imports since January 1, 2012. Two of these purchasers (***) reported that price was the reason for the shift, and the reported estimated share of purchases shifted ranged from *** to *** percent (table V-10). Other identified reasons for shifting from U.S. producers to subject imports were *** [31] and because *** shifted supply locations. *** reported that it was unaware if the shift was due to price.

Only one of the 16 responding purchasers reported that U.S. producers had reduced prices in order to compete with lower-priced imports from subject countries; 6 reported had not and 9 reported that they did not know. The reported estimated price reduction was *** percent. In describing the price reductions, purchaser *** indicated that the ***

Table V-9
Silicomanganese: Purchasers' responses to purchasing patterns

* * * * * * *

Table V-10
Silicomanganese: Purchasers' responses to shifting supply sources

* * * * * * *

[27] Three purchasers submitted responses to allegations in the preliminary phase, but did not submit purchaser questionnaire responses in the final phase.

[28] ***.

[29] Respondents' prehearing brief, p. 51.

[30] Hearing transcript, p. 135 (Levy). Felman's end-of period inventories, as a share of total shipments, were *** percent in 2012, *** percent in 2013, and *** percent in 2014.

[31] ***.

PART VI: FINANCIAL EXPERIENCE OF U.S. PRODUCERS

BACKGROUND

Two U.S. producers of silicomanganese, which together accounted for all of the U.S. production of silicomanganese during the period of investigation, provided usable financial data.[1] Neither producer reported internal consumption or transfers to related firms of silicomanganese.[2] Felman's submitted questionnaire data were reviewed at Commission offices and also verified at the Washington, D.C. offices of its counsel, Cassidy, Levy, Kent, LLP.[3] The revisions resulted in overall ***.[4] ***.[5]

OPERATIONS ON SILICOMANGANESE

The results of the responding U.S. producers' silicomanganese operations are presented in table VI-1. The overall financial experience of the domestic silicomanganese industry continuously deteriorated (*** sales quantities and volumes) between 2012 and 2014, and an operating income of $*** in 2012 changed to an operating loss of $*** in 2014. An operating loss of $*** in 2013, however, decreased *** to an operating loss of $*** in 2014. The largest change in the operating income/loss occurred between 2012 and 2013, an operating income of $*** in 2012 changed to an operating loss of $*** in 2013. From 2012 to 2013, the decrease in unit sales price (a decrease by $*** per short ton), combined with the increase in unit total cost (COGS and SG&A expenses combined for an increase by $*** per short ton), resulted in a *** per-unit operating loss in 2013. From 2013 to 2014, net sales values decreased due to *** sales volume despite an increase in per-unit sales value. However, the operating loss decreased *** because of the increase in unit sales price (by $*** per short ton). The operating loss margin of a *** percent in 2013 decreased to a *** percent in 2014.

During January-September ("interim") 2015, even though the domestic industry's net sales quantities were *** and net sales values were *** than interim 2014, the domestic industry's *** in interim 2014 further increased to *** in interim 2015, reflecting primarily a *** per-unit sales price (from *** per short ton to *** per short ton, and gross margins for both interim periods were negative), despite a *** per-unit total cost. As a result, the domestic industry's *** in interim 2014, increased to a *** in interim 2015.

Table VI-1
Silicomanganese: Results of operations of U.S. producers, fiscal years 2012-14, January-September 2014, and January-September 2015

* * * * * * *

[1] Both producers, Eramet and Felman, have their fiscal years ending on December 31.
[2] ***. Email from ***, December 22, 2015.
[3] ***.
[4] ***.
[5] ***.

Selected company-by-company data are presented in table VI-2. Total net sales (quantities and values), operating income (loss) and its ratio to net sales, and per-unit values (sales, COGS, SG&A, and operating income), are presented in this table on a firm-by-firm basis. Both producers had the same experience – sales quantities and values decreased continuously and substantially between 2012 and 2014. They both experienced ***. ***.[6] However, its ***. ***. ***.[7] ***.[8] ***.[9] ***.[10] ***.[11] ***.[12]

Table VI-2
Silicomanganese: Results of operations of U.S. producers, by firm, fiscal years 2012-14, January-September 2014, and January-September 2015

* * * * * * *

Selected aggregate per-short ton cost data for COGS and SG&A expenses of the two producers on their silicomanganese operations are presented in table VI-3. As indicated in this table and in table VI-2, producers exhibited somewhat different patterns of change in unit costs and expenses during the period between 2012 and 2014. Per-unit raw material cost fluctuated during the period, decreased from 2012 to 2013, then increased from 2013 to 2014. Though, per-unit SG&A expenses increased over the period, they decreased for *** and increased for ***. Per-unit total costs continuously increased somewhat between 2012 and 2014. ***.[13] ***.[14] ***.[15]

Table VI-3
Silicomanganese: Average unit costs of U.S. producers, fiscal years 2012-14, January-September 2014, and January-September 2015

* * * * * * *

A variance analysis showing the effects of prices and volume on the producers' sales of silicomanganese, and of costs and volume on their total costs, is presented in table VI-4.[16] The

[6] ***.
[7] Email from ***, December 21 and March 13, 2015.
[8] Email from ***, February 9, 2016.
[9] Email from ***, December 21 and March 9, 2015.
[10] ***.
[11] Emails from ***, January 12, 2016.
[12] *** and Email from ***, March 13, 2015.
[13] Email from ***, January 12, 2016.
[14] Email from ***, January 12, 2016.
[15] Emails from ***, January 12, 2016.
[16] The Commission's variance analysis is calculated in three parts: Sales variance, cost of sales variance (COGS variance), and SG&A expense variance. Each part consists of a price variance (in the case of the sales variance) or a cost or expense variance (in the case of the COGS and SG&A expense variance), and a volume variance. The sales or cost/expense variance is calculated as the change in unit

information for this variance analysis is derived from table VI-1. The analysis is summarized at the bottom of the table. The variance analysis indicates that the increase in operating loss of $*** between 2012 and 2014 resulted from the combined negative effects of decreased prices ($***), increased costs and expenses ($***), and decreased sales volume ($***). Between the two interim periods, the increase in operating loss of $*** resulted from the combined negative effects of decreased prices $*** and increased volume $*** (more sales were made at loss), despite the positive effect of decreased per-unit total costs ($***).

Table VI-4
Silicomanganese: Variance analysis of operations of U.S. producers, between fiscal years 2012-14, January-September 2014, and January-September 2015

* * * * * * *

CAPITAL EXPENDITURES AND RESEARCH AND DEVELOPMENT EXPENSES

The U.S. producers' capital expenditures and research and development ("R&D") expenses are presented in table VI-5. Capital expenditures decreased continuously over the period, from $*** in 2012 to $*** in 2014, and then increased between the two interim periods. ***. It spent ***. ***.

Table VI-5
Silicomanganese: Capital expenditures and R&D expenses by U.S. producers, fiscal years 2012-14, January-September 2014, and January-September 2015

* * * * * * *

ASSETS AND RETURN ON ASSETS

Table VI-6 presents data on the U.S. producers' total net assets and their return on assets ("ROA"). Total assets utilized by the U.S. producers in their operations to produce and sell silicomanganese *** decreased from 2012 to 2013. This was due to ***,[17]. [18] However, total net assets slightly increased due to ***.[19] At the same time, the return on assets remained negative in 2013 and 2014 while the ratio of operating loss to total net assets increased

price or per-unit cost/expense times the new volume, while the volume variance is calculated as the change in volume times the old unit price or per-unit cost/expense. Summarized at the bottom of the table, the price variance is from sales; the cost/expense variance is the sum of those items from COGS and SG&A variances, respectively, and the net volume variance is the sum of the price, COGS, SG&A volume variance. All things equal, a stable overall product mix generally enhances the utility of the Commission's variance analysis.

[17] Email from ***, December 21, 2015.

[18] Email from ***, December 21, 2015.

[19] ***.

substantially in 2013 and then decreased in 2014. The trend of ROA over the period was the same as the trend of the operating loss margin shown in table VI-1.

Table VI-6
Silicomanganese: Value of assets and return on assets of U.S. producers, fiscal years 2012-14

* * * * * * *

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual negative effects on their return on investment, or their growth, investment, ability to raise capital, existing development and production efforts, or the scale of capital investments as a result of imports of silicomanganese from Australia. Their comments are as follows:

Actual Negative Effects

Eramet.–***

Felman.–***

Anticipated Negative Effects

Eramet.–***

Felman.–***

PART VII: THREAT CONSIDERATIONS AND INFORMATION ON NONSUBJECT COUNTRIES

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

> *In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the subject merchandise, the Commission shall consider, among other relevant economic factors*[1]*--*
>
> *(I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement), and whether imports of the subject merchandise are likely to increase,*
>
> *(II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,*
>
> *(III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,*
>
> *(IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports,*
>
> *(V) inventories of the subject merchandise,*

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

(VI) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products,

(VII) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both),

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

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

Information on the volume and pricing of imports of the subject merchandise is presented in *Parts IV* and *V*; and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in *Part VI*. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows. Also presented in this section of the report is information obtained for consideration by the Commission on nonsubject countries.

THE INDUSTRY IN AUSTRALIA

The Commission issued a foreign producers' questionnaire to TEMCO, the one firm believed to produce and/or export silicomanganese from Australia.[3] TEMCO provided a useable response to the Commission's questionnaire. This firm's exports to the United States accounted

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

[3] This firm was identified in the petition as the sole producer of silicomanganese in Australia.

for all U.S. imports of silicomanganese from Australia over the period being examined. TEMCO accounts for all production of silicomanganese in Australia. Table VII-1 presents information on the silicomanganese operations of TEMCO in Australia.

Changes in operations

In January 2011, TEMCO's ***. TEMCO reported that the ***. TEMCO also claims that, at the same time ***. In February 2012, TEMCO announced that it would temporarily suspend its operations. Its four furnaces subsequently were taken offline in March 2012.[4] During this period, TEMCO conducted a review of the long term future of its operations. The review process included investigation of the feasibility of repositioning TEMCO's cost structure to enable a restart that would sustainably deliver global competitiveness throughout the business cycle. A revised electricity contract with a Tasmanian electricity wholesaler was successfully negotiated and a restart of production facilities was initiated in June 2012.[5] By August 2012 TEMCO was fully online.[6]

TEMCO operates four furnaces. Since restarting its furnaces in June 2012, TEMCO produces silicomanganese on two furnaces (furnaces 3 and 5) and ferromanganese on the other two furnaces (furnaces 1 and 2). TEMCO currently considers this "duplex process" to be the optimal furnace configuration.[7] This differs from TEMCO's prior operating practice where it operated three furnaces that produced ferromanganese and one that produced silicomanganese (furnace 5). During 2012, furnace 3 produced ferromanganese before the shutdown started in March 2012 and silicomanganese after the restart in June 2012.

Operations

From 2012 to 2013, TEMCO's silicomanganese capacity, production, shipments, and end-of-period inventories increased, reflecting its shift from producing silicomanganese on one furnace at the beginning of 2012 to two furnaces starting in June 2012.[8] TEMCO's capacity ***. TEMCO's production increased by *** percent from 2012 to 2013 and by *** percent from 2013 to 2014, for an overall increase of *** percent from 2012 to 2014.

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[4] In response to the Commission's questionnaire requesting reasons for individual furnaces being offline, it reported ***.

[5] "TEMCO used the temporary shutdown to engage with stakeholders to reduce operating costs, including entering into a revised electricity contract." Hearing transcript, p. 143 (Tidey).

[6] It took 100 days from the initial startup of the first furnace to having all four furnaces operating at 90 percent. Conference transcript, p. 108 (Anderson).

[7] Ferromanganese slag is approximately *** percent of the feedstock of TEMCO's silicomanganese production, which it claims minimizes the unit cost of its operations.

[8] ***.

Production was *** percent greater in January-September 2015 compared to January-September 2014. Projections of production for 2015 and 2016 are at levels ***. Most of the increase in production output during the period examined was ***.

TEMCO's exports accounted for the *** of its overall shipments for each period during which data were collected, representing *** percent of shipments in 2012, *** percent in 2013, and *** percent in 2014. Exports are projected to account for *** percent of overall shipments in 2015 and *** percent in 2016. During each period for which data were collected, TEMCO shipped more silicomanganese to *** than to any other market. Furthermore, exports to the United States grew during 2012-14, more than *** from 2012 to 2013, and increased by almost *** percent from 2013 to 2014, resulting in an overall increase of *** percent from 2012 to 2014.[9] Exports to the United States in January-September 2015, however, were *** percent less than they were in January-September 2014. TEMCO's home market shipments decreased during 2012-14 in quantity (by about *** short tons) and as a share of its total shipments (accounting for *** percent in 2014 compared to *** percent in 2012). Home market shipments for 2015 and 2016 are projected to remain at levels similar to what were experienced during 2012-14.

End-of-period inventories increased alongside TEMCO's increase in production, *** from 2012 to 2013 and almost *** from 2012 to 2014. End-of-period inventories for September 2015 were *** percent greater than they were for January-September 2014 and are projected to be higher by the end of 2015. End-of-period inventories for 2016 are projected to be essentially *** what was held in 2014. In response to staff questions regarding TEMCO's changing inventory levels, TEMCO explained that it prefers to operate with an inventory balance of *** short tons. End-of-period inventories were *** this ideal level in 2012 ***. September 2014 end-of-period inventories were ***. September 2015 inventories were ***.

In December 2015, TEMCO experienced a ***.[10] TEMCO also notes that it is both *** region-wide electricity shortage. In December 2015, the Basslink undersea power cable, which connects Tasmania to the national electricity grid and provides significant contingency power to Hydro Tasmania (the state owned electricity generator), suffered an outage. Normal service could resume as early as March 2016 but could also take longer. Further, Tasmanian dam levels, used to generate Tasmania's electricity, are at record lows. Hydro Tasmania is negotiating load reductions with industrial electricity consumers, ***. ***.[11]

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[9] Until early 2012, Samancor supplied silicomanganese to the U.S. market from South Africa and Australia. Its related South African silicomanganese producer, Samancor Manganese, permanently shut down in February 2012. Hearing transcript, p. 146 (Tidey). Following this closure, with the exception of a period when it needed to acquire product from third parties to meet contractual commitments, U.S. customers have been exclusively served with Australian silicomanganese. Hearing transcript, p. 145 (Tidey). Before Samancor Manganese was shut down, logistical costs determined from which country its customers were supplied. Hearing Transcript, p. 191 (Kylander), noting that "{i}t is cheaper to get product to the east coast of the United States from South Africa and cheaper to get to the west coast from Australia."

[10] ***, January 18, 2015.

[11] Respondents' posthearing brief, pp. 12-13.

Table VII-1
Silicomanganese: Data for Australian producer TEMCO, 2012-14, January-September 2014, January-September 2015, and projected 2015 and 2016

* * * * * * *

Alternative products

Table VII-2 presents overall capacity and production for Australian producer TEMCO. Before TEMCO switched to its current duplex configuration in June 2012, it produced ***. As noted above, in 2012, ***. TEMCO acknowledged that it is technically possible to produce silicomanganese on all four of its furnaces, ***. TEMCO also reported that it costs *** to switch to/from silicomanganese production.

Table VII-2
Silicomanganese: Data for Australian producer TEMCO, overall capacity and production 2012-14, January-September 2014, and January-September 2015

* * * * * * *

U.S. INVENTORIES OF IMPORTED MERCHANDISE

Table VII-3 presents data on U.S. importers' reported inventories of silicomanganese. Subject import end-of-period inventories decreased from 2012 to 2013, even as more importers reported carrying subject import end-of-period inventories (five in 2013 compared to two in 2012). *** accounted for approximately *** of subject import end-of-period inventories in 2014 and September 2015.

Table VII-3
Silicomanganese: U.S. importers' inventories, 2012-14, January-September 2014, and January-September 2015

* * * * * * *

U.S. IMPORTERS' OUTSTANDING ORDERS

The Commission requested importers to indicate whether they imported or arranged for the importation of silicomanganese from Australia and all other sources after September 31, 2015. One importer, *** reported that it imported or arranged for the importation of Australian silicomanganese after September 31, 2015. These data are presented in table VII-4.

Table VII-4
Silicomanganese: U.S. importers' outstanding orders, October 2015-September 2016

* * * * * * *

ACTIONS IN THIRD-COUNTRY MARKETS

There are no known trade remedy actions in third country markets covering silicomanganese from Australia.

INFORMATION ON NONSUBJECT COUNTRIES

In assessing whether the domestic industry is materially injured or threatened with material injury "by reason of subject imports," the legislative history states "that the Commission must examine all relevant evidence, including any known factors, other than the dumped or subsidized imports, that may be injuring the domestic industry, and that the Commission must examine those other factors (including non-subject imports) 'to ensure that it is not attributing injury from other sources to the subject imports.'"[12]

Table VII-5 presents world production of silicomanganese by selected country. China accounted for about two-thirds of total world production during 2010-14.

Table VII-5
Silicomanganese: World production by country, 2010-14

Country	Quantity (short tons)				
	2010	2011	2012	2013	2014
China	5,236,000	8,233,300	8,503,800	10,019,500	8,770,800
India	1,102,300	1,580,300	1,711,400	1,811,300	1,929,900
Ukraine	926,700	748,500	798,700	692,500	919,700
Norway	274,100	293,200	299,200	332,200	346,500
Korea	182,700	210,500	258,500	273,000	273,000
South Africa	302,500	345,700	164,000	147,300	251,400
Kazakhstan	233,700	246,400	266,900	211,100	211,600
Russia	151,600	165,100	178,500	182,500	199,500
Mexico	146,100	153,200	177,800	168,100	181,800
Georgia	151,000	132,300	206,100	169,900	170,900
Brazil	185,800	187,300	199,200	179,300	152,300
Australia	133,600	104,400	56,000	121,400	131,600
United States	89,800	137,000	138,700	75,400	55,600
All other	493,600	576,800	576,000	462,300	417,300
World	9,609,500	13,114,000	13,534,900	14,845,800	14,011,900

Note:--Includes out-of-scope low-carbon silicomanganese.

Source: International Manganese Institute, Annual Market Research Report-2014.

[12] *Mittal Steel Point Lisas Ltd. v. United States*, Slip Op. 2007-1552 at 17 (Fed. Cir. Sept. 18, 2008), quoting from Statement of Administrative Action on Uruguay Round Agreements Act, H.R. Rep. 103-316, Vol. I at 851-52; *see also Bratsk Aluminum Smelter v. United States*, 444 F.3d 1369 (Fed. Cir. 2006).

Table VII-6 presents global exports by country. Although China is the largest producer of silicomanganese, it is not a major exporter. China imposes an export tariff of 20 percent on exports of silicomanganese.[13]

Table VII-6
Silicomanganese: Global exports by exporting country, 2012-14

Reporting country	Calendar year		
	2012	2013	2014
	Quantity (short tons)		
United States	11,349	12,936	18,788
Australia	40,472	104,197	133,663
Other major exporting countries.--			
India	1,024,817	1,053,542	992,745
Ukraine	600,635	514,312	754,537
Norway	305,382	308,544	332,939
Georgia	250,919	245,300	291,858
South Africa	150,858	112,928	267,477
Netherlands	256,848	234,621	230,675
France	56,293	87,644	115,550
Vietnam	0	51,083	97,227
Kazakhstan	209,199	92,242	63,884
All other exporting countries	489,281	474,295	390,214
Total exports	3,396,053	3,291,644	3,689,558
	Share of quantity (percent)		
United States	0.3	0.4	0.5
Australia	1.2	3.2	3.6
Other major exporting countries.--			
India	30.2	32.0	26.9
Ukraine	17.7	15.6	20.5
Norway	9.0	9.4	9.0
Georgia	7.4	7.5	7.9
South Africa	4.4	3.4	7.2
Netherlands	7.6	7.1	6.3
France	1.7	2.7	3.1
Vietnam	0.0	1.6	2.6
Kazakhstan	6.2	2.8	1.7
All other exporting countries	14.4	14.4	10.6
Total exports	100.0	100.0	100.0

Note:--Includes out-of-scope low-carbon silicomanganese.

Source: Export statistics as reported by various national statistical authorities, except South Africa which is based on imports from South Africa reported by all partner countries, in the GTIS/GTA database using HTS subheading 7202.30, accessed December 10, 2015.

[13] Metal Pages, http://www.metal-pages.com/resources/chinese-export-tariffs/, Accessed January 13, 2016.

Georgia

The industry producing silicomanganese in Georgia comprises at least three producers: one large and two small, more recently established ones. The main producer is the Zestafoni Ferroalloy Plant, owned by Georgian Manganese, an affiliated company to the petitioner in this investigation, Felman (both are owned by GAA). Georgian Manganese is an integrated producer of silicomanganese, having its own manganese ore mines and a hydroelectric power plant that supplies power to its mines and the ferroalloy plant. Zestafoni Ferroalloy Plant has 11 electric-arc furnaces and produced over 206,000 short tons of silicomanganese in 2012.[14] In July 2014, GAA announced that Georgian Manganese would switch production at three of its furnaces from silicomanganese to ferromanganese, reducing its silicomanganese production by approximately 3,300 short tons per month.[15]

The other two Georgian producers are relatively small when compared to the GAA owned operations. Chiaturmanganum Georgia has three electric furnaces with total capacity of about 30,000 tons per year. In February, 2013, it announced plans to reconstruct a second plant with two furnaces.[16] More recently, in December 2015, a newly established trading firm, Helvetia Resources AG, announced that it has an off-take agreement with Chiaturmanganum to distribute ferroalloy products to the United States and other markets.[17] Rusmetali LTD has a factory where it claims the ability to produce several ferroalloys including silicomanganese.[18]

According to the ***, the capacity for production of silicomanganese in Georgia in 2014 was *** short tons and production of silicomanganese was *** short tons. Exports of silicomanganese from Georgia are shown in Table VII-7. A total of 291,858 short tons of silicomanganese were exported from Georgia during 2014, of which 156,102 short tons (53.5 percent) were exported to the United States; other export destinations were Ukraine (7 percent), Russia (6 percent), Spain (6 percent), Turkey (4 percent) and Canada (3 percent).

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[14] Georgian American Alloys, http://gaalloys.com/index.php/about-gaa/gm/zestafoni , accessed January 11, 2016.

[15] *Georgian American Alloys Inc. announces shift in furnace production,* press release July 7, 2014.

[16] Georgia Today Issue #651, 16.02.13 – 21.02.13. *Chiaturmanganum Georgia to reconstruct a Plant in Terjola.*

[17] *Helvetia sets sights on US ferroalloys market*, AMM, December15, 2015.

[18] Rusmetali LTD, *About us*. http://rusmetali.com/main.php?pg=ab, accessed March 16, 2015.

Table VII-7
Silicomanganese: Georgian exports by exporting country, 2012-14

Destination	Calendar year		
	2012	2013	2014
	Quantity (short tons)		
Georgia's exports to the United States	127,562	115,503	156,102
Georgia's exports to other top destination markets.--			
Ukraine	21,358	24,555	20,190
Russia	4,607	14,161	18,411
Spain	0	9,820	17,827
Turkey	17,324	5,513	11,698
Switzerland	11,361	2,279	9,336
Canada	17,086	10,858	9,259
Mexico	2,778	0	6,944
Belarus	7,179	7,438	5,165
Brazil	0	302	5,077
All other destination markets	41,665	54,870	31,848
Total Georgia exports	250,919	245,300	291,858
	Share of quantity (percent)		
Georgia's exports to the United States	50.8	47.1	53.5
Georgia's exports to other top destination markets.--			
Ukraine	8.5	10.0	6.9
Russia	1.8	5.8	6.3
Spain	0.0	4.0	6.1
Turkey	6.9	2.2	4.0
Switzerland	4.5	0.9	3.2
Canada	6.8	4.4	3.2
Mexico	1.1	0.0	2.4
Belarus	2.9	3.0	1.8
Brazil	0.0	0.1	1.7
All other destination markets	16.6	22.4	10.9
Total Georgia exports	100.0	100.0	100.0

Note:--Includes out-of-scope low-carbon silicomanganese.

Source: Export statistics as reported by UN comtrade in the GTIS/GTA database using HTS subheading 7202.30, accessed December 10, 2015.

South Africa

The industry producing silicomanganese in South Africa comprises two firms: Transalloys and Mogale Alloys. Transalloys is owned by Renova Mining Industries, a Russian company. It has five furnaces producing silicomanganese: two 48 mega-volt-ampere (MVA) furnaces and three smaller, 18 MVA furnaces. The annual capacity is approximately 187,000 short tons of silicomanganese.[19] Mogale Alloys is owned by Afarak Group Oyj, a Finnish company. The Mogale plant produces both silicomanganese and ferrochromium alloys. It has two submerged-arc furnaces and two direct-current (DC) furnaces with a total capacity of 121,000 short tons.[20] ***.[21]

A third firm, Samancor Manganese is owned by the same South32/Anglo joint venture that owns TEMCO, the Australian producer of silicomanganese. Samancor Manganese ceased production of silicomanganese in February 2012, and has demolished the furnaces and plant where it was produced. Samancor Manganese continues as a major producer of ferromanganese, but states that its remaining furnaces are large and not technically suited to the production of silicomanganese.[22]

The combined capacity of Transalloys and Mogale Alloys for silicomanganese was *** short tons.[23] Operations of all ferroalloy producers in South Africa have been hindered, particularly during 2013 and 2014, by the availability of electricity. The state-owned electrical utility, Eskom, has negotiated buyback deals with ferroalloy producers.[24] Total production of silicomanganese in South Africa in 2014 was reported by *** short tons.[25] Exports of silicomanganese from South Africa are shown in Table VII-8. A total of 267,477 short tons of silicomanganese were exported from South Africa during 2014, of which 139,359 short tons (52.1 percent) were exported to the United States; most of the other exports were to European Union member countries.

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[19] Transalloys, *About*, http://www.transalloys.co.za/about.html, accessed March 11, 2015.

[20] Afarak, *Ferroalloys*, http://www.afarak.com/en/our-business/ferroalloys/, accessed March 16, 2015.

[21] ***.

[22] Conference transcript, p. 76 (Anderson).

[23] ***.

[24] See, for example, Metal Bulletin, *Ruuki's Mogali confirms FeCr, SiMn closures in Eskom buyback deal,* November 21, 2012.

[25] ***.

Table VII-8
Silicomanganese: South African exports by exporting country, 2012-14

Destination	Calendar year		
	2012	2013	2014
	Quantity (short tons)		
South Africa's exports to the United States	121,458	62,673	139,359
South Africa's exports to other top destination markets.--			
Netherlands	4,805	17,915	56,420
France	1,323	8,363	18,776
Qatar	0	3,523	12,405
Germany	3,523	4,554	11,285
Italy	3,623	4,974	9,093
Russia	119	0	4,416
Japan	608	486	3,978
Canada	2,183	2,978	3,960
Nigeria	74	343	1,959
All other destination markets	13,143	7,118	5,827
Total (constructed) South Africa exports	150,858	112,928	267,477
	Share of quantity (percent)		
South Africa's exports to the United States	80.5	55.5	52.1
South Africa's exports to other top destination markets.--			
Netherlands	3.2	15.9	21.1
France	0.9	7.4	7.0
Qatar	0.0	3.1	4.6
Germany	2.3	4.0	4.2
Italy	2.4	4.4	3.4
Russia	0.1	0.0	1.7
Japan	0.4	0.4	1.5
Canada	1.4	2.6	1.5
Nigeria	0.0	0.3	0.7
All other destination markets	8.7	6.3	2.2
Total (constructed) South Africa exports	100.0	100.0	100.0

Note:--Includes out-of-scope low-carbon silicomanganese.

Source: Imports statistics from South Africa as reported by various national statistical authorities (constructed exports) in the GTIS/GTA database using HTS subheading 7202.30, accessed February 22, 2016.

Norway

The industry producing silicomanganese in Norway comprises two firms: Eramet Norway and Glencore. The production of manganese ferroalloys in Norway benefits from the availability of low-cost hydroelectricity and proximity to the major markets in Europe and the former Soviet Union. Manganese ore for the Norway operations is imported.

Eramet Norway, a related company to U.S. producer Eramet, produces silicomanganese at two plants. The Kvinesdal smelting plant was established in 1974. It has three modern 30 mega-watt (MW) furnaces and an annual output of 198,000 short tons of silicomanganese. Much of the output is of low-carbon silicomanganese, however, and the main customers are European and North American producers of stainless steel.[26]

Eramet's second plant in Norway, at Porsgrunn, operates two large furnaces with a total annual output of 187,000 tons of regular silicomanganese and refined ferromanganese.[27] ***.[28]

The third plant producing silicomanganese in Norway is the Rana plant, owned by Glencore International.[29] ***.[30] Glencore reported that it produced 101,000 short tons of silicomanganese in 2013 and 119,000 short tons in 2014.[31]

Exports of silicomanganese from Norway are shown in Table VII-9. A total of 332,939 short tons of silicomanganese, including low-carbon silicomanganese, were exported from Norway during 2014, of which 46,248 short tons (14 percent) were exported to the United States; most of the other exports were to European Union member countries.

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[26] Eramet Norway. http://eramet.no/en/our-organization/kvinesdal/. Accessed January 11, 2016.

[27] Eramet Norway. http://eramet.no/en/our-organization/porsgrunn/. Accessed January 11, 2016.

[28] ***.

[29] Until October, 2012, the Rana plant was owned by Brazilian mining company Vale. Along with other manganese assets in Europe, it was sold to Glencore International. Platts Metals daily, *Vale completes sale of European ferroalloy units to Glencore.* November 1, 2012.

[30] ***.

[31] Glencore International, *Annual Report 2014*. P. 53.

Table VII-9
Silicomanganese: Norway exports by exporting country, 2012-14

Destination	Calendar year		
	2012	2013	2014
	Quantity (short tons)		
Norway's exports to the United States	33,731	45,029	46,248
Norway's exports to other top destination markets.--			
Germany	52,498	45,973	57,728
Netherlands	91,956	64,223	55,492
Poland	21,982	34,215	53,437
Finland	10,164	10,628	25,282
Ukraine	0	17,671	21,719
Sweden	11,924	12,746	18,798
Canada	11,612	19,456	9,921
United Kingdom	4,721	8,043	9,329
France	6,670	0	8,717
All other destination markets	60,124	50,562	26,267
Total Norway exports	305,382	308,544	332,939
	Share of quantity (percent)		
Norway's exports to the United States	11.0	14.6	13.9
Norway's exports to other top destination markets.--			
Germany	17.2	14.9	17.3
Netherlands	30.1	20.8	16.7
Poland	7.2	11.1	16.1
Finland	3.3	3.4	7.6
Ukraine	0.0	5.7	6.5
Sweden	3.9	4.1	5.6
Canada	3.8	6.3	3.0
United Kingdom	1.5	2.6	2.8
France	2.2	0.0	2.6
All other destination markets	19.7	16.4	7.9
Total Norway exports	100.0	100.0	100.0

Note:--Includes out-of-scope low-carbon silicomanganese.

Source: Export statistics as reported by Statistics Norway in the GTIS/GTA database using HTS subheading 7202.30, accessed December 10, 2015.

APPENDIX A

FEDERAL REGISTER NOTICES

The Commission makes available notices relevant to its investigations and reviews on its website, www.usitc.gov. In addition, the following tabulation presents, in chronological order, *Federal Register* notices issued by the Commission and Commerce during the current proceeding.

Citation	Title	Link
80 FR 10511, February 26, 2015	*Silicomanganese From Australia; Institution of Antidumping Duty Investigation and Scheduling of Preliminary Phase Investigation*	https://www.federalregister.gov/articles/2015/02/26/2015-03971/silicomanganese-from-australia-institution-of-antidumping-duty-investigation-and-scheduling-of
80 FR 13829, March 17, 2015	*Silicomanganese From Australia: Initiation of Less-Than-Fair-Value Investigation*	https://www.federalregister.gov/articles/2015/03/17/2015-06142/silicomanganese-from-australia-initiation-of-less-than-fair-value-investigation
80 FR 19354, April 10, 2015	*Silicomanganese from Australia; Determination*	https://www.federalregister.gov/articles/2015/04/10/2015-08276/silicomanganese-from-australia-determination
80 FR 57787, September 25, 2015	*Silicomanganese From Australia: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Postponement of Final Determination*	https://www.federalregister.gov/articles/2015/09/25/2015-24449/silicomanganese-from-australia-preliminary-affirmative-determination-of-sales-at-less-than-fair
80 FR 63833, October 21, 2015	*Silicomanganese From Australia; Scheduling of the Final Phase of an Antidumping Duty Investigation*	https://www.federalregister.gov/articles/2015/10/21/2015-26659/silicomanganese-from-australia-scheduling-of-the-final-phase-of-an-antidumping-duty-investigation
81 FR 8682, February 22, 2016	*Silicomanganese from Australia: Determination of Sales at Less Than Fair Value*	https://www.federalregister.gov/articles/2016/02/22/2016-03627/silicomanganese-from-australia-final-determination-of-sales-at-less-than-fair-value

Source: https://www.federalregister.gov/

APPENDIX B

HEARING WITNESS LIST

CALENDAR OF PUBLIC HEARING

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

Subject: Silicomanganese from Australia

Inv. No.: 731-TA-1269 (Final)

Date and Time: February 11, 2016 - 9:30 am

Sessions were held in connection with this investigation in the Main Hearing Room (Room 101), 500 E Street, S.W., Washington, DC.

CONGRESSIONAL APPEARANCES:

The Honorable Joe Manchin III, United States Senator, West Virginia

The Honorable Shelley Moore Capito, United States Senator, West Virginia

OPENING REMARKS:

Domestic Producers (**Myles S. Getlan**, Cassidy Levy Kent (USA) LLP)
Respondents (**Shara L. Aranoff**, Covington & Burling LLP)

In Support of the Imposition of Antidumping Duty Order:

Felman Production LLC
Eramet Marietta, Inc.

Robert Powell, Vice President and General Counsel, Felman Production

Barry Nuss, Chief Financial Officer, Felman Production

In Support of the Imposition of
Antidumping Duty Order (continued):

Robert Ohlinger, Conveyor Belt Operator, Felman Production;
and President of Local 5171, USW

Peter Rochussen, Vice President, Eramet Comilog Manganese, Inc.

Jack A. Levy)
Myles S. Getlan) – OF COUNSEL
James R. Cannon, Jr.)

In Opposition to the Imposition of
Antidumping Duty Orders:

Covington & Burling LLP
Washington, DC
on behalf of

Tasmanian Electro Metallurgical Company Pty Ltd. ("TEMCO")
Samancor AG

Rodney Tidey, Finance Lead, Magnanese, TEMCO

W. Carl Kylander, Consultant for South32; *and* formerly
Vice President, BHP Billion Marketing Inc.

Dr. Seth Kaplan, Senior Economic Advisor, Capital Trade, Inc.

Andrew Szamosszegi, Principal, Capital Trade, Inc.

Shara L. Aranoff)
) – OF COUNSEL
Alexander D. Chinoy)

CLOSING/REBUTTAL:

Domestic Producers (**Jack A. Levy**, Cassidy Levy Kent (USA) LLP)
Respondents (**Shara L. Aranoff**, Covington & Burling LLP)

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APPENDIX C

SUMMARY DATA

Table C-1
Silicomanganese: Summary data concerning the U.S. market, 2012-14, January to September 2014, and January to September 2015
(Quantity=short tons; Value=1,000 dollars; Unit values, unit labor costs, and unit expenses=dollars per short ton; Period changes=percent--exceptions noted)

	Report data					Period changes			
	Calendar year			January to September		Calendar year			Jan-Sept
	2012	2013	2014	2014	2015	2012-14	2012-13	2013-14	2014-15
U.S. consumption quantity:									
Amount	447,831	469,790	427,011	304,128	286,295	(4.6)	4.9	(9.1)	(5.9)
Producers' share (fn1)	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Importers' share (fn1):									
Australia	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Georgia	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
South Africa	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
All others sources	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Nonsubject sources	61.4	59.1	73.5	77.3	59.7	12.1	(2.3)	14.4	(17.6)
Total imports	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
U.S. consumption value:									
Amount	528,975	470,708	467,044	331,611	293,059	(11.7)	(11.0)	(0.8)	(11.6)
Producers' share (fn1)	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Importers' share (fn1):									
Australia	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Georgia	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
South Africa	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
All others sources	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Nonsubject sources	62.6	60.5	73.4	77.0	61.5	10.8	(2.2)	12.9	(15.5)
Total imports	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
U.S. shipments of imports from:									
Australia:									
Quantity	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Value	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Unit value	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Ending inventory quantity	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Georgia									
Quantity	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Value	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Unit value	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Ending inventory quantity	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
South Africa:									
Quantity	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Value	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Unit value	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Ending inventory quantity	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
All other sources:									
Quantity	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Value	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Unit value	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Ending inventory quantity	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Nonsubject imports:									
Quantity	275,046	277,703	313,948	235,023	170,805	14.1	1.0	13.1	(27.3)
Value	331,373	284,654	342,812	255,242	180,203	3.5	(14.1)	20.4	(29.4)
Unit value	1,205	1,025	1,092	1,086	1,055	(9.4)	(14.9)	6.5	(2.9)
Ending inventory quantity	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Total imports:									
Quantity	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Value	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Unit value	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Ending inventory quantity	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *

Table continued on next page.

Table C-1--Continued
Silicomanganese: Summary data concerning the U.S. market, 2012-14, January to September 2014, and January to September 2015
(Quantity=short tons; Value=1,000 dollars; Unit values, unit labor costs, and unit expenses=dollars per short ton; Period changes=percent--exceptions noted)

	Report data					Period changes			
	Calendar year			January to September		Calendar year			Jan-Sept
	2012	2013	2014	2014	2015	2012-14	2012-13	2013-14	2014-15
U.S. producers':									
Average capacity quantity	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Production quantity	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Capacity utilization (fn1)	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
U.S. shipments:	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Quantity	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Value	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Unit value	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Export shipments:									
Quantity	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Value	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Unit value	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Ending inventory quantity	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Inventories/total shipments (fn1)	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Production workers	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Hours worked (1,000s)	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Wages paid ($1,000)	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Hourly wages (dollars)	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Productivity (short tons per 1,000 hours)	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Unit labor costs	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Net Sales:									
Quantity	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Value	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Unit value	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Cost of goods sold (COGS)	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Gross profit or (loss)	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
SG&A expenses	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Operating income or (loss)	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Net income or (loss)	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Capital expenditures	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Unit COGS	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Unit SG&A expenses	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Unit operating income or (loss)	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Unit net income or (loss)	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
COGS/sales (fn1)	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Operating income or (loss)/sales (fn1)	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Net income or (loss)/sales (fn1)	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *

Notes:

fn1.--Report data are in percent and period changes are in percentage points.
fn2.--Undefined.

APPENDIX D

MONTHY IMPORT STATISTICS

Table D-1

Silicomanganese: Monthly U.S. imports, by source, 2010-15

Item	Calendar year					
	2010	2011	2012	2013	2014	2015
	Quantity (short tons)					
U.S. imports from Australia (subject) in.-- January	3,048	0	0	0	12,698	8,279
February	969	2,323	2,062	10,156	0	8,601
March	5,521	3,479	1,170	8,347	7,177	0
April	5,951	5,540	1,612	3,248	8,272	10,042
May	1,230	9,892	5,366	5,861	7,175	8,284
June	4,971	12,312	337	11,262	10,032	4,307
July	4,865	5,382	0	8,609	8,274	0
August	0	2,105	0	0	8,608	4,305
September	1,660	2,803	0	8,313	0	8,280
October	1,589	2,507	0	5,513	7,171	7,168
November	1,656	945	5,739	17,433	0	0
December	2,923	2,095	12,798	4,303	8,605	10,713
Total U.S. imports from Australia (subject)	34,384	49,382	29,083	83,045	78,014	69,979
U.S. imports from Georgia in.-- January	1,121	34,239	0	13,174	1,244	16,422
February	12,755	572	17,329	23,531	16,159	1,941
March	2,564	12,351	0	4,832	18,959	1,899
April	662	8,791	25,124	19,032	16,311	15,197
May	816	9,391	2,441	1,410	15,870	15,916
June	14,246	10,466	24,334	14,222	14,048	218
July	16,934	6,216	1,865	431	13,661	17,189
August	10,250	9,698	23,934	13,538	9,056	1,841
September	1,863	18,736	12,698	10,231	10,248	18,497
October	24,167	0	4,216	912	11,774	1,650
November	11,373	0	11,679	14,330	14,888	2,060
December	2,006	0	1,531	861	12,435	861
Total U.S. imports from Georgia	98,758	110,460	125,151	116,504	154,652	93,691

Table continued on next page.

Table D-1--*Continued*

Silicomanganese: Monthly U.S. imports, by source, 2010-15

Item	Calendar year					
	2010	2011	2012	2013	2014	2015
	Quantity (short tons)					
U.S. imports from South Africa in.-- January	11,258	13,886	11,767	3,307	12,592	17,495
February	19,784	3,001	4,426	2,265	15,513	0
March	11,589	28,726	16,666	16,555	26	9,888
April	14,417	2,573	13,730	5,553	12,940	12,808
May	10,739	18,732	6,338	8,289	16,755	10,039
June	7,275	10,852	0	21	11,136	12,897
July	19,024	18,765	16,258	1,400	4,178	8,565
August	19,235	9,016	17,087	7,000	26,591	7,231
September	5,888	8,042	14,220	2,756	1,767	0
October	5,503	10,572	2,205	11,229	11,885	7,205
November	5,071	18,816	13,228	2,881	25,932	0
December	5,016	14,936	5,512	1,418	44	7,165
Total U.S. imports from South Africa	134,798	157,917	121,436	62,673	139,359	93,292
U.S. imports from all other sources in.-- January	9,983	2,422	8,020	10,010	11,364	5,551
February	5,320	7,046	2,326	11,685	5,877	5,407
March	5,752	4,680	9,129	3,265	6,232	10,369
April	3,675	4,701	9,067	7,467	11,947	2,715
May	10,643	3,175	15,026	9,317	22,153	13,376
June	6,438	8,579	7,163	13,494	11,155	5,964
July	8,711	9,559	18,952	4,468	3,191	10,626
August	5,435	9,575	9,671	6,754	14,994	5,993
September	2,975	10,603	7,330	551	7,780	3,300
October	5,254	3,071	7,841	9,224	1,321	9,533
November	1,261	1,494	6,466	13,507	5,515	1,457
December	5,153	1,148	6,527	10,551	12,148	678
Total U.S. imports from all other sources	70,600	66,054	107,520	100,292	113,678	74,968

Table continued on next page.

Table D-1--*Continued*

Silicomanganese: Monthly U.S. imports, by source, 2010-15

Item	Calendar year					
	2010	2011	2012	2013	2014	2015
	Value ($1,000)					
U.S. imports from Australia (subject) in.-- January	3,268	0	0	0	10,986	8,457
February	993	2,332	1,894	10,646	0	8,826
March	5,521	3,492	1,055	8,376	7,065	0
April	6,455	5,571	1,488	3,223	8,734	10,235
May	1,541	9,867	6,216	5,515	7,480	7,873
June	6,238	13,381	407	9,228	10,747	3,936
July	5,667	5,566	0	7,873	8,630	0
August	0	2,184	0	0	9,007	3,861
September	1,794	3,030	0	7,279	0	6,184
October	1,626	2,731	0	4,850	7,253	5,446
November	1,617	996	6,604	13,953	0	0
December	2,864	2,201	12,772	4,261	8,708	4,486
Total U.S. imports from Australia (subject)	37,585	51,351	30,436	75,203	78,611	59,306
U.S. imports from Georgia in.-- January	988	41,840	0	13,577	1,133	16,478
February	12,330	694	14,484	21,438	14,266	2,021
March	2,966	14,563	0	4,589	17,703	1,892
April	788	9,910	23,093	17,497	15,917	14,798
May	851	10,031	2,642	1,195	16,450	15,484
June	15,421	12,606	29,532	13,793	14,780	186
July	21,693	8,324	2,352	402	14,741	15,568
August	12,102	9,658	24,129	12,937	9,820	1,651
September	2,106	19,198	12,867	9,126	10,396	16,746
October	29,490	0	4,447	774	11,839	1,438
November	13,579	0	12,250	13,464	15,097	1,764
December	2,267	0	1,638	791	12,743	678
Total U.S. imports from Georgia	114,582	126,824	127,434	109,582	154,883	88,703

Table continued on next page.

Table D-1--*Continued*

Silicomanganese: Monthly U.S. imports, by source, 2010-15

Item	Calendar year					
	2010	2011	2012	2013	2014	2015
	Value ($1,000)					
U.S. imports from South Africa in.-- January	11,733	14,347	11,774	3,244	11,941	17,910
February	21,233	3,046	4,004	2,329	14,502	0
March	13,545	30,753	15,282	16,762	43	10,336
April	17,075	2,654	14,809	5,611	12,392	12,213
May	9,863	20,349	7,274	8,367	16,533	10,057
June	9,262	11,557	0	33	10,808	12,316
July	24,638	19,459	21,618	1,506	4,259	7,727
August	22,517	10,097	20,763	6,810	27,366	6,645
September	6,702	9,002	16,385	2,560	1,731	0
October	5,642	11,946	2,402	10,177	12,263	6,620
November	4,952	20,734	15,301	2,911	27,463	0
December	4,898	15,424	6,125	1,505	49	6,365
Total U.S. imports from South Africa	152,059	169,369	135,736	61,814	139,350	90,188
U.S. imports from all other sources in.-- January	13,381	3,553	11,319	11,583	11,111	5,880
February	7,158	11,862	3,863	13,281	6,510	6,787
March	8,686	7,393	12,477	4,024	6,396	11,642
April	4,302	7,405	14,682	9,492	14,914	4,207
May	16,656	4,474	21,207	11,948	26,190	12,351
June	8,588	10,994	8,791	13,244	11,467	7,202
July	13,537	16,270	27,207	5,688	3,371	10,878
August	9,366	10,807	11,255	7,007	18,609	6,132
September	3,521	17,247	10,430	403	10,001	3,310
October	8,452	4,207	8,596	11,127	1,829	8,924
November	1,516	1,599	8,420	13,560	5,601	1,362
December	8,844	1,183	8,164	11,884	14,920	539
Total U.S. imports from all other sources	104,008	96,993	146,411	113,242	130,919	79,215

Table continued on next page.

Table D-1--*Continued*

Silicomanganese: Monthly U.S. imports, by source, 2010-15

Item	Calendar year					
	2010	2011	2012	2013	2014	2015
	Unit value (dollars per short ton)					
U.S. imports from Australia (subject) in.-- January	1,072	---	---	---	865	1,022
February	1,025	1,004	919	1,048	---	1,026
March	1,000	1,004	902	1,003	984	---
April	1,085	1,006	923	992	1,056	1,019
May	1,253	997	1,158	941	1,043	950
June	1,255	1,087	1,208	819	1,071	914
July	1,165	1,034	---	915	1,043	---
August	---	1,038	---	---	1,046	897
September	1,081	1,081	---	876	---	747
October	1,023	1,089	---	880	1,011	760
November	976	1,054	1,151	800	---	---
December	980	1,051	998	990	1,012	419
Total U.S. imports from Australia (subject)	1,093	1,040	1,047	906	1,008	847
U.S. imports from Georgia in.-- January	881	1,222	---	1,031	911	1,003
February	967	1,213	836	911	883	1,041
March	1,157	1,179	---	950	934	996
April	1,190	1,127	919	919	976	974
May	1,043	1,068	1,082	848	1,037	973
June	1,082	1,204	1,214	970	1,052	853
July	1,281	1,339	1,261	933	1,079	906
August	1,181	996	1,008	956	1,084	897
September	1,130	1,025	1,013	892	1,014	905
October	1,220	---	1,055	849	1,006	872
November	1,194	---	1,049	940	1,014	856
December	1,130	---	1,070	919	1,025	787
Total U.S. imports from Georgia	1,160	1,148	1,018	941	1,001	947

Table continued on next page.

Table D-1--*Continued*

Silicomanganese: Monthly U.S. imports, by source, 2010-15

Item	Calendar year					
	2010	2011	2012	2013	2014	2015
	Unit value (dollars per short ton)					
U.S. imports from South Africa in.-- January	1,042	1,033	1,001	981	948	1,024
February	1,073	1,015	905	1,028	935	---
March	1,169	1,071	917	1,013	1,654	1,045
April	1,184	1,031	1,079	1,010	958	954
May	918	1,086	1,148	1,009	987	1,002
June	1,273	1,065	---	1,571	971	955
July	1,295	1,037	1,330	1,076	1,019	902
August	1,171	1,120	1,215	973	1,029	919
September	1,138	1,119	1,152	929	980	---
October	1,025	1,130	1,089	906	1,032	919
November	977	1,102	1,157	1,010	1,059	---
December	976	1,033	1,111	1,061	1,114	888
Total U.S. imports from South Africa	1,128	1,073	1,118	986	1,000	967
U.S. imports from all other sources in.-- January	1,340	1,467	1,411	1,157	978	1,059
February	1,345	1,684	1,661	1,137	1,108	1,255
March	1,510	1,580	1,367	1,232	1,026	1,123
April	1,171	1,575	1,619	1,271	1,248	1,550
May	1,565	1,409	1,411	1,282	1,182	923
June	1,334	1,282	1,227	981	1,028	1,208
July	1,554	1,702	1,436	1,273	1,056	1,024
August	1,723	1,129	1,164	1,037	1,241	1,023
September	1,184	1,627	1,423	731	1,285	1,003
October	1,609	1,370	1,096	1,206	1,385	936
November	1,202	1,070	1,302	1,004	1,016	935
December	1,716	1,030	1,251	1,126	1,228	795
Total U.S. imports from all other sources	1,473	1,468	1,362	1,129	1,152	1,057

Source: Official U.S. imports statistics, using statistical reporting number 7202.30.0000, accessed February 16, 2016.

APPENDIX E

NONSUBJECT COUNTRY PRICE DATA

Eleven importers reported price data for nonsubject countries Georgia and South Africa for products 1-4. For imports from Georgia, Felman reported price data for both standard grade and high grade silicomanganese. Price data reported by importers accounted for *** percent of U.S. commercial shipments of imports from Georgia for standard grade product and *** percent for high grade product and *** percent of U.S. commercial shipments of imports from South Africa during January 2012-September 2015.

These price items and accompanying data are comparable to those presented in tables V-3 to V-6. Price and quantity data for silicomanganese from Georgia and South Africa are shown in tables E-1 to E-4. For imports from Georgia, prices of standard silicomanganese and high grade silicomanganese are shown separately, as well as a "converted price" on a contained manganese basis for the high grade product. Because of its higher manganese content (72 percent versus 65 percent for standard grade), high grade silicomanganese typically is priced higher than standard grade on a per-ton basis.[1] Figures E-1 to E-4 show price data for the standard grade silicomanganese and the high grade silicomanganese from Georgia (with domestic and subject sources). Figures E-5 to E-7 combine the converted high grade data with the standard grade silicomanganese imported from Georgia and include domestic, subject, and other nonsubject sources. ***. Felman stated that it has not sold standard grade and high grade silicomanganese to the same mill at the same time.[2]

Purchaser *** stated that the cost per manganese unit is lower with the high grade material as it is sold at a discount compared to the standard grade silicomanganese.[3] Purchaser *** stated that price for high grade material was basically prorated to the pricing for standard grade material based on the relative manganese levels.[4]

The converted high-grade prices (on a contained manganese basis) ranged from *** the prices of standard grade silicomanganese from Georgia under contracts to distributors and ranged from *** the prices of standard grade silicomanganese from Georgia under contracts to steel producers. *** provided *** of spot sales to steel producers of high grade silicomanganese from Georgia.

Table E-1

Silicomanganese: Weighted-average f.o.b. prices and quantities of imported product 1[1], by quarters, January 2012-September 2015

* * * * * * *

[1] Staff requested *** to convert its high grade prices to a contained manganese basis (i.e. multiplying the quantity by a ratio of 72/65 to be on a 65 percent manganese basis; the value of the high grade sales remains the same).

***.

[2] Hearing transcript, p. 82 (Nuss).

[3] Staff email correspondence with *** on February 17, 2016.

[4] Staff email correspondence with *** on February 16, 2016.

Table E-2

Silicomanganese: Weighted-average f.o.b. prices and quantities of imported product 2[1], by quarters, January 2012- September 2015

Period	South Africa		Georgia (standard grade)		Georgia (high grade)		Georgia (converted high grade)	
	Price ($ per short ton)	Quantity (short tons)	Price ($ per short ton)	Quantity (short tons)	Price ($ per short ton)	Quantity (short tons)	Price ($ per short ton)	Quantity (short tons)
2012: Jan.-Mar.	1,032	30,398	***	***	***	***	***	***
Apr.-June	***	***	***	***	***	***	***	***
July-Sept.	1,200	7,708	***	***	***	***	***	***
Oct.-Dec.	1,155	15,183	***	***	***	***	***	***
2013: Jan.-Mar.	1,045	8,325	***	***	***	***	***	***
Apr.-June	***	***	***	***	***	***	***	***
July-Sept.	***	***	***	***	***	***	***	***
Oct.-Dec.	***	***	***	***	***	***	***	***
2014: Jan.-Mar.	***	***	***	***	***	***	***	***
Apr.-June	***	***	***	***	***	***	***	***
July-Sept.	***	***	***	***	***	***	***	***
Oct.-Dec.	***	***	***	***	***	***	***	***
2015: Jan.-Mar.	***	***	--	0	***	***	***	***
Apr.-June	***	***	--	0	***	***	***	***
July-Sept.	***	***	***	***	***	***	***	***

[1]Product 2: Standard grade (65-68% Mn) bulk silicomanganese sold to steel producers under contracts.

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

Table E-3

Silicomanganese: Weighted-average f.o.b. prices and quantities of imported product 3[1], by quarters, January 2012- September 2015

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Table E-4

Silicomanganese: Weighted-average f.o.b. prices and quantities of imported product 4[1], by quarters, January 2012- September 2015

* * * * * * *

Figure E-1

Silicomanganese: Weighted-average f.o.b. prices and quantities of domestic and imported product 1[1], standard grade (SG) and high grade (HG) silicomanganese, by quarters, January 2012-September 2015

* * * * * * *

Figure E-2

Silicomanganese: Weighted-average f.o.b. prices and quantities of domestic and imported product 2[1] standard grade (SG) and high grade (HG) silicomanganese, by quarters, January 2012-September 2015

* * * * * * *

Figure E-3

Silicomanganese: Weighted-average f.o.b. prices and quantities of domestic and imported product 3[1], standard grade (SG) and high grade (HG) silicomanganese, by quarters, January 2012-September 2015

* * * * * * *

Figure E-4

Silicomanganese: Weighted-average f.o.b. prices and quantities of domestic and imported product 4[1] standard grade (SG) and high grade (HG) silicomanganese, by quarters, January 2012-September 2015

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Figure E-5

Silicomanganese: Weighted-average f.o.b. prices and quantities of domestic and imported product 1[1], including contained Mn conversion for high grade silicomanganese (CHG) from Georgia, by quarters, January 2012-September 2015

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Figure E-6

Silicomanganese: Weighted-average f.o.b. prices and quantities of domestic and imported product 2[1], including contained Mn conversion for high grade silicomanganese (CHG) from Georgia, by quarters, January 2012-September 2015

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Figure E-7

Silicomanganese: Weighted-average f.o.b. prices and quantities of domestic and imported product 4[1], including contained Mn conversion for high grade silicomanganese (CHG) from Georgia, by quarters, January 2012-September 2015

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In comparing nonsubject country pricing data with U.S. producer pricing data, prices for standard grade product imported from Georgia and South Africa were lower than prices for U.S.-produced product in *** instances and higher in *** instances. In comparing nonsubject country pricing data with subject country pricing data, prices for standard grade product imported from Georgia and South Africa were lower than prices for product imported from Australia in *** instances and higher in *** instances. A summary of price differences is presented in table E-5. When converted high grade silicomanganese is combined with the standard grade silicomanganese from Georgia, these prices were lower than prices for U.S.-produced product in *** instances and higher in *** instances and lower than Australian produced product in *** instances and higher in *** instances.

Table E-5

Silicomanganese: Summary of underselling/(overselling), by country, January 2012-September 2015

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APPENDIX F

LOST SALES AND LOST REVENUE ALLEGATIONS FROM THE PRELIMINARY PHASE OF THE INVESTIGATION

LOST SALES AND LOST REVENUE

Effective October 1, 2015, the Commission changed its rules associated with domestic industry provision of allegations of lost sales and lost revenue. The Commission rules were changed to ask petitioners to provide a list of purchasers where they lost sales or revenue, instead of transaction-specific incidents. This appendix contains the information from the preliminary phase related to lost sales and lost revenue allegations under the prior Commission rules.

The Commission requested U.S. producers to report any instances of lost sales or revenue they experienced due to competition from imports of silicomanganese from Australia since 2012. Felman reported *** lost sales allegations totaling $*** and involving *** short tons of silicomanganese. ***. Staff contacted all 11 purchasers named in the allegations and a summary of the information obtained follows (table E-1).[1] *** U.S. producers also reported that they had to reduce prices, and provided *** lost revenue allegations totaling $*** and involving *** short tons of silicomanganese.[2]

Purchasers responding to the lost sales allegations also were asked whether they shifted their purchases of silicomanganese from U.S. producers to suppliers of silicomanganese from Australia since 2012. In addition, they were asked whether U.S. producers reduced their prices in order to compete with suppliers of silicomanganese from Australia. One of the nine responding purchasers *** reported that it had shifted purchases of silicomanganese from U.S. producers to subject imports since 2012; it reported that price was the reason for the shift. No purchasers reported that the U.S. producers had reduced their prices in order to compete with the prices of subject imports since 2012 (table E-2). Over half of responding purchasers provided comments regarding the allegations and/or additional questions; their comments appear after the tables.[3]

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[1] Petitioner initially provided *** lost sales allegations in the template format. However, the petition described *** requests for proposal (RFP) that were associated with these *** allegations (pp. 27-31). Staff collapsed the *** allegations to the *** RFPs and sent out surveys to purchasers based on the RFPs.

[2] ***.

For the lost revenues, Felman requested in its petition that the Commission send custom tailored questions to purchasers. It noted, "while a given purchaser may certainly be in a position to confirm a contract price reduction by reason of a reduction in the Ryan's Notes low reference price, that same purchaser will often have no direct knowledge of the specific transaction(s) underlying the Ryan's Notes Low prices that are reported. In most cases, the Commission will need to consult other data sources (e.g., quarterly pricing data) to assess whether subject import pricing was commonly the driver behind the Ryan's Notes Low price in the marketplace and, if so, whether they contributed to lost revenues for the domestic industry." The requested custom tailored questions and the allegations are shown in the petition at page 36. Given the limited time available, template survey tool constraints, and lack of allegation specificity with respect to purchaser knowledge, staff did not send lost revenue allegations surveys to purchasers.

[3] Respondents assert that ***. Respondent's postconference brief, p. 26.

Table F-1
Silicomanganese: U.S. producers' lost sales allegations

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Table F-2
Silicomanganese: Purchasers' responses regarding shifting supply and price reductions

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