Silicomanganese from Australia

Investigation No. 731-TA-1269 (Preliminary)

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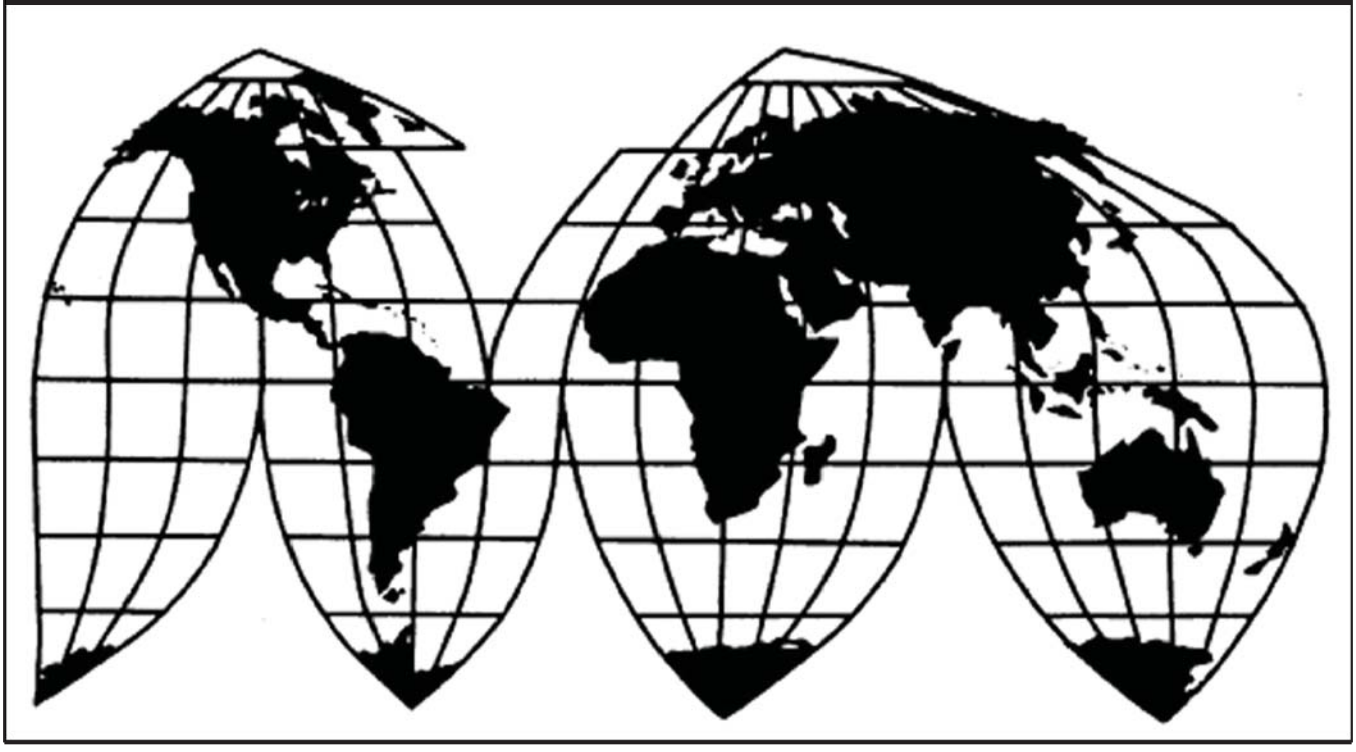
U.S. International Trade Commission



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UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-1269 (Preliminary)

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 section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) ("the Act"), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Australia of silicomanganese, provided for in subheading 7202.30.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value ("LTFV").

COMMENCEMENT OF FINAL PHASE INVESTIGATION

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigation. The Commission will issue a final phase notice of scheduling, which will be published in the *Federal Register* as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce ('Commerce") of an affirmative preliminary determination in the investigation under section 733(b) of the Act, or, if the preliminary determination is negative, upon notice of an affirmative final determination in that investigation under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigation need not enter a separate appearance for the final phase of the investigation. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

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

BACKGROUND

On February 19, 2015, a petition was filed with the Commission and Commerce by Felman Production LLC, Letart, West Virginia, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of silicomanganese from Australia. Accordingly, effective February 19, 2015, the Commission instituted antidumping duty investigation No. 731-TA-1269 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference 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 February 26, 2015 (80 FR 10511). The conference was held in Washington, DC, on March 12, 2015, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Views of the Commission

Based on the record in the preliminary phase of this investigation, we find that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of silicomanganese from Australia that are allegedly sold in the United States at less than fair value.

I. The Legal Standard for Preliminary Determinations

The legal standard for a preliminary antidumping duty determination requires the Commission to determine, based upon the information available at the time of the preliminary determination, whether there is a reasonable indication that a domestic industry is materially injured or threatened with material injury, or that the establishment of an industry is materially retarded, by reason of the allegedly unfairly traded imports.[1] In applying this standard, the Commission weighs the evidence before it and determines whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation."[2]

II. Background

The petition in this investigation was filed on February 19, 2015 by Felman Production, LLC ("Felman Production" or "Petitioner"), a domestic producer of silicomanganese.[3] Petitioner, along with Eramet Marietta, Inc. ("Eramet"), the only other domestic producer of silicomanganese during the period of investigation, appeared at the staff conference and submitted a joint postconference brief.

Two respondent entities participated in this investigation. Tasmanian Electro Metallurgical Company Pty, Ltd. ("TEMCO"), the sole producer of silicomanganese in Australia, and BHP Billiton Marketing, Inc., an importer of subject merchandise affiliated with TEMCO, appeared at the conference and submitted a joint postconference brief.[4]

U.S. industry data are based on the questionnaire responses of two domestic producers, Felman Production and Eramet, accounting for 100 percent of U.S. production of

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[1] 19 U.S.C. §§ 1671b(a), 1673b(a) (2000); *see also American Lamb Co. v. United States*, 785 F.2d 994, 1001-04 (Fed. Cir. 1986); *Aristech Chem. Corp. v. United States, 2*0 CIT 353, 354-55 (1996). No party argues that the establishment of an industry in the United States is materially retarded by the allegedly unfairly traded imports.

[2] *American Lamb Co*., 785 F.2d at 1001; *see also Texas Crushed Stone Co. v. United States*, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

[3] Confidential Report ("CR") at I-1; Public Report ("PR") at I-1.

[4] BHP Billiton ("BHP"), in a 60/40 joint venture with Anglo American Alloys (USA), owns Australian silicomanganese producer TEMCO, as well as importer BHP Billiton Marketing (USA), and owns a South African firm, Samancor Manganese (Proprietary) Limited ("Samancor"), that no longer produces silicomanganese. CR at IV-6 to IV-7, PR at IV-5.

silicomanganese from January 2012 to December 2014, the period of investigation ("POI").[5] U.S. import data are based on official Commerce statistics and questionnaire responses from 10 U.S. importers, accounting for 100 percent of total subject imports and *** percent of total imports of silicomanganese.[6] Information on the silicomanganese industry in Australia is based on TEMCO's questionnaire response and accounts for 100 percent of production of subject merchandise from Australia in 2014.[7]

III. Domestic Like Product

A. Legal Standard

In determining whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the "domestic like product" and the "industry."[8] 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."[9] 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."[10]

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[11] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[12] The Commission looks for clear dividing lines among

[5] CR at I-4, PR at I-3.

[6] CR at IV-1 and IV-2 n.2, PR at IV-1 and IV-1 n.2.

[7] CR at I-5, PR at I-4.

[8] 19 U.S.C. § 1677(4)(A).

[9] 19 U.S.C. § 1677(4)(A).

[10] 19 U.S.C. § 1677(10).

[11] *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).

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

possible like products and disregards minor variations.[13] Although the Commission must accept Commerce's determination as to the scope of the imported merchandise that is sold at less than fair value,[14] the Commission determines what domestic product is like the imported articles Commerce has identified.[15]

B. Product Description

In its notice of initiation, Commerce defined the imported merchandise within the scope of this investigation as follows:

> {A}ll forms, sizes, and compositions of silicomanganese, except low-carbon silicomanganese, including silicomanganese briquettes, fines, and slag. Silicomanganese is a ferroalloy composed principally of manganese, silicon, and iron, and normally contains much smaller proportions of minor elements, such as carbon, phosphorus, and sulfur. Silicomanganese is sometimes referred to as ferrosilicon manganese.
>
> Silicomanganese generally contains by weight not less than 4 percent iron, more than 30 percent manganese, more than 8 percent silicon and not more than 0.2 percent phosphorus. 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. It is sometimes referred to as ferromanganese-silicon. The low-carbon silicomanganese excluded from this investigation is a ferroalloy with the following chemical specifications by weight: minimum 55 percent manganese, minimum 27 percent silicon, minimum 4 percent iron, maximum 0.10 percent phosphorus, maximum 0.10 percent carbon, and maximum 0.5 percent sulfur.

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[13] *See*, *e.g.*, *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.").

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

[15] *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 where Commerce found five classes or kinds).

Low-carbon silicomanganese is classifiable under HTSUS subheading 7202.30.0000.[16]

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," differentiated by their silicon and carbon contents.[17] All standard silicomanganese is generally acceptable for most uses and is readily interchangeable.[18]

C. Analysis

Petitioner contends that the domestic like product should be defined to consist of all silicomanganese, except for low-carbon silicomanganese, as described in the scope definition.[19] For purposes of the preliminary phase of this investigation, Respondents concur with Petitioner's domestic like product definition.[20]

For the reasons discussed below, we define the domestic like product to be all silicomanganese, excluding low-carbon silicomanganese, a product category that is coextensive with the scope.

Physical Characteristics and Uses. Silicomanganese is a metallic ferroalloy composed principally of manganese, silicon, and iron. It generally contains 65 to 68 percent manganese and approximately 17 percent silicon. The ASTM specification for silicomanganese, ASTM A 483, designates three grades (A, B, and C); and each grade is differentiated by the amount of silicon and carbon.[21] Silicomanganese produced in the United States is typically Grade B.[22] Low-carbon silicomanganese (also called ferromanganese-silicon) containing about 60 percent

[16] *Silicomanganese from Australia: Initiation of Less-Than-Fair Value Investigation*, 80 Fed. Reg. 13829, 13833 (March 17, 2015).

[17] CR at I-11, PR at I-8.

[18] CR at I-11 to I-12, PR at I-8; Petition at 7-8.

[19] Petition at 7.

[20] CR at I-15, PR at I-10; Respondent Postconference Brief at 5-6.

[21] CR at I-11, PR at I-8; Petition at 7.

[22] CR at II-2, PR at II-1.

manganese, 30 percent silicon, and less than 0.10 percent carbon is excluded from the scope and was not produced in the United States during the POI.[23]

Silicomanganese is sold in bulk in pieces of fairly uniform sizes and consumed primarily in the production of steel as a source of both silicon and manganese, although some manganese is used in the production of iron castings. It is consumed mostly by electric furnace steelmakers in the production of long products, including bars and structural shapes. 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.[24]

No single product can substitute for silicomanganese. Steelmakers can and do substitute a combination of high-carbon ferromanganese and ferrosilicon for silicomanganese, although not all steelmakers can make the substitution. In small plants, including many "mini-mills,"[25] the facilities for storing and handling material are not sufficient to handle a combination of inputs, so only silicomanganese can be used efficiently.[26]

Common Manufacturing Facilities, Production Processes, and Employees. Silicomanganese is produced by smelting sources of silicon, manganese, and iron, along with reducing agents (usually coke or coal), in a submerged-arc melting furnace.[27] The principal sources of manganese are manganese ore and ferromanganese slag, 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 then heated to a temperature of 1300 to 1400 degrees centigrade. Impurities from the ore and other manganese sources are released and form slag. Following smelting, molten silicomanganese and the slag are separated. The molten silicomanganese is cooled and, once hardened, is crushed and sized for sale.[28] Both U.S. producers report manufacturing silicomanganese using common manufacturing facilities, production workers, and production processes.[29]

Channels of Distribution. During the POI, the two domestic producers reported selling silicomanganese directly to end users, which is how most silicomanganese is reportedly sold.[30]

Interchangeability. The ASTM specification for silicomanganese, ASTM A 483, designates three grades (A, B, and C) where each grade is differentiated by the amount of silicon and carbon.[31] Although steelmakers often have proprietary specifications for

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[23] CR at I-13, PR at I-9; Petition at 5-6.

[24] CR at II-10, PR at II-6.

[25] A mini-mill uses an electric arc furnace to produce molten steel by melting scrap metal supplemented with primary iron products. *See Hot-Rolled Steel Products from China, India, Indonesia, Taiwan, Thailand, and Ukraine*, Inv. Nos. 701-TA-405, 406 & 408 and 731-TA-899-901, 906-908 (Second Review), USITC Pub. 4445 at 32 n.191 (Jan. 2014).

[26] Petition at 7; *see* CR at II-12, PR at II-7.

[27] CR at I-14, PR at I-9; Petition at 8-9.

[28] CR at I-14 to I-15, PR at I-9 to I-10; Petition at 8-9.

[29] CR at I-14 to I-15, PR at I-9 to I-10.

[30] Petition at 9; *see* CR/PR at Table II-1. Felman Production sells ***. CR/PR at VI-1 n.2.

[31] CR at I-11, PR at I-8; Petition at 7.

silicomanganese, these specifications are generally associated with Grade B silicomanganese. All standard silicomanganese is generally acceptable for most uses and is readily interchangeable.[32]

Producer and Customer Perceptions. Petitioner asserts that producers and customers view silicomanganese as a single product category.[33] There is no contrary evidence on the record.

Price. Most standard silicomanganese sold in the U.S. market is of similar chemical composition. Of the three basic grades, silicomanganese produced by the domestic industry meets Grade B standards. There is no evidence that there are significant price variations across the grades of standard silicomanganese.[34]

Conclusion. Based on the record in the preliminary phase of the investigation, we define a single domestic like product that is coextensive with Commerce's scope definition, *i.e.*, all silicomanganese, excluding low-carbon silicomanganese. All silicomanganese is produced using the same basic raw materials, manufacturing facilities, production processes, and similar employees and has the same end uses. It is sold through the same channels of trade and is readily interchangeable within grades. Moreover, no party has asserted a contrary argument.

IV. Domestic Industry

A. Legal Standard

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."[35] 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.

The record indicates that two domestic producers, Felman Production and Eramet, manufactured silicomanganese during the POI.[36] Petitioner argues that the domestic silicomanganese industry is comprised of these two firms.[37] Respondents do not disagree with this definition of the domestic industry.

B. Related Parties

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

[32] CR at I-11 to I-12, PR at I-8; Petition at 7-8.
[33] Petition at 7-8, 11-12; Conference Tr. 15-16 (Getlan).
[34] CR at II-2, PR at II-1; Petition at 11.
[35] 19 U.S.C. § 1677(4)(A).
[36] CR/PR at III-1 and Table III-1.
[37] Petition at 11.

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 or which are themselves importers.[38] Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each investigation.[39]

*** are wholly owned subsidiaries of ***.[40] *** is the selling arm for *** and imported subject merchandise during the POI.[41] Given these corporate relationships, *** and *** are related parties under the statute.[42] Because *** imported subject merchandise during the POI and is related to ***, *** may be subject to exclusion from the domestic industry under the related parties provision. We discuss below whether appropriate circumstances exist that would support *** exclusion from the domestic industry.

*** was the *** of the two domestic producers during the POI, accounting for *** percent of domestic production.[43] *** in this investigation. *** imported silicomanganese from Australia during the POI, as well as from nonsubject sources.[44] *** only imports of subject merchandise occurred in *** and were equivalent to *** percent of *** U.S. production for that year.[45] *** reported that it imported subject merchandise ***.[46] *** ratio of operating income to net sales was ***.[47] [48]

We find that appropriate circumstances do not exist to exclude *** from the domestic industry for the purposes of the preliminary phase of this investigation. Because *** was responsible for a majority of domestic silicomanganese production during the POI and ***

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[38] *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).

[39] 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, *i.e*., 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; and

(3) the position of the related producer vis-a-vis the rest of the industry, *i.e*., whether inclusion or exclusion of the related party will skew the data for the rest of the industry. *See, e.g., Torrington Co. v. United States*, 790 F. Supp. at 1168.

[40] ***. CR at III-2 and n.2, PR at III-2 and n.2; *see also* Conference Tr. at 48 (Nuss) and Correspondence, ***, March 16, 2015.

[41] CR/PR at Table IV-1.

[42] See 19 USC 1677(4)(B)(ii)(III).

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

[44] CR/PR at Table IV-1.

[45] CR at III-9, PR at III-5.

[46] CR at III-9, PR at III-4; E-mail *** from ***, March 26, 2015.

[47] CR/PR at Table VI-2.

[48] Vice Chairman Pinkert generally does not rely upon related producers' financial performance in determining whether there are appropriate circumstances to exclude them from the domestic industry.

imported *** of subject silicomanganese in 2013, we find that its primary interest is in domestic production rather than importation.[49] *** in the investigation and does not appear to have derived any significant financial benefit from its affiliate's importation in light of its declining financial performance over the POI.

For the foregoing reasons, we define the domestic industry as all U.S. producers of silicomanganese, excluding low-carbon silicomanganese, namely Felman Production and Eramet.

V. Reasonable Indication of Material Injury By Reason of Subject Imports

A. Legal Standards

In the preliminary phase of an antidumping duty investigation, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of the imports under investigation.[50] 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.[51] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[52] In assessing whether there is a reasonable indication that 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.[53] 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."[54]

Although the statute requires the Commission to determine whether there is a reasonable indication that the domestic industry is "materially injured by reason of" unfairly traded imports,[55] 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.[56] In identifying a causal link, if any, between subject imports and material injury to the domestic industry, the

[49] CR/PR at Table IV-1. *** imported *** short tons of subject merchandise in 2013. ***, Question II-5. Total subject imports that year were 83,045 short tons. CR/PR at Table IV-2.

[50] 19 U.S.C. §§ 1671b(a), 1673b(a).

[51] 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 ... {a}nd explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B).

[52] 19 U.S.C. § 1677(7)(A).

[53] 19 U.S.C. § 1677(7)(C)(iii).

[54] 19 U.S.C. § 1677(7)(C)(iii).

[55] 19 U.S.C. §§ 1671b(a), 1673b(a).

[56] *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).

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.[57]

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.[58] In performing its examination, however, the Commission need not isolate the injury caused by other factors from injury caused by unfairly traded imports.[59] Nor does the

[57] The Federal Circuit, in addressing the causation standard of the statute, has 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 re-affirmed in *Mittal Steel Point Lisas Ltd. v. United States*, 542 F.3d 867, 873 (Fed. Cir. 2008), in which 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).

[58] SAA, H.R. Rep. 103-316, Vol. I at 851-52 (1994) ("{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, developments in technology and the export performance and productivity of the domestic industry"); *accord Mittal Steel*, 542 F.3d at 877.

[59] 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

(*continued*...)

"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.[60] It is clear that the existence of injury caused by other factors does not compel a negative determination.[61]

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."[62] [63] Indeed, the Federal Circuit has examined and affirmed various Commission methodologies and has disavowed "rigid adherence to a specific formula."[64]

(…*continued*)

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.").

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

[61] *See Nippon*, 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.").

[62] *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.

[63] Vice Chairman Pinkert does not join this paragraph or the following three paragraphs. He points out that the Federal Circuit, in *Bratsk*, 444 F.3d 1369, and *Mittal Steel*, held that the Commission is *required*, in certain circumstances when considering present material injury, to undertake a particular kind of analysis of non-subject imports, albeit without reliance upon presumptions or rigid formulas. *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.

[64] *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.").

The Federal Circuit's decisions in *Gerald Metals*, *Bratsk,* and *Mittal Steel* all involved cases in which 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.[65] 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.[66] 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.[67]

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.[68] Congress has delegated this factual finding to the Commission because of the agency's institutional expertise in resolving injury issues.[69]

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

[66] *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).

[67] 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 final phase 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 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 final phase investigations in which there are substantial levels of nonsubject imports.

[68] We provide in our respective discussions of volume, price effects, and impact a full analysis of other factors alleged to have caused any material injury experienced by the domestic industry.

[69] *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.").

B. Conditions of Competition and the Business Cycle[70]

The following conditions of competition inform our analysis of whether there is a reasonable indication of material injury or threat of material injury by reason of subject imports.

1. Demand Conditions

U.S. demand for silicomanganese is derived from demand for the downstream products in which it is used, particularly steel long products.[71] A relatively small number of steel producers account for a large percentage of silicomanganese purchases. These purchasers include *** being the largest end user of silicomanganese in the United States.[72] Silicomanganese accounts for a very small share of the total cost of the final steel product, accounting for one to two percent of the total cost of steel production in electric arc furnaces, integrated mills, and foundries.[73]

Substitutes for silicomanganese are limited. Both U.S. producers and five of nine responding importers reported that a combination of high-carbon ferromanganese and ferrosilicon can substitute for silicomanganese.[74] One factor limiting substitution, however, is the need for facilities to store or handle substitute materials. Neither U.S. producer reported that prices of substitutes affect silicomanganese prices, but three responding importers did.[75]

[70] 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 3 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. The data available, based on official Commerce statistics, indicate that subject imports exceed the requisite 3 percent statutory negligibility threshold. From February 2014 to January 2015, subject imports from Australia accounted for 14.9 percent of total U.S. imports of silicomanganese by quantity. CR at IV-10, PR at IV-8.

[71] CR at II-10, PR at II-6.

[72] CR/PR at II-1 and n.4.

[73] CR at II-10, PR at II-6.

[74] CR at II-12, PR at II-7. *** reported that, although steel producers do not generally switch sources of manganese and silicon in their production processes, some steel producers will switch if they find it cost effective to do so. Similarly, importer *** reported that, depending on a particular steel mill's requirement, some mills will switch between manganese and silicon products based on relative pricing. *Id*.

[75] CR at II-12, PR at 7. *** reported that there is an indirect impact on prices in the longer term as steel mills shift among ferroalloys. *** noted that silicomanganese prices tend to track ferromanganese and ferrosilicon prices. Importers *** reported that some steel mills will switch between silicomanganese and the substitutes when relative prices make the change cost effective. *Id*.

Apparent U.S. consumption fluctuated annually, but overall showed little change from 2012 to 2014. It decreased from *** short tons in 2012 to *** short tons in 2013, before increasing to *** short tons in 2014, resulting in an overall decrease of *** percent.[76]

2. Supply Conditions

Sources of supply to the U.S. market during the POI included the domestic industry, subject imports, and imports from nonsubject sources.

The domestic industry was a significant, but not the predominant, source of silicomanganese. Its share of the U.S. market decreased throughout the POI, falling steadily from *** percent in 2012 to *** percent in 2013 and *** percent in 2014, representing an overall decrease of *** percentage points.[77] Felman Production and Eramet were the only U.S. silicomanganese producers during the POI.[78] In June 2013, Felman Production idled silicomanganese production at its Letart, West Virginia, plant, which it alleges was due to deteriorating market conditions. It restarted some of its production in July 2014.[79] The domestic industry's capacity decreased in 2013 from 2012 levels, but then remained steady through 2014.[80]

Subject imports accounted for the smallest share of the U.S. market at the beginning of the POI compared to the domestic industry and nonsubject imports, but their market share increased steadily over the period. It rose from *** percent in 2012 to *** percent in 2013 and decreased to *** percent in 2014, representing an increase of *** percentage points over the POI.[81] TEMCO, the only producer of silicomanganese in Australia, reported that it had temporarily shut down production operations from February to July 2012.[82] Australia was the second largest source of imported silicomanganese in 2013 and the third largest in 2014, after Georgia and South Africa.[83]

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[76] CR/PR at Table C-1. According to Respondents, the decline in apparent U.S. consumption in 2013 resulted from the drawing down of inventories. Respondents Postconference Brief at 7; *see also* Petitioner Postconference Brief at 27.

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

[78] CR/PR at II-1. Felman Production was the *** U.S. silicomanganese producer over the POI with *** percent of U.S. production. CR/PR at Table III-1. Felman Production manufactured only silicomanganese during the POI. In addition to silicomanganese, Eramet also produces other manganese ferroalloys at its Marietta, Ohio, plant. CR at I-15, PR at I-10.

[79] CR at III-3 to III-4, PR at III-2 to III-3; Conference Tr. at 8 (Getlan). Felman Production ***. CR/PR at Table III-2. Felman Production states that it was selling silicomanganese out of inventory ***. CR at III-8 to III-9, PR at III-4.

[80] CR/PR at Table C-1. The domestic industry's capacity was *** short tons in 2012, *** short tons in 2013, and *** short tons in 2014. *Id*. ***, which caused the decrease in the domestic industry's production capacity levels for 2013 and 2014. CR at III-3, PR at III-2.

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

[82] CR/PR at VII-3. TEMCO reported that, after restarting operations in July 2012, it dedicated ***. CR at VII-4, PR at VII-3.

[83] CR/PR at Table IV-1.

Nonsubject imports held the largest share of the U.S. market during the POI, decreasing from *** percent in 2012 to *** percent in 2013, and then increasing to *** percent in 2014, representing an overall increase of *** percentage points.[84] U.S. imports from nonsubject countries accounted for *** percent of total imports in 2012, *** percent in 2013, and *** percent in 2014.[85] The largest nonsubject sources of silicomanganese to the U.S. market during the POI were Georgia[86] and South Africa,[87] which together accounted for 66.2 percent of total imports and 80.1 percent of nonsubject imports in 2014.[88]

3. Substitutability

For the purposes of the preliminary phase of this investigation, we find that there is a high degree of substitutability between the domestic like product and subject imports. Both U.S. producers and all importers reported that domestically produced silicomanganese, subject imports, and nonsubject imports are "always" or "frequently" interchangeable.[89] When asked about the significance of differences other than price between domestically produced silicomanganese and subject imports, both U.S. producers and a majority of importers reported that factors other than price were "sometimes" or "never" important.[90] In light of this, we find that the record of the preliminary phase of this investigation suggests that price is an important factor in purchasing decisions.

Most silicomanganese sold in the U.S. market is of similar chemical composition. As discussed above, the three basic grades of standard silicomanganese are Grades A, B, and C.[91]

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

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

[86] Felman Production is affiliated through a series of corporate ownership relationships with Georgian Manganese, a producer and exporter of silicomanganese located in Georgia. CR/PR at III-2 and n.2; and CR/PR at Table III-2. Georgian Manganese was the largest nonsubject supplier of silicomanganese during the POI. CR/PR at Table IV-1 and ***, Question II-7.

[87] BHP is affiliated through a series of corporate ownership relationships with Samancor, a firm in South Africa that had been producer of silicomanganese. CR/PR at IV-6 to IV-7, PR at IV-5. Although BHP ceased production of silicomanganese at Samancor in 2012, two other firms, Transalloys and Mogale Alloys, produced silicomanganese in South Africa during the POI. CR at VII-12 and n.19, PR at VII-7 and n.19.

[88] CR at II-10, PR at II-5 to II-6.

[89] CR/PR at Table II-4.

[90] CR/PR at Table II-5. ***. Four importers reported that factors other than price were "never" important, five reported that other factors were "sometimes" important, and one importer reported that other factors were "frequently" important. *Id*.

[91] 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 amount of minor elements, such as arsenic, tin, lead, chromium, nickel, and molybdenum, that is permitted is limited. *See* ASTM A

(*continued*...)

Silicomanganese manufactured by domestic producers generally meets Grade B standards, and subject imports generally conform to Grade C. There are reportedly no price differences among the various grades of silicomanganese sold in the U.S. market. A majority of steel producers will use both Grades B and C, although some steel producers will not use Grade C because of its carbon and silicon content.[92] Most U.S. imports of nonsubject silicomanganese from Georgia have a higher manganese content and generally command a higher price, but are nevertheless readily substitutable for standard silicomanganese in the production of steel.[93]

4. Other Conditions

Pricing information is widely disseminated in the U.S. market. Publications such as *Ryan's Notes*, *Platt's Metals Week*, and *American Metal Market* regularly publish information regarding silicomanganese transaction prices based on spot sales.[94] Buyers and sellers use these published prices as benchmarks in determining contract sales prices.[95]

Prices of silicomanganese are related to raw material costs. Manganese ore or high-carbon ferromanganese slag are the primary raw materials used to produce silicomanganese. Other raw materials include silicon and coke.[96] The domestic industry's aggregate raw material costs per ton increased by *** percent from 2012 to 2013, before decreasing by *** percent from 2013 to 2014.[97] Electricity is one of the largest components of the cost of producing silicomanganese. The cost of electricity increased by 3.3 percent from January 2012 to December 2014.[98]

(…*continued*)

483-04 (approved 2004), *Standard Specification for Silicomanganese*, tables 1 and 2 (chemical requirements). CR at I-11 n.22, PR at I-8 n.22; EDIS Doc No. 554241.

[92] CR at II-2, PR at II-1; Conference Tr. at 122 (Kylander).

[93] CR at II-2, PR at II-1; Conference Tr. at 27 (Nuss).

[94] CR/PR at V-3 and n.8.

[95] CR/PR at V-4. Petitioner argues that subject imports were sold in the spot market, although in lesser volumes than contract sales, and that the low prices associated with these spot sales would have been captured in published sources, thus depressing prices in the spot market, as well as domestic producers' contract prices. Petitioner Postconference Brief at 20. Respondents claim that their sales are predominantly made pursuant to long-term contracts and not spot transactions and, therefore, would not be reflected in published sources. Respondent Postconference Brief at 30. The record shows that, in 2014, *** percent of U.S. commercial shipments of subject imports occurred under contracts and *** percent occurred as spot sales. CR/PR at Table V-2. In any final phase of this investigation, we will examine the effect that subject import prices may have on prices published in industry sources, such as *Ryan's Notes*, *Platt's Metals Week*, and *American Metal Market*, as well as the effect contract prices may have in the market more generally. *See* CR/PR at V-3 and nn.8 & 9.

[96] CR at I-14, PR at I-9.

[97] CR/PR at V-1.

[98] CR/PR at V-1 and Figure V-2.

Both U.S. producers of silicomanganese are affiliated with producers of silicomanganese in nonsubject countries. As discussed above, GAA wholly owns petitioner Felman Production[99] and is also affiliated with a silicomanganese producer in Georgia.[100] Eramet, through its parent, Eramet Holding Manganese SA (France), is affiliated with silicomanganese producers Eramet Norway, Comilog Dunkerque in France, and Guilin Comilog Ferroalloy Company, Ltd., in China.[101] Similarly, BHP Billiton owns subject producer TEMCO and the former nonsubject South African producer Samancor though a 60/40 joint venture with Anglo American Alloys (USA).[102]

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."[103]

Subject imports increased their presence in the U.S. market during the period of investigation. Their volume increased from 29,083 short tons in 2012 to 83,045 short tons in 2013, and then decreased to 78,014 short tons in 2014.[104] Thus, the volume of subject imports increased 168.2 percent overall from 2012 to 2014, while apparent U.S. consumption decreased *** percent.[105]

The share of apparent U.S. consumption held by subject imports, by quantity, also increased overall from 2012 to 2014. It increased from *** percent in 2012 to *** percent in 2013, before decreasing to *** percent in 2014.[106] Overall, subject imports' market share increased by *** percentage points from 2012 to 2014 during a time when apparent U.S. consumption declined modestly.[107] Subject imports' gain in market share from 2012 to 2014 came at the expense of the domestic industry, which lost market share to both subject and nonsubject imports. The domestic industry's market share, by quantity, declined from *** percent in 2012 to *** percent in 2013 and *** percent in 2014, representing an overall decline of *** percentage points.[108] The market share of nonsubject imports increased *** percentage points from 2012 to 2014.[109]

Subject imports of silicomanganese increased substantially relative to domestic production. They were equivalent to *** percent of U.S. production in 2012, *** percent in

[99] CR at I-4 n.4 and III-2, PR at I-3 n.4 and III-1.
[100] CR/PR at III-2 and n.2; and CR/PR at Table III-2.
[101] CR at III-1 to III-2 and VII-14, PR at III-1 to III-2 and VII-8.
[102] CR at IV-6 to IV-7, PR at IV-5 to IV-6.
[103] 19 U.S.C. § 1677(7)(C)(i).
[104] CR/PR at Table C-1.
[105] CR/PR at Table C-1.
[106] CR/PR at Table C-1.
[107] CR/PR at Table C-1.
[108] CR/PR at Table C-1.
[109] CR/PR at Table C-1.

2013, and *** percent in 2014.[110] This growing percentage reflects both the increase in subject import volume and the temporary shutdown of Felman Production's silicomanganese operation during the POI. As explained below, we intend to further explore the factors that led to this shutdown in any final phase of this investigation.

We find, for purposes of the preliminary phase of this investigation, that the volume of subject imports and the increase in that volume are significant in absolute terms and relative to consumption and production in the United States.[111]

D. Price Effects of the Subject Imports

Section 771(7)(C)(ii) of the Tariff Act provides that, in evaluating the price effects of 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.[112]

The record in the preliminary phase of this investigation indicates that there is a high degree of substitutability between subject imports and the domestic like product and that price is an important consideration in purchasing decisions. As explained above, both U.S. producers and all importers responding to the Commission's questionnaires reported that domestically

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

[111] Respondents argue that certain factors mitigate the increase in the volume of subject imports during the POI. They argue that the subject imports increased toward the end of the POI and gained market share from the domestic industry because Felman Production ceased silicomanganese production at its Letart, West Virginia, facility for a full year. Parties dispute the reasons for the closure. Felman Production claims that the reason for the closure was the adverse conditions in the U.S. silicomanganese market caused by subject imports. *See, e.g.*, CR at III-3 to III-4, PR at III-2 to III-3; Conference Tr. at 8-9 (Getlan). Respondents allege that Felman Production's temporary closure during the POI was not due to subject import competition, but rather ***. Respondent Postconference Brief at 37; *see also* CR at IV-8, PR at IV-6. ***. CR at II-3, PR at II-2. In addition, Respondents allege that the increase in the volume of subject imports during the POI is directly attributable to ***. They allege that the ***. Respondent Postconference Brief at 16, 20. Felman Production asserts that the ***. Petitioner further argues that ***. Petitioner Postconference Brief at 34-35. There is limited information in the record of the preliminary phase of this investigation to allow us to assess the factual disputes implicated by Respondents' allegations and the Petitioner's rebuttals. We intend to explore these issues in any final phase of this investigation.

[112] 19 U.S.C. § 1677(7)(C)(ii).

produced silicomanganese, subject imports, and nonsubject imports are "always" or "frequently" interchangeable.[113]

The Commission collected quarterly pricing data for silicomanganese sold to steel producers pursuant to quarterly requirements contracts and through spot sales.[114] Subject imports undersold the domestic like product in 2 of 18 quarterly comparisons with margins of underselling ranging from 0.6 percent to 23.8 percent and margins of overselling ranging from 3.0 percent to 25.5 percent.[115]

Petitioner argues that there are some significant deficiencies in the quarterly pricing data on the record that undermine the pricing data because they do not include prices of subject imports sold to ***[116] ***.[117] It acknowledges that the record does not include prices for most sales of subject imports to *** for 2012 and 2013 because the Commission's questionnaire requested sales of silicomanganese to steel mills and ***.[118] As a result, Petitioner alleges that BHP's reported pricing data accounted for ***. Moreover, BHP transitioned from a "Delivery Duty Paid" ("DDP") delivery model[119] to a "Cost, Insurance, and Freight" ("CIF") model[120] in 2014 at which point *** became the importer of record for its purchases of subject imports from BHP. In its questionnaire response, however, Petitioner claims that ***.[121]

The record in the preliminary phase of this investigation indicates that some significant gaps exist in pricing data coverage, which may be remedied in any final phase of this investigation.[122] Consequently, for the purposes of this preliminary determination, we have considered Petitioner's analysis of the AUV data suggesting that underselling by subject imports

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[113] CR/PR at Table II-4.

[114] CR at V-6, PR at V-4 to V-5. The two pricing products were (1) ASTM grade B bulk silicomanganese sold to steel producers under quarterly requirements contracts and (2) ASTM grade B bulk silicomanganese sold to steel producers as spot sales.

[115] CR/PR at Table V-6. There were *** short tons of subject merchandise involved in overselling comparisons, and *** short tons involved in underselling comparisons. *Id*.

[116] ***. *See* Petitioner Postconference Brief at 23, citing ***.

[117] Petitioner Postconference Brief at 22.

[118] Petitioner Postconference Brief at 23. The two pricing products in this investigation covering quarterly requirement contracts and spot sales of ASTM grade B Bulk silicomanganese sold to steel producers were proposed by Petitioner based on their use in prior silicomanganese proceedings. *See* Petition at 26; Petitioner Postconference Brief at 22 and n.56.

[119] A DDP transaction is one in which the seller must pay for all the costs related to transporting the goods and is responsible in full for the goods until they have been received and transferred to the buyer.

[120] A CIF transaction is one requiring the seller to arrange for the carriage of goods by sea to a port of destination and to provide the buyer with the documents necessary to obtain the goods from the carrier.

[121] Petitioner Postconference Brief at 23-24.

[122] We note that the pricing coverage is lowest in 2013 when the volume of subject imports peaked and U.S. producers' prices reached their lowest levels. *See* CR at V-7 n.18, PR at V-5 n.18 (explaining that pricing coverage for imports from Australia was *** percent in 2013 compared to *** percent in 2012 and *** percent in 2014).

may have been more prevalent than indicated by the pricing data collected in the questionnaires.[123] The available data do support the Petitioner's assertions that, at least for full calendar year periods, AUVs for the subject imports were lower than those for the domestic industry's U.S. shipments.[124]

Given the gaps in our record and the discrepancies between the quarterly pricing data and the AUV data on the record, we are unable to draw any conclusions regarding the significance of the underselling by subject imports. We invite the parties in their comments on any draft final phase questionnaires to address whether the Commission should alter its collection of pricing data, particularly in light of ***.

We have also considered changes in domestic and subject import prices over the period of investigation. Data for domestically produced silicomanganese show that the domestic industry's contract prices to steel producers (product 1) increased from the first quarter of 2012 to the second quarter of 2012, decreased with some fluctuation throughout 2013, then increased slightly in 2014. Overall, contract prices for the domestic industry increased *** percent between the first quarter of 2012 and the fourth quarter of 2014, while subject import prices increased *** percent over the same period. The quantities of spot sales (product 2) reported by the domestic industry and importers of subject merchandise were much smaller than those of contract sales. Prices for spot sales by the domestic industry decreased from the first quarter of 2012 to the fourth quarter of 2013, increased in the first quarter of 2014, then decreased for the remainder of the POI. The domestic industry's prices for spot sales (product 2) decreased by *** percent between the first quarter of 2012 and the fourth quarter of 2014; spot prices for subject imports were reported in only 6 of 12 quarters from the second quarter of 2013 to the third quarter of 2014.[125] In light of the pricing data for product 1, which accounts for the vast amount of the domestic industry's U.S. shipments and the predominant instances of overselling by subject imports, we do not find that subject imports depressed prices to a significant degree.

We have also examined whether subject imports have prevented price increases, which would have otherwise occurred, to a significant degree during the POI. The domestic industry's ratio of cost of goods sold ("COGS") to net sales increased from *** percent in 2012 to *** percent in 2013, and then declined to *** percent in 2014, representing an overall increase of *** percentage points.[126] Most of this increase can be attributed to the significant drop in revenues, which outpaced the still substantial declines in total COGS.[127] As the domestic

[123] *See* Petitioner Postconference Brief at 25-26 and Exhibit 1.

[124] CR/PR at Table C-1. We are typically reluctant to rely on AUV data as a substitute for pricing data, particularly when pricing data are available on the record, because differences in AUVs may reflect differences in product mix as opposed to differences in pricing. *See 1,1,1,2 – Tetrafluoroethane from China*, Inv. Nos. 701-TA-508 and 731-TA-1244 (Final), USITC Pub. 4503 at 19 n.125 (Dec. 2014). Notwithstanding this, the AUV data here may have some probative value as to relative pricing levels because of the homogeneous nature of the subject imports and the domestic like product.

[125] CR at V-11, PR at V-6.

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

[127] CR/PR at Table VI-1

industry was not able to reduce its costs commensurate with its lower sales, net sales value decreased relative to total COGS. In light of the fact that apparent U.S. consumption was relatively flat during the POI[128] and barring any additional factors which would have led to price increases, we cannot conclude that subject imports prevented a price increase which otherwise would have occurred to a significant degree. [129] [130]

Although the quarterly pricing data do not demonstrate the existence of significant underselling, the record in the preliminary phase of this investigation indicates that our pricing data may have significant gaps and that the AUVs of the subject imports were lower than those for the domestic like product. It also indicates that the domestic industry's ratio of COGS to net sales deteriorated as subject imports increased. As discussed above, we will examine these issues further in any final phase of this investigation.

E. Impact of the Subject Imports[131]

Section 771(7)(C)(iii) of the Tariff Act provides that the Commission, in examining the impact of the subject imports on the domestic industry, "shall evaluate all relevant economic factors which have a bearing on the state of the industry." These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, 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."

Indicators of domestic industry performance during the POI were almost uniformly negative. The domestic industry's production decreased by *** percent, falling from *** short tons in 2012 to *** short tons in 2013 and *** short tons in 2014.[132] The declines in production during 2013 and 2014 occurred when Felman Production shut down all three of its furnaces for a 13-month period.[133] The domestic industry's production capacity decreased *** percent from 2012 to 2014, and capacity utilization also decreased during the period by *** percentage

[128] CR at II-11, PR at II-8.

[129] For purposes of the preliminary phase of this investigation, Vice Chairman Pinkert and Commissioner Williamson find evidence of price suppression, given the rapid increase in subject imports, the increase in the domestic industry's unit COGS, and the sharp increase in the industry's COGS/sales ratio over the POI. They note that these increases occurred during a period when both Petitioner and Respondents agree that demand for silicomanganese was fairly stable. CR at II-11, PR at II-6.

[130] We have also considered the domestic industry's lost sales and lost revenues allegations. *See* Petitioner Postconference Brief at 27. The Commission confirmed ***. *See* CR/PR at Table V-7. The record therefore indicates that the domestic industry lost some sales to subject imports and that the increase in subject imports' market share during the POI may have been due to lower pricing.

[131] In its notice initiating the antidumping duty investigation on silicomanganese from Australia, Commerce reported an estimated dumping margin of 77.97 percent. 80 Fed. Reg. at 13832.

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

[133] CR at III-4, PR at III-2, and CR/PR at Table III-2.

points, falling from *** percent in 2012 to *** percent in 2013 and *** percent in 2014.[134] 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, representing an overall decrease of *** percent.[135]

Employment indicators also trended downward. The domestic industry's number of production and related workers fell from *** in 2012 to *** in 2013 and *** in 2014. Hours worked,[136] wages paid,[137] and productivity also fell from 2012 to 2014, although productivity improved in 2014 compared to 2013.[138]

The domestic industry's financial performance deteriorated. Sales and revenues both declined. From 2012 to 2014, net sales by quantity and value decreased by *** percent and *** percent, respectively.[139] The domestic industry's operating income decreased from *** in 2012 to *** in 2013, and then improved to *** in 2014.[140] The domestic industry's operating income margin decreased from *** percent in 2012 to *** percent in 2013, before increasing to *** percent in 2014.[141] The domestic industry's capital expenditures decreased from $*** in 2012 to $*** in 2013 and $*** in 2014.[142] Research and development expenses decreased from $*** in 2012 to $*** in 2013 and $*** in 2014.[143]

The declines in the domestic industry's shipments, employment, revenues, and operating performance largely stem, either directly or indirectly, from the reductions in the domestic industry's output. The declines in output were most severe in 2013, the year there

[134] CR/PR at Table C-1. The domestic industry's production capacity was *** short tons in 2012 and *** short tons in 2013 and 2014. *Id*. The decline was due to ***. CR at III-3, PR at III-2. If Felman Production's annual capacity was adjusted to account for its various production shutdowns from June 2013 to August 2014, total U.S. capacity would be *** short tons in 2013 and *** short tons in 2014. Capacity utilization rates would be *** percent in 2013 and *** percent in 2014. CR/PR at Table III-3 Note.

[135] CR/PR at Table C-1. From 2012 to 2014, the domestic industry's end-of-period inventories increased *** percent on an absolute basis and *** percentage points relative to shipments. The domestic industry's end-of-period inventories were *** short tons in 2012, *** short tons in 2013, and *** short tons in 2014. The ratio of inventories to total shipments was *** percent in 2012, *** percent in 2013, and *** percent in 2014. *Id*.

[136] CR/PR at Table C-1. Total hours worked decreased from *** hours in 2012 to *** hours in 2013 and *** hours in 2014. *Id*.

[137] CR/PR at Table C-1. Wages paid decreased from $*** in 2012 to $*** in 2013 to $*** in 2014. *Id*.

[138] CR/PR at C-1. Productivity per 1,000 hours decreased from *** short tons in 2012 to *** short tons in 2013, before increasing to *** short tons in 2014. *Id*.

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

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

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

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

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

was a temporary shuttering of a large portion of the domestic industry's production.[144] That was also the year in which subject import market penetration peaked.[145]

The parties dispute whether there is a causal relationship between these events. Respondents argue that subject imports increased for non-price reasons, including the alleged refusal of a domestic producer to supply a large customer and the 2012 closure of the BHP-affiliated producer in South Africa.[146] As indicated in section V.C. above, we cannot resolve, on the basis of the current record, the parties' disputes concerning the reasons for the increase in subject import volume and market penetration.

Moreover, in light of the gaps in pricing data discussed in section V.D. above, we cannot ascertain on the basis of the current record whether the declines the domestic industry experienced in output and revenues were due to subject import pricing competition. As previously stated, we intend to collect information on these matters in any final phase of this investigation and examine further the relationship between the changes in subject import volume, subject import pricing, and the domestic industry's performance.

Notwithstanding the significant outstanding questions we have regarding a number of issues that have been raised during the preliminary phase of this investigation, we cannot ignore the correlation between the increase in subject import volume and market share, the domestic industry's loss of market share to these subject imports, and the significantly deteriorating condition of the domestic industry. We note that as the subject import volume increased and reached its highest level in 2013, the domestic industry's condition declined and its operating losses were at their worst level, and when the subject import volume declined somewhat in 2014, the condition of the domestic industry improved.

As discussed above, nonsubject imports were also a significant presence in the U.S. market during the POI.[147] Nonsubject imports held the largest share of the U.S. market during the POI, decreasing from *** percent in 2012 to *** percent in 2013, and then increasing to *** percent in 2014.[148] U.S. imports from nonsubject countries accounted for *** percent of total imports in 2012, *** percent in 2013, and *** percent in 2014.[149] We observe that the

[144] CR/PR at Table C-1, CR at III-3 to III-4, PR at III-2.

[145] CR/PR at Table IV-4.

[146] As discussed above, during the POI, BHP owned silicomanganese production facilities in South Africa (Samancor), as well as TEMCO in Australia. Samancor ceased producing silicomanganese in February 2012. Respondents argue that, during the POI, BHP's subject imports from Australia (TEMCO) replaced a portion of its nonsubject imports from Samancor in South Africa, and that BHP's exports of silicomanganese to the United States never again achieved the total volume of combined exports from Australia and South Africa that were present prior to 2012. CR at IV-7 and n.16, PR at IV-5 to IV-6 and n.16; *see also* Respondent Postconference Brief at 21. The annual data available on the record indicate large annual fluctuations in imports of silicomanganese from BHP affiliated producers in Australia and South Africa. We will further examine this issue in any final phase of this investigation.

[147] Vice Chairman Pinkert invites the parties in any final phase of this investigation to comment on the application of the *Bratsk*/*Mittal* line of cases to the evidence of record.

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

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

record does not indicate a correlation between the presence of nonsubject imports in the market and the domestic industry's condition; when nonsubject imports fell in 2013, the domestic industry's output and financial performance deteriorated, and when nonsubject import volume increased in 2014, the domestic industry's performance improved.

Based on the record of the preliminary phase of this investigation, we cannot conclude that factors other than the subject imports individually or together amount to clear and convincing evidence of no material injury to the domestic industry by reason of subject imports. We intend to examine those factors and their effects on the domestic industry in any final phase of this investigation. Accordingly, we have made an affirmative determination in the preliminary phase of this investigation.

VI. Conclusion

For the foregoing reasons, we determine that there is a reasonable indication that an industry in the United States is materially injured by reason of subject imports of silicomanganese from Australia allegedly sold in the United States at less than fair value.

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, 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 12, 2015	Commission's conference
March 17, 2015	Commerce's notice of initiation (80 FR 13829, March 17, 2015)
April 3, 2015	Commission's vote
April 7, 2015	Commission's determination
April 14, 2015	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] A list of witnesses appearing at the conference is presented in appendix B of this report.

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--

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

Organization of report

Part I of this report presents information on the subject merchandise, alleged dumping margins, 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 Production, LLC ("Felman"), while Tasmanian Electro Metallurgical Company ("TEMCO"), a subsidiary of BHP Billiton Ltd., is the sole Australian producer of silicomanganese. The leading U.S. importers of silicomanganese from Australia are BHP Billiton, Ltd. ("BHP Billiton") ***. Leading importers of product from nonsubject countries (primarily Georgia and South Africa) include Felman Trading[4] ***. U.S. purchasers of silicomanganese are typically steel producers. These purchasers include ***.

Apparent U.S. consumption of silicomanganese totaled *** short tons ($***) in 2014. Currently, two firms are the only known producers of silicomanganese in the United States. U.S. producers' U.S. shipments of silicomanganese totaled *** short tons ($***) in 2014, and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value. U.S. imports from subject sources totaled 78,014 short tons ($78.6 million) in 2014 and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value. U.S. imports from nonsubject sources totaled *** short tons ($***) 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 the questionnaire responses of two firms that accounted for all known U.S. production of silicomanganese during 2012-14. U.S. import data and related information are based on official import statistics, HTS statistical reporting number 7202.30.0000, adjusted to exclude entries of out-of-scope merchandise as reported in

[4] U.S. producer Felman and U.S. importer Felman Trading are direct subsidiaries of parent company Georgian American Alloys, Inc. ("GAA"). Felman Trading is the sales arm of GAA and handles all third-party sales of silicomanganese produced by U.S. producer Felman.

importers' questionnaire responses.[5] Foreign industry data are based on the questionnaire response of TEMCO, accounting for all known production of silicomanganese in Australia.

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.[6]

Following petitions filed by Eramet, Marietta, Ohio, 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.[7] 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.[8] Commerce published the antidumping duty orders on silicomanganese from India, Kazakhstan, and Venezuela on May 23, 2002.[9] Effective October 2013, following second full five-year reviews, Commerce continued the antidumping duty orders on silicomanganese from India, Kazakhstan, and Venezuela.[10]

Following a petition filed on November 12, 1993, by Elkem Metals Co. ("Elkem") (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 Venezuela.[11] 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

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[5] Out-of-scope merchandise low-carbon silicomanganese is also classifiable under HTSUS subheading 7202.30.000.

[6] *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.

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

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

[9] *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.

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

[11] *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.

silicomanganese from Ukraine.[12] 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.[13]

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.[14]

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

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[12] 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.

[13] *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.

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

issued a continuation of the antidumping duty orders on silicomanganese from Brazil, China, and Ukraine.[15]

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.[16] Subsequently, Commerce issued a continuation of the antidumping duty orders on silicomanganese from China and Ukraine.[17]

NATURE AND EXTENT OF ALLEGED SALES AT LTFV

Alleged sales at LTFV

On March 17, 2015, Commerce published a notice in the *Federal Register* of the initiation of its antidumping duty investigation on silicomanganese from Australia.[18] Commerce has initiated an antidumping duty investigation based on an estimated dumping margin of 77.97 percent for product from Australia.

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 a ferroalloy composed principally of manganese, silicon, and iron, and normally contains much smaller proportions of minor elements, such as carbon, phosphorus, and sulfur. Silicomanganese is sometimes referred to as ferrosilicon manganese.*

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

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

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

[18] *Silicomanganese from Australia: Initiation of Less-Than-Fair-Value Investigation*, 80 FR 13829, March 17, 2015.

Silicomanganese generally contains by weight not less than 4 percent iron, more than 30 percent manganese, more than 8 percent silicon and not more than 0.2 percent phosphorus. 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. It is sometimes referred to as ferromanganese-silicon. The low-carbon silicomanganese excluded from this investigation is a ferroalloy with the following chemical specifications by weight: minimum 55 percent manganese, minimum 27 percent silicon, minimum 4 percent iron, maximum 0.10 percent phosphorus, maximum 0.10 percent carbon, and maximum 0.05 percent sulfur. 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.

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 duty-free under the United States-Australia Free Trade Agreement. Silicomanganese produced in certain designated beneficiary developing countries under the Generalized System of Preferences (GSP) was eligible for duty-free entry through July 31, 2013, when the program expired.[19] Important GSP-eligible sources of silicomanganese included Georgia and South Africa, while products of Brazil were excluded under competitive need limitations. All such goods are now dutiable at the general rate.

[19] "Legal authorization for the GSP program expired on July 31, 2013 (19 U.S.C. Section 2465). As a result, U.S. imports entering the United States after that date that were previously eligible for duty-free treatment under GSP are subject to regular, normal-trade-relations rates of duty (shown in the U.S. tariff schedule under the column with the heading "General").

"GSP authorization has expired on several previous occasions, most recently in 2011. In the past, when Congress acted to extend the program, it applied duty-free treatment to GSP-eligible products retroactively to the expiration of the program, thereby allowing importers to seek refunds of duties paid. However, it is not known whether any future action on GSP will be made retroactive." USTR, *GSP Expiration: Frequently Asked Questions*, https://ustr.gov/issue-areas/trade-development/preference-programs/generalized-system-preference-gsp, accessed March 16, 2015.

THE PRODUCT

Description and applications

Silicomanganese is a metallic silvery ferroalloy[20] composed principally of manganese, silicon, and iron. It is produced in a number of grades and sizes. It 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.[21] 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", differentiated by their silicon and carbon contents.[22] Purchasers of silicomanganese—steel producing companies—often have proprietary specifications for silicomanganese, but these generally are centered around Grade B, with some variations.[23] 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.[24]

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 a plant in (the former SSR of) Georgia. This so-called "high-grade" silicomanganese is said to be preferred by some steel companies and accounted for the vast majority of the U.S. imports of

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[20] 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.

[21] 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.

[22] 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).

[23] Conference transcript, p. 63 (Rochussen).

[24] 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.

silicomanganese from Georgia.[25] High-grade silicomanganese from Georgia is sold at a higher price than that of standard-grade silicomanganese, in proportion to its higher manganese content.[26]

Use depends upon the steelmaking practices of a given producer. Silicomanganese may be introduced directly into the steelmaking furnace or added as a chemistry addition/deoxidizer to molten steel at 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 furnace steelmakers in the production of long products, including bars 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.[27] Low-carbon silicomanganese is produced by upgrading standard grade material by the addition of silicon wastes from the ferrosilicon industry.[28] 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.[29]

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

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

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

[27] *Ferroalloys & Alloying Additives Online Handbook – Manganese*. http://amg-v.com/manganesepage.html. Accessed March19, 2015.

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

[29] Conference transcript, p. 15 (Levy) and p. 24 (Nuss).

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 "chills"), where it cools and hardens. Once the alloy has hardened, the chills are emptied and the alloy is crushed and sized for sale. [30]

Domestic producer Eramet produces silicomanganese at a plant in Marietta, Ohio, that it purchased in July 1999.[31] 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 petitioner proposes a single domestic like product, consisting of all silicomanganese produced in the United States. Petitioner's 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.[32]

In their post-conference brief, respondents TEMCO and BHP Billiton indicated that, for purposes of the preliminary phase of the investigation, they do not contest the domestic like product definition proposed by petitioner.[33]

[30] Conference transcript, p. 25 (Nuss).
[31] Conference transcript, p. 32 (Rochussen).
[32] Petition, pp. 11-12.
[33] Respondents' post-conference 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 and manganese, which act as deoxidizers. It is mostly used in steel long products produced in electric arc furnace mini-mills. 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, since U.S. producers do not have the capacity to supply all of U.S. demand.[1] During 2012-14, Felman Trading served the U.S. market through Felman's U.S. production and through its imports from Georgia ***.[2] Eramet primarily served the U.S. market through its U.S. production. BHP Billiton supplied the U.S. market through its imports from Australia and South Africa***.[3] Nonsubject imports are the largest source of supply in the U.S. market. The largest sources of nonsubject imports are Georgia and South Africa.

A small number of steel producers account for a large percentage of silicomanganese purchases. These purchasers include ***.[4] Each purchasing steel mill specifies the chemical composition it requires in its request for quotation and suppliers must present a certificate of analysis.[5]

Most silicomanganese sold in the U.S. market is of similar chemical composition.[6] There are three basic grades of standard silicomanganese: grades A, B, and C. 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 there are some that will not use grade C because of the carbon and/or silicon content.[7] Most silicomanganese from Georgia has a higher manganese content but is substitutable for standard silicomanganese.[8]

Apparent U.S. consumption of silicomanganese increased irregularly during 2012-14. Overall, apparent U.S. consumption in 2014 was 1.9 percent lower than in 2012.

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[1] Conference transcript, p. 26 (Nuss) and p. 34 (Rochussen).

[2] As noted earlier in the report, Felman Trading markets and sells silicomanganese produced by U. S. producer Felman and silicomanganese that it (Felman Trading) imports.

[3] BHP Billiton is related to Australian producer TEMCO and South African producer Samancor, and is solely responsible for distributing silicomanganese from these facilities to the United States. Conference transcript, p. 75 (Anderson).

[4] ***.***.

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

[6] 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).

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

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

CHANNELS OF DISTRIBUTION

U.S. producers and importers sold mainly to end users, as shown in table II-1. The exception was ***.

Table II-1
Silicomanganese: U.S. producers' and importers' U.S. commercial shipments, by sources and channels of distribution, 2012-14

* * * * * * *

U.S. producers sold *** to end users. ***. ***.[9] ***. *** of the remaining *** importers of Australian silicomanganese sold to *** and *** sold to ***. Nonsubject imports from all importers were *** sold to end users. Imports from Georgia were *** sold to end users, *** percent of imports from South Africa were sold to end users, and *** percent of imports from all other sources were sold to end users.[10]

GEOGRAPHIC DISTRIBUTION

U.S. producers and importers of Australian product reported selling silicomanganese in all regions in the contiguous United States (table II-2). ***.

Most U.S. producers' sales were shipped between 101 and 1,000 miles of the production facility. In aggregate, *** 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.

[9] ***.

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

Table II-2

Silicomanganese: Geographic market areas in the United States served by U.S. producers and importers of product from Australia

Region	U.S. producers	U.S. importers of Australian product
Northeast	***	5
Midwest	***	5
Southeast	***	4
Central Southwest	***	3
Mountains	***	3
Pacific Coast	***	2
Other[1]	***	0
All regions (except Other)	***	0
Reporting firms	2	7

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

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

Domestic silicomanganese capacity utilization decreased from *** percent in 2012 to *** percent in 2014.[11] The decline was the result of a *** percent decrease in production since capacity ***. This relatively low level of capacity utilization suggests that U.S. producers may have a substantial ability to increase production of silicomanganese in response to an increase in prices.

[11] Overall capacity utilization including ferromanganese was somewhat higher, ***percent in 2012 and ***percent in 2014.

Alternative markets

U.S. producers' exports, as a percentage of total shipments, decreased overall from *** percent in 2012 to *** percent in 2014. 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. 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.

Production alternatives

Felman does not produce other products on the same equipment used to produce silicomanganese. Eramet also produces ferromanganese and reported that it takes ***days to switch production and costs about ***. In 2012, Eramet switched one of its furnaces from high-carbon ferromanganese to silicomanganese production to serve its contract customers.[12]

Supply constraints

Eramet reported ***. Felman reported ***.[13] 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 product and with grade B silicomanganese from its Georgian plant.[14] ***.

Subject imports from Australia[15]

Based on available information, the 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 the existence of alternate markets and some inventories, and the ability to produce alternate products. Supply responsiveness is constrained by limited availability of unused capacity.

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[12] *Metal Bulletin*, "Eramet switches furnace to silicomanganese output," March 19, 2012.

[13] ***. Petitioner's postconference brief, p. 35.

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

[15] TEMCO is the sole Australian producer. Its exports to the United States accounted for all of U.S. imports of silicomanganese from Australia during 2012-14.

Industry capacity

TEMCO's capacity utilization increased from *** percent in 2012 to *** percent in 2014.[16] Capacity increased from 2012 to 2013, and production increased by even more in both 2013 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.

Alternative markets

The United States was TEMCO's *** market 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 increased slightly from *** percent in 2012 to *** percent in 2014. TEMCO's principal other market is ***.

Inventory levels

TEMCO's inventories, as a share of total shipments, increased from *** percent in 2012 to *** percent in 2014. These inventory levels suggest that TEMCO may have some ability to respond to changes in demand with changes in the quantity shipped from inventories.

Production alternatives

TEMCO also produces ferromanganese. TEMCO has four furnaces; two currently produce ferromanganese and two produce silicomanganese.[17] According to TEMCO, this is the optimal configuration and changing would be less efficient for overall operations and would have significant costs.[18] ***.

Supply constraints

TEMCO's silicomanganese production was shut down from February-June 2012, and was fully back online by August 2012.[19] ***.

Nonsubject imports

Imports of silicomanganese from nonsubject countries accounted for 83.1 percent of total imports during 2012-14. The largest sources of nonsubject imports were Georgia and

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

[17] In 2012, leading up to TEMCO's temporary production shutdown, it ran three furnaces producing ferromanganese and one furnace producing silicomanganese.

[18] Conference transcript, p. 80 (Anderson).

[19] In addition, in February 2012, TEMCO's related company Samancor permanently shuttered its South African silicomanganese operations. Conference transcript, pp. 77, 108 (Anderson).

South Africa. Combined, these countries accounted for 66.2 percent of total imports and 80.1 percent of nonsubject imports in 2014.

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.

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

Two of seven importers, but neither U.S. producer indicated that the market was subject to business cycles. Importer *** reported that the market was seasonally based on steel cycles and demand in end-use markets. Importer *** also reported a cycle based on steel industry demand.

Demand trends

According to both petitioner and respondents, demand for silicomanganese was fairly stable over the period of investigation, with a slight reduction from 2012 to 2013 and then an increase in 2014.[20] 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.[21] Total electric arc furnace steel production increased from 52.4 million metric tons in 2012 to 52.7 million metric

[20] Conference transcript, pp. 36 and 56 (Rochussen), p. 91 (Kaplan). According to respondents, the decline in apparent consumption in 2013 was the result of drawing down of inventories. Conference transcript, p. 91 (Kaplan).

[21] Steel Statistical Yearbook 2014, p. 33. Data not available for 2014.

tons in 2013 to 55.4 million metric tons in 2014.[22] Most firms reported that U.S. demand for silicomanganese had fluctuated or not changed since January 1, 2012 (table II-3).

Table II-3
Silicomanganese: Firms' responses regarding U.S. demand and demand outside the United States

Item	Number of firms reporting			
	Increase	No change	Decrease	Fluctuate
Demand inside the United States: U.S. producers[1]	***	***	***	***
Importers	2	3	0	6
Demand outside the United States: U.S. producers	***	***	***	***
Importers	4	2	0	3

[1] ***.

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

Most firms reported that demand outside the United States had fluctuated or increased since January 1, 2012. U.S. producer *** reported that construction activity has driven increased steel demand in China and other emerging markets while demand in the United States and in other mature economies has been stable.

Substitute products

A combination of high-carbon ferromanganese and ferrosilicon can substitute for silicomanganese. Both U.S. producers and 5 of 9 importers reported substitutes including ferromanganese and ferrosilicon. *** reported that although steel producers do not generally switch sources of manganese and silicon, some will switch if it is cost effective. Similarly, importer *** reported that depending on a particular mill's requirement, some mills will switch between products based on relative pricing. One factor limiting substitution is that some steel producers may not have the facilities to store or handle substitute materials.[23]

Neither U.S. producer but three responding importers 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 alloy use. U.S. producer *** noted that silicomanganese prices tend to track ferromanganese and ferrosilicon prices. Importers *** reported that some steel mills will switch between these products when relative prices change.

[22] U.S. Geological Survey, Mineral Commodity Summaries, January 2015, pp. 78-79.
[23] 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

U.S. producer *** reported that *** percent of its 2014 sales were from inventory with lead times of *** days. U.S. producer *** reported that *** percent of its sales were produced to order with lead times of *** days.

U.S. importers of Australian product reported that in 2014, more than *** of their sales were from U.S. inventory, with two importers reporting lead times of 5 days and one reporting 30 days.[24] The remaining *** percent were produced-to-order, with lead times averaging 60 to 90 days.

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 from Australia, U.S. producers and importers were asked whether the products can "always," "frequently," "sometimes," or "never" be used interchangeably. As shown in table II-4, U.S. producers reported that silicomanganese from all sources was *** interchangeable and importers reported that the products were always or frequently interchangeable.

Table II-4

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

Country pair	U.S. producers				U.S. importers			
	A	F	S	N	A	F	S	N
United States vs. Australia	***	***	***	***	5	5	0	0
United States vs. Other	***	***	***	***	5	5	0	0
Australia vs. Other	***	***	***	***	5	5	0	0

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

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

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

In addition, producers and importers were asked to assess how often differences other than price were significant in sales of silicomanganese from the United States, subject, or nonsubject countries. As seen in table II-5, *** U.S. producers and all but one importer reported that differences other than price were only sometimes or never significant.

Table II-5

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

Country pair	U.S. producers				U.S. importers			
	A	F	S	N	A	F	S	N
United States vs. Australia	***	***	***	***	0	1	5	4
United States vs. Other	***	***	***	***	0	1	5	4
Australia vs. Other	***	***	***	***	0	1	5	4

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

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

Only importer *** provided further comments regarding interchangeability and differences other than price. It reported that products are generally interchangeable if ***.[25] It also reported that some steel mills may not accept***. Respondents stated that although silicomanganese is a commodity product and price is an important factor in purchasing decisions, availability and reliability are also important factors.[26]

[25] ***.

[26] Respondent's postconference brief, p. 6.

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 margins 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 2012-14.

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 the period of investigation.

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, their positions on the petition, production locations, and shares of reported production, 2012-14

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

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

Eramet is located in Marietta, Ohio and is wholly-owned by Eramet Holding Manganese of France. Prior to July 1999, the Marietta, Ohio, facility was operated by Elkem Metals Co. In July 1999, Eramet SA of France purchased the production facility in Marietta, Ohio, which included all of Elkem Metals Co.'s silicomanganese assets, from Elkem S/A, and created the U.S. company Eramet Marietta, Inc.

From 2002 to 2005, Highlander Alloys, LLC ("Highlander"), attempted to produce silicomanganese at a silicon and silicon alloy facility in Letart, West Virginia, but was beset by a number of problems ranging from financial woes, service cutoffs, strikes by unpaid workers, and production difficulties resulting in only sporadic production of silicomanganese. In January 2006, Felman purchased the silicomanganese assets out of Highlander's bankruptcy proceedings. In *** 2012, Felman became a direct subsidiary of GAA.

U.S. producers are related to foreign producers and/or U.S. importers of silicomanganese. Eramet is related to Eramet Norway, Comilog Dunkerque (France), and Guilin Comilog Ferroalloy Co., Ltd. (China), foreign producers of silicomanganese.[1] Through its parent company GAA, Felman is related to Felman Trading, a U.S. importer of silicomanganese, and Georgian Manganese, a foreign producer and exporter of silicomanganese.[2] In addition, as discussed in greater detail below, ***.[3]

In the Commission's questionnaire, U.S. producers were asked if they had experienced any plant openings, plant closings, relocations, expansions, acquisitions, consolidations, prolonged shutdowns or production curtailments, or revised labor agreements since January 1, 2012. Table III-2 summarizes the responses regarding reported industry changes.

Table III-2
Silicomanganese: U.S. producers' changes in operations since 2012

* * * * * * *

U.S. PRODUCTION, CAPACITY, AND CAPACITY UTILIZATION

Table III-3 and figure III-1 present U.S. producers' production, capacity, and capacity utilization. Total annual capacity to produce silicomanganese in the United States decreased by *** percent in 2013 and 2014 when compared to 2012. Production also decreased during each year, and decreased by *** percent during 2012-14. Capacity utilization fell from *** percent in 2012 to *** percent in 2014.

The decrease in capacity in 2013 and 2014 when compared to 2012 is due to ***. Although capacity was unchanged in 2013 and 2014, Felman idled its production of silicomanganese beginning in June 2013, reportedly due to deteriorating market conditions.[4] During this production idle, Felman conducted planned maintenance, which typically takes one to two weeks, one furnace at a time over a period of several months (***).[5] All three of Felman's furnaces (***) were simultaneously idle for a full year (***).[6] Felman restarted two of

[1] Eramet's questionnaire response and Eramet website, http://www.eramet.com/en/about/our-organization/our-subsidiaries, accessed March 20, 2015.

[2] Conference transcript, p. 48 (Nuss). ***. Correspondence, ***, March 16, 2015.

[3] Questionnaire responses of Eramet and Felman.

[4] Conference transcript, p. 8 (Getlan).

[5] GA Alloys announcement, May 17, 2013. http://gaalloys.com/index.php/news/34-news/press-releases/101-fp-cost-reduction, found in exh. 8 of respondents' post-conference brief; and e-mail *** from ***, March 26, 2015.

[6] Conference transcript, p. 54 (Nuss) and Felman's questionnaire response. Felman argues that ***. E-mail from ***, March 16, 2015.

its furnaces (***) in July 2014 due to modest price improvements and reduced costs resulting from a negotiation of its electricity contract. The third furnace (***) remains idle.[7] [8]

Producers were asked to describe the constraints that set the limits on their production capacity. *** reported furnace capacity as a constraint, while *** reported furnace maintenance as a constraint, affecting *** percent of total furnace capacity.[9] As mentioned above, annual scheduled maintenance typically takes one to two weeks, per furnace.[10]

Table III-3
Silicomanganese: U.S. producers' production, capacity, and capacity utilization, 2012-14

* * * * * * *

Figure III-1
Silicomanganese: U.S. producers' capacity, production, and capacity utilization, 2012-14

* * * * * * *

Alternative products

Domestic producers were asked to provide data on the overall capacity and production in their silicomanganese facilities, by type of item produced. Eramet was the only producer to report using the same equipment and/or employees to produce both silicomanganese and ferromanganese. Eramet operates *** electric-arc furnaces (***) that were used to produce silicomanganese and ferromanganese over the period. In 2012, Eramet switched one of its furnaces (***) from high-carbon ferromanganese to silicomanganese production to serve its contract customers.[11] However, in 2013 and 2014, Eramet ***.[12] In its questionnaire response, Eramet reported that switching production from silicomanganese to ferromanganese requires *** and costs are estimated to be $***.

As detailed in table III-4, production of silicomanganese accounted for *** percent of overall facility production in 2014, compared with *** percent in 2012. The lower capacity in 2013 and 2014 as compared to 2012 is due to ***.

---

[7] Conference transcript, pp. 30, 53-54 (Nuss); and petitioner's post-conference brief, p. 3. Idled furnaces typically take one week to come back online. Ibid.

[8] In addition, one of the furnaces (***) was idled in February 2015 to undergo environmental upgrades over a period of 10 weeks. American Metal Market, "Felman temporarily shuts down W. Virginia EF," February 25, 2015, found in exh. 6 of respondents' post-conference brief; e-mail *** from ***, March 26, 2015; and e-mail from ***, March 27, 2015.

[9] Questionnaire responses of Eramet and Felman.

[10] Conference transcript, p. 55 (Nuss).

[11] *Metal Bulletin*, "Eramet switches furnace to silicomanganese output," March 19, 2012 (exh. 9 of respondents' post-conference brief).

[12] E-mail from ***, March 13, 2015.

Table III-4
Silicomanganese: U.S. producers' overall capacity and production, 2012-14

* * * * * * *

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

Table III-5 presents U.S. producers' U.S. shipments, export shipments, and total shipments. *** U.S. producers reported internal consumption or transfers of silicomanganese to related firms in the United States. U.S. producers' U.S. shipments accounted for *** of total shipments (*** percent based on quantity in 2014). The quantity of U.S. producers' U.S. shipments of silicomanganese decreased by *** percent from *** short tons in 2012 to *** short tons in 2014. The average unit value of U.S. shipments decreased by *** percent from 2012 to 2013, but increased by *** percent in 2014, with an overall decrease of *** percent from 2012 to 2014. *** reported exports of silicomanganese, and ranged between *** percent and *** percent of total shipments, by quantity, during 2012-14. *** export destinations were ***, while ***.

Table III-5
Silicomanganese: U.S. producers' U.S. shipments, exports shipments, and total shipments, 2012-14

* * * * * * *

U.S. PRODUCERS' INVENTORIES

Table III-6 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 over the period examined. Inventories fluctuated over the period examined, but were *** in 2014 relative to 2012 or 2013. Inventory trends were driven by ***. Felman reported that it satisfied contracts during this period of curtailed production with product from its "significant inventory," ***.[13] ***.[14]

Table III-6
Silicomanganese: U.S. producers' inventories, 2012-14

* * * * * * *

[13] Petitioner's post-conference brief, p. 27.
[14] E-mail *** from ***, March 26, 2015.

U.S. PRODUCERS' IMPORTS AND PURCHASES

***. However, U.S. importer Felman Trading, which is related to U.S. producer Felman and is the sales arm for parent company GAA,[15] ***.[16] In addition, ***.[17] Felman Trading also ***.[18]

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

In 2012, Felman employed approximately 250 workers dedicated to the production of silicomanganese, while Eramet employed 200 workers allocated between the production of silicomanganese and ferromanganese.[19] Felman testified that, pursuant to the curtailment of production, it experienced a 75 percent reduction in its workforce during the period examined, as a result of "low-priced imports" from Australia in increasing volumes.[20] In addition, ***.

Table III-7 shows U.S. producers' employment-related data during the period examined. In the aggregate, U.S. producers reported a decrease in production-related workers ("PRWs"), total hours worked, total wages paid, and productivity from 2012 to 2014. However, hours worked per PRW, hourly wages, and unit labor costs increased during the same period. The number of PRWs decreased by *** percent from 2012 to 2013, and decreased by *** percent from 2013 to 2014, resulting in an overall decrease of *** percent during 2012-14. Total hours worked by PRWs, wages paid, and productivity exhibited the same trends as the number of PRWs. Unit labor costs peaked in 2013 and were $*** higher in 2014 compared to 2012.

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

* * * * * * *

[15] Felman Trading is the sales arm of GAA and handles all third-party sales of silicomanganese produced by U.S. producer Felman.

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

[17] ***. Felman Trading imported from a related producer in Georgia ***. Conference transcript, pp. 16-17 (Levy) and questionnaire responses of Eramet and Felman.

[18] Questionnaire response of ***

[19] Conference transcript, pp. 29 (Nuss) and 32 (Rochussen).

[20] Conference transcript, pp. 29-30 (Nuss).

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

U.S. IMPORTERS

The Commission issued importer questionnaires to 16 firms believed to be importers of subject silicomanganese, as well as to all U.S. producers of silicomanganese.[1] Usable questionnaire responses were received from ten firms, representing all U.S. imports from Australia during 2012-14 under HTS statistical reporting number 7202.30.0000, a "basket" category.[2] Import data presented in this section of the report are for official import statistics, adjusted to exclude entries of out-of-scope merchandise as reported in importers' questionnaire responses.[3] Table IV-1 lists all responding U.S. importers of silicomanganese from Australia, Georgia, South Africa, and other sources, their locations, and their shares of U.S. imports, during 2012-14.[4]

As shown in table IV-1, *** firms reported importing silicomanganese from Australia. *** firms, ***, combined, accounted for *** percent of all imports from Australia during 2012-14. BHP Billiton is related to the sole Australian silicomanganese producer, TEMCO. BHP Billiton historically acted as the importer of record of TEMCO products, but started transitioning from this role in July 2012,[5] and ceased being the importer of record in July 2014.[6] DJJ, wholly owned

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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 U.S. Customs and Border Protection ("Customs"), may have accounted for more than one percent of total imports under HTS statistical reporting number 7202.30.0000 during 2012-14.

[2] Out-of-scope merchandise low-carbon silicomanganese is also classifiable under HTSUS subheading 7202.30.000.

[3] Importers were requested to report in their questionnaire responses the quantity and value of their imports of low-carbon silicomanganese and any other out-of-scope merchandise. *** importers, ***, reported and confirmed entries of out-of-scope merchandise under HTSUS subheading 7202.30.000 from nonsubject sources. Petitioner believes that all imports from Norway are for out-of-scope merchandise low-carbon silicomanganese and accordingly should be excluded from the import data. Petitioner's postconference brief, Part II-Answers to Commission Staff Questions. ***. E-mail from ***, March 19, 2015. Thus, ***. Additionally, respondents believe that imports of out-of-scope merchandise *** Respondent's postconference brief, Responses to questions from the Commission Staff, p. 6. ***. E-mail from ***, March 19, 2015 and E-mail from ***, March 18, 2015. In sum, the only adjustment made to official import statistics is based on questionnaire response data for imports of out-of-scope imports entered under HTSUS subheading 7202.30.000.

[4] Questionnaire response data for 2012-14 accounts for *** percent of total imports, *** percent of imports from Georgia, *** percent of imports from South Africa, and *** percent of imports from all other sources. Based on confidential import data, ***, accounts for virtually all of the unaccounted imports. ***. ***. E-mail from ***, March 9, 2015. ***. Staff telephone interview with ***, March 9, 2015.

[5] Conference transcript, pp. 86-87 (Kylander).

[6] Conference transcript, p. 105 (Chinoy).

by U.S. steel producer Nucor,[7] began acting as an importer of record for Australian silicomanganese in ***.[8]

Table IV-1
Silicomanganese: U.S. importers by source, 2012-14

Firm	Headquarters	Share of imports by source (percent)			
		Australia	Georgia	South Africa	All other sources
BHPBilliton[1]	Houston, TX	***	***	***	***
CCMA[2]	Amherst, NY	***	***	***	***
DJJ[3]	Cincinnati, OH	***	***	***	***
Eramet[4]	Marietta, OH	***	***	***	***
Felman Trading[5]	Miami, FL	***	***	***	***
Glencore[6]	Stamford, CT	***	***	***	***
Medima	Clarence, NY	***	***	***	***
Minerais[7]	Hillsborough, NJ	***	***	***	***
Nizi International[8]	Akron , OH	***	***	***	***
ProFound Alloys	McMurray, PA	***	***	***	***
Total		***	***	***	***

[1] BHP Billiton is owned by BHP Holdings (Resources) Inc., U.S.A. BHP Billiton owns in a 60/40 joint venture with Anglo American Australian producer TEMCO.
[2] ***
[3] DJJ is owned by Nucor Corporation, U.S.A.
[4] Eramet is owned by Eramet Holding Manganese, France.
[5] Felman Trading is owned by Georgian American Alloys, U.S.A.
[6] ***
[7] ***
[8] ***

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

[7] ***. DJJ importers' questionnaire response, Narrative Answer to Importer Questionnaire attachment, p. 1.
[8] E-mail from Robert DeFrancesco, Wiley Rein LLP, Counsel to DJJ, March 24, 2015.

U.S. IMPORTS

Table IV-2 presents data for U.S. imports of silicomanganese from Australia, nonsubject import sources Georgia and South Africa, and all other sources. U.S. imports of silicomanganese are largely controlled by multinational firms with silicomanganese production operations in the United States and other countries.[9]

The total quantity of imports of silicomanganese decreased from 2012 to 2013 by 6.0 percent, but increased by 37.8 percent from 2013 to 2014, resulting in an overall increase of 29.6 percent from 2012 to 2014. Imports from Australia increased by 185.5 percent from 2012 to 2013, and then decreased by 6.1 percent from 2013 to 2014, resulting in an overall increase of 168.2 percent from 2012 to 2014. In 2012, imports from Australia accounted for 8.4 percent of total imports, in 2013 they accounted for 25.4 percent, and in 2014 they accounted for 17.3 percent. Petitioner Felman argues that the increase of imports from Australia from 2012 to 2013 are a result of TEMCO restarting its plant in early 2013 and "buying U.S. market share at dumped prices."[10]

Georgia accounted for the largest quantity of imported silicomanganese during each year of the period of investigation. Imports of silicomanganese from Georgia decreased by 6.9 percent from 2012 to 2013, but increased by 36.2 percent from 2013 to 2014, resulting in an overall increase of 26.8 percent during 2012-14.

South Africa was the second largest source of imported silicomanganese in 2012 and 2014 (in 2013 South Africa was the third largest source of imported silicomanganese). Imports of silicomanganese from South Africa decreased by 48.4 percent from 2012 to 2013, but increased by 122.4 percent from 2013 to 2014, resulting in an overall increase of 14.8 percent during 2012-14. Imports from Georgia and South Africa combined accounted for 96.3 percent of the overall increase in imports from 2013 to 2014.

[9] Respondents argue that the global sourcing and profit-maximizing behavior of Felman, Eramet, and BHP Billiton and their related entities needs to be considered to understand import trends, among other conditions of competition. Respondents' postconference brief, p. 8.

[10] Petitioner's postconference brief, p. 3.

Table IV-2
Silicomanganese: U.S. imports by source, 2012-14

Item	Calendar year		
	2012	2013	2014
	Quantity (short tons)		
U.S. imports from.--			
Australia	29,083	83,045	78,014
Georgia	125,151	116,504	158,731
South Africa	121,436	62,673	139,359
All other sources	71,607	64,328	73,954
Nonsubject sources	318,193	243,505	372,044
All sources	347,277	326,550	450,058
	Value (1,000 dollars)		
U.S. imports from.--			
Australia	30,436	75,203	78,611
Georgia	127,434	109,582	158,076
South Africa	135,736	61,814	139,350
All other sources	89,533	62,031	71,371
Nonsubject sources	352,704	233,427	368,797
All sources	383,139	308,630	447,408
	Unit value (dollars per short ton)		
U.S. imports from.--			
Australia	1,046	906	1,008
Georgia	1,018	941	996
South Africa	1,118	986	1,000
All other sources	1,250	964	965
Nonsubject sources	1,108	959	991
All sources	1,103	945	994

Source: Official import statistics of the U.S. Department of Commerce using HTS statistical reporting number 7202.30.000, with adjustments based on data submitted in response to Commission questionnaires.

Table IV-2--*Continued*
Silicomanganese: U.S. imports by source, 2012-14

Item	Calendar year		
	2012	2013	2014
	Share of quantity (percent)		
U.S. imports from.--			
Australia	8.4	25.4	17.3
Georgia	36.0	35.7	35.3
South Africa	35.0	19.2	31.0
All other sources	20.6	19.7	16.4
Nonsubject sources	91.6	74.6	82.7
All sources	100.0	100.0	100.0
	Share of value (percent)		
U.S. imports from.--			
Australia	7.9	24.4	17.6
Georgia	33.3	35.5	35.3
South Africa	35.4	20.0	31.1
All other sources	23.4	20.1	16.0
Nonsubject sources	92.1	75.6	82.4
All sources	100.0	100.0	100.0
	Ratio to production (percent)		
U.S. imports from.--			
Australia	18.5	91.8	121.8
Georgia	79.6	128.7	247.8
South Africa	77.3	69.3	217.5
All other sources	45.6	71.1	115.4
Nonsubject sources	202.5	269.1	580.7
All sources	221.0	360.9	702.5

Source: Official import statistics of the U.S. Department of Commerce using HTS statistical reporting number 7202.30.000, with adjustments based on data submitted in response to Commission questionnaires.

BHP Billiton imported silicomanganese from its related South African and Australian producers, ***.[11] BHP Billiton owns in a 60/40 joint venture with Anglo American Australian producer TEMCO and Samancor Manganese (Proprietary) Limited ("Samancor"). Samancor is a South African firm that historically produced silicomanganese.[12] Samancor permanently ceased producing silicomanganese in February 2012.[13] The facility used to produce silicomanganese was demolished in 2012, and production equipment was scrapped.[14] Respondents argue that BHP Billiton's imports from Australia replaced a portion of its imports from South Africa, and

[11] ***. BHP Billiton's importer's questionnaire response, II-11.
[12] Respondents' postconference brief, p. 8, fn 3 and p. 16.
[13] Respondents' postconference brief, p. 17, citing conference transcript, p. 76 (Anderson).
[14] Conference transcript, p. 76 (Anderson).

that BHP Billiton's exports to the United States have never reached the total volume of the combined exports from Australia and South Africa prior to 2012.[15] [16]

Petitioner Felman (U.S. producer) and Felman Trading (importer) are related through common ownership to Georgian silicomanganese producer Georgian Manganese, LLC ("Georgian Manganese").[17] Felman Trading acts as the selling arm for sales to third parties for Felman Production product and Georgian origin product.[18] Respondents argue that GAA balanced its global silicomanganese operations by shutting down the allegedly relatively inefficient Felman West Virginia facility during July 2013 – June 2014, and by supplying the U.S. market with Georgian silicomanganese. Respondents also allege that Eramet, which is owned by Eramet Holding Manganese, and is related to foreign silicomanganese producers in China, France, Gabon, and Norway, switched its domestic ferroalloy production product mix, resulting in fewer imports from Norway.[19]

[15] Respondents' postconference brief, p. 17. BHP Billiton provided its 2011 imports volume to demonstrate its presence of imports in the United States when it was sourcing silicomanganese from Australia and South Africa. In 2011, BHP Billiton imported a total of *** short tons of silicomanganese from Australia and South Africa combined. Respondents' postconference brief, p. 17. Annual import data for entries from Australia and South Africa reported by BHP Billiton ***. Importers' questionnaire responses of BHP Billiton, II-5 and II-9, ***.

[16] Respondents also claim that BHP Billiton's imports from Australia, even if ***, "have never exceeded BHP Billiton's combined imports from South Africa and Australia "at the start of the POI." Respondents' postconference brief, p. 21. This claim is based on using *** as the basis for comparison. Staff telephone interview with ***, March 21, 2015. Table IV-3 shows monthly imports of silicomangaese, by source, for January 2012-December 2014.

[17] ***. E-mail from ***, March 20, 2015.

[18] Conference transcript, p. 48 (Nuss).

[19] Respondents' postconference brief, p. 12.

Table IV-3
Silicomanganese: U.S. monthly imports by source, January 2012 – December 2014

Month	Australia	Georgia	South Africa	All other sources	Total
	Quantity (short tons)				
2012 -- January	0	0	11,767	8,020	19,787
February	2,062	17,329	4,426	2,326	26,143
March	1,170	0	16,666	9,129	26,965
April	1,612	25,124	13,730	9,067	49,534
May	5,366	2,441	6,338	15,026	29,172
June	337	24,334	0	7,163	31,834
July	0	1,865	16,258	18,952	37,075
August	0	23,934	17,087	9,671	50,692
September	0	12,698	14,220	7,330	34,248
October	0	4,216	2,205	7,841	14,262
November	5,739	11,679	13,228	6,466	37,111
December	12,798	1,531	5,512	6,527	26,368
Total	29,083	125,151	121,436	107,520	383,190
2013 -- January	0	13,174	3,307	10,010	26,491
February	10,156	23,531	2,265	11,685	47,637
March	8,347	4,832	16,555	3,265	32,999
April	3,248	19,032	5,553	7,467	35,301
May	5,861	1,410	8,289	9,317	24,878
June	11,262	14,222	21	13,494	38,999
July	8,609	431	1,400	4,468	14,907
August	0	13,538	7,000	6,754	27,291
September	8,313	10,231	2,756	551	21,851
October	5,513	912	11,229	9,224	26,877
November	17,433	14,330	2,881	13,507	48,151
December	4,303	861	1,418	10,551	17,132
Total	83,045	116,504	62,673	100,292	362,514

Table continued on next page.

Table IV-3--*Continued*
Silicomanganese: U.S. monthly imports by source, January 2012 – December 2014

Month	Australia	Georgia	South Africa	All other sources	Total
	Quantity (short tons)				
2014 -- January	11,259	1,244	11,159	11,364	35,026
February	1,439	15,632	15,513	5,877	38,461
March	7,177	19,486	1,459	6,232	34,355
April	8,272	16,311	12,940	11,947	49,471
May	7,175	15,870	16,755	22,153	61,953
June	10,032	14,048	9,703	11,155	44,939
July	8,274	13,661	5,611	3,191	30,737
August	8,608	9,056	26,591	14,994	59,249
September	0	10,248	1,767	7,780	19,794
October	7,171	11,774	11,885	1,321	32,152
November	0	18,966	25,932	5,515	50,413
December	8,605	12,435	44	12,148	33,233
Total	78,014	158,731	139,359	113,678	489,782

Source: Official import statistics of the U.S. Department of Commerce using HTS statistical reporting number 7202.30.000.

NEGLIGIBILITY

The statute requires that an investigation be terminated without an injury determination if imports of the subject merchandise are found to be negligible.[20] 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. Imports from Australia accounted for 14.9 percent of total imports of silicomanganese by quantity during February 2014-January 2015.

[20] 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)).

APPARENT U.S. CONSUMPTION AND U.S. MARKET SHARES

Table IV-4 presents data on apparent U.S. consumption and U.S. market shares for silicomanganese. Apparent consumption data are based on U.S. producers' shipment data and official import statistics, adjusted to exclude out-of-scope merchandise reported in importers' questionnaire responses.[21] The quantity of apparent consumption decreased by *** percent (*** short tons) from 2012 to 2013, but then increased by *** percent (*** short tons) from 2013 to 2014, resulting in an overall decrease of *** percent (*** short tons) from 2012 to 2014.[22] The decline in apparent consumption from 2012 to 2013 is partially explained by importers' ending inventory decrease of *** short tons (*** percent) during this period. Likewise, the increase in apparent consumption from 2013 to 2014 is largely reflected in importers' ending inventories increase of *** short tons (*** percent).

U.S. producers' market share declined during 2012-14. In 2012, U.S. producers' market share was *** percent, in 2013 it was *** percent, and in 2014 *** percent, based on quantity. The decline in U.S. producers' market share reflects Felman's decline in shipments due to its shutdown starting in June 2013. Total imports' market share increased during 2012-14, from *** percent in 2012 to *** percent in 2013 and *** percent in 2014, based on quantity. Market share for imports from Australia increased from *** percent in 2012 to *** percent in 2013 but declined to *** percent in 2014. Market share for nonsubject imports decreased from *** percent in 2012 to *** percent in 2013, but increased to *** percent in 2014.

[21] Petitioner relies on importers' shipments reported in questionnaire response data for apparent domestic consumption (*see* petitioner's postconference brief, table 3, p. 17). Petitioner, however, notes that ***. Petitioner's postconference brief, Part II-Answers to Commission Staff Questions. Furthermore, as noted in footnote 4 earlier in Part IV, importer ***, did not provide a questionnaire response. Accordingly, questionnaire response import data is incomplete, understating import and shipment quantities and affecting market shares and trend analysis. For this reason, staff relies on adjusted official Commerce statistics for the purpose of reporting apparent consumption and market shares.

[22] Respondents' characterize "U.S. demand" for silicomanganese as being "largely stable" during 2012-14 and that any dip in apparent consumption in 2013 is due to the consumption of inventories and stocks remaining in 2012. Respondents' postconference brief, p. 7.

Table IV-4
Silicomanganese: U.S. shipments of domestic product, U.S. imports, apparent U.S. consumption, and market shares, 2012-14

Item	Calendar year		
	2012	2013	2014
	Quantity (short tons)		
U.S. producers' U.S. shipments	***	***	***
U.S. imports from.--			
Australia	29,083	83,045	78,014
Georgia	125,151	116,504	158,731
South Africa	121,436	62,673	139,359
All other sources	71,607	64,328	73,954
Nonsubject sources	318,193	243,505	372,044
All import sources	347,277	326,550	450,058
Apparent U.S. consumption	***	***	***
	Value (1,000 dollars)		
U.S. producers' U.S. shipments	***	***	***
U.S. imports from.--			
Australia	30,436	75,203	78,611
Georgia	127,434	109,582	158,076
South Africa	135,736	61,814	139,350
All other sources	89,533	62,031	71,371
Nonsubject sources	352,704	233,427	368,797
All import sources	383,139	308,630	447,408
Apparent U.S. consumption	***	***	***

Table continued on next page.

Table IV-4--*Continued*
Silicomanganese: U.S. shipments of domestic product, U.S. imports, apparent U.S. consumption, and market shares, 2012-14

Item	Calendar year		
	2012	2013	2014
	Share of quantity (percent)		
U.S. producers' U.S. shipments	***	***	***
U.S. imports from.--			
Australia	5.8	19.8	15.8
Georgia	24.9	27.7	32.2
South Africa	24.1	14.9	28.2
All other sources	14.2	15.3	15.0
Nonsubject sources	63.3	57.9	75.4
All import sources	***	***	***
	Share of value (percent)		
U.S. producers' U.S. shipments	***	***	***
U.S. imports from.--			
Australia	5.4	19.0	16.0
Georgia	22.7	27.7	32.1
South Africa	24.2	15.6	28.3
All other sources	16.0	15.7	14.5
Nonsubject sources	62.9	59.0	74.8
All import sources	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires and official Commerce statistics using HTS statistical reporting number 7202.30.000, with adjustments based on data submitted in response to Commission questionnaires.

PART V: PRICING DATA

FACTORS AFFECTING PRICES

Raw material costs

U.S. producers' aggregate 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' aggregate 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 manganese, silicon, and coke. 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 by mid-2014 (figure V-1). Prices dipped slightly lower in early 2015. Electricity is also a major cost of production.[3] Electricity prices increased slightly, by 3.3 percent, from January 2012 to December 2014 (figure V-2).[4]

U.S. producers and most importers reported that raw material prices fluctuated during 2012-14. U.S. producer ***reported that manganese ore prices fluctuated during 2012-14, while silicon prices increased from 2012 to 2014. Importer *** reported that manganese ore prices have declined since April 2014.

U.S. inland transportation costs

Both responding U.S. producers[5] and 8 of 9 importers reported that they typically arrange transportation to their customers. U.S. producers reported that their U.S. inland transportation costs ranged from *** percent while importers generally reported costs of 3 to 4 percent.[6]

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[1] ***.

[2] Petition, p. 9. Eramet produces both ferromanganese and silicomanganese.

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

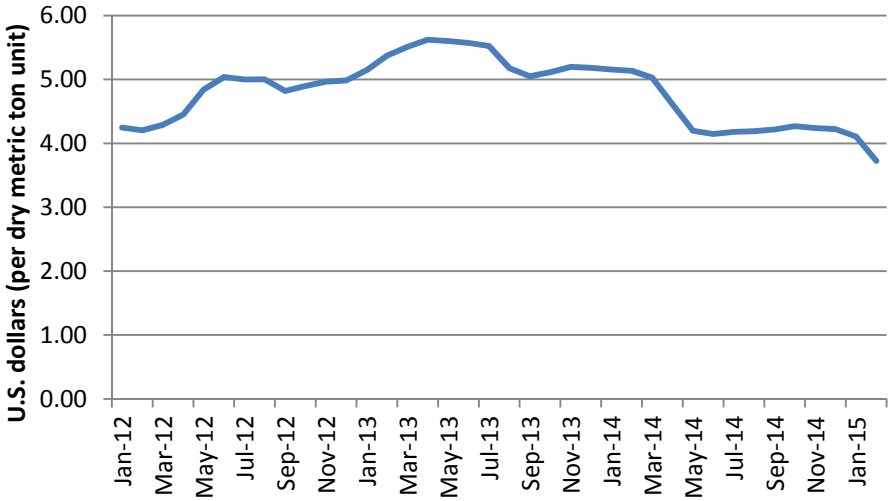
[4] Felman negotiated a special electricity rate in mid-2014. "Felman looks to restart output at end of July," *American Metal Market*, July 1, 2014.

[5] As noted earlier in the report, Felman Trading markets and sells silicomanganese produced by U. S. producer Felman and silicomanganese that it (Felman Trading) imports.

[6] ***.

Figure V-1

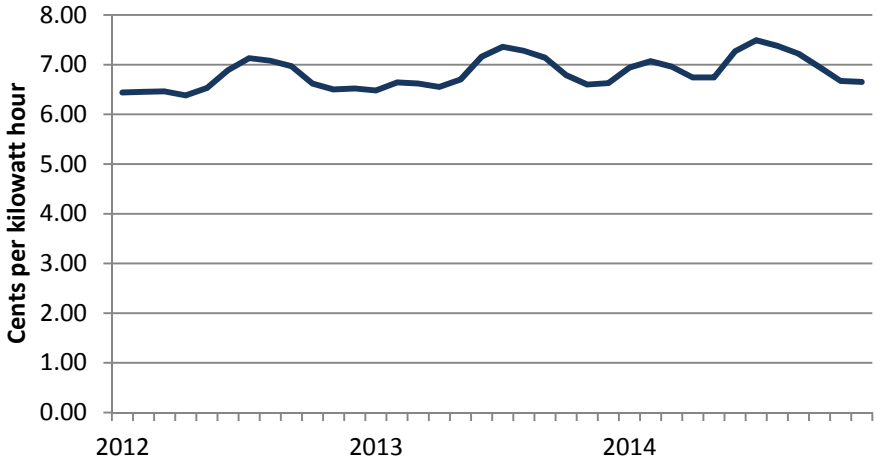
Manganese ore: Monthly average prices of manganese ore with 44 percent manganese content, CIF Tianjin, China, January 2012-February 2015



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

Figure V-2

Industrial electricity: Monthly average U.S. prices, January 2012-December 2014



Source: Short Term Energy Outlook, Energy Information Administration, www.eia.gov, March 17, 2015.

PRICING PRACTICES

Pricing methods

Silicomanganese spot prices are published in publications such as Ryan's Notes, Platt's Metal Week, and American Metal Market.[7] Ryan's Notes publishes prices twice per week based on spot sales transactions.[8] [9] For their purchases of silicomanganese, steel producers use a bidding process for quarterly, semi-annual or annual bids, and seek bids from multiple suppliers.[10]

U.S. producers and importers reported using both transaction-by-transaction negotiations and contracts (table V-1). U.S. producers and importers of Australian product reported selling mainly on a contract basis, although U.S. producers reported a higher percentage of long-term contracts compared to subject importers (table V-2).[11]

Table V-1

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

Method	U.S. producers	U.S. importers
Transaction-by-transaction	***	10
Contract	***	7
Set price list	***	0
Other	***	2

[1] The sum of responses down may not add up to the total number of responding firms as each firm was instructed to check all applicable price setting methods employed.

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

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[7] Petitioner's postconference brief, p. 1. Conference transcript, p. 35 (Rochussen).

[8] Ryan's Notes published prices are for spot sales of bulk silicomanganese reported by sellers to buyers (no inter-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.

[9] ***.

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

[11] ***.

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

* * * * * * *

For sales to the large steelmakers, producers and importers, including BHP Billiton, tie contract prices to Ryan's Notes low prices or prices in other publications, while short-term contracts may be a fixed price.[12] The majority of Felman's sales are under contracts with prices indexed to low prices published in Ryan's Notes; it also sells on the spot market.[13] Contract discounts from published prices may be on a steel company wide basis or an individual mill basis due to differing logistics.[14]

Sales terms and discounts

Both U.S. producers and all responding importers reported quoting prices on a delivered basis.[15] ***. Seven of 10 responding importers reported no discounts, one reported quantity discounts, and two reported other discounts. Other discounts reported were ***.

Both U.S. producers and all seven responding importers reported sales terms of net 30 days.[16] ***. One importer also reported terms of 2/10 net 30 and three importers also reported other terms.

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 2012-14.

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[12] Conference transcript, p. 67 (Roch, Nuss, Levy), p. 83 (Anderson). The vast majority of BHP Billiton's sales are through longer-term contracts tied to indices, not spot sales. Conference transcript, p. 83 (Anderson).

[13] Petition, p. 21, Conference transcript, p. 27-28 (Nuss).

[14] Conference transcript, p. 68 (Levy and Nuss).

[15] One importer quotes prices both f.o.b. and delivered.

[16] BHP Billiton 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 c.i.f. basis to U.S. importers. It reported that in doing so, it shifted costs and risk to its customers, and lost some customers. It reported that sales to distributors are priced lower since the importer carries inventory and pays warehousing and storage costs. BHP Billiton 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).

Product 1.-- ASTM grade B bulk silicomanganese sold to steel producers under quarterly requirement contracts.

Product 2.-- ASTM grade B bulk silicomanganese sold to steel producers as spot sales.

Both U.S. producers and six 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.[17] Pricing data reported by these firms accounted for approximately 98.6 percent of U.S. producers' commercial shipments of silicomanganese and 64.8 percent of U.S. commercial shipments of subject imports from Australia in 2012-14.[18]

Price data for products 1 and 2 are presented in tables V-3 to V-4 and figures V-3 and V-4.[19] Nonsubject country price data are presented in Appendix D.

Table V-3

Silicomanganese: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 and margins of underselling/(overselling), by quarters, 2012-14

* * * * * * *

Table V-4

Silicomanganese: Weighted-average f.o.b. prices and quantities of domestic and imported product 2 and margins of underselling/(overselling), by quarters, 2012-14

* * * * * * *

Figure V-3

Silicomanganese: Weighted-average prices and quantities of domestic and imported product 1, by quarters, 2012-14

* * * * * * *

[17] 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.

[18] Australia pricing coverage was ***percent in 2012, *** percent in 2013, and *** percent in 2014. Seven firms reported importing Australian product during 2012-14. Five of these importers reported pricing data accounting for 100 percent of their commercial U.S. shipments. A sixth importer, ***. ***.

[19] Imports of Australian product do not meet grade B standards specified in the pricing product descriptions. However, there is no price discount or premium for Australian product. Conference transcript, p. 122 (Kylander). Importers were instructed to provide data for Australian silicomanganese that did not meet grade B standards, and these data are included in the pricing data presented.

Figure V-4

Silicomanganese: Weighted-average prices and quantities of domestic and imported product 2, by quarters, 2012-14

* * * * * * *

Price trends

As shown in figure V-3, U.S. producers' contract prices to steel producers (product 1) increased from first quarter 2012 to second quarter 2012 then declined until first quarter 2013 and increased slightly in 2014. The quantities of spot sales (product 2) reported by U.S. producers and importers of Australian product were much smaller than that of contract sales. U.S. producers' spot sales prices declined from first quarter 2012 to fourth quarter 2013, increased in the first quarter 2014 then declined over the next three quarters.

Table V-5 summarizes the price trends, by country and by product. As shown in the table, domestic contract prices (product 1) increased by *** percent during 2012-14 while import contract prices increased by *** percent. Domestic spot prices (product 2) decreased by *** percent. Spot sales of subject imports were reported only 6 of the 12 quarters, from second quarter 2013 to third quarter 2014.

Table V-5

Silicomanganese: Summary of weighted-average f.o.b. prices for products 1-2 from the United States and Australia

* * * * * * *

As shown in figure V-6, silicomanganese prices published by American Metal Market increased by 40 percent over the first 3 months of 2012 then declined back to January 2012 levels by January 2013. Prices declined slightly in the latter half of 2013 and then increased somewhat in 2014. Parties attribute the price increase in early 2012 to the TEMCO (Australia) and Samancor (South Africa) plant closures.[20]

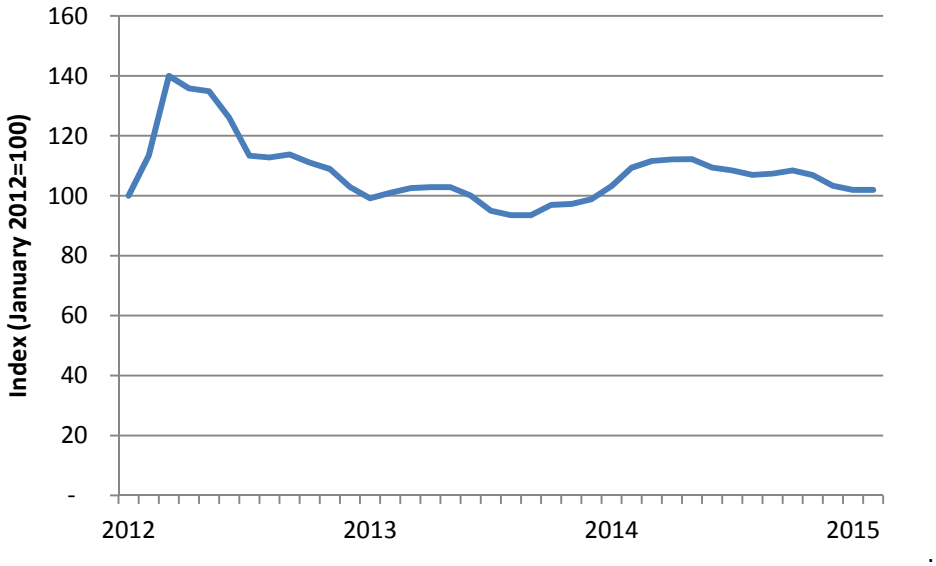
Price comparisons

As shown in table V-6, prices for silicomanganese imported from Australia were below those for U.S.-produced product in 2 of 18 instances (*** short tons); margins of underselling ranged from 0.6 to 23.8 percent. In the remaining 16 instances (*** short tons), prices for silicomanganese from Australia were between 3.0 and 25.5 percent above prices for the domestic product.

[20] Conference transcript, p. 64 (Levy), p. 77 (Anderson), pp. 129-20 (Kylander).

Figure V-6

Silicomanganese: Index of monthly average U.S. prices, 2012-14



Source: *American Metal Market*, March 8, 2015.

Table V-6

Silicomanganese: Instances of underselling/overselling and the range and average of margins, 2012-14

Source	Underselling				
	Number of quarters	Quantity (short tons)[1]	Average margin (percent)	Margin Range (percent)	
				Min	Max
Australia	2	***	12.2	0.6	23.8
Source	(Overselling)				
	Number of quarters	Quantity (short tons)[1]	Average margin (percent)	Margin Range (percent)	
				Min	Max
Australia	16	***	(12.7)	(3.0)	(25.5)

[1] These data include only quarters in which there is a comparison between the U.S. and subject product.

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

LOST SALES AND LOST REVENUE

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 V-7).[21] ***U.S. producers also reported that they had to reduce prices, and provided *** lost revenue allegations totaling $***and involving *** short tons of silicomanganese.[22]

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 V-8). Over half of responding purchasers provided comments regarding the allegations and/or additional questions; their comments appear after the tables.[23]

Table V-7
Silicomanganese: U.S. producers' lost sales allegations

* * * * * * *

Table V-8
Silicomanganese: Purchasers' responses regarding shifting supply and price reductions

* * * * * * *

***

[21] 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.

[22] ***.

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.

[23] Respondents assert that ***. Respondent's postconference brief, p. 26.

***.

***

***.

***

***.

***

***.[24] ***.[25] ***.

***

***.

***.

***.

***

***.

***

***.

[24] ***.

[25] ***.

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]

OPERATIONS ON SILICOMANGANESE

The results of the responding U.S. producers' silicomanganese operations are presented in table VI-1. To summarize, the overall financial condition of the domestic silicomanganese industry continuously deteriorated between 2012 and 2014, while it continued to experience operating losses for the entire period of investigation, from an operating loss of $*** in 2012 to an operating loss of $*** in 2014. However, an operating loss of $*** in 2013 decreased *** to an operating loss of $*** in 2014. The largest change in the operating loss occurred between 2012 and 2013, an operating loss 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), in addition to the increase in unit total cost, i.e., cost of goods sold ("COGS") and selling, general, and administrative ("SG&A") expenses combined (an increase by $*** per short ton, primarily resulting from higher COGS, especially higher per-unit raw materials cost and direct labor cost), which resulted in a *** per-unit operating loss in 2013. From 2013 to 2014, net sales values decreased due to lower sales volume despite per-unit sales value increased. However, the operating loss decreased *** because the increase in unit sales price (by $*** per short ton) and the decrease in unit total cost (by $*** per short ton, primarily due to decreased per-unit raw materials cost and direct labor cost). The operating loss margin of a *** percent in 2013 changed to a *** percent in 2014.

Table VI-1
Silicomanganese: Results of operations of U.S. producers, fiscal years 2012-14

* * * * * * *

Selected company-by-company data are presented in table VI-2. Total net sales (quantities and values), operating income and the ratio of operating income (loss) 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

[1] Both producers, Eramet and Felman, have their fiscal years ending on December 31.
[2] ***.

decreased between 2012 and 2014. They both experienced ***. ***.[3] However, its ***. ***. ***.[4] ***.[5] ***.[6] ***.[7]

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

* * * * * * *

Selected aggregate per-short ton cost data of the producers on their silicomanganese operations, i.e., COGS and SG&A expenses, 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, increased from 2012 to 2013, then decreased from 2013 to 2014. Per-unit SG&A expenses also fluctuated somewhat, decreased and then increased, despite substantially decreased production/sales quantities over the period. Per-unit total costs increased somewhat in 2013 and decreased slightly from 2013 to 2014, due primarily to the changes of raw materials and direct labor costs per short ton.

Table VI-3
Silicomanganese: Average unit costs of U.S. producers, fiscal years 2012-14

* * * * * * *

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.[8] The information for this variance analysis is derived from table VI-1. The analysis summarized at the bottom of the table. The variance analysis indicates that the increase in operating loss of $*** between 2012 and 2014 resulted from the combined negative effects of decreased prices ($***) and increased costs and expenses ($***). However, the variance analysis also indicates that the decrease in operating loss ($***) between 2013 and 2014 resulted from the combined

[3] ***.
[4] E-mail from ***, March 9, 2015.
[5] E-mail from ***, March 13, 2015.
[6] ***.
[7] *** and E-mail from ***, March 13, 2015.
[8] 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 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.

positive effects of higher average price ($***), lower costs/expenses ($***), and decreased sales volume ($***).

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

* * * * * * *

Note.--Unfavorable variances are shown in parentheses; all others are favorable. The data are comparable to changes in operating income as presented in table VI-1.

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. ***. It spent ***. *** reported R&D expenses and they were small and decreased over the period.

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

* * * * * * *

[1] ***. E-mails from ***, March 16, 2015.
[2] ***. E-mail response from ***, March 9, 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, due to ***. However, total net assets slightly increased due to ***.[9] At the same time, the return on assets remained negative from 2012 to 2014 while the ratio of operating loss to total net assets increased 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

* * * * * * *

[9] ***.

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,*

---

[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.

[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."

THE INDUSTRY IN AUSTRALIA

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

In the beginning of 2012, TEMCO was subject to a ***. TEMCO reported that the ***.[4] TEMCO also claims that at the same time, ***.[5] In February 2012, TEMCO temporarily suspended its silicomanganese operations, and conducted a review of the long term future of the operation. A revised electricity contract was negotiated, and the restart of the production facilities was initiated in June 2012 and by August 2012 they were fully online.[6]

TEMCO has four furnaces. Up until the temporary shutdown started in February 2012, ***.[7] When TEMCO restarted its operations in June 2012, it dedicated ***. TEMCO claims that the current configuration of two furnaces producing ferromanganese and two furnaces producing silicomanganese is the optimal configuration for the facility.[8] TEMCO's reported data reflect the effects of its shutdown and reorganization of the product mix of its furnaces. Reported capacity increased by *** percent from 2012 to 2013, but did not change in 2014, and is projected to remain at the same level through 2016. TEMCO's production increased by *** percent from 2012 to 2013, *** percent from 2013 to 2014, and is projected to be *** percent higher in 2015 compared to 2014 and *** percent higher in 2016 compared to 2014.[9]

*** of TEMCO's shipments are ***, accounting for at least *** percent of its total shipments in each year of the period of investigation, and *** accounted for the *** share of its total shipments. Exports to the United States as a share of total shipments ranged from *** percent to *** percent during 2012-14. Exports to the United States are projected to account for almost *** percent of total shipments in 2015 and 2016. Exports to the United States *** from 2012 to 2013 and *** by *** percent from 2013 to 2014. Exports to the United States are projected to *** in 2015 and 2016. TEMCO's home market shipments from 2012 to 2013 *** percent, and were ***. Home market shipments are projected to increase to *** in 2015 and

---

[3] This firm was identified through a review of information submitted in the petition and contained in proprietary Customs records.

[4] TEMCO's foreign producers' questionnaire response, II-12.

[5] TEMCO's foreign producers' questionnaire response, II-12.

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

[7] TEMCO's foreign producers' questionnaire response, II-4a.

[8] Conference transcript, p. 79 (Anderson).

[9] Temco identified its production constraints as ***. TEMCO stated that *** TEMCO also noted that ***. TEMCO's foreign producers' questionnaire response, II-5d.

2016. Home market shipments accounted for *** percent of total shipments in 2012, but *** percent in 2013, were *** percent in 2014.

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

* * * * * * *

Alternative products

Table VII-2 presents overall capacity and production for Australian producer TEMCO. As noted above TEMCO operates four furnaces: two furnaces produce ferromanganese and two furnaces produce silicomanganese. TEMCO's ***.[10] According to TEMCO, it is technically possible to convert all four furnaces to silicomanganese production, but it would require ***.[11] TEMCO also notes that producing silicomanganese ***. Accordingly, if its total furnace production were dedicated to silicomanganese production, ***. TEMCO estimates that switching its two furnaces from producing ferromanganese to silicomanganese ***.[12]

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

* * * * * * *

U.S. INVENTORIES OF IMPORTED MERCHANDISE

Table VII-3 presents data on U.S. importers' reported inventories of silicomanganese.

Table VII-3
Silicomanganese: U.S. importers' end-of-period inventories, 2012-14

* * * * * * *

[10] TEMCO's foreign producers' questionnaire response, II-4a.
[11] TEMCO's foreign producers' questionnaire response, II-4a.
[12] TEMCO also notes that approximately ***. TEMCO's foreign producers' questionnaire response, II-4a.

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 December 31, 2014. Table VII-4 presents U.S. import shipments of silicomanganese arranged for importation after December 31, 2014.

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

* * * * * * *

TRADE REMEDY 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.'"[13]

Table VII-5 presents world production of silicomanganese by selected country. China accounted for more than two-thirds of all world production.

[13] *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-5
Silicomanganese: World production by country, 2009-13

Country	Quantity (short tons)				
	2009	2010	2011	2012	2013
China	4,723,400	5,236,000	8,233,300	8,503,800	9,912,000
India	965,100	1,102,300	1,580,300	1,711,700	1,811,300
Ukraine	688,800	926,700	748,500	798,700	663,700
Norway	255,000	274,100	293,200	299,200	332,200
Korea	166,600	182,700	210,500	258,500	273,000
Kazakhstan	197,800	233,700	246,400	266,900	211,100
Russia	135,900	151,600	165,100	178,500	182,500
Brazil	88,500	185,800	187,300	199,200	179,300
Georgia	92,600	151,000	132,300	206,100	169,900
Mexico	93,900	146,100	153,200	177,800	168,100
South Africa	148,900	302,500	345,700	164,000	147,300
Australia	107,500	133,600	104,400	56,000	121,400
United States	122,100	89,800	137,000	138,700	75,400
All other	367,600	493,600	576,800	576,000	462,200
World	8,153,700	9,609,500	13,114,000	13,534,900	14,709,500

Source: International Manganese Institute, Annual Market Research Report-2013.

Table VII-6 presents world imports by country of export.

Table VII-6
Silicomanganese: World imports by country of export, 2010-13

Country	Quantity (short tons)			
	2010	2011	2012	2013
India	625,276	907,765	1,121,052	1,165,059
Ukraine	927,358	897,442	1,954,427	529,643
Norway	469,312	433,758	280,466	281,400
Georgia	193,213	252,537	224,705	246,479
South Africa	271,016	456,641	165,877	146,745
Kazakhstan	133,686	61,544	77,156	112,297
Australia	93,260	118,918	40,147	107,130
All other countries (incl. non-EU suppression)	662,196	579,475	1,332,034	708,177
World	3,375,317	3,708,082	5,195,865	3,295,602

Source: Global Trade Atlas, world imports from member countries, HTS classification 7202.30, retrieved March 19, 2015.

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, LLC, a sister company to the petitioner in this investigation, Felman. 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, Georgian American Alloys 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] Rusmetali LTD has a factory where it claims the ability to produce several ferroalloys including silicomanganese.[17]

According to the International Manganese Institute (IMnI), the capacity for production of silicomanganese in Georgia in 2013 was 251,000 short tons and production of silicomanganese was 170,000 short tons. A total of 208,000 short tons of silicomanganese was exported from Georgia during 2013, of which 117,000 short tons (56 percent) were exported to the United States; other important export destinations were Ukraine (11 percent), Russia (8 percent) and Canada (6 percent).[18]

South Africa

The industry producing silicomanganese in South Africa comprises two firms: Transalloys and Mogale Alloys.[19] 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.[20] Mogale Alloys is owned by Afarak Group Oyj, a Finnish company. The

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[14] Georgian American Alloys, http://gaalloys.com/index.php/about-gaa/gm/zestafoni , accessed March 16, 2015.

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

[18] International Manganese Institute*, Annual Market Research Report – 2013*, Tables 29, 33 and 34.

[19] Respondent TEMCO was related to a third South African producer, Samancor, which last produced silicomanganese in February 2012. The facility was demolished later in 2012 and production equipment was scrapped. Conference transcript, p. 76 (Anderson).

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

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.[21] CRU reports the capacity for silicomanganese as 55,000 short tons.[22]

A third producer in South Africa, Samancor Manganese, is owned by the same BHPBilliton/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 continues as a major producer of ferromanganese, but states that its remaining furnaces are large and not technically suited to the production of silicomanganese.[23]

The combined capacity of Transalloys and Mogale Alloys for silicomanganese was 242,000 short tons. 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 2013 was reported by IMnI as 147,000 short tons.[25] Exports totaled 108,000 short tons, of which 63,000 short tons (58 percent) were exported to the United States and 39,000 short tons (36 percent) to various members of the European Union.[26]

Norway

The industry producing silicomanganese in Norway comprises two firms: Eramet Norway and Glencore. The production of manganese ferroalloys in Norway is due to 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 Marietta, 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.[27]

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.[28]

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

[22] CRU, *Manganese Market Service April 2012 Statistical Review,* Table S-19.

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

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

[25] International Manganese Institute*, Annual Market Research Report – 2013*, Table 34.

[26] International Manganese Institute*, Annual Market Research Report – 2013*, Table 29.

[27] Eramet Norway. http://eramet.no/en/our-organization/kvinesdal/. Accessed March 19, 2015.

[28] Eramet Norway. http://eramet.no/en/our-organization/porsgrunn/. Accessed March 19, 2015.

According to CRU, the annual capacity for silicomanganese at the Porsgrunn plant is 77,000 short tons.[29]

The third plant producing silicomanganese in Norway is the Rana plant, owned by Glencore International.[30] According to CRU, the Rana plant has a capacity of 110,000 short tons of regular silicomanganese.[31] Glencore reported that it produced 101,000 short tons of silicomanganese in 2013 and 119,000 short tons in 2014.[32]

According to IMnI, total exports of silicomanganese from Norway in 2013 were 208,000 short tons, including low-carbon silicomanganese. Exports to the United States were 56,000 short tons. Other important destinations were European Union countries, Russia, Ukraine, Turkey and Canada.[33]

[29] CRU, *Manganese Market Service April 2012 Statistical Review,* Table S-19.

[30] 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. Platt's Metals daily, *Vale completes sale of European ferroalloy units to Glencore.* November 1, 2012.

[31] CRU, *Manganese Market Service April 2012 Statistical Review,* Table S-19.

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

[33] International Manganese Institute*, Annual Market Research Report – 2013*, Table 29.

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	*Institution of Antidumping Duty Investigation and Scheduling of Preliminary Phase Investigation*	http://www.gpo.gov/fdsys/pkg/FR-2015-02-26/pdf/2015-03971.pdf
80 FR 13829 March 17, 2015	*Silicomanganese From Australia: Initiation of Less-Than-Fair-Value Investigation*	http://www.gpo.gov/fdsys/pkg/FR-2015-03-17/pdf/2015-06142.pdf

APPENDIX B

CALENDAR OF THE PUBLIC STAFF CONFERENCE

CALENDAR OF PUBLIC PRELIMINARY CONFERENCE

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

Subject: Silicomanganese from Australia

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

Date and Time: March 12, 2015 - 9:30 a.m.

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

OPENING REMARKS:

Petitioner (**Myles Getlan**, Cassidy Levy Kent (USA) LLP)
Respondents (**Alexander D. Chinoy**, Covington & Burling LLP)

In Support of the Imposition of Antidumping Duty Order:

Cassidy Levy Kent (USA) LLP
Washington, DC
on behalf of

Felman Production, LLC ("Felman")

Barry Nuss, Chief Financial Officer, Felman

Robert Powell, General Counsel, Felman

Peter Rochussen, Vice President, Eramet North America, Inc.

Dr. Richard Boyce, President, Econometrica International, Inc.

Jack A. Levy)
) – OF COUNSEL
Myles Getlan)

In Opposition to the Imposition of
Antidumping Duty Order:

Covington & Burling LLP
Washington, DC
on behalf of

Tasmanian Electro Metallurgical Company Pty Ltd.
BHPBilliton Marketing Inc.

Michael T. Anderson, Head of Finance, Manganese Australia,
Tasmanian Electro Metallurgical Company Pty Ltd.

W. Carl Kylander, Vice President, BHPBilliton Marketing Inc.

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

Alexander D. Chinoy)
David R. Grace) – OF COUNSEL
Catherine H. Gibson)

CLOSING REMARKS:

Petitioner (**Jack A. Levy**, Cassidy Levy Kent (USA) LLP)
Respondents (**David R. Grace**, Covington & Burling LLP)

-END-

APPENDIX C

SUMMARY DATA

Table C-1
Silicomanganese: Summary data concerning the U.S. market, 2012-14
(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			Calendar year		
	2012	2013	2014	2012-14	2012-13	2013-14
U.S. consumption quantity:						
Amount	***	***	***	***	***	***
Producers' share (fn1)	***	***	***	***	***	***
Importers' share (fn1):						
Australia	***	***	***	***	***	***
Georgia	***	***	***	***	***	***
South Africa	***	***	***	***	***	***
All others sources	***	***	***	***	***	***
Nonsubject sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
U.S. consumption value:						
Amount	***	***	***	***	***	***
Producers' share (fn1)	***	***	***	***	***	***
Importers' share (fn1):						
Australia	***	***	***	***	***	***
Georgia	***	***	***	***	***	***
South Africa	***	***	***	***	***	***
All others sources	***	***	***	***	***	***
Nonsubject sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
U.S. imports from:						
Australia:						
Quantity	29,083	83,045	78,014	168.2	185.5	(6.1)
Value	30,436	75,203	78,611	158.3	147.1	4.5
Unit value	$1,046	$906	$1,008	(3.7)	(13.5)	11.3
Ending inventory quantity	***	***	***	***	***	***
Georgia:						
Quantity	125,151	116,504	158,731	26.8	(6.9)	36.2
Value	127,434	109,582	158,076	24.0	(14.0)	44.3
Unit value	$1,018	$941	$996	(2.2)	(7.6)	5.9
Ending inventory quantity	***	***	***	***	***	***
South Africa:						
Quantity	121,436	62,673	139,359	14.8	(48.4)	122.4
Value	135,736	61,814	139,350	2.7	(54.5)	125.4
Unit value	$1,118	$986	$1,000	(10.5)	(11.8)	1.4
Ending inventory quantity	***	***	***	***	***	***
All other sources:						
Quantity	71,607	64,328	73,954	3.3	(10.2)	15.0
Value	89,533	62,031	71,371	(20.3)	(30.7)	15.1
Unit value	$1,250	$964	$965	(22.8)	(22.9)	0.1
Ending inventory quantity	***	***	***	***	***	***
Nonsubject sources:						
Quantity	318,193	243,505	372,044	16.9	(23.5)	52.8
Value	352,704	233,427	368,797	4.6	(33.8)	58.0
Unit value	$1,108	$959	$991	(10.6)	(13.5)	3.4
Ending inventory quantity	***	***	***	***	***	***
Total imports:						
Quantity	347,277	326,550	450,058	29.6	(6.0)	37.8
Value	383,139	308,630	447,408	16.8	(19.4)	45.0
Unit value	$1,103	$945	$994	(9.9)	(14.3)	5.2
Ending inventory quantity	***	***	***	***	***	***

Table continued on next page.

Table C-1--Continued
Silicomanganese: Summary data concerning the U.S. market, 2012-14
(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			Calendar year		
	2012	2013	2014	2012-14	2012-13	2013-14
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	***	***	***	***	***	***
Productivity (short tons per 1,000 hours)	***	***	***	***	***	***
Unit labor costs	***	***	***	***	***	***
Net Sales:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***
Gross profit of (loss)	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***
Unit operating income or (loss)	***	***	***	***	***	***
COGS/sales (fn1)	***	***	***	***	***	***
Operating income or (loss)/sales (fn1)	***	***	***	***	***	***

Notes:

fn1.--Reported data are in percent and period changes are in percentage points.
fn2.--Undefined.

Source: Compiled from data submitted in response to Commission questionnaires and official U.S. import statistics for HTS 7202.30.0000.

APPENDIX D

NONSUBJECT COUNTRY PRICE DATA

Seven importers reported price data for nonsubject countries Georgia and South Africa for products 1 and 2. One firm reported data for Georgia and six reported data for South Africa. Price data reported by these firms accounted for 31.3 percent of U.S. commercial shipments of imports from Georgia and 87.1 percent of U.S. commercial shipments of imports from South Africa during 2012-14.[1] These price items and accompanying data are comparable to those presented in tables V-1 to V- 2. Price and quantity data for Georgia and South Africa are shown in tables D-1 to D-2 and in figure D-1 (with domestic and subject sources).

In comparing nonsubject country pricing data with U.S. producer pricing data, prices for product imported from Georgia and South Africa were lower than prices for U.S.-produced product in 12 instances and higher in 30 instances. In comparing nonsubject country pricing data with subject country pricing data, prices for product imported from Georgia and South Africa were lower than prices for product imported from Australia in 26 instances and higher in 7 instances. A summary of margins of underselling and overselling is presented in table D-3.

Table D-1

Silicomanganese: Weighted-average f.o.b. prices and quantities of imported product 1, by quarters, 2012-14

* * * * * * *

Table D-2

Silicomanganese: Weighted-average f.o.b. prices and quantities of imported product 2, by quarters, 2012-14

* * * * * * *

Figure D-1

Silicomanganese: Weighted-average f.o.b. prices and quantities of domestic and imported product 1, by quarters, 2012-14

* * * * * * *

Figure D-2

Silicomanganese: Weighted-average f.o.b. prices and quantities of domestic and imported product 2, by quarters, 2012-14

* * * * * * *

[1] ***.

Table D-3

Silicomanganese: Summary of underselling/(overselling), by country, 2012-14

Country	United States vs. nonsubject countries			Australia vs. nonsubject countries		
	Number of comparisons	U.S. priced higher	U.S. priced lower	Number of comparisons	Australia priced higher	Australia priced lower
Georgia	18	9	9	15	14	1
South Africa	24	3	21	18	12	6
Total	42	12	30	33	26	7

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