UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	**)**	**Investigation No.**
SILICOMANGANESE FROM AUSTRALIA	**)**	**731-TA-1269 (PRELIMINARY)**

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Thursday, March 12, 2015
Main Hearing Room (Room 101)
U.S. International
Trade Commission
500 E Street, S.W.
Washington, D.C.

The meeting commenced, pursuant to notice, at 9:30 a.m., before the Investigative Staff of the United States International Trade Commission, James McClure, Acting Director of Investigations, presiding.

APPEARANCES:

On behalf of the International Trade Commission:

James McClure, Acting Director of Investigations
Michael Szustakowski, Investigator
Gerald Houck, International Trade Analyst
Cindy Cohen, Economist
Patrick Gallagher, Attorney/Advisor

APPEARANCES (Continued):

William R. Bishop, Supervisory Hearings and Information Officer
Sharon Bellamy, Program Support

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.

Of Counsel:
Jack A. Levy, Myles Getlan,
Cassidy Levy Kent, Washington, DC

APPEARANCES (Continued):

In Opposition to the Imposition of Antidumping Duty Order:

Covington & Burling LLP, Washington, 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, Capitol Trade Inc.

Of Counsel:

Alexander D. Chinoy, David R. Grace, Catherine H. Gibson

Covington & Burling LLP

I N D E X

I N D E X (Continued):

P R O C E E D I N G S

(9:30 a.m.)

MR. McCLURE: Good morning and welcome to the United States International Trade Commission's conference in connection with the preliminary phase of Antidumping Investigation No. 73A -- excuse me, 731-TA-1269 concerning Silicomanganese From Australia.

My name is Jim McClure. I'm the acting director of the Office of Investigations, as well as the supervisor investigator on this case, and I will preside at this conference. Among those present from the Commission staff are from my far right, Michael Szustakowski, the Investigator; Gerry Houck, the Industry Analyst.

On my immediate left, Patrick Gallagher, the Attorney Advisor and to his left, Cindy Cohen, the Economist. I understand the parties are aware of the time allocations and would remind speakers not to refer in your remarks to business proprietary information and to speak directly into the microphones. That's important.

We also ask that you state your name and affiliation for the record before beginning your presentation, or answering questions for the benefit of the court reporter. Again, that is important and I will remind you if you don't. All witnesses must be sworn in before presenting testimony. I understand the parties are aware of

time allocations. Any questions regarding the time allocations should be addressed with the Secretary. Any questions?

(No response.)

MR. McCLURE: Mr. Secretary, are there any preliminary matters?

MR. BISHOP: Mr. Chairman, I would note that all witnesses for today's conference have been sworn in. There are no other preliminary matters.

MR. McCLURE: Very well. Let's proceed with the opening statements.

MR. BISHOP: Opening remarks on behalf of Petitioner will be given by Myles Getlan, Cassidy Levy Kent.

OPENING REMARKS BY MYLES GETLAN, ESQ.

MR. GETLAN: Good morning. My name is Myles Getlan of the law firm Cassidy Levy Kent. We are here -- we are counsel for Felman Production, a U.S. producer of silicomanganese and the Petitioner in this investigation. We are also appearing today on behalf of Eramet Marietta, the only other U.S. silicomanganese producer. We appreciate the opportunity to present our case to you this morning.

In this preliminary phase investigation, the evidence unambiguously shows that there is a reasonable indication of material injury to the U.S. silicomanganese industry, by reason of imports from Australia.

Silicomanganese, of course, is a product with which the Commission is quite familiar with. The prior investigations covering this product made clear that import competition is a fact of life for the U.S. silicomanganese market, a market that attracts numerous significant foreign producers each year.

Felman Production narrowly scoped its petition in this case to cover one foreign supplier, TEMCO in Australia, a supplier that directly contributed to collapsing market conditions during the Period of Investigation. In June 2013, Felman was forced to idle its furnaces at its Letart, West Virginia plant, due to poor market conditions.

At the time of this plant idle, market prices plummeted, as reflected in industry publications such as Ryan's Notes, and they plummeted to levels that made silicomanganese production uneconomic, not only for Felman, but for Eramet as well. Felman's plant remained idle for a year.

At the time Felman idled its furnaces, surging imports from Australia led a steep decline in U.S. market prices, and were responsible for Felman's shutdown and the U.S. industry's operating losses. During our presentation this morning, our witness testimony and presentation of related data will establish that subject import volumes and price effects were significant.

In particular, from 2012 to 2014, silicomanganese imports from Australia increased a staggering 168 percent, becoming the second largest foreign suppliers to the United States in 2013. In doing so, the subject imports captured significant U.S. market share at the expense of the U.S. silicomanganese industry.

It is also the case that TEMCO could not have increased its U.S. market share so significantly without selling at aggressively low prices. Indeed, subject imports were the low price leaders in the market, causing steep declines in U.S. market prices.

With surging volumes at aggressively low prices, subject imports contributed directly to U.S. industry operating losses, and most notably Felman's decision to idle its plant, which ultimately lasted for a year. The injury caused by subject imports is material in every respect and unsustainable.

For these reasons, Felman is petitioning the Commission for relief from these dumped imports from Australia. We look forward to presenting the details of this case to you this morning. Thank you.

MR. BISHOP: Opening remarks on behalf of Respondents will be given by Alexander Chinoy, Covington and Burling.

MR. McCLURE: Please turn your mic on and

identify yourself.

MR. CHINOY: Thank you.

MR. McCLURE: That's one.

OPENING REMARKS BY ALEXANDER CHINOY, ESQ.

MR. CHINOY: My name is Alexander Chinoy. I am a partner with Covington and Burling here in Washington, D.C. Thank you for the opportunity to appear today. I'm honored to appear today on behalf of Respondents TEMCO and BHPBilliton Marketing. TEMCO and BHPBilliton Marketing are both subsidiaries of BHPBilliton, a leading global resources company.

While BHPBilliton was formed relatively recently in 2001, from the merger of Billiton PLC and BHP Limited, those earlier two companies have a proud natural resources history that goes back over 150 years. Across its current global operations, BHPBilliton is committed to working in ways that are true to its charter values: sustainability, integrity, respect, performance, simplicity and accountability. It is a company that values doing what is right and doing what it says it will do.

So in that context, I have to say that while I appreciate Mr. Getlan's remarks, I fundamentally disagree with the crux of them. BHPBilliton, which is the sole producer of silicomanganese in Australia, has not competed unfairly in the U.S. market. To the extent the Petitioner

has suffered any injury during the Period of Investigation, which is a point we contest, that injury cannot fairly be attributed to Respondents.

We understand that the Commission is familiar with silicomanganese based on its past investigations, and that it has found injury to the domestic industry, based on imports from countries such as China, the Ukraine and Kazakhstan. We also concede that the Commission does not often issue findings of no injury in preliminary investigations.

But in multiple dispositive respects, the facts in this investigation are different from the earlier silicomanganese investigations. The Commission has an ample record before it today, to reject the petition's claims of injury and threat of injury on their face.

While many of the most important facts in this investigation are confidential, including those related to alleged lost sales and the absence of any significant underselling by Respondents, you will hear today that even the public record contradicts Petitioners' claims.

Unlike in the prior silicomanganese cases, which involved industries that were growing and aggressively expanding their exports to the U.S. market, you will hear about how BHPBilliton's aggregate imports into the United States from South Africa and Australia have gone down over

the Period of Investigation.

Our first witness, Mr. Michael Anderson, who has traveled here from Australia to testify before you, will explain how in 2011, the year prior to the Period of Investigation, BHPBilliton imported enough silicomanganese from South Africa and Australia to supply about 32 percent of the U.S. market. By last year, BHPBilliton's share had fallen to 17 percent, as BHP had permanently closed its South African silicomanganese operations.

Mr. Anderson will discuss how Respondents relied on their existing production capacity in Australia, which is insufficient to make up for that shortfall created after dismantling their South African silicomanganese operations. TEMCO's production configuration in Australia, where the company is running at optimal capacity, is not something they plan to increase and he'll explain why.

You'll next hear from Mr. Carl Kylander, who joins us from BHPBilliton Marketing in Houston, Texas, about how the index prices that Australian importers allegedly drove down are actually set. He will explain why it is that BHP Billiton's unique import model for silicomanganese results in transactions that do not figure into those indexes.

When those indexes moved, spot prices for sales of non-subject imports drove them, not Respondents'

long-term contract sales. Finally, you'll hear from Dr. Seth Kaplan, who will place BHPBilliton's sales in the context of the U.S. and global market. He will confirm the downward trend in BHPBilliton's combined imports into the United States, and he will show you how non-subject imports of silicomanganese from South Africa and Georgia, including those brought into the United States by Felman's own parent company, have come to dwarf the combined output of all other countries, including the United States and Australia.

Ultimately, we subject you've received fulsome responses from the only subject foreign producer, from both domestic producers and from all of the key importers. In those responses, you have the data to see that there's no injury here, and there's no threat of injury here.

As you will read not only in those responses but in our confidential brief, things are simply not as Felman suggests. We thus respectfully ask that you find no injury and the Commission terminate this investigation. Thank you.

MR. BISHOP: Would the first Panel, those in support of the imposition of anti-dumping duty orders, please come forward and be seated.

MR. McCLURE: One thing I want to remind everybody, myself included, to please silence your device.

(Pause.)

MR. McCLURE: Welcome to all of the members of

the Panel. Mr. Levy, if you're ready, fire away.

STATEMENT OF JACK LEVY, ESQ.

MR. LEVY: Thank you very much and good morning. For the record, my name is Jack Levy of the law firm of Cassidy Levy Kent, counsel for Petitioner Felman Production, as well as the other domestic producer of silicomanganese, Eramet Marietta. It's a pleasure to be with you this morning.

Let me take a moment to briefly introduce our Panel. Beginning on one end, we have Dr. Richard Boyce of Econometrica International. On behalf of Felman Production, we have Mr. Robert Powell, general counsel at that company and Mr. Barry Nuss, the chief financial officer. To my left is Peter Rochussen. Mr. Rochussen was a vice president of Eramet North America during the Period of Investigation and had responsibility for sales and marketing of U.S. origin silicomanganese during the period, and finally my partner, Myles Getlan of Cassidy Levy Kent.

Again, it's a pleasure to be with you. As you know, this is a fairly concentrated industry, in the sense that there are two U.S. producers, Felman and Eramet, with operations in West Virginia and Ohio respectively. Both of them are before you today, and is a fairly concentrated group of purchasers in the U.S. market, a handful of U.S. steel producers.

On the import side, however, there is a great diversity of sources, but in this case only one, that is to say Australia and its sole producer TEMCO, are those under investigation. In a moment, you'll hear testimony from industry witnesses concerning the product, the production process, the conditions of competition, the very real injury that was suffered during the Period of Investigation, and testimony evidencing that imports from Australia were the cause, and that can be exhibited both through volume effects and through price effects.

In our view, the U.S. industry's injury during the Period of Investigation is unambiguous. Just a few introductory remarks and points of clarification, if I could bend your ear for a moment. When we talk about silicomanganese, for purposes of this case, it's helpful to describe fundamentally three different products.

One product is low carbon silicomanganese, and low carbon silicomanganese is excluded from the scope of the petition. It is produced predominantly in Norway for the U.S. market, and it is used in very different applications, primarily stainless steel applications, and it is fundamentally a different product.

For that reason, it was excluded and parenthetically the U.S. industry did not produce any low carbon silicomanganese during the Period of Investigation.

So there should be little debate as to whether the domestic like product should be coterminous with the scope in this investigation.

The second product under examination is really the heart of the market, and where the Commission's attention needs to be focused, and this is, as we would describe it, standard grade silicomanganese. This is silicomanganese meeting the specifications of the vast majority of U.S. steel mills, and it is the type of silicomanganese that is produced by Eramet, by Felman, by TEMCO during the Period of Investigation for sales in the U.S. market.

It is not exactly synonymous with ASTM Grade B, insofar as U.S. steel mills do not delineate their specifications as being synonymous with ASTM Grade B. Many mills, for example, tolerate carbon up to but not more than 2-1/2 percent carbon, whereas ASTM Grade B tolerates a maximum of 2.0 percent carbon.

But fundamentally, what Eramet, Felman and TEMCO are in the business of producing and selling is standard grade silicomanganese to the specifications of U.S. steel mills, and they all produce a directly competitive product, an interchangeable product, a commodity product that competes head to head with one another.

The final product that's worth noting, again in

the interest of clarity, is a niche specification produced by Georgian manganese in the country of Georgia, and sold in the U.S. market by Felman Trading. This product has a much higher contained manganese. Whereas standard silicomanganese has generally 65 to 66 percent contained manganese, this product has, on average, 72 percent contained manganese.

There are a certain number of steel mills that have come to prefer this specification for meeting their manganese and silicon requirements in the production of steel. It is obviously a different product, and represents a niche specification.

So we talked a little bit about Georgia. Georgia is the number one source of silicomanganese during the Period of Investigation. That is true, and the vast majority of what's coming into the U.S. market from Georgia is this 72 percent high grade product, that neither Australia nor the U.S. can supply.

The other function of Georgia in the U.S. market is as a secondary source of standard silicomanganese, where Felman's Letart, West Virginia plant is otherwise unable to supply, either principally if it were at full capacity, or as we saw during the Period of Investigation, as a supplement when its plant, its furnace was idle.

As I indicated earlier, this is a commodity

product sold in bulk. It is sold both under contract and under spot sales. Insofar as spot sales are concerned, there's a high level of transparency as to what market prices are at any point in time. A number of different publications, American Metals Market, Platt's Metal Week, and perhaps most prominently Ryan's Notes, all publish on a weekly or biweekly basis reference prices concerning high and low spot prices for silicomanganese sold in the U.S. market.

It is also the case that import statistics are published, albeit on a slightly lagged basis, which provide very transparent information about unit prices of commodities being trade in the U.S. market. For precisely this reason, because we're dealing with a commodity, because it is so price centric, past proceedings -- in past proceedings, the ITC has recognized that it is often hard to discern under-selling.

There may be transitory differences in price, but that in principle, fungible product should gravitate toward a uniform price. With that said, where you discern stunning volume effects, it must be the case that someone is undercutting in price in order to gain that volume and to displace others.

We respectfully submit that while the proprietary record on pricing is still murky and much work remains to be

done to develop a more robust and informative record, the record evidence thus far and injury is clear and compelling. The record evidence on volume effects is clear and compelling, and as we will be able to explain in more detail in our post-conference brief, there's more than a reasonable indication of price effects, not only the obvious evidence of price depression and price suppression, but also a reasonable indication of under-selling.

So with that introduction, let me simply call your attention to some macro-data, and then we will immediately turn to our industry witnesses. I would first call your attention to Petitioner's Staff Conference Exhibit A. I will begin our presentation in 2012, which is the Period of Investigation in this case.

With all due respect, counsel for TEMCO makes reference to earlier years. We're going to confine our remarks to the Period of Investigation before this Commission. At the beginning of the Period of Investigation, it is the case that the TEMCO mill in Australia was temporarily shut down. That's a matter of public record, and it is also the case that as you can see this in Petitioners' Staff Conference Exhibit B, that in the middle of 2012, this coincides with healthy market prices for silicomanganese sold in the U.S. market.

I would direct in particular your attention to

the blue line, which is the Ryan's Notes low price. These were months where all U.S. producers were earning healthy profits. What changed in the latter part of 2012 was that TEMCO came back online, and began to produce and sell into the U.S. market at levels that are unprecedented in the two decades of Australia's participation in the U.S. market.

That can be seen in Petitioners' Staff Conference Exhibit A, where the blue bar shows the increase in shipments from Australia from 2012 to 2013, and the red line shows you, and this coincides with that, a decrease in the landed duty paid price of imports from Australia. Again, these are all public data. We will provide a more granular explication of the data in our post-conference brief.

But there is a clear volume effect that can be shown here. It bespeaks a market share gain at the expense of U.S. producers, Felman and Eramet, and most pointedly brought Eramet to its knees and forced it to idle its furnaces in June of 2013, citing market conditions.

It is the case that in 2014, Australia backed off a little bit with its price aggression, and you can see that, but the volumes are still very high. The injury continues to be sustained, and the situation is for both Felman and Eramet Marietta unsustainable.

So we thank you for your time and attention in analyzing this important case, and with that introduction, I

will turn things over to Mr. Barry Nuss of Felman Production.

STATEMENT OF BARRY NUSS

MR. NUSS: Good morning. My name is Barry Nuss. I'm chief financial officer of Georgia and American Alloys and its subsidiaries Felman Production and Felman Trading.

Thank you for taking the time to investigate the allegations in our petition and for your attention this morning.

In June 2013, Felman Production was forced to idle its plant in Letart, West Virginia. This idle devastated the company, its employees, and the surrounding community. While Felman resumed operations in July 2014, its performance since reopening is far short of the state of operations prior to the shutdown of the furnaces.

The timing of Felman's plant idle is no accident. Rather it occurred during a period when prices for surging volumes of silicomanganese imports from Australia hit rock bottom. These low-priced imports dragged down prices for the rest of the industry and lead to Felman's idle and significant operating losses.

The anti-dumping relief that Felman seeks is critically important to Felman's ability to continue as a U.S. producer. Silicomanganese is the only product that Felman produces in West Virginia, and the failure to address

unfair imports from Australia threatens Felman's very existence.

In my testimony this morning, I'll provide some background on Felman's entrance into the U.S. silicomanganese market and briefly describe the product covered by our petition. I'll discuss the conditions of competition in the United States, including the unique pricing dynamics of the silicomanganese industry. This discussion will provide context for the severe impact of Australia's low-priced U.S. imports and the critical need for anti-dumping relief from these imports.

By way of background, I joined Felman in 2011. Prior to joining Felman, I was employed in finances roles in the metals industry for over 30 years. As you know, anti-dumping orders currently cover silicomanganese imports from five countries. As Felman was not a U.S. producer during the investigations resulting in these orders, this is the first anti-dumping action in which Felman has been a Petitioner; thus, it may be helpful to comment on the background of the plant and Felman's entrance into the U.S. market.

The plant at Letart, West Virginia first opened more than 60 years ago. Felman purchased the plant out of bankruptcy in January 2006. The prior owner, Highlander Alloys, left the plant is complete disrepair. In September

2006, Felman got the plant running again, but investments of tens of millions of dollars over the next several years were required to make the plant reliable and competitive.

Felman's ability to get returns on these investments was severely challenged when the great recession hit in 2008, and with it plummeting demand. As the economic began to improve and Felman continued making investments, Felman was able to optimize production in 2012.

Unfortunately, as we will detail later, this was something of a high water mark. As the low-priced imports from Australia entered the U.S. market in late 2012 and derailed the opportunity for Felman to earn returns on its substantial investments in the plant.

As mentioned, silicomanganese is the only product that Felman produces. The Commission is familiar with this product from previous proceedings, so I'll be very brief in my comments on the product under investigation. We welcome, of course, your questions you may have during the conference.

Silicomanganese is a ferro alloy comprised principally of manganese, silicon, and iron. Silicomanganese is used primarily in steel production as a source of both silicon and manganese. By removing sulfur from steel, manganese prevents the steel from becoming brittle during the hot rolling process. In addition,

manganese increases strength and hardness of steel.

Silicon is used as a deoxidizer aiding in making steel of uniformed chemistry and mechanical property. Silicon also increases the hardness and strength of steel and enhances the toughness and corrosion resistance and magnetic and electrical properties of certain steel mill products.

Most silicomanganese sold in the United States, whether manufactured by Felman, Eramet or TEMCO, meets the ASTMA483 specification. The specification covers three grades, each with different silicon and carbon contents. In our experience, TEMCO products sold in the United States is generally Grade B. To the extent any silicomanganese produced and shipped by TEMCO is not Grade B, it would vary from that grade specification in only very minor respects that would not affect its end use or substitutability with U.S. produced silicomanganese.

We excluded from the petition low carbon ferromanganese. This is a product that contains much lower levels of carbon than standard silicomanganese and about 10 percentage points more silicon. Low carbon silicomanganese is used in the manufacture of stainless steel and special carbon steel grades. Felman does not produce low carbon silicomanganese. And to our knowledge, there are no imports of low carbon silicomanganese from Australia.

Let me next say a few words about the silicomanganese production process. Silicomanganese production is a highly capital-intensive and energy-intensive process. Silicomanganese is manufactured by smelting together sources of silicon, manganese, and iron, along with reducing agents, usually coke or coal.

The principal source of manganese are manganese ore or ferromanganese slag, which is a byproduct of ferromanganese production. Silicomanganese finds are also used. Silica in the form of quartzite is the principal source of silica. These materials are combined in a charge, which is introduced into the furnace. In the furnace, the transformer system delivers high current, low voltage electricity to the charge through carbon electrodes. The charge is heated to a temperature of 13 to 1400 degrees centigrade.

At the end of the smelting process, the furnace will contain molten slag and molten silicomanganese, which must be 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 is harden, the chills are emptied and the silicomanganese is crushed and sized for sale.

Silicomanganese is a commodity product so long as the product meets the steel makers specification, the only

distinguishing feature is price. While silicomanganese may vary in the amounts of certain elements, such as manganese, silicon, or carbon, our experience is that silicomanganese produced by Felman, Eramet and TEMCO is essentially the same and completely substitutable with one another.

Purchasers are not concerned with the supplier or country of origin. While Felman has longstanding customers, those customers routinely solicit bids from multiple suppliers, sometimes up to a dozen suppliers, and make their purchasing decisions almost completely on the basis of price.

In the U.S. market, import competition is a fact of life. Indeed, imports are necessary to satisfy U.S. demand. The U.S. market also attracts imports as prices tend to be higher than in other parts of the world. Felman welcomes imports in the U.S. market, but only if such imports are fairly priced. Unfortunately, there's a history of dumped and injurious imports in the United States with anti-dumping orders currently covering imports from five countries.

Beyond the countries under order from which silicomanganese can and still and does enter the U.S., there continue to be many foreign sources of silicomanganese. In 2014, 15 countries supplied silicomanganese to the United States. Indeed, Felman's related plant in Georgia has been

a consistent supplier to the U.S. over the years.

Notably, the plant predominately produces silicomanganese that contains a substantially higher silicomanganese content, about 72 percent as compared to the 65, 66 percent manganese that is supplied by Felman, Eramet and TEMCO.

This higher manganese product is favored by particular steel mills and accounts for most of the Georgian imports. In addition, the plant in Georgia helped Felman satisfy its contracts by producing Grade B materials when Felman was forced to idle the plant in 2013 and 2014.

As mentioned, price is key in this commodity market. Publications, such as Ryan's Notes and Platts Metals Week publish information regarding silicomanganese transaction prices that buyers and sellers frequently use as reference points in setting prices. Ryan's Notes is based on spot sales of silicomanganese with a chemical composition of 65 to 68 percent silicomanganese and 16 to 18 percent silicon.

The majority of Felman's sales volume is sold under contracts with price formulas tied to Ryan's Notes prices. These contract prices are indexed. They're periodically adjusted to reflect the current market prices reflected in Ryan's Notes. Prices in the spot market quickly affect prices in the contract market. Index pricing

makes the domestic industry particularly vulnerable to the affects of declining market prices, such as those resulting from low-priced silicomanganese imports from Australia. Any fall in spot import pricing tends to translate directly to reduced revenues for Felman and for the domestic industry as a whole.

In this framework, any transaction, even a low-volume sale can have a big impact on prices. For example, a low-priced, low-volume spot sale will be reflected in the drop in Ryan's Notes low price where, in turn, it reduces all contract prices tied to this reference price. In the spot market, producers are forced to offer product based on the new published low price or risk losing sales opportunity.

This is precisely what happened in 2013 in connection with low-priced Australian imports. Australia has been a consistent supplier to the market for over 20 years; however, the period of investigation marked a radical change in its behavior in the U.S. market. From November 2012 to June 2013, monthly average unit values of imports from Australia dropped almost 30 percent, a staggering amount. And the import data for this period make clear that Australia was the low priced leader with these imports plunging market prices downward.

These low prices are the reasons that TEMCO was

able to capture huge increase in U.S. market share, both from U.S. producers and non-subject imports, and at a time when U.S. consumption had declined. And for the volume that Felman was able to maintain, the low-priced imports from TEMCO deteriorated Felman's contract prices leading to substantial lost revenues.

So, clearly, TEMCO products sold on the spot market had a sweeping price effect during the period of investigation. But just as importantly, we witnessed a significant rise in Australian volumes beginning in 2013 that came at the expense of the U.S. industry. Whether these volumes were sold on the spot or contract market, or more likely both, they took sales opportunities away from U.S. producers through aggressive pricing.

Now, let me briefly summarize the resulting impact for our company. The surge of low-priced silicomanganese imports from Australia has had a devastating impact on Felman. As mentioned earlier, before the surge of imports, Felman had made tremendous strides in optimizing production in 2012. At that point, Felman had increased its workforce to more than 250 employees, which accounted for about one-third of the manufacturing jobs in Mason County, West Virginia.

The surge in imports from Australia lead to lost sales and reduced production that crippled Felman's ability

to cover its fixed costs. In short, continued operations were no longer economically viable; thus, in late June 2013, Felman regrettably idled operations at Letart. Felman originally hoped the idle would be limited to three months with the ability to restart production in short order. Unfortunately, market conditions did not permit us to restart operations until July of 2014. The idle had a devastating impact on the company, its workers, and the surrounding community.

Felman was proud not to have laid off a single employee during the great recession, but the idle forced Felman to lay off about 75 percent of its workers. Notwithstanding the dire market conditions, Felman remained committed to U.S. production. In 2013 and 2013, Felman took significant steps to be in a position to compete should the pricing environment improved; thus Felman secured a new power contract which provided much greater flexibility in Felman's electricity cost, which is a substantial portion of the overall silicomanganese production cost.

Felman also made modest investments towards upgrading the plant with an eye towards compliance with new proposed environmental standards. Having taken these steps with a modest uptick in market prices, Felman restarted operations in the third quarter of 2014. Though conditions improved somewhat since prices bottomed out in mid-2013,

Felman still is not operating close to the 2012 levels and has only rehired a portion of the workers that had to be laid off in 2013. In short, the affects of TEMCO's market behavior, particularly in 2013, had devastating effects that continue to reverberate.

A couple of comments to conclude, the United States is a very competitive marketplace, and Felman is committed to succeeding in this market, but we simply can't compete when foreign suppliers like TEMCO choose to capture market share by dropping prices to uneconomic levels. We consider the U.S. trade laws as our only tool to survive in such circumstances.

As our CEO commented on the day we filed this petition, dumped silicomanganese from Australia has had a devastating impact on U.S. market conditions in recent years, but we're not giving up.

Felman has taken major steps to increase its competitiveness in the U.S. market, but without the anti-dumping relief we are seeking we risk never being able to make the necessary returns on our investments to support our operations.

I thank the Commission staff or its time, and would be happy to respond to questions at the completion of our presentation. Thank you.

MR. LEVY: Thank you. Next we'll hear from Peter

Rochussen of Eramet North America.

STATEMENT OF PETER ROCHUSSEN

MR. ROCHUSSEN: Good morning. My name is Peter Rochussen. I'm Vice President of Eramet North America and have responsibility for the sales and marketing of silicomanganese produced by Eramet Marietta. I've more than 20 years experience in the alloys and specialty metals industry. I would like to thank you for providing the opportunity this morning to present the views of Eramet Marietta.

Eramet Marietta produces silicomanganese and other manganese alloys at our plant in Marietta, Ohio. With about 200 employees, our plant is one of the largest industrial employers in Washington County, which is part of the Appalachian region. The plant dates back to the 1950s and was purchased by the Eramet Group in 1999. Since that time, Eramet has made substantial investments to upgrade and modernize the plant.

Eramet Marietta supports the anti-dumping petition filed by Felman Production. Like Felman, Eramet silicomanganese operations have suffered greatly due to increased volumes of low-priced imports from Australia. These imports have driven market prices down to unsustainable levels leading to poorer financial performance during the period of investigation.

Without anti-dumping relief, Eramet Marietta silicomanganese operations face an uncertain future as continued injurious imports threaten our company, employees, and the community in which we operate.

In my testimony this morning I will focus on the nature of competition in the U.S. market and how imports of silicomanganese produced by TEMCO have damaged the U.S. silicomanganese industry.

The U.S. silicomanganese industry is highly competitive. Silicomanganese is a fungible, commodity product used by steel mills in the production of long steel products. All standard silicomanganese sold in the U.S. market has virtually the same chemical composition. Specifically, standard silicomanganese contains a minimum 65 percent manganese and about 16 percent silicon and a cap on certain impurities, such as carbon, phosphorous, and sulfur.

The chemical composition of standard silicomanganese sold in the United States is specified by the purchasing steel mill. Given the variability and raw material input, such as ore, slag, and quartzite, and the nature of the smelting manufacturing process the specific chemical composition can vary from batch to batch and from supplier to supplier; thus, with each delivery the supplier presents a certificate of analysis indicating the chemical composition of the silicomanganese being delivered to the

purchasing steel mill. And the purchasing steel mill accepts deliveries on that basis.

In my experience, all of the standard silicomanganese marketed in the United States possesses the same or very similar physical characteristics and is considered fungible by U.S. steel mills; thus, the silicomanganese produced by Eramet Marietta competes directly with that produced by TEMCO.

Silicomanganese is produced by dozens of firms around the world that are attracted to the U.S. market for its relatively robust demand and often higher prices, particularly in comparison with Europe. Because Eramet Marietta and Felman cannot product in sufficient quantities to meet U.S. demand, import competition is an accepted part of our business. Eramet Marietta welcomes imports when fairly traded, but when silicomanganese is dumped in the United States it destroys the economics of our silicomanganese operations.

When the U.S. industry previously has faced such unfair imports, Eramet and its predecessors have petitioned for anti-dumping relief, and Eramet is grateful that the U.S. Government has provided and continued such relief with respect to imports from five countries. Even with such orders in place, there are many countries that supply silicomanganese to the U.S. market, and many others with

capacity to do so.

All of these suppliers, regardless of country of origin, compete for sales in the United States. Our customers almost always purchase silicomanganese using a bidding process in which they issue requests for bids on a quarterly, semi-annual, or annual basis. Purchasers typically specify, typical receive multiple bids, sometimes as many as a dozen.

Prices, by far, are the single most important factor in the bidding process. The price difference of half a penny per pound or less can determine who gets the sale. This is true even if a purchaser has an established relationship with a supplier. It is becoming more frequent that customers will not provide Eramet an opportunity to meet or beat a lower price. Rather a purchasing steel mill can and will shift suppliers solely on the basis of a small price advantage. We simply must have the lowest price to win or keep our business.

Publications such as Ryan's Notes and Platts Metals Week regularly publish information regarding silicomanganese transaction prices for spot sales. Buyers and sellers use these published prices as benchmark prices in determining sales prices. The availability of such public data and the multiple bids received by purchases ensure that price changes are quickly communicated

throughout the marketplace.

The existence of contracts does not insulate our sales from changes in market price. Most of Eramet's sales are tied to published market prices in Ryan's Notes or Platts Metals Week or a combination of the two. When these prices change so do Eramet's contract prices, which are adjusted to the reference prices on a regular basis.

In these cases, low-priced imports, even in small volumes not only can lead the market price for spot sales down, but also the contract prices, which is precisely what happened with imports from Australia in the last two years. TEMCO has been a longtime supplier to the U.S. market with consistent U.S. shipments dating back at least to when Eramet purchased its plant in 1999. But in 2013, TEMCO's shipments to the United States increased to unprecedented levels, almost tripling the volume it shipped the year before and reaching almost the same shipment volume in 2014.

TEMCO's huge increase in exports to the United States at a time when demand was relative flat translated into significant U.S. market share gains by TEMCO at the expense of domestic production. Low prices are how TEMCO could and did gain significant market share in a flat market. It is clear to Eramet that silicomanganese imports from Australia were priced lower than any other source of supply in the market during the period of review.

With TEMCO leading prices downward, Eramet's contract prices eroded and sales volumes decreased significantly, resulting in shrinking revenue and an unsustainable financial performance in 2013 that continued to reverberate in 2014.

Eramet Marietta simply cannot compete when a foreign supplier like TEMCO progressively drives market prices downward to capture U.S. sales volume. TEMCO's market share behavior in 2013, in particular, simply destroyed the economics of our silicomanganese operations and threatens the continued viability of these operations.

For these reasons, Eramet Marietta supports the anti-dumping petition on silicomanganese from Australia in order to address the unfairly traded imports. Thank you for your time this morning. I'd be pleased to respond to any questions you may have at the conclusion of our presentation.

STATEMENT OF MYLES GETLAN, ESQ.

MR. GETLAN: Thank you, and for the record, my name is Myles Getlan of Cassidy Levy Kent. You've just heard from Mr. Nuss and Mr. Rochussen -- the testimony from our company witnesses regarding the conditions of competition in the U.S. silicomanganese market and the substantial impact that subject imports have had on their companies.

I'd like to take just a couple of minutes to basically tie their comments together, place it in the context of the statute, the statutory factors that the Commission must consider in reaching its preliminary determination. As a starting point, again in terms of domestic like product, Mr. Levy described the products at issue here.

The starting point here for this analysis is the scope of the petition of the investigation, which is limited to standard grade silicomanganese. That is the only product that we understand is imported from Australia, and it is the only product that Felman and Eramet product, and they are directly competitive and fungible, and therefore the domestic like product inquiry should stop there and is limited to standard grade silicomanganese.

And because Eramet and Felman are the only two producers of this product, they comprise the entirety of the domestic industry. Turning to the factors that the Commission must consider, of course volume of subject imports, their price effects and impact of the subject imports on the operations of Eramet and Felman. I guess we'll just refer you back to the exhibits that Mr. Levy introduced you to in his opening remarks.

It is -- the volume effects in this case are unmistakable. Looking at Petitioner's Staff Conference

Exhibit A, imports in 2012 were at about 29,000 net tons. It increased through the Period of Investigation in 2014 to about 78,000 net tons, which is an increase of 168 percent. That placed TEMCO as the second largest supplier to the U.S. market in 2013.

You'll see just a very modest drop off in imports from Australia, from 2013 to 2014. But through the Period of Investigation, the subject imports were significant, and the increase was remarkably great.

This, as you heard from our witnesses, came during a time when demand was relatively flat, and this staggering increase in imports had the effect of capturing substantial market share from the U.S. producers. Of course, the capacity or apparent domestic consumption figures are proprietary, but you'll find that subject imports from Australia captured very significant market share from U.S. producers, as well as non-subject imports, particularly in 2013.

As our witnesses testified, Mr. Nuss and Mr. Rochussen, imports are a fact of life here in the United States, an accepted one, and but here subject imports, while they increased, non-subject imports, they fell 27 percent in 2013 from 2012 levels. So you'll hear a lot of remarks, we believe this morning, about other country supply.

But the fact is when Eramet and Felman suffered

the greatest of their injury and started to feel the effects of these subject imports in 2013, those non-subject imports were on the decline.

Turning to the price effects, of course the Commission considers price depression, suppression and under-selling, and there's evidence of each on the record of this case. Turning to Staff Conference Exhibit B, again the pricing data show this quite clearly, with U.S. market prices here -- of course, U.S. industry pricing is proprietary and we can't present that that the conference this morning.

But you see that as reflected by Ryan's Notes, low price is the blue line on Exhibit B. There is decline through the period. The modest recovery in price in 2014 doesn't come close to recovering to the point at which prices were in the market in 2012.

And of course, that steep decline you see in market pricing really takes place through late 2012 and into 2013 is where they bought them out. You heard from Mr. Nuss that this is exactly when market conditions forced their plant to idle. It is when Eramet suffered the worse of its injury during the Period of Investigation. Again, the publicly available or the proprietary information we can't share this morning, but evidence of price suppression is apparent in this case.

There is a worsening cost-price squeeze during the Period of Investigation, and the U.S. industry simply was unable to recoup its cost through sales revenue. On the topic of under-selling, again referring to Exhibit B, it is apparent that imports from Australia were the low price leader during the Period of Investigation, and particularly in this period of greatest concern in late 2012 through 2013.

The red line of course refers to Australian average unit values based on publicly available import statistics, and they are substantially below all other imports, which are reflected by the green line on Exhibit B. Just as a point of note, the green line, the "All Other" excludes imports from Norway, which is substantially -- substantially consists of low carbon manganese, and is outside the scope of this investigation.

But you see the wide margin between Australian import values and the Ryan's Notes low prices that existed in the market at that time, showing that there's under-selling and that Australia was the low price leader here.

The Commission has recognized -- Mr. Levy alluded to this in his opening remarks -- that there is difficulty in this industry to demonstrate under-selling, basically due to how quickly buyers and sellers react to changes in market

prices, and that may be the case. But at the moment, the current state of the proprietary record, we submit is anything but complete and accurate.

Our review of the importer questionnaire responses reveals serious data reporting issues. In many cases, the data simply do not make sense, and do not reflect the silicomanganese market as the Commission has come to understand it over the years.

We'll certainly detail these issues, our observations in our post-conference brief, and we look forward to working with the staff to develop a complete and credible record for the final phase.

In terms of impact, unfortunately for Eramet and Felman, this case -- there really can be no case that presents clearer evidence of material injury, if not serious injury. The data are staggering, in terms of the impact that Eramet and Felman -- the impact of the subject imports on Felman and Eramet's operations.

You'll find in the proprietary record that there were steep declines in production and commercial shipments, illustrated most clearly of course by Felman's idling of all three of its furnaces. The number of production workers in 2014 was half the number of workers in 2012. While the industry earned positive net income in 2012, it suffered operating losses, substantial operating losses in 2013 and

2014. With poor operating results, as expected capital expenditures declined year over year from 2012 to 2014.

So it's clear that significant subject import volumes at low prices caused poor financial performance by the U.S. industry. Accordingly, the evidence before the Commission in this preliminary phase demonstrates that there is a reasonable indication of material injury to the U.S. silicomanganese industry, by reason of subject imports from Australia. With that, we conclude our presentation and of course welcome your questions.

MR. McCLURE: Thank you to the Panel, especially those who've traveled from out of town. At least we didn't present you with a snowstorm or weather somewhere in the single digits. Anyway, we will begin our requesting with -- requesting, whew -- questioning with Michael Szustakowski, the Investigator.

MR. SZUSTAKOWSKI: Good morning and thank you all for your prepared remarks, and for the opportunity to ask you these questions. So we have -- seems like this is pretty clear. We have 100 percent of the domestic industry covered with our questionnaire response; correct?

MR. LEVY: That's correct.

MR. SZUSTAKOWSKI: And 100 percent of the subject producers are covered with questionnaire responses as well?

MR. LEVY: With foreign producer responses, yes

that's correct.

MR. SZUSTAKOWSKI: Okay, and regarding importers' responses, it sounds like from this morning's prepared remarks, opening statement from Respondents, they think that we have good coverage from the importers, in terms of not mentioning, discussing Mr. Getlan's comment about the specific data. But we have all the major importers covered as well; is that correct?

MR. LEVY: That would appear correct, as to the identity of the importers, not necessarily the content of the responses.

MR. SZUSTAKOWSKI: Okay. So with use of -- when we're preparing the data for the staff report, we tend to rely on official statistics. Right now, I'd say that's our intention as well. Is there any dispute with using the official statistics adjusted to exclude the known out of scope merchandise that's been reported in the importer's questionnaire responses?

MR. LEVY: So in fairness, we've only received all the importer questionnaires late afternoon yesterday. Preliminarily, the answer is yes. If we see any problems, we will let you know before the weekend. But I think the answer is quite likely yes, we agree with that assessment, that the questionnaire data should be adequate and there's no need to rely on say census data to fill any gaps in the

instant preliminary investigation.

MR. SZUSTAKOWSKI: Oh okay. So I'm sorry. So you're endorsing using just the questionnaire response data?

MR. LEVY: Again, the questionnaire response data, as you're well aware, include information on import, volume and value, which is an alternative, if you will, to census data on import, volume and value. I would say subject to some further analysis on our end, our preliminary view is that those data are a reasonable source of information.

Separate and apart from that, there's the question about U.S. commercial shipment values, whether reported in the aggregate or in connection with quarterly pricing data. I think in that area we have some very substantive concerns. But again fall back census data wouldn't cure for that in any event.

MR. SZUSTAKOWSKI: Fair enough. You want to jump in?

MR. BOYCE: Yeah.

MR. SZUSTAKOWSKI: I'm sorry.

MR. BOYCE: Richard Boyce, Econometrica. If you line up top five customer list from the foreign producer questionnaire with your importers questionnaires, I believe you'll find that there is one of those five that is missing.

MR. SZUSTAKOWSKI: Okay, and you can of course

expand on this in your post-conference briefs. So thank you. There's discussion of low carbon silicomanganese and that's not in the scope of this investigation. Correct me if I'm wrong, well in other petitions, was low carbon included in the scope, or has it historically been excluded?

MR. GETLAN: Low carbon was included in the first investigation back in 1994, covering Brazil, China, Ukraine, Venezuela. I'm not sure of the circumstances in which that was the case. Low carbon was not part of the scope of more recent investigation -- well I guess no longer so recent -- in 2001 or 2002, covering India, Kazakhstan and Venezuela.

MR. SZUSTAKOWSKI: Thank you.

(Pause.)

MR. SZUSTAKOWSKI: I'm still trying to understand Ryan's Note, and one of my questions is these price quotes that end up in Ryan's Note being published, Mr. Nuss and Mr. Rochussen, this is directed to you. Are these price quotes that are exclusively provided by the purchaser of the product, or is it also confirmed by the seller of the product?

MR. NUSS: According to Ryan's Notes methodology --

MR. McCLURE: Name please.

MR. NUSS: --they represent surveys --

MR. SZUSTAKOWSKI: Could I ask, could you just

identify yourself for the record?

MR. NUSS: Oh, Barry Nuss.

MR. SZUSTAKOWSKI: Thank you.

MR. McCLURE: Strike one.

MR. NUSS: According to Ryan's Notes, which is now owned by CRU, which publishes Ryan's Notes, their methodology describes that their surveys are based on contacts with both suppliers and producers.

MR. SZUSTAKOWSKI: So has --

MR. LEVY: And by that Barry to be clear, when you say "suppliers," you mean suppliers of silicomanganese and producers, you're referring to steel mill producers, i.e., purchasers?

MR. NUSS: Yea, I'm sorry. From buyers and sellers.

MR. SZUSTAKOWSKI: So U.S. producers of silicomanganese, U.S. purchasers meaning mills?

MR. NUSS: U.S. sellers of silicomanganese, U.S. purchasers of silicomanganese.

MR. SZUSTAKOWSKI: Right. So Felman, you provide confirmation, you know, to Ryan's Note; is that accurate?

MR. NUSS: If we were contacted by Ryan's Notes, we would provide information that meets the scope of their survey, which is to cover spot sales.

MR. SZUSTAKOWSKI: And is this true -- you're

here on behalf of Felman --

MR. NUSS: Production.

MR. SZUSTAKOWSKI: Felman Production. Felman Trading, would they be the separate entity to confirm a Ryan's Note price quote?

MR. NUSS: Umm, again Barry Nuss. Georgian American Alloys is the parent company of Felman Trading and Felman Production and Georgia Manganese. Felman Trading is the selling arm of the group. So all sales to third parties are through Felman Trading, and whether it's Felman Production product or Georgian origin product.

So the contact would be with Felman Trading, because the information would be on sales to third parties.

MR. SZUSTAKOWSKI: Mr. Rochussen, do you have anything you want to add to that, or does that kind of cover everything in your mind?

MR. ROCHUSSEN: Peter Rochussen for Eramet. That substantially is reflective of what we see in the marketplace as well. I mean there are regular communications, not only with Ryan's Notes, but also with various other publications, such as Plex Metals Week and American Metal Market. Sometimes the communication might be weekly, sometimes monthly.

From our understanding, all the publications follow a similar routine, where they'll canvass a variety of

participants in the marketplace, from producers to traders to importers to consumers, to try and get a fair reflection of the actual transactions that are occurring from time to time.

MR. SZUSTAKOWSKI: Thank you.

MR. LEVY: And Jack Levy. If I could just add two points for your reference on this topic. This is not a perfect science. These are people surveying other people with less than perfect information. It's apparent that in the industry, there could be a diversity of interpretation as to what is a contract and what is a spot sale.

So for example, if you have a contract that is tied to a reference price, there tends to be little or no ambiguity that that is a contract. However, if you have a contract for a single delivery or multiple deliveries in approximate time period, where the price and quantity is fixed, there may be parties that are inclined to characterize that as a contract sale rather than a spot sale.

So that is a point of ambiguity in the industry, and I think it's fair to assume that the publishers of the reference prices are not necessarily in a position to get that perfect all of the time. It's also the case, and we can provide full detail in our post-conference brief, that there have been specific instances during the Period of

Investigation where there was concern that there may have been some manipulation of a price by certain parties in the industry.

We'll provide as much detail as we can relating to the timing and the circumstances of those concerns. Thank you.

MR. SZUSTAKOWSKI: Thank you. The high manganese product, the 72 percent manganese product that comes from the related Felman enterprise in Georgia, is there a price premium for that?

MR. NUSS: Again this is Barry Nuss. The vast majority of product that comes from the Georgian company is this higher grade 72 percent product. Georgia is a secondary source for standard silicomanganese, the 65 percent product, to the U.S. market. Felman does not charge any different price for the 72 percent product from the standard 65 percent product on a manganese-contained basis, right.

So it's the same -- the same pricing, but it is scaled for the fact that it contains more manganese.

MR. SZUSTAKOWSKI: I don't understand what that means. What does it mean "scaled for the" --

MR. NUSS: That means that on the weight of the material, it's a higher price. But on a manganese-contained basis, the amount of manganese that's in the product, which

is what the steel producer is buying, is looking for, it's the same price.

MR. SZUSTAKOWSKI: Okay. So you're --

MR. NUSS: The scale basically means that, I'll give you an example.

MR. SZUSTAKOWSKI: Sure.

MR. NUSS: If the product is 72 percent contained, and Ryan's Notes quotes on a 65 to 68 product, then the difference between the average of 65 to 68 to 72 is, it increases the price. So say 72 over 66, times the Ryan's Note low price is the price. So it's scaled up for the fact that there's more manganese contained.

MR. LEVY: And so again, Jack Levy. So to be clear, on a gross unit basis, the nominal price for a 72 percent grade product is going to be higher. Adjusted for contained manganese, the price is intended to equate with standard grade silicomanganese.

MR. SZUSTAKOWSKI: Okay. So because we collect -- our unit value data is based on per ton, sales value, price and product based on weight, not on the silicomanganese concentration.

MR. LEVY: Manganese content.

MR. SZUSTAKOWSKI: Manganese content. So I'm just trying to understand, because I'm looking at your -- from your presentation, your Exhibit B. When we look at all

other prices during 2013, does that green line, does that reflect on a per unit basis any sort of premium?

MR. LEVY: So to be clear, the data in Exhibit B are all calculated on a gross ton basis. If one were to break it out, what you would nonetheless see is that on a country by country basis, the lowest price is Australia during the Period of Investigation, particularly this period of the deepest injury in 2013.

When you think about how the record's developing through the questionnaires, TEMCO, Felman Production, Eramet Marietta are all producing standard grade silicomanganese. So this is a non-issue when you analyze it on a gross ton basis. To the extent you want to understand in a more granular way what's going on with pricing from Georgia, a non-subject source, we initially reported data essentially on a gross ton basis in toto.

We understand the staff has since asked, in connection with the quarterly pricing data, for us to essentially separate out standard grade from the 72 percent product. We'll be doing that, and so I think, you know, through those data, you'll have a full understanding of the difference of price.

MR. SZUSTAKOWSKI: Great, excellent. Thank you. Mr. Nuss, you mentioned that a low volume sale can have a profound impact in the Ryan's Note pricing. Is Ryan's Note,

is that not like a weighted index, where they're looking at the volume of the purchases and the volume of the sales? I'm just trying to understand how a small quantity sale, small volume can kind of have this massive ripple effect?

MR. NUSS: Barry Nuss. My understanding is that the survey covers silicomanganese meeting the specification of manganese 65 to 68 percent and silicon, 16 to 18-1/2 percent, sold on a spot basis for relatively prompt delivery. So there is no -- it refers to multiple truckloads, but multiple truckloads, you know, a truckload is 20 tons. Multiple truckloads could be 100 tons. That would be a spot sale.

So but there is no -- my understanding, there's no reference in their methodology that there is any weighting done. It's a range of the lowest price and the highest price.

MR. SZUSTAKOWSKI: Okay, thank you. Mr. Nuss, what change was there in the market conditions that led you to restart the plant that was shut down? You said that it was restarted in 20 --

MR. NUSS: In the middle of 2014.

MR. SZUSTAKOWSKI: So what were the market conditions you saw then that said okay, we want to ramp up and was it two furnaces that were brought back online?

MR. NUSS: We brought back online two furnaces.

The prices had improved modestly from the beginning of the year, and we had completed a negotiation of a contract with our electricity supplier, which allowed for more flexibility in our rate structure. Those two things combined made it economical to restart the two furnaces.

MR. SZUSTAKOWSKI: Is there a ramp-up phase when you're bringing these furnaces back online, or is it, you know, you just see this history of facilities going offline and back online, you know, in Virginia and South Africa and Australia. I'm not familiar with so many production assets coming on and off line so quickly.

What I'm just trying to understand is this like flipping a switch, the shifts come back in, it's full line of capacity is being utilized, or is there a ramp-up phase?

MR. NUSS: Again Barry Nuss. There is a relatively short ramp-up period when you idle furnaces, with the understanding that you're going to bring them back to production at some point in the future. It is approximately a week to bring a furnace up, because you have to introduce energy to it slowly in steps, in order not to damage the equipment and to get it to a point where the product is ready for tapping.

So there is a short period. Now if you don't, if you take production out and you start dismantling your furnaces or cannibalizing them for parts for other furnaces,

then it's a bigger issue. But that is not what Felman did. What Felman did when it idled the furnaces was to actually take the early months to complete additional maintenance.

These furnaces typically run for extended periods of time, and then come out for a couple of weeks of major maintenance, and then are expected to run 24-7 for an extended period of time again. We took the opportunity to do that major maintenance, so that they could be brought online in relatively short order.

MR. SZUSTAKOWSKI: Help me understand. So when these furnaces were taken offline, you're mentioning major maintenance was performed on that. Was that scheduled major maintenance?

MR. NUSS: It was major maintenance that would have been performed in that year's maintenance shutdown.

MR. SZUSTAKOWSKI: And how long would it have been offline for just that major maintenance?

MR. NUSS: A week or two.

MR. SZUSTAKOWSKI: Okay, and that's for all three furnaces?

MR. NUSS: That is typically what your maintenance period is.

MR. SZUSTAKOWSKI: I'm sorry. What I meant was the major maintenance, was that performed on three furnaces?

MR. NUSS: Yes, yeah. There was maintenance work

performed on all three furnaces.

MR. SZUSTAKOWSKI: Thank you.

MR. SZUSTAKOWSKI: -- so according to the record data, this is directed to counsel because they have access to this. According to the record data that we have right now and some of the information we've seen in the International Manganese Institute data, we see that apparent consumption declined from 2012 to 2013 with an increase form 2013 to 2014.

And I guess this is also directed to the industry witnesses. What happened to the apparent consumption from '12 to '13? Did consumption decline in the U.S? Was it a soft market in the U.S. in 2013?

MR. ROCHUSSEN: Peter Rochussen for Eramet. Consumption of silicomanganese is a direct correlation to crude steel production. Crude steel production goes up. Consumption of silicomanganese will go up. If

During the period of review, the market has remained clearly flat if you had to look from 2012 to 2014, but in 2013 there was a decline in crude steel production during that particular year, so that would account for the apparent reduction in apparent consumption during that period.

MR. SZUSTAKOWSKI: So, how does the industry distinguish the affects of, you know, a decline in demand

from the affects of the Australian, the subject imports? If you have softening demand, don't we typically see some sort of correlation with, you know, softening domestic operations that their performance won't be as well?

MR. LEVY: Jack Levy.

You know to the extent we see a decrease in apparent domestic consumption in 2013 it correlates with an absolute increase and a staggering increase in imports from Australia, and obviously a corresponding gain in market share. So, you know, any temporary drop in apparent domestic consumption in 2013, and then it sort of flatten out -- you know things are back to where they were roughly in 2014 only made the U.S. industry more vulnerable and more vulnerable to the volume affects of subject imports, but there's no denying that there's fluctuation in demand from year to year.

2013 was a year where apparent domestic consumption was a little off. It also correlated with the year where volumes from Australia were at their all-time high, and those are the facts as we understand them.

MR. SZUSTAKOWSKI: So, how do you distinguish the affects of the Australian product in 2013 compared to -- I apologize. This turned into a word salad here. The Respondents mentioned that the imports from South African declined from 2012 to 2013. Imports from Australia

increased from 2012 to 2013. So, how did you all distinguish that the imports that are allegedly replacing the South African -- the Australian imports that are allegedly replacing the South African imports how did you see that their behaving different than the South African imports in the U.S. market?

MR. GETLAN: It's Myles Getlan, Cassidy Levy Kent.

In 2013, when subject imports, when imports from Australia increased so dramatically, you know, it contrasted with the situation you described in terms of softening demand. You see in the import statistics that non-subject imports reflected that softening in demand as well as in 2013 non-subject imports declined by 27 percent.

So, there was still demand in the market softer than it was in 2012, but through the aggressive pricing that we've talked about Australia was able to capture that demand that existed at the time, and most substantially at the expense of Felman and Eramet; but also from non-subject imports as well and so it's quite clearly that, given the pricing and the volumes that we're seeing that lead to sort of the poor market conditions that our witnesses were describing.

MR. LEVY: So again, just to wrap up -- Jack Levy -- it is clear from the data that there's a softening in

demand, and a temporary one at that in 2013 and an increase in subject imports in 2013, which contrast sharply with non-subject imports.

As you well know, you know, the Commission is charged with understanding fully the conditions of competition and the macro economics circumstances, but at the same time cannot way causes. And I think from the perspective of U.S. producers it's clear that Australian imports were not only a cause of material injury, but the most prominent cause during the period, but certainly not the only. Thank you.

MR. SZUSTAKOWSKI: That concludes my questions for now. Thank you so much.

MR. MCCLURE: The next questioner will be our industry analyst, Jerry Houck.

MR. HOUCK: Thank you, Mr. McClure. I just have a couple of questions related to the scope of the investigation.

First of all, Mr. Levy, you spoke about there being the three categories of silicomanganese, the one which is non-subject, the low carbon silicomanganese and then two that apparently would be subject product were they imported from Australia -- let's put it that way -- one of which you characterized as standard silicomanganese, the other being the product from Georgia with a 72 percent. Would you like

to give that a name; what do you call it?

MR. NUSS: This is Barry Nuss.

We refer to that as high grade.

MR. HOUCK: High grade, okay. That's good.

MR. MCCLURE: That's your name for the 72 percent?

MR. HOUCK: Yeah. Now, is that H-i-g-h or it's just H-i grade, does it matter?

MR. NUSS: It's either.

MR. HOUCK: Thank you.

My second question relates to the scope and in particular the reference in the scope to the phosphorous content. I mean it is your intention and your view that all of the silicomanganese that you produce, that Australia produced that make come from Georgia or wherever is within the scope even if the phosphorous content may be slightly in excess of the 0.2 percent referred to in your scope language?

MR. LEVY: We understand that the scope language, as drafted, which substantially mirrors the scope of past cases encompasses all compositions of silicomanganese, which we understand to mean all chemical composition of silicomanganese, except those that are specifically excluded, low carbon silicomanganese being an example. So, as a technical, legal matter our understanding is that even

we'll call it aberrational phos content would be covered within the scope.

Anyone have anything to add on that point? No? I think that would be our answer.

MR. HOUCK: Thank you. I have no other questions.

MR. MCCLURE: Our next questioner will be Cindy Cohen, our economist.

MS. COHEN: Thank you all for your presentation this morning. Michael did cover a lot of my questions, but I have a few more.

Going to the line of questioning that Gerry was asking about the different grades and the higher manganese product, I believe that was Mr. Levy or Mr. Nuss had said that you'd be providing the data for the Georgian -- the pricing data for the higher manganese virus the standard. Can you just spell out in your post-conference brief what that price premium is on a per ton basis or a per pound basis, on a weight basis.

MR. LEVY: Sure. That's easy to do.

MS. COHEN: And then also would we see a price differential between the different grades, between the A, B, and C? As I believe the testimony is that the products are basically substitutable, but that if the chemical composition is different is there a price premium or a lower

price for a different chemical composition, if that makes any sense, a different silicon content, for example, or carbon?

MR. LEVY: Yes, I believe the testimony we heard this morning -- Jack Levy for U.S. producers -- is that standard grade silicomanganese is manganese that is responsive to the specifications of U.S. steel mills. Those specifications are very close to, but not coterminous with the ASTM definition of Grade B, such that it would also include certain Grade C product.

So, the testimony we heard was that TEMCO, Felman, Eramet are all producing standard grade silicomanganese, which is directly competitive and responsive to steel mill specifications. It's the heart of the market, but it may be on one side of the line or the other as between Grade B and C, but nonetheless meeting steel mill specifications.

I would ask our industry witnesses to say whether there's anything the U.S. market they're aware of that is marketed as Grade A material or Grade C material, as such, and if so, what kind of pricing it commands, maybe Mr. Rochussen?

MR. ROCHUSSEN: Peter Rochussen, Eramet.

In my experience, I mean there's no discernible difference the various ASTM grade from a market perspective.

I mean the customers come out in their RFQ, Request for Quotations, and they have their own specification, which is centered around a Grade B with some variations. But essentially, at the end of the day, it's all one standard silicomanganese product that we're operating with and are quoting to the marketplace.

Historically, I mean going back a long, long time there was a lower carbon grade, a 1 percent carbon grade, but that's since disappeared from the marketplace some years ago. There's no longer a requirement, to my knowledge, for that particular grade. Other than that, everything else is centered around a Grade B in my experience.

MS. COHEN: And if there is a slightly different chemical content, does that affect the price at all or is it priced the same if the silicon content is different?

MR. ROCHUSSEN: Typically, in my experience, no. You know not to my knowledge in the grades that we sell, and we essentially sell in extended product centered around the Grade B composition.

MS. COHEN: Okay. Any other comments on that?

MR. NUSS: This is Barry Nuss.

I would also note that Ryan's Notes description of the product for which they publish prices is silent as to carbon or phosphorous. It is really just the manganese and the silicon content as they ASTM spec calls Grade B. That's

the predominance of the market. That's the prices that are quoted in the publications.

MS. COHEN: Okay. Going to Exhibit B on the pricing data, I have a couple of questions. The first one is I was trying to understand the trends here. There's a big spike at the beginning of 2102; what is that about?

MR. LEVY: Well, again, exactly what goes on with Ryan's Notes is always a mystery unless the ITC has subpoena power over a UK publisher. But putting that aside, we note that in approximately the first quarter of 2012, TEMCO Australia idled its facility and that its temporary removal from the U.S. marketplace corresponded with a period of healthy prices.

No sooner did TEMCO ramp up toward the end of 2012 and did it begin shipping large volumes into the U.S. market that market prices began to crater. So, there's almost a perfect correlation between, on the one hand the absence of TEMCO as a subject producer, on the one hand, and on the other hand its presence in the U.S. market at unprecedented volume and price levels.

MS. COHEN: And was there also something going on with demand at that time for the industry witnesses?

MR. LEVY: Peter, any comments on demand in early 2012?

MR. ROCHUSSEN: Peter Rochussen, Eramet.

To my recollection, demand in 2012 I think there was a slight gain in demand if you compare it to the 2011 timeframe. I don't know, I'd have to look back, then we could maybe comment on that in the post-conference brief as to the exact timing of that pickup.

MS. COHEN: And then the increase again in the latter part of 2013 in the pricing do you have some explanation for what's going on there?

MR. ROCHUSSEN: Again, on that, we can do further analysis and comment on that in the post-conference brief.

MS. COHEN: Okay.

And then also looking at the AUVs for the imports so the contention is that the Australian price is driving the Ryan's low. I'm not exactly understanding the argument that they're priced below the Ryan's low. The contention is that the Australian prices are driving the low, right? So, what is the difference between the lines that we're seeing here?

MR. LEVY: Well, the connection and how prices work in this market is something that is quite complex and to some degree opaque. It is not yet fully clear in this administrative record that we have today what the dynamic is and if it speaks further analysis in the final phase, to be sure. But to the extent there is an oversupply of Australian origin material in the U.S. market coming in 2013

the introduction of that supply has to be explained by reference to lower prices.

How that translates into Ryan's Notes low pricing is something that can be explained by even small volumes of spot sales at low prices that correlate with these average unit values that you see here in the import statistics. But let's also be clear that on the contract market, which in principle is a separate beast from the Ryan's Notes low, but as I described because of how prices can be mischaracterized to spot versus contract they're not necessarily independent silos.

Contract prices do not exist entirely independent of market competition. They are derived from a Ryan's Notes reference price, but they also include a discount off of that reference price. And the magnitude of the discount is a function of what's going on in the market. And if the market is flooded with cheap Australian imports at prices that are palpably low, as demonstrated in public data, that is going to inform the discounts off of the contract prices that are traded in the market.

So, there's a clear connection between volume and price, but how that all works is obviously complex and something that we will try to speak to in greater depth in our post-conference brief.

MS. COHEN: Okay. Thank you for that.

On the Ryan's Notes low is that the common -- are contracts commonly tied to a certain discount off of the Ryan's Notes low and is that true for both producers and for import suppliers to your knowledge?

MR. ROCHUSSEN: Peter Rochussen for Eramet.

To my knowledge, Ryan's Notes low is the reference mark that is used for the majority of the contract pricing.

MR. NUSS: And this is Barry Nuss from Felman.

I would agree, particularly, for the larger steel makers.

MR. LEVY: Jack Levy for domestic producers.

While it's certainly true that Ryan's Notes low is the prevailing reference price for use in contracts, there are contracts, as you heard in testimony, that use, in whole or in part, other reference prices; be it, Platts Metals Week, American Metal Market, or for that matter, contracts that delineate a fixed price, particularly, short-term contracts. So, there is a diversity of pricing dynamics in the marketplace, Ryan's Notes low being the most prevalent.

MS. COHEN: And so, given that there's a concentrated number of steel producers that purchase this product, it would help us get at the contract side of thing to get information from the producers and then perhaps from

the Respondents this afternoon in the briefs on the contracts, say, with your top three purchasers and when those contracts were negotiated what the percent off the Ryan's Notes were in each year. Is that something you could do for the post-hearing?

MR. LEVY: For the post-hearing, possibly, but the challenge is the following. You have a relatively short number of purchasers, but what I think what we want to study is the extent to which individual mills within those company groups have unique contractual terms, their own special procurement arrangements. And so, I think we'd need to study the extent to which one mill is really -- excuse me -- one company is really 12 mills or whether one company is one company. So, I think we could certainly make an effort.

MS. COHEN: Okay, so each mill could have its own separate negotiations.

MR. LEVY: So, maybe Barry and Peter can speak to the extent to which that's an issue.

MR. NUSS: This is Barry Nuss from Felman.

There are differences from one mill to another within the same steel producing group as to the pricing discounts. You know, prices are often quoted on a delivered basis. There may be different logistics involved, and sometimes that's -- you know you're referring to the same reference price in Ryan's Notes, but the discount may be

where you're taking the difference in the applicable logistics.

MR. LEVY: What we don't have in the record is details on U.S. commercial shipments of importers where the customers may hold themselves out as traders. And there may be value in collecting that data sooner rather than later to better understand what's happening at that level of trade.

You know one of the interesting questions is if import unit values -- land-to-duty paid is "X" and then that product is going through a trader and the trader is, in turn, delivering to a steel mill, which could be unaffiliated. It could be a related party. The question is, you know, what should that markup look like and what would be reasonable.

Certainly, Felman Trading has an experience as to what's a reasonable markup, but an interesting question for Respondents is in their experience what's a reasonable markup. Is it 2 percent, 3 percent, 5 percent, 20 percent, 40 percent? I think when you look at the data with a cold eye you'll see that the data, as collected, at that level of trade cannot be right and something's going on in the administrative record there.

MS. COHEN: Okay. There's one more thing on I guess Exhibit B, and then just looking at the Census trade data, so the green line is the "all other," which a

substantial portion of that would be product from Georgia. So, I'm surprised with the higher manganese content that there wouldn't be a higher unit value for the Georgian product. So, I think our Census data that we pulled showed the average unit value for the Georgian product in 2014 to be lower than for Australia. Do you have any explanation for that?

MR. LEVY: We can provide in our post-conference brief an analysis country-by-country, but if you sort take a step back and you sort of ask, you know, why Australia? Why Australia's being singled out here by Felman? This isn't a unique case in the sense that the low point in terms of U.S. industry financial performance the depth of its injury is greatest in 2013, which corresponds with the trough in prices.

Most U.S. producers get around to filing a petition at their low point. Here there's a bit of a lag between the low and the filing of the petition, in part, because Felman was idle for the better part of a year. So, you know, the starting point for the analysis has to be an understanding that the worst point in the period of investigation is, in fact, the middle, beginning with Felman's idle in mid-2013.

So, out of all of the sources of import supply why did Felman single out Australia, and as you heard from

Mr. Getlan, in 2013 imports from Australia surges to be the number two source of supply, the number one source of supply being Georgia; Georgia, however, supplying a vast majority of high grade product, a niche product with a niche specification. And importantly, Felman Trading controls the sale of Georgian origin product in the U.S. market.

Mr. Nuss testified about the commitment of Felman production to manufacture in the United States to tens of millions of dollars in investment for U.S. manufacturing. Felman Trading had no interest in cannibalizing the U.S. operation and Georgia did not represent to Felman a threat as it fashioned its petition. So, quite obviously, it made perfect sense for them to identify Australia as the aggressor in this period of greatest injury, which was 2013.

We recognize that pricing and volume from Australia appears to have pulled back a little bit in 2014, but even when comparing 2012 to 2014, the volume effects and the price effects are palpable. I hope that's, in part, responsive. And in our post-conference brief, we will obviously provide a more detailed explanation of not only the cause and effect relationship between subject imports and U.S. production, but obviously we will deal appropriately with non-subject sources.

MS. COHEN: Okay. Thank you for all the responses. I appreciate it. I think my red light would be

on if I had one.

MR. McCLURE: Mr. Szustakowski has one more question, I believe.

MR. SZUSTAKOWSKI: Just one request. Please include in your post-conference brief quantity value data for Felman's imports and U.S. commercial shipments of the high grade product. That would be for the entire 2012, 2013 and 2014. Thank you.

MR. McCLURE: I want to thank you. One thing, Mr. Rochussen. You said Eramet produces other products at Marietta, aside from silicomanganese; am I correct?

MR. ROCHUSSEN: Yes, that is correct.

MR. McCLURE: Okay, and Mr. Nuss, is the same true for Felman, or are you silicomanganese only?

MR. NUSS: Yeah. Felman produces only silicomanganese in Letart, West Virginia.

MR. McCLURE: All right, thank you. Again, I want to thank all of you for sitting here and enduring our questions, and everybody did very well in identifying themselves, so you get bonus points. In particular, I want to thank those who came in from out of town. With that, we're going to take a 15 minute break.

Let's come back at 11:35 and we'll do Respondent's presentation, and then we will do our questioning and get on to watching the conference

tournaments in all the basketball conferences around the country.

(Whereupon a 15 minute break was taken.)

MR. MCCLURE: Okay, Mr. Grace, if you are ready.

STATEMENT OF DAVID R. GRACE

MR. GRACE: Good morning. For the record, my name is David Grace. I'm with the Law Firm of Covington & Burling, and I'm joined today by my colleagues Alex Chinoy and Keth Gibson. We are appearing on behalf of the Tasmanian Electro Metallurgical Company, known as TEMCO, and BHP Billiton Marketing, Inc., known as BMI.

You've heard this morning from Petitioners that these companies have been aggressive competitors, taking U.S. market share through injurious pricing; however, the picture that the Petitioners are attempting to paint just doesn't hold up under scrutiny.

We have with us today two company witnesses who will set the record straight and will provide a clear and accurate description of the developments in this industry during the POI. And incidentally, that's a description that is consistent with the data collected by the ITC staff. Data that provides excellent coverage of the industry and clearly demonstrates that Australian imports have not caused material injury to the domestic industry.

Michael Anderson, to my immediate right, is a

member of the TEMCO leadership team, and has flown in from Bryson, Australia for today's staff conference. He's joined by Carl Kylander, who's two people down. Carl is Vice President of BMI. He only had to fly in from Houston, so it's a shorter hop for him. And following their testimony, Dr. Seth Kaplan will provide an economic analysis of the case. Michael?

STATEMENT OF MICHAEL ANDERSON

MR. ANDERSON: Good morning. For the record, my name is Michael Anderson, representing TEMCO. I'm the head of finance of BMI to manganese Australia, which oversee TEMCO.

TEMCO produces silicomanganese and ferro manganese at a facility in Bilba, Tasmania. TEMCO is owned by BHP Billiton and Anglo American in a 60/40 joint venture. BHP Billiton operates the TEMCO facility.

I've been part of the TEMCO leadership team since December 2012. Prior to my current position, I was a senior manager at BHP of Billiton's group headquarters in Milburn and have held a variety of positions with BHP of Billiton, which I joined in 1997.

In my testimony today, I'll first say a few words about our operations prior to 2012 and then explain why 2012 was an unusual year for TEMCO and BHP Billiton silicomanganese operations generally. I will then talk

about TEMCO's current operations in Australia, and close with a few remarks about TEMCO's plan for the future.

For many years prior to 2012, BHP Billiton was a significant, steady supplier of silicomanganese to the U.S. market. For most of its history, BHO Billiton has supplied the U.S. market from refining facilities in Australia and South African. The facilities in Australia were those of TEMCO, while the facilities in South African were those of Samancon Manganese Proprietary Limited, which I'll call Samancon.

Samancon is owned by the same BHP Billiton Anglo American Joint Venture as TEMCO. BHP Billiton has sole responsibility for distributing silicomanganese from these two facilities to the United States. BHP Billiton coordinated the sales and shipments from the two sites and maintained relative steady, overall import volumes in the U.S. market share.

For example, 2011, the calendar year immediately prior to the start of the period of investigation in this proceeding, BHP Billiton imported a total of approximately 140,000 short tons of silicomanganese from Australia and South Africa. We estimate that this represents approximately 32 percent of the U.S. market. During the period of investigation, BHP Billiton's combined imports from Australia and South Africa declined. By 2014, these

import and market share figures were approximately half what they were in 2011.

Due to two major events, 2012 was a misleading base year for measuring the impacts of BHP Billiton's silicomanganese sales to the United States. These events are, first, the permanent closure of Samancon silicomanganese facility in South Africa, and second, the temporary closure of the TEMCO facility in Australia.

In February 2012, Samancon in South Africa stopped producing silicomanganese. Later in 2012, the Samancor facility used to produce silicomanganese in South Africa, called South Plant was demolished. The production from this facility has been scraped and there is no possibility of reopening this facility to produce silicomanganese.

Samancor does not produce silicomanganese at its remaining facilities in South Africa. Instead, those facilities have been designed and built to be able to produce ferro manganese and medium carbon manganese alloys. For this purpose, Samancor uses large furnaces, which are not technically suited to silicomanganese production. Samancon has no plans to convert the existing facilities to produce silicomanganese. In short, silicomanganese South African silicomanganese operations are no more.

In addition to the closure in South Africa, a

second effect seriously impacted BHP Billiton's participation in the U.S. market in 2012, the temporary closure of TEMCO's operations from February to June 2012. This four-month closure was due, in part, to an erosion of TEMCO's international competitiveness due to a steady increase in its input costs, including electricity.

TEMCO used the temporary shutdown to engage with stakeholders to reduce operating costs, including entering into a revised electricity contract. Through this effort, we were once again able to produce silicomanganese with a competitive cost structure.

As Mr. Nuss testified this morning, Felman had a similar temporary closure in mid-2013, during which is sought to improve the cost structure at the Felman facility in West Virginia. Like TEMCO, Felman has also negotiated a new electricity contract during the shutdown. Because of these closures, BHP Billiton's total exports of silicomanganese to the United States plummeted in 2012. In particular, exports from Australia in 2012 were less that 60 percent of the level they had been in 2011 and Australia's share of the U.S. market declined by a similar amount.

As industry reports noted in April of 2012, these plant closures affected silicomanganese prices worldwide, and particularly in the United States. In the sunset review conducted in 2012 regarding silicomanganese from Brazil,

China, and Ukraine, it's my understanding that Felman itself told the Commission that the South African closure caused prices to increase to 72 cents per pound before additional imports from other markets compensated and the price returned to normal.

Because the United States had previously imposed anti-dumping duties against a number of other large silicomanganese suppliers and because domestic producers have always made up a small share of the U.S. market, U.S. customers were more dependent on South African and Australian imports than customers in other countries. The closure of the Australian and South African facilities therefore had a greater impact on 2012 prices in the U.S. than elsewhere.

Following the closure of the facility in South Africa, with the exception of the period were we were obliged to acquire product from third parties in order to meet our contractual commitments, BHP Billiton has continued to serve U.S. silicomanganese customers exclusively from Australia. As a result, exports from Australia increased in 2013 and 2014; however, BHP Billiton's exports to the United States have never recovered to reach the total volume and value of the combined exports from Australia and South Africa prior to the period of investigation, nor are they anticipated to do so in the foreseeable future.

And indeed, BHP Billiton's share of total U.S. imports declined from 2010 through 2014, and it now accounts for only approximately 17 percent of total imports; thus, the increase in Australian exports in 2013 and 2014 should probably be characterized as a partial offset of the loss of BHP Billiton's volume from South Africa. In this sense, BHP Billiton did not take sales away from the domestic industry. It merely sought to maintain a portion of its existing U.S. sales by filling orders for its U.S. customers with silicomanganese from Australia rather than South Africa.

At this point, I'd like to take a moment to discuss our current operations in Australia. There are four furnaces at the TEMCO facility. Our current furnace configuration in Australia is two furnaces producing ferro manganese and two furnaces producing silicomanganese.

While the public petition in this case claims there's a risk we will convert the two ferro manganese furnaces production of silicomanganese as a commercial and operational matter that is simply not a realistic concern. Our current two-by-two configuration is the optimal configuration for the facility.

The petition alleges that TEMCO could potentially convert additional furnaces to produce silicomanganese and that therefore our potential production capacity represents a significant percentage of U.S. apparent consumption.

Whilst it is technically possible to increase the number of furnaces producing silicomanganese, the scenario laid out in the petition is pure speculation.

A shift away from our present two-and-two configuration would be less efficient for TEMCO's overall operations. And as discussed in great detail in our confidential questionnaire response, such a conversion would come with significant costs, and we have no plans to do so in the foreseeable future.

Finally, I'd like to discuss TEMCO's plans for the future. At present, there's virtually no unused capacity at the TEMCO facility. We're running flat out. While TEMCO always seeks to improve operating efficiencies, it has no plans to take the kind of major investments, such as adding furnaces or other capital equipment which would be required to significantly increase its existing production capacity.

To put this in context, the last significant change in production capacity at TEMCO was the commissioning of the fourth furnace back in 1977. Two additional facts may be relevant to the Commission. First, TEMCO holds no silicomanganese inventories in the United States and the inventory levels at the refinery are minimal.

Second, as discussed in greater detail in our confidential questionnaire response, market trends lead

TEMCO to project that its exports to the United States would decrease slightly in 2015 and 2016. In that submission, we also provide our confidential production for silicomanganese exports to other markets. These projections are based, in part, on our expectation about the price of silicomanganese in Europe and our expectation about silicomanganese consumption in both the United States and in other markets, including markets in Asia.

If global oil prices rise to the historic levels, we also anticipate a cost advantage in shipping to locations nearer or Australian facility.

Finally, I'd like to note that, in general, silicomanganese stocks declined on a worldwide basis in 2013 and 2014, and that certain suppliers from at least some countries such as Brazil and Ukraine fell in late 2014. If these trends continue in the face of rising demand, they should put up the pressure on global prices in the coming years.

To summarize, BHP Billiton has been a long-term, reliable supplier of silicomanganese to the U.S. market. Although export volumes from Australia rose in 2013 and 2014 following the temporary disruptions in 2012, they have only partially replaced our South African exports, and in this sense have not taken volume away from the domestic industry. In fact, our overall volumes have gone down.

We are running at full capacity with minimal inventories and no plans to expand the TEMCO facility. In short, the world we know, a world in which we have historically competed fairly and continue to compete fairly is very different from the picture painted by Felman. Thank you. And I'll be pleased to answer any questions that you may have.

MR. GRACE: Carl.

STATEMENT OF CARL KYLANDER

MR. KYLANDER: Thank you for the opportunity to speak. My name is Carl Kylander. I am Vice President at BHP Billiton Marketing, Inc., which I will call BMI. BMI is a subsidiary of BHP Billiton, Ltd., and during the period of investigation BMI was responsible for marketing and distribution of manganese products in the United States.

During the POI, I had direct responsibility for marketing manganese ores and alloys into the U.S. I've worked at BMI since 2001 and before then, I worked for predecessor companies to BHP Billiton and other companies in the mining and steel industries. My experience in the manganese business goes back more than 20 years.

I will start today with a few comments on the Petitioner's allegations that we have injured them, then I will talk about BHP Billiton's shift in silicomanganese delivery methods in the U.S. during the POI. To the extent

I can do so on the public record, I will then discuss buyer-specific and product-specific factors that go into our prices.

Felman argues that we have injured them by underselling and that our undersold prices affect prices in indices like Platts and Ryan's Notes. According to Felman, they're injured because they set their contract prices based on these indices and we have caused the prices in these indices to be lowered. Their argument is fundamentally flawed.

I want to talk about how Platt and Ryan's Notes prices are set. Ryan's Notes prices are set twice a week based on a survey as consumers, traders, and producers regarding the previous day's sales to end users on the spot sale market. Platts is set in a similar manner. As described in more detail in the confidential response to our questionnaire, the vast majority of the BHP Billiton's U.S. business is through long-term contracts which are, in fact, tied to those indices, not one off spot sales.

In addition, our contracts are mostly with distributors, not end users and those contracts with distributors are likewise not a part of the Platts or Ryan's Notes pricing because Platts and Ryan's Notes' prices are based on spot sales and these sales are typically ex-warehouse sales. None of BHP Billiton's exports would

have any affect whatsoever on Ryan's Notes or Platts' prices; thus, if Felman had suffered injury due to lowering of prices on Ryan's Notes and Platts, BHP Billiton is not to blame.

Now, let me turn to the allegation of underselling. As a company witness, I don't have access to the confidential pricing data collected by the Commission. Accordingly, Dr. Kaplan will address this in his presentation.

In our view, the staff has collected appropriate pricing data in order to build a complete picture on this issue. We have every confidence that there will be no evidence of significant underselling by BHP Billiton. In fact, the evidence on the record demonstrates that we have not injured the domestic industry by reason of pricing. And indeed, if the Commission were to consider all facets of the sales process, it would be even clearer that we have not harmed the domestic industry due to pricing.

Let me discuss some of those other facets of the sales process now. First, our delivery model distinguishes us from domestic producers. During the POI, BPH Billiton shifted from a delivered duty paid model, a DDP model, if you will, to a cost insurance and freight model. That's C-I-F or CIF. I believe we are unique in the silicomanganese in the U.S. in using this CIF model. All

other importers operate primarily on a DDP basis. And our understanding from the industry is that Felman and Eramet sell primarily on a delivered basis as well.

In our previous DDP model, BHP Billiton paid the cost related to transporting silicomanganese shipments to our buyers after arrival at a port in the United States with BMI acting as the importer of record for the silicomanganese. In this model, BHP Billiton would also pay customs duties and other expenses incurred in shipment, and importantly, we bore the risk of loss from the time the material left Australia until it was delivered to the end user.

In the new CIF model, BMI is no longer the importer of record and BHP Billiton's work is complete and our risk ends long before the shipment arrives in the U.S. Instead, the buyer takes title to the product as soon as it has paid us and the product has been loaded onto a freighter. The buyer then pays any additional customs' duties, working capital, and other expenses related to bringing the product to their facility in the United States and they act as the importer of record. The buyer also bears the risk of loss along the way.

Our end users are located as far inland as Indiana and Utah, and our shipments are as large as 7,500 metric tons each. So, these costs and the risks of loss are

quite significant. Weather can also play havoc with barge, rail, and truck movements and can cause delays. Accidents happen and lawsuits are always a possibility. Delivery schedules change frequently and staff is required to adjust them. State taxes apply in most stocking locations.

In the CIF model, our customers pay us only to get material to the discharge port in the United States and the customer then bear all costs and risks after that. Shifting these costs and risks to the customer makes a difference in the prices that we can charge. CIF sales will generally result in lower prices for an additional reason because we receive payment sooner.

A CIF purchaser pays BHP Billiton before the material arrives at the U.S. port. In the DDP model, the buyer typically has 30 to 60 days from the time of shipment "X" warehouse to make a payment. Those payments are not always on time and BHP Billiton had to go through the cost and effort to chase these overdue payments. Shipping from Australia, we receive payment up to 120 days sooner in the CIF model as compared with the DDP model. There is a significant difference in working capital and we have to compensate our customers for that.

BHP Billiton started this shift from DDP to CIF in 2012. Before then, BMI was the importer of record for all silicomanganese shipments. Since 2012 -- sorry -- July

2012, all of our sales have been on the CIF model. Simply put, BMI has ceased acting as importer of record for silicomanganese. While BHP Billiton continues to sell silicomanganese from Australia to U.S. customers, it is those customers who are unrelated to BHP Billiton who import the product.

This shift from DDP to CIF was accomplished gradually. In a few transitional instances, we would make a CIF shipment, but handle stevedore and customs in some other costs. When comparing such transitional DDP sales with sales from Felman and Eramet, these contracts would need to be considered individually to determine the terms of sale. In addition, the shift was met with some resistance, as I will discuss in a few moments. Some customers stopped buying from us when we made this shift, and instead, bought silicomanganese from others who sold on a delivered basis.

The shift to CIF undoubtedly has some affect on average unit values from Australia, but the price to the end user might not necessarily be lower. The distributors who bought our products on a CIF basis would likely have built into their prices to end users the customs, duties, working capital and other logistical costs that the distributors now bear.

We don't control what prices our distributors charge and what costs they passed onto consumers. And in

fact, these distributors are completely independent from BHP Billiton and we don't know what prices they charge to their customers.

The fact that we are selling CIF further undermines the claims in the petition that we are driving the indices downward. Separate from the spot versus contract pricing issue, the indices themselves are based on ex-warehouse sales or loaded truck sales. Even if we were to try and report our contract sales, they could not drive the indices down because our CIF sales they don't even qualify for inclusion into the indices.

Another factor affecting our prices is whether the buyer is a distributor or an end user. Sales to distributors are generally priced lower than sales to end users for several reasons. Distributors generally carry inventory and therefore must pay warehousing and storage costs that end users do not have to pay. BHP Billiton reduced inventories in the United States while it was changing to the CIF model. So, these costs were reduced and eventually eliminated.

And the distributors who bought from us would generally receive an adjustment that included consideration for post-CIF costs, including inventory costs. In addition, because distributors need to have an inventory of silicomanganese that they can draw from, they can be exposed

to fluctuations in market pricing.

That is, the distributor who buys materials in April and is priced against an April indices when it was still on the ocean may well be selling to a steel mill in June and the market price may have changed by then. That risk is now moved from BMI under the DDP model to a distributor under the CIF model. The risk must be accounted for in the selling price.

An additional reason the pricing on sales to distributors will be lower than on sales to steel mills is that distributors tend to be large buyers and therefore have greater purchasing power. Our confidential filings will give more detail about this factor. On the public record, however, I can say that this consideration has become more important in recent years as various players in the industry have consolidated.

As previously mentioned, as we have shifted to our CIF model, some customers have been unwilling to purchase silicomanganese on these shipping terms and we have been discontinuing sales to these customers. These customers who are unwilling to purchase on CIF terms tend to be end users rather than distributors. That's because end users, like steel mills, are not willing to take on logistical responsibilities from the port to their mills. Therefore, over the POI, as we have had more CIF sales, we

also had an increasing percentage of sales to distributors.

As to quality, we do not advertise our silicomanganese products by a particular ASTM grade or produce to an ASTM grade. Instead, we promise to meet certain specifications for chemical content. We do not reference ASTM grades in our contracts, but we do guarantee certain chemistries, and that chemistry would align closely with Grade C silicomanganese. While some of our shipments meet the higher Grade B standard, when assessed we don't guarantee our product to that standard. It's the guarantee that typically triggers the buyer's response, not the typical.

In summary, Felman's allegations that we have affected prices set in Ryan's Notes and Platts is simply incorrect because those indices are based on spot sale transactions to end users and we did not engage in any spot sales to end users during the entire POI. In addition, our prices are not directly comparable to those of U.S. producers due to our unique CIF shipping model as well as particular considerations related to our buyers and the guaranteeing specifications of our silicomanganese product.

Thank you for the opportunity to talk, and I'll be happy to take questions.

STATEMENT OF SETH T. KAPLAN

DR. KAPLAN: Good afternoon. I think we just

heard the bells. I'm Seth Kaplan of Cap Trade, and I am going to work through the presentation that I presented, and then take questions, if the staff has any for me.

Starting on page two, this is an overview of the presentation. I'm first going to talk about conditions of competition distinctive to this market, and then go through the volume pricing and injury portions of the opinion that the Commission considers, and finally touch upon threat.

First, the conditions of competition. On page four, you see a summary. First, demand has been stable during the POI. Domestic capacity is insufficient to supply the market. The U.S. market has a long history of being supplied by non-subject imports, and the volume of non-subject imports and domestic production are often controlled by multinational corporations. I think all of these are uncontroversial points.

First about the stability of demand. Silicomanganese is an input into the production of carbon steel long products. The domestic production of carbon steel long products was relatively stable over the POI. It fell slightly in 2013 relative to '12 and then increased in '14. Thus, actual consumption of silicomanganese by the steel industry was relatively stable during the POI, and any difference you see between actual and apparent consumption

are inventories and stocks.

I would note, to the extent that apparent consumption declined more than actual consumption in 2013, that was due to an overhang of stocks in 2012, and as you've already heard, imports from Australia were down in 2012. On page six, you could see U.S. Steel long product production. It was over 25 million metric tons from 2004 to 2008. It has been since recovering from the Great Recession.

You will in '12, '13 and '14, it's relatively stable. A very small decline in '13 and then a similar increase in '14.

The domestic market needs imports. The two domestic producers can only supply a fraction of the market, as they testified earlier. There are capacities constraints. There are down times and inefficiencies, and at one facility there's production of alternative, potentially higher value products in a multi-product plant.

Thus, imports are required to supply the domestic market, and keep the U.S. long product steel industry viable. That's a quarter of all U.S. steel production, 25 million tons. Imports are primarily the largest suppliers, and have been from Georgia and South Africa, and they account for more than 62 percent of imports. You will note that they are not, have not been filed against in this investigation.

That is followed by Australia, Mexico and Norway, who also supply the market. You'll note that Mexico and Norway have not been filed against, and also that Georgia and Norway are related to the Petitioners. There are other countries under order. Remember, behavior of multinational firms related to the domestic producers creates uncertainty and volatility in the domestic market, as I'll discuss.

The next page, page eight, looks at imports during the Period of Investigation. As you will note, Australia is in dark blue third up from the bottom, and that you'll see in 2012 their imports were relatively small and increased into 2013 and once again in 2014, that they were about stable.

Note, however, that the combined sales of the green, South Africa and the blue, Australia, was about the same in '12 and '13, which is consistent with our testimony that the South African-Australia imports only replaced South African imports, and then in 2014, all the large increases are from Georgia and unrelated South African producers.

Slide 9 shows that there are related multinational suppliers. Multinational companies are the major sources of domestic supply. Georgia American Alloys and Privet has facilities in Georgia, Ukraine, Romania and the United States. In their Georgian facilities alone, they

have a hydroelectric plant, a mine, my understanding over 20 furnaces and employ over 6,000 people.

Once again a multinational company is to create profits on a worldwide basis, not on a country-by-country basis, and their relative scales will tell you where their interests lie.

Slide 10 is just a map showing the locations of Privet-owned silicomanganese production and Eramet-owned silicomanganese production.

Now let's turn to import volumes on page 12. As has been stated already and we'll demonstrate momentarily, the BHPBilliton has a reliable long term supply. Australia is a relatively small suppliers, while large volumes of similarly priced non-subject imports are available, and for those who are students of international trade or students of the law that look at Gerald Metals and Brask issues, this is a prime example of the availability of non-subject imports in significantly higher volumes than subject imports, with similar prices as discussed by Petitioners themselves.

The POI increase in imports from Australia is distorted by TEMCO's temporary shutdown, and Samancor South African silicomanganese facilities permanent shutdown in 2012. During '12 and '13, BHPBilliton shifted imports from Samancor in South Africa to TEMCO in Australia, and that

imports from Australia declined in 2014, while imports from the rest of the world increased by 47 percent.

Let's take a look at the numbers. This was discussed earlier and contains data that is contained only in BHPBilliton's records. Their shipments from South Africa. Since there are three South African producers, you can't get that from the import data. We've provided it for you, and as you could see, they're a reliable long term supplier. You can see the dip in 2009, when the Great Recession hit and steel demand plummeted, and then a return in 2010 and '11.

The key thing to note is that BHPBilliton's participation in the market in the POI was significantly less than before the POI for an extended period. You could also see from 2012 to '13 that how the Australian imports replaced the South African imports.

So only looking at the blue portion in 2012 gives a misleading understanding of the role of BHPBilliton in the market, and the role of their imports in the United States. Slide 14 points to what I would consider a very big problem for the Petitioners in this investigation. The red is non-subject imports.

They say the blue is driving the market. They are saying the wing on the flea of the hair on the tail of the dog is running the show. I say not. I say look at the

red.

Slide 15 shows imports from Georgia have nearly tripled since 2006. Compare the imports on 15 from Georgia to the combined imports from BHPBilliton on 13, and you can see where the long term increase, and even the short term increase in imports is coming from, from a related party in this investigation.

Slide 16 goes over once again these points I just made. BHPBilliton supplied the U.S. market with imports from Australia, the TEMCO product and South Africa, the Samancor product. TEMCO was shut down in 2012 from February to June. BHPBilliton increased imports from Samancor's inventory to cover this, as seen on the previous slides.

With Samancor closed, BHPBilliton supplies the U.S. market with imports from Australia. The shift has been complete, and now the imports are here at lower levels than they were before the POI. The increase of imports from Australia in 2013 in large measure reflects TEMCO's shutdown in 2012.

Slide 17 shows the data from Australia and South Africa combined from the Datanet. So this includes imports from other parties as well, but it shows that their '12 to '13 was about the same, and it's kind of a public way to look at the shift. If you take a look from 2013 to 2014,

you see there was a large increase from the rest of the world, while Australia remained stable.

Now let's turn to pricing. Slide 20 is a slide indicative of -- and notice no axes -- indicative of the data that is collected from the Commission questionnaires. It includes the data that was released yesterday. You have many independent sources of pricing data now to conduct your over- and under-selling analyses, and what the data shows is predominant over-selling by the domestic -- by the Australia imports.

This is the best data you have. It's data with specific pricing products. It's data that is subject to subpoena. It's data that is certified. It's data from the importers identified by the parties, as in every investigation. It is data from the domestic producers, and everyone admits the data is complete.

I'm just going to take a look at that one more time for your edification, and you see U.S. producers are below Australian producers, and there is a slight gap in the Australia data. That is a mistake on my part. It remains above the domestic product throughout.

Slide 21. POI pricing is consistent with historical pricing. I will show you that from Ryan's Notes. The prices during the POI are higher than historical prices from Ryan's Notes, except for the period where there was the

commodity boom and all commodities in the world went up and then went back down again.

The Commission data shows overselling. Contract prices are determined by spot sales reported to Ryan's Notes and Platt. That was discussed in great detail this morning, and I'm sure you'll ask questions. But the point is is the vast majority of the Australian product is sold on contract rather that spot, and doesn't enter Ryan's Notes. To ensure apples and apples price comparisons, data should be collected at the same level of trade, and they have been here.

These are contract and spot sales to end user steel companies. So you have the right level of trade and the right definition of products. Import AUVs, as always, are not a reliable indicator of market pricing, because of a variety of reasons the Commission's well aware of, and the Commission typically rejects AUVs and uses it only as a third or fourth source of information.

The pricing product data is the primary source of information, and it is reliable and complete in this investigation. Quickly on contract pricing, it is often set and adjusted from Ryan's Notes and Platt's. Ryan's Notes collect spot pricing and reports it twice a week. If Australian silicomanganese is overwhelmingly sold on the contract market, it is not likely driving contract prices

through Ryan's Notes or Platt's. We will provide evidence in the confidential record to this point.

Now let's turn to injury. The first point I think is plain after the first part of the presentation. There's no nexus between Australian imports and the condition of the domestic industry. Production location and product mix in a multinational firm are driven by firm-wide profitability and not country profitability, and as I will -- I already discussed and will discuss further, this is a key point in what is driving the market in this investigation.

Felman's plant closures were due to high energy costs, high labor costs, production inefficiencies and environmental compliance issues. Their own press releases provide evidence to these points. Finally on lost sales allegations, they're confidential. But if they have to do with related parties, they should be rejected, and lost sales allegations absent the ability to supply should be rejected.

So you should be making sure that any lost sale is not a lost sale to Georgian product, because that's not cognizable. It's only U.S. lost sales, and second, you should make sure that a lost sale is a sale that could have been supplied by domestic producers.

In any case, I think the record will show that

there is very little support for the lost sales and lost revenue allegations. With respect to multi-product production, I think the chairman of GAA's press releases fits with the notion that you maximize profits on a worldwide basis.

One of the many benefits of GAA's organizational structure is that you are able to make the necessary changes across our business to serve customers. If it makes sense to supply it out of Georgia, then you supply it out of Georgia. If it makes sense to switch the product mix because you have producers abroad that can make both products, then you do that. In fact, a large part of multinational efficiencies game come from altering product mix to create efficiencies in individual plants, and logistical relationships, and keeping the most valuable assets running.

Felman Production energy and labor costs we'll discuss. The main point is that they had very high electrical rates which was a source of harm to them, and that they renegotiated them during the downturn, making them significantly less vulnerable. As they state, the rate was a necessary component in enabling the ongoing economic viability of Felman's New Haven manufacturing site.

I will point about when the question was asked this morning, why did they reopen? They reopened the day

after the energy agreement was signed, the day after. I think that tells you something about how important this electricity contract was, in terms of how they considered the viability of their own production facilities.

Felman's plant inefficiencies are well known. It's a 61 year-old plant. It has changed hands several times. It has gone into bankruptcies multiple times. According to the company's own filings with the PSC, Felman has failed to turn a profit in the seven years since it has bought the New Haven plant.

The notion that this was a profitable company suddenly struck down by small volumes of Australian imports when there were non-subject imports all over the place just doesn't fit with the history of the plant, nor the history of pricing you have before you, and the history of imports you have on the record.

There is another closure in 2015 from their own website. "The temporary shutdown will allow Felman to improve production efficiency and environmental compliance." On page 29, we see that imports from sources other than BHPBilliton have been increasing. We have gone over this in the quantity section, but to reiterate in the injury section, BHPBilliton has remained a responsible participant in the market.

Their shipments from Australia and South

Africa are comparable to prior years. In fact, the data shows they are significantly less than prior years, significantly less than prior years. Since 2011, the year prior to the closure of Samancor, imports from BHP facilities have declined, while those of other sources have increased.

Slide 30 shows BHPBilliton has not been the source of rising import volumes. You'll note that from '11 to '12, Australia and BHP fell while others increased; that BHPBilliton's South African facilities fell significantly from '11 to '13, and from '11 to '14, and that the South African import increase did not fully replace the South African import increase from 2011 backwards, and was almost replacing it in 2012, '13 and '14.

Slide 31 shows that BHPBilliton's POI footprint is smaller than its long run average. We've discussed this before. You could see the Billiton imports on this graph, and you could see during the POI what has happened. Large increases in the green, which is South Africa and Georgia, constant supplies from Mexico, supplies from Norway, and small supplies from Australia in a relative sense.

Finally on 32, no threat of injury. There are no countervailing or subsidy allegations. Excess capacity was discussed. There is no imminent increase nor excess

capacity. The rate of increase of import volumes has been constant the last two years, and relatively constant when viewed on a company basis throughout the POI, and falling from 2006-2011 average during the POI.

There are no inventories. There was a discussion that there will be no product shifting. There are no effects not being a high tech industry. There is no new industry that's being stifled by the -- in the threat context, and there are no other demonstrable adverse trends that indicate a likelihood of material injury in the future.

My summary on page 33. There has been no significant increase in subject imports over the POI. In this investigation the Commission should once again consider, as it always does, the conditions of competition in the context of the particular industry and business cycle. In this case, the closing of the South African plant and the shift of production to Australia is a significant condition of competition, that explains more than all of what's going on on the volume side.

There's been no significant underselling by the subject imports. In fact, what your own record shows is that there's been significant over-selling. I believe the lost revenue and lost sales allegations are unsubstantiated, but that this certainly up to you to determine that there is information on the confidential record to suggest that

already. There's no imminent threat of material injury by the subject imports.

Thank you very much for your time, and I'd be happy to answer any questions.

MR. GRACE: Thank you again. It's David Grace.

Just very briefly, I would want to make the point that and emphasize that we are very satisfied with the record that has been developed in this case. The staff has done an excellent job in reaching out to the appropriate parties, gathering appropriate information, making appropriate comparisons and there's a story to be told there from that that data. And that data aligns with the testimony this morning and this afternoon by Mr. Anderson, Mr. Kylander, and Dr. Kaplan.

In contrast to the Petitioner's counsel, we want to base our case on the hard facts that you've gathered. We don't want to speculate about there being errors. And in fact, that really doesn't stand up when you think of the number of parties that have now submitted data to you on pricing and volume. It's not a matter that there're errors. The problem is that either the Petitioners didn't understand the industry well, didn't understand how our client interacted or did not interact with Ryan's Notes or they're unhappy with the results from the actual data that you've collected and they are attempting to raise issues and

questions where none exists.

In any event, thank you very much for your time this morning, and we would be happy to take your questions.

MR. MCCLURE: Thank you. I'm sorry.

MR. CHINOY: I apologize, Mr. McClure. Alexander Chinoy, on behalf of Respondents.

There was just one factual point from Mr. Kylander's remarks where the witness misspoke, and we want to avoid a question about the record. I know it's a major issue.

With respect to the issue of the transition to CIF sales, Mr. Kylander indicated that transition was complete by July 2012 when, in fact, that transition was completed by July 2014. The transition began in 2012, ended in 2014. Now, Mr. Kylander, if he has more to say on that, he certainly can, but we didn't want to leave that one proof point out of context.

MR. MCCLURE: Thank you gentlemen and ladies for that. Again, thank you to everybody who has journeyed here; in particular, Mr. Anderson. That's quite a slough. I hope you brought some nice Aussie adult beverages, but anyway, thank you for that. We'll begin the questioning with Mr. Szustakowski, our investigator.

MR. SZUSTAKOWSKI: I also want to thank everybody for being here today; specifically, you, Mr. Anderson. I

greatly appreciate the effort that it takes to travel this far to appear before staff.

My first question I didn't hear any mention of domestic-like product. Is that definition not being contested? Are you comfortable or endorsing what has been proposed by Petitioners?

MR. CHINOY: Alexander Chinoy.

We are not, for purposes of the preliminary, contesting domestic-like product.

MR. SZUSTAKOWSKI: Thank you.

Regarding the use of questionnaire response data, such as the importers' questionnaire for coverage purposes, we still need to evaluate a little bit more, but would you have any objection to relying on official import statistics instead of questionnaire response data when it comes to measuring import volume? This is something if you need additional time to review the record, relying on the post-conference brief might be appropriate, but I just want to get that out there that I'd like you guys to at least address that.

MR. GRACE: We don't object to the use of the trade data for statistics, if that's the question.

MR. SZUSTAKOWSKI: I'm sorry. I didn't hear you.

MR. GRACE: We do not object to the use of the standard trade data for import numbers; is that your

question?

MR. SZUSTAKOWSKI: Correct.

MR. GRACE: Yes.

MR. SZUSTAKOWSKI: My next question, the Petitioners excluded Norway from the import volume that they're using to analyze import data; would that be an accepted practice for Respondents as well. It sounds like the Petitioners are saying that that is non-subject merchandise. Do you have an opinion on that?

DR. KAPLAN: To the extent that --

MR. SZUSTAKOWSKI: Mr. Kaplan, could you just identify yourself first. Thank you.

DR. KAPLAN: Yes. Seth Kaplan.

MR. SZUSTAKOWSKI: Strike one.

DR. KAPLAN: I took it looking, though. I want that on the record there. It was not a swinging strike.

To the extent for Norway alone, that the confidential record suggests that there is import product that should be included, we suggest looking at the confidential record because they've excluded the whole imports of Norway from their analysis.

MR. SZUSTAKOWSKI: Okay. Thank you.

Mr. Anderson, you mentioned that the TEMCO facility was temporarily shutdown. I'm sorry. There's just a lot of information coming at us right away. When did that

shutdown occur?

MR. ANDERSON: It started in February 2012.

MR. SZUSTAKOWSKI: And what were the reasons for that?

MR. ANDERSON: So, we were looking at the international competitiveness of TEMCO at that time, and we saw that that was not being competitive at that point in time and needed to review our cost structure.

MR. SZUSTAKOWSKI: And it was restarted in?

MR. ANDERSON: We started the restart in June 2012. Yes, fully online in August 2012.

MR. SZUSTAKOWSKI: Okay. So, is your experience with your silicomanganese furnaces is that similar to what Petitioners had said this morning in that ramping it up and getting it back online that's not a major long endeavor. It's something that kind of get up to speed rather quickly; is that a fair way to characterize it?

MR. ANDERSON: Michael Anderson, TEMCO.

So, to give some context there, to do it in a safe manner, we start the furnaces sequentially, one-by-one. So, it took 100 days from the initial startup of the first furnace to having all four furnaces operating at 90 percent of capacity.

MR. SZUSTAKOWSKI: So, operating 90 percent of capacity is that one shift, two shifts, three shifts, and

how many shifts do these operate?

MR. ANDERSON: It's continuously from that point in time, so just to reiterate, from the start of the initial restart of the first furnace to having all four furnaces operating at 90 percent of capacity it took 100 days. Sorry. So what I'm talking to there is we operate our furnaces under two -- using silicomanganese -- sorry -- ferro manganese and two with silicomanganese. So, what I'm referring to is having all four furnaces operating.

MR. SZUSTAKOWSKI: And all four are currently operating at 90 percent?

MR. ANDERSON: All four are now operating flat out, so we're --

MR. SZUSTAKOWSKI: No additional shifts that can put on there. They're fully staffed?

MR. ANDERSON: They're fully staffed, yes.

MR. SZUSTAKOWSKI: Thank you.

That answers my next question. Before 2012, why did BHP Billiton use a blended sourcing strategy in the U.S. between the South African and the Australian product?

MR. KYLANDER: Carl Kylander. I'll take that one.

So, BHP Billiton operates a matrix style organization where we have divisions, I'll call them, manganese, iron ore, a lot of number of different divisions.

One of those divisions is marketing. So, marketing centrally determines how much iron ore we want to sell, wherever, how much manganese we want to sell, where we want to sell it, under what conditions. So, we take a lot of different factors under consideration when we decide where we source it from. One of those considerations is logistics.

So, it's a lot shorter ride from South Africa to New Orleans, for example, than it is from Australia to New Orleans. And in fact, a lot of the Australian imports over a long, long period of time went to the West Coast of the U.S. because that made more sense, logistically. So, a lot of factors, but logistics was a big one, which of course we lost when we shutdown the South African operations.

MR. SZUSTAKOWSKI: Just a general comment is that, you know, I guess it's not often that we see petitions filed against Australian entities. And in this instance, this is a product that is consumed by steel mills. And you mentioned in your comments that Asia is an export market and China has a rather robust steel industry. Has there been any shift in Chinese demand for this product and where they're sourcing it from that has affected where the Australians ship silicomanganese or what's your relationship to the Asian steel market and what has demand been like in that, and there been any shifts in demand?

MR. KYLANDER: The Asian steel market is far and away the largest steel market in the world. The problem is China is also far and away the largest producer of silicomanganese in the world. So, they have more domestic production capacity in China than they have demand. And so, it's an almost impossible market for a Western world producer to export to. They're a large producer, internally, within China. So, therefore, to pay the freight to get the material there and of course production costs in China extremely low. Labor wages are low. It's a market that I don't think, subject to revision; I don't think sees imports of silicomanganese from anyone.

MR. SZUSTAKOWSKI: So, Billiton doesn't have a history of exporting to China?

MR. KYLANDER: Silicomanganese?

MR. SZUSTAKOWSKI: Silicomanganese. All my questions are about silicomanganese.

MR. KYLANDER: I speak under correction, but I think the answer is no.

MR. SZUSTAKOWSKI: Thank you.

MR. KYLANDER: And that's mainly in China you're talking about.

MR. SZUSTAKOWSKI: Right. Correct.

MR. KYLANDER: Yes.

MR. SZUSTAKOWSKI: I'm trying to get some

clarification on Mr. Kylander's testimony about Ryan's Notes. So, all of what Billiton is selling in the U.S. that's all under contract sales; is that correct?

MR. KYLANDER: The overwhelming majority of what we sell in the U.S. is under contract. And the very small amount of spot that we sell is not sold to end users, and it's not sold under the same terms and conditions that those indices use, i.e., we sell CIF and they're reporting prices that are ex-warehouse in the Midwest part of the United States.

MR. SZUSTAKOWSKI: So, those end users -- sorry -- those distributors that are buying on CIF you're saying that they would not be reporting these purchases prices to Ryan's Note; is that correct?

MR. KYLANDER: I don't know what they do, but it would be an apples and oranges comparison because they're buying from us CIF and the indices are not reporting on a CIF basis. It's strictly on an ex-warehouse or loaded truck basis, so it wouldn't apply.

MR. SZUSTAKOWSKI: Okay. Thank you.

MR. GRACE: Excuse me, David Grace, just a follow-up point.

If distributors who have purchased from BHP Billiton were to be contacted, Ryan's Notes policy is to, as we understand it, is to contact not only the purchaser but

also the seller. And BHP Billiton has not been contacted for any sales from Ryan's Notes during the POI; is that correct?

MR. KYLANDER: That's correct.

MR. SZUSTAKOWSKI: Thank you for that point.

Mr. Kaplan, this morning we were talking about apparent consumption, looking at the data on the record that we have. And there was some discussion of slightly softening demand in 2013. I think you were phrasing demand as being stable. Is there tension between how Petitioners have been describing consumption and demand versus what you and your clients see in the market in the U.S.? I guess, generally speaking, was there any softening demand in 2013 is my first question?

DR. KAPLAN: So, if you would take a glance at page 6 of my submission, it shows U.S. steel long-product production, which is my understanding, by far, the largest user of silicomanganese. And you could see that from 2012 to 2013 there was a decline followed by an increase in 2014, but the magnitudes are not great. So, I would say it's relative constant. If you looked at the whole period dating back to 2004 and you said what's '12 to '14 look like, I would say, well, it looks relatively constant; but in fact, '13 dipped a bit and '14 went up a bit. But in the grand scheme of things, these changes were small relative to past

history.

MR. SZUSTAKOWSKI: And that's demand by the -- you know as measured by long-product production.

DR. KAPLAN: That's correct.

MR. SZUSTAKOWSKI: We typically would rely on import data and U.S. producers shipment to estimate apparent consumption, which does show probably a steeper decline from '12 to '13 than we see in your exhibit on page 6.

DR. KAPLAN: Yes.

MR. SZUSTAKOWSKI: So, I'm just trying to square that up to make sure I understand that -- you know, is there any question about the data that we have?

DR. KAPLAN: No. Let me take that back to page 5, and let me walk through this because it is a bit confusing. The actual demand and end use for the product, as was testified by both the Petitioners this morning and agreed upon by the Respondents this afternoon, is its use in the production of steel, primarily flat rolled steel. And so, if you want to know how much was used you know there's a ratio. It changes a little bit over time. Actually, Ryan's Notes looks at it, but it's pretty constant in the use of flat roll -- I mean in long products.

So, if you look at long products, you're going to know how much was used. So, now you're comparing you know that was relatively stable due to the long-product

production, and you're looking at domestic production plus imports to get apparent consumptions, which is what the Commission does. And you see a larger decline from '12 to '13 in that number than you do in the actual production of the product that uses it. The actual amounts that's used is in the product, so you have to look and say what's happening to apparent consumption. And what I would say, and as you see this in many cases in steel and now in a steel alloy, is that the change is due to stocking. Its inventories.

MR. SZUSTAKOWSKI: These are inventories that would be held by?

DR. KAPLAN: Well, these are inventories that held kind of in the system. You're getting correct --

MR. SZUSTAKOWSKI: We have inventory data from U.S. producers and importers.

DR. KAPLAN: That's correct.

MR. SZUSTAKOWSKI: But the other part of the system would be inventory of purchasers.

DR. KAPLAN: That's correct.

MR. SZUSTAKOWSKI: So, are you describing an inventory of --

DR. KAPLAN: There's warehouses. There's distributors. Let me give you an example to another case that's similar, which was a case involving rebar, reinforcing concrete bar. And someone came in with pictures

of enormous mountains of this stuff loaded on the docks in Houston, and there were no one who was filling out a questionnaire that had a claim to it at that point. You know it wasn't an importer who at that point had sold it and it wasn't domestic producer's product. Nonetheless, it created a huge overhang in the system. The Commission understood that. It understood it was driving prices.

Here there's a similar situation. We know how much is being used because we have really good information on flat product production. Petitioners agree. Respondents agree. That's what's driving actual usage. So, therefore, the residual, the difference between apparent consumption and actual usage must be inventories, and we'll provide more information.

The fact that inventories would not show up on an importers' questionnaires is not unusual, given how the way these markets work. So, your data is complete. And in fact, in the rebar case, there was no way to track down, in fact, the individuals that held it. We had pictures of it. There was an agreement in the market that there was a huge overhand, but the record was complete there as it is here.

One particular economic point about this to the extent that there was a significant overhang in 2013 meant that was from imports in '12. And take a look at our imports in '12. It's not us. Who was there in '12, other

South African producers, Georgian producers, producers from other countries? So, I hope that kind of explains a little bit of a potential disconnect and the source of the overhang.

MR. SZUSTAKOWSKI: I guess what I'd just like to know is that if there's -- and this is a question that goes out to Respondents and Petitioners is that if there is another data source that provides some exposure to what the inventory data would be that aren't captured in our record, but what Petitioners are describing as the overhang, if that's available to include that in the post-conference briefs.

DR. KAPLAN: We will do what we can to provide what we can in the post-hearing.

MR. SZUSTAKOWSKI: Thank you.

Mr. Kylander, I think you might be best positioned to answer this question, but do you see any sort of price premium for the Georgian high grade product in the market? Is that something that you're aware? Can you describe how that behaves compared differently to the standard silicomanganese?

MR. KYLANDER: I actually think that the Petitioners described it pretty well. You do a calculation based on the manganese context. And the material is not sold on a contained unit basis. Other manganese alloys are,

like medium carbon ferro manganese. The price you pay is based on the contained manganese in the product.

Silico is not priced that way. It's priced per pound. So, I think what they do is take a price pound for regular grade, adjust it by the ratio of higher manganese content and that becomes the price for their product. So, the premium is basically, if I understand them correctly, related to the additional manganese in their alloy.

MR. SZUSTAKOWSKI: Okay. Thank you. That concludes my questions for now. Thank you for your time.

MR. MCCLURE: Next questioner will be Mr. Houck.

MR. HOUCK: Thank you, Mr. McClure. I just have a couple questions.

First, Mr. Szustakowski asked you to sign onto the scope, but I want to make sure that you're not making any claim that the product that you're importing to the United States is outside the scope of this investigation in any way.

MR. CHINOY: Alexander Chinoy for Respondents.

That is correct. We are not making such a claim.

MR. HOUCK: Thank you.

And then I just wanted to pursue this business of sales to distributors a little further, and I'm sure Ms. Cohen will be on this; but the distributors to whom you're selling are, indeed, selling onto end users. So, Australian

silicomanganese is being sold to end users. And if so, those sales may or may not be reported to Ryan's Notes, even if you are not reporting time; is that correct?

MR. KYLANDER: Carl Kylander.

At the end of the day, silicomanganese is only imported to be used in the production of steel. So, at some point in time, yes, the people that we sell to, the distributors are selling to someone who is producing steel.

I think the important thing is we don't know to whom they're selling or at what price. So, for example, a large distributor could make a quotation that ends up in Ryan's Notes, but there's no way of telling whether it was with Australian product or someone else's product because they buy from multiple sources.

MR. HOUCK: Okay. Thank you very much.

MR. MCCLURE: Next questioner will be Mr. Gallagher of the General Counsel's Office.

MR. GALLAGHER: I only have one question.

Dr. Kaplan, you draw the conclusion on 33 of your slide or your book here, there's no significant increase in subject imports over the POI, right, that's your conclusion? And you're basing that on the idea that you present on page 17 or Slide 17, the idea that BHP Billiton was switching back and forth between South Africa and Australia. In other words, it's flat between '12 and '13, roughly because

there's a big jump between '12 and '13 in the data in terms of imports from Australia, right?

DR. KAPLAN: I'll answer your last question first, and the answer is --

MR. GALLAGHER: Yes. All right.

DR. KAPLAN: -- a big difference from '12 to '13, so if you want to unpack those questions.

MR. GALLAGHER: No, between '12 and '13 there's a pretty good jump.

DR. KAPLAN: There's an increase from it, but it's not a significant increase in the context of the conditions of competition in this industry.

MR. GALLAGHER: Which go back to your discussion on 17 about how they were switching, that it's a multinational and they're switching -- they're doing rational actually by switching between Australia and South African imports.

DR. KAPLAN: That's one of a variety of reasons.

MR. GALLAGHER: Okay. I just wanted to make sure how you were explaining the difference in volumes between '12 and '13.

DR. KAPLAN: Right. I mean one of it had to do with how the firm operates, and that the switch was non-significant in the sense of affecting the market. Another reason why they aren't significant is in the context

of like a metal analysis or a brass analysis is that they can't have an effect on the market if there are non-subject imports and much greater supply available at similar prices.

In discussing that point, I want to make a clarification of maybe some confusion on this record about the Georgian product. The distinguishing characteristic is the higher percentage of manganese in the product; however, the product is sold to the same end users for the same end uses. There might be a particular mill that has a preference or a lack of preference for our product or for the Georgian product, but in the grand scheme of things this is a commodity. And that is a distinction without a difference, except in the context of pricing if it is done on a manganese content basis. But on an end use basis, there's significant evidence in the record, and we will supply more evidence that that product is used widely just like all the products that are silicomanganese in this market.

It is striking that after how many years that suddenly people are finding differences in what was a total commodity product based on price and now, you know, if you squint your eyes and tilt your head sideways that suddenly you shouldn't count those imports and they're very different.

I would say look at your historical record and

look at the evidence of who purchases the product and how widely distributed and the fact that the volume is so high and going into the flat product market. It has been accepted without a problem if you look at the import statistics from Georgia. So, I just want to dot that "I" and cross that "T" in case there was any confusion.

MR. GALLAGHER: Thank you.

MR. MCCLURE: Next questioner is Cindy Cohen of the Office of Economics.

MS. COHEN: Good afternoon, looking at the time. Thank you to this panel for your testimony.

Following up on the different grades, I guess, the testimony was that the Australia product is mostly -- falls under Grade C; yet, Dr. Kaplan said that our pricing is apples-to-apples. So, is there any -- is it an apples-to-apples comparison to what we're looking at? For Grade C is there any premium for "B" versus "C"?

MR. KYLANDER: Carl Kylander. I'll answer that.

I don't think there's a premium or a discount. The difference between "B" and "C," as I see it in the marketplace is how many customers will use the product. So, the majority of steel producers in the United States will use both. There are some who will not use the Grade C because of the carbon content and/or the silicon content. So, it just shrinks the market a little bit as far as your

potential customer base, but it doesn't have a specific discount associated with it.

MS. COHEN: Okay. Thank you.

DR. KAPLAN: To any extent that Grade C would be considered inferior, which is not, as just been discussed, that would lead it to be a discount rather than a premium which would suggest a natural underselling environment, and yet, we have a natural overselling environment here, which is yet further evidence about the lack of a price affect in this market.

MS. COHEN: Right. But you're saying that there's no discount for Grade C.

So, Mr. Kylander, BMI switched from being the importer of record to this model where you're not the importer of record. Does BMI negotiate directly with steel end users or are the importers doing that now?

MR. KYLANDER: Yes, so it was gradual shift in this model. We started off by trying to shift from DDP to CIF and stay with the same end users and because of logistical considerations they weren't set up to handle the post-CIF logistics. They didn't want to do that, so we introduced the distributors as, you know, sitting between us in the process; but we negotiate with the distributors and they negotiate separately with the end users.

MS. COHEN: Okay. So my request this morning

to give us the information on your discounts to -- or your contracts with steel end users would not be applicable?

MR. KYLANDER: At this point as it stands now, we are not selling to end users at all.

MR. McCLURE: Jim McClure to jump in. Okay. Now that's the case, and as Mr. Chinoy corrected, this finally was fully in place in 2014 during the entire Period of Investigation, which I would note is 2012 to 2014 and not 2011 and 2010. In 2012 and 2013, were you dealing directly with any end users?

MR. KYLANDER: So when we entered the period, we had contracts that were already in place, multi-year contracts with end users which we honored, but we didn't negotiate any new ones.

MR. McCLURE: And how deep into the Period of Investigation did that carry? Through 2012 into 2013? What I'm getting at here is there may be some information you can provide for at least part of the period --

MR. GRACE: Mr. McClure, we will definitely try to do that in the post-conference brief.

MR. McCLURE: Oh yeah, yeah. That's fine. It's just the way it was phrased, I think you've got some information. I realize it will take a little digging, but it would be important to us that you provide any information in that context that you can. Thank you. I'll pitch it

back to Cindy.

MS. COHEN: Okay. So on the distributor sales, switching to this model of going through distributor sales, do we have a hole in our pricing data, by not asking for that information?

MR. GRACE: David Grace. We don't believe you do have a hole. The distributors are reselling to end users, so to the extent -- and they're acting as importers of record. So they should have received importer of record questionnaires and filled them out, responding to -- so that you actually have apples to apples comparisons. What were the prices being charged to end users in the United States, and then it will make sense.

If you only look at the prices to the distributors, you would need to collect data from the domestic parties, and I'm not sure whether you could get that data from other -- for non-subject imports, quite frankly.

MS. COHEN: Do you know if other importers or if other foreign producers use that model of selling through distributors?

MR. GRACE: Well, we are the only -- do you want to?

MR. KYLANDER: Yeah. Carl Kylander again. I think I did make mention in my presentation. I believe we

are unique in using that model in the U.S.

DR. KAPLAN: There are other distributors -- there aren't many distributors in the market, and those distributors carry product from many countries. So the distinction here in the model is who's the importer of record, not that the flow of the product. But in this case, you asked for direct sales of the importer of record to steel companies. We provided that information when we were the importer of record, and you asked it for other importers of record when you sent out your importer questionnaires.

We think you've got -- crossed the line of the APO stuff. But we think you got valuable information that makes the record complete. So you've got all the importers, and you asked for all their sales to end users, and the record's complete in that regard. So I think you have pricing comparisons.

I think that was also, if I recall, that was what the Commissioners asked for, and I think that's what the Petitioners asked for, if I recall. They asked for sales to the end users. So we agree with the Petitioners, to the extent that they asked for sales to steel companies. That's what they got and you've got a complete record.

MS. COHEN: Right. I mean that's what we've asked for in our previous investigations and reviews. But perhaps something has changed in this.

MR. CHINOY: Alexander Chinoy for Respondents, and Mr. Kylander, correct me if I have this wrong. But our understanding is that during the Period of Investigation, where we acted as the importer of record on a sale, you have the data. Where we didn't act as the importer of record because we sold CIF, we sold to a distributor. That distributor acted as the importer of record, and you have the data on the sale by virtue of the questionnaire responses submitted by those distributors.

There's no third category of entity that is acting as a purveyor, to use a non-loaded term, of this material at the border, that is somehow outside the scope of your data. You have a complete set for all transactions, either through us or through the entities that act as the importer of record.

So to ask us for data on the shipments to those importers would essentially be asking for data a level and trade up, and it wouldn't be comparative to the data that Felman is supplying for their own sales to -- and the domestic industry generally is supplying for their own sales to end users.

MS. COHEN: Okay, and there may be some other issues in there that's getting into confidential information. So turning to the Petitioners' Exhibit B with the pricing data, I'll ask the same question that I asked

them this morning, which is what's driving the data there in the pricing, where we have the up and down and --

DR. KAPLAN: Well first for I guess the red line, you're looking at average unit value data from Australia, and it suffers from all the same defects that the Commission typically rejects the use of average unit value.

MS. COHEN: Can you kind of go through that, what the issues are in this case, because we do have a homogenous product in this case. So product mix isn't really an issue here.

DR. KAPLAN: Well you know, to the extent that the green does contain Georgian data and it's basically, you know, geared up by the manganese content, then there might be an issue. There's also, from my understanding from -- recall earlier certain differences in the transportation costs and the duties at the border, given the CIF model versus the other model.

One's delivered -- first of all the blue line, which is Ryan's Notes, is delivered to an end user. It's not import. So that number itself is --

MS. COHEN: Yeah. I guess my question is on -- my question is on comparing the AUVs for the imports. That's one question. Yeah. It's besides the manganese issue, what other issues are there in comparing AUVs of imports, or do you think that's a valid comparison?

DR. KAPLAN: Well first I want to replicate it and find out what of the many measures of average unit value at the border was used, because I don't think it says --

MS. COHEN: We're using -- my question's more general, for the official statistics that we would normally use in a Commission and staff report. Are there issues comparing the AUVs other than the Georgian manganese?

DR. KAPLAN: Right. I'll go through them. But I would point out that in the vast majority of cases involving commodity products, the Commission is loathe to look at the average unit values when there's valid pricing product data available.

MS. COHEN: Sure, okay.

DR. KAPLAN: So I'll address that in the post-hearing.

MS. COHEN: And then my other question is on the trends and the pricing and what's driving the trends and the pricing.

MR. KYLANDER: Sorry. Carl Kylander speaking. The price spike in 2012 was driven by our plant closure in South Africa needs to built in. We were a massive importer of South African silicomanganese in the period prior to that. When you closed that plant down, it became public knowledge, and the fact that we weren't going to bring that plant back up, it caused the price spike.

In addition to that, we closed TEMCO down temporarily. So you had basically one of the largest suppliers in the domestic market shutting all their operations down, and it caused a price spike.

DR. KAPLAN: I can also show you a longer time series. But to the extent that the market was oversupplied in 2000 -- in reaction to that, given the apparent consumption data we discussed relative to the actual consumption used in long products, to the extent that there was some overhang, it would affect prices to a degree, and you could see that potentially in 2013.

If you look at a longer series, which we will provide, you'll see that the prices here going back are below these prices, even with fluctuations, other than for the period of the big commodity spike that occurred around the world in almost every commodity.

MS. COHEN: Right, and when you were talking about the period of the commodity spike, what time period specifically are you talking about?

DR. KAPLAN: That was, I think, '07 to '09?

MR. KYLANDER: Yeah, Carl Kylander. I think maybe in 2006, in that time frame.

MS. COHEN: Prior to the POI?

MR. KYLANDER: Yeah, yeah, right.

MS. COHEN: And then so, you know, looking at

the data provided by Petitioners, we see the prices up and down and coming back up. What's driving the market in 2014?

MR. KYLANDER: Well, I think to the extent that there was any overhang, it's been dissipated, and to the extent that demand has increased in 2014, it's gone up a bit.

DR. KAPLAN: You've got to remember this is -- you know, typically in these charts you start at zero. This chart starts at 37. So it kind of doubles the magnitude, you know, of it. They could have shrunk it maybe even steeper if they wanted to. I'm not claiming that was done for, you know, to deceive. But it does --

MS. COHEN: It's probably for those of us with poor vision to be able to read it better.

(Simultaneous speaking.)

DR. KAPLAN: --you know, so take it for what it is in that regard.

MS. COHEN: I think that is all I have. Thank you very much.

MR. McCLURE: Mr. Szustakowski has another question.

MR. SZUSTAKOWSKI: I'll be quick. Mr. Kylander, at BHP, when you shifted to the CIF model, was that public information that you guys were shifting, how you do this? Was there a press release, something that the

marketplace would know this is the new practice, or was it something that exclusively you hammered out in privileged communications between you and your clients?

MR. KYLANDER: We did not issue a press release. It may have appeared in some industry publications. But mostly it was bilateral discussions between ourselves and our customers.

MR. SZUSTAKOWSKI: I'd just be interested to see if there are any industry publications that mention this, if you can include that in the post-conference briefs. If they don't exist, then just acknowledge that as well. Thank you.

MR. GRACE: David Grace. Just one point to add. Obviously, as Petitioners testified this morning, this is a fairly concentrated industry now, with a small number of producers in the United States, a small number of distributors from in itself, purchases from trading, purchases from BHPBilliton. They've purchased Australian product, they've purchased other product in the past.

So they were well aware of this and they've switched over, have they not?

MR. KYLANDER: Sorry, say that again?

MR. GRACE: Is Felman Trading participating in the CIF program right now?

MR. KYLANDER: Yes. Their purchases from us

have been CIF.

MR. GRACE: So it wasn't -- we'll look for an announcement. But it was easy to reach out to each distributor individually, and it would have been well known within the industry at the time.

MR. SZUSTAKOWSKI: So BHP would have some sort of corroborating, you know, emails or conversations with Felman about this shift, and which they were aware of this new, you know, shift to the CIF model. If those are available, you might want to include those in the post-conference brief. Thank you.

MR. McCLURE: Once again, thanks to everyone who has come and presented testimony, in particular those who have traveled long distances. It's time for closing remarks. Let's -- okay, it's 1:10 by my clock. That thing is off by a few minutes. I'll give you a ten minute break to get ready for your closing remarks, or if Petitioner is ready to go now. I leave it to you, or do you want ten minutes before you present your closing remarks?

(Off mic comment.)

MR. McCLURE: Okay.

Mr. Levy, if you're ready, fire away.

CLOSING REMARKS OF JACK A. LEVY

MR. LEVY: Thank you, Mr. McClure and good afternoon now. Once again, Jack Levy, counsel for

Petitioner Felman Production and for the other domestic producer, Eramet Marietta. We will just make a few points in closing. Obviously, we will elaborate on these points and on all relevant points in our post-conference submission.

The first point to make in sitting back there and listening to Respondents' panel, it is always interesting to sit there and watch Respondents argue from data for a period of investigation that is something other than the period of investigation applicable to the instant case.

Usually, it's a symptom of the fact that they know they have a weak case and the only way they can tell a story, however desperately, is to reach for extrinsic data outside the relevant period of investigation, and that's what we have here.

The period of investigation for purposes of this preliminary phrase is calendar year 2012 through calendar year 2014 that's reflected in the questionnaires issued by this Commission, and so we will not indulge commentary on data that precede 2012 unless the staff has any pointed questions for us.

The second point, and this also goes back to, you know, Black Letter Law, is that the statute deals with dumping on a country-by-country basis. There's no analysis of companies, global or otherwise, such that the BHP group

could be cumulated across their global operations and things can be analyzed on that basis.

Congress is clear. The statute is clear. The ITC is charged with analyzing imports from countries. Here there's only one country under investigation, that's the country of Australia. It happens to be the case that one company produces within it, that's TEMCO, but obviously the Commission needs to appreciate that BHP's call for what they termed a partial offset for what's going on with their affiliate in South Africa, the Samancor Company, is entirely irrelevant as a matter of law and does not warrant serious consideration.

So, here again, the lion's share of the data and argument presented before you, however entertaining, is ultimately beside the point.

Getting back to the statutory framework, I'm going to talk about volume and price and impact. So, let's talk first about volume. I think Mr. Gallagher identified this point, but it's a salient one and bears repeating. The conclusion on page 33 of Mr. Kaplan's summary that there has been no significant increase in subject imports over the POI is preposterous. Perhaps it's predicated on the re-definition of what subject imports means, or a fictive notion of how the conditions of competition can somehow color real, hard data. But the volume data are clear.

Respondents have not disputed the integrity of the Census data, vis- -vis, Australia.

And what the data show is that over the period of investigation there was a 168 percent rise in the volume of subject imports from 2012 to 2014, and those data are undisputed. It's also the case that Australia was the number two supplier in the U.S. market in 2013, not only the number two source of imports, the number two supplier, bigger than the domestic producers as well. So, there could be no question that in a moment when Felman was forced to idle its facilities at a moment when Eramet was suffering its deepest operating losses that subject imports, that is to say imports from Australia were a major factor in the market from a volume perspective.

Turning now to price, a couple of comments here, listening to the testimony I think we heard in two separate occasions. Earlier in the testimony we heard testimony from Mr. Anderson. And to paraphrase his testimony, he admitted at a certain point in the process that there was a cause and effect relationship between the availability of production volume from both South Africa and Australia on the one hand and U.S. market prices for silicomanganese on the other hand.

And then when asked the very same question later in the proceeding, Mr. Kylander reiterated and corroborated

the very same point. That is to say the availability of volume, be it from Samancor in South Africa or he added Australia, has an impact on price. So, specifically, when you look at what's going on in Petitioners' Exhibit A, there is a relatively low volume of product being made available from Australia in 2012 correlating with the TEMCO plant standby. And as that volume -- and that low volume correlates with high market prices. You heard Respondents admit as much, that there is a cause and effect relationship, not just a correlation.

And then it is entirely reasonable, therefore, to conclude in this highly price sensitive commodity market that when imports from Australia surged that when they increased by 168 percent over the period of investigation that increase in volume, in turn, has the opposite affect, to depress U.S. market prices during the period of investigation. And when we talk about price affects, price depression is a fundamental pillar under the statute and we allege it here.

Similarly, with regard to price suppression, another factor, another price affect under the statute, I think the submissions from the domestic producers point out -- Mr. Getlan testified to this affect that there was a cost price squeeze during the period of investigation. That is to say that U.S. producers could not charge prices

sufficient to recoup costs. So, of course it is the case that the electricity cost borne by, say, Felman was a factor in determining its operating profits.

But it's also worth noting that both U.S. producers were diligent in continuously doing everything within their power to rationalize their operations, to minimize their costs, and against that backdrop market prices did not allow them to earn a profit.

Finally, the third pillar of price effects is underselling. And I think we heard from the Respondents the view that the quarterly pricing data, in particular, are complete and useable and we're good to go. And we have a lot of concerns about the robustness and the usability of those data without further fact-finding. And we'll just call out one concern in the abstract because the details are all proprietary.

But to the extent you have an importer of record that is selling to a distributor and that distributor is, in turn, selling to a steel mill neither of those transactions are going to be captured in the reported questionnaire data. And to the extent those volumes are significant; we have a gap, a hole. And that's just one of many examples that's coming to our attention and cause for concern.

But if we are to believe Mr. Kaplan that the U.S. industry was the low price leader, was underselling subject

imports during the period of investigation, are we to believe that the U.S. industry lost market share by lowering their prices? Is that how market economics work? You lower prices and you lose volume and you lose share, or is it the other way around, whereas here we see the Australians gaining volume like gain busters, taking share from the U.S. industry. Did they do that through price? Well, we respectfully submit that has to be right. The average unit value in the import data are probative of that point, and with further fact-finding other data will corroborate it as well.

So, I think, finally, we'll conclude with injury. So, on injury, just in a nutshell, there's great discussion that Felman's problems are Felman's own making. I would remind this Commission that there are two domestic producers supporting the petition. Felman's performance is fundamentally in line with Eramet's performance. Both are diligent and responsible producers and they are competing in the very same market.

The claim that somehow Felman's injury or the domestic industry's financial performance is self-inflicted is, at bottom, simply nonsense. So, with that, we'll conclude and we thank you for your attention.

MR. MCCLURE: Thank you, Mr. Levy. Now, we will turn to Respondents.

CLOSING REMARKS OF DAVID R. GRACE

MR. GRACE: For the record, again my name is David Grace. And this has been a very efficient staff conference, so I'll try to be very brief.

I do want to just take a couple of minutes to respond to several of the points raised in the last closing.

First, I think there's been a -- our discussion of trends in the industry, the status of BHP Billiton overall prior to and immediately at the start of 2012 has been misconstrued. We're not asking the Commission to look beyond the POI. We're asking the Commission to understand where this industry was at the start of the POI.

At the start of the POI, in January 2012, both the facility in South Africa and the TEMCO facility in Australia were open and operating. They had a combined capacity and market share that they had at the end of 2011. That number is much higher than any number they reached during the subsequent period of the POI. So, that is a relevant number for you as you look at the POI. It's part of the POI. It's what was there before the permanent closure and the temporary closure occurred during the POI and it helps to explain events thereafter.

We're not arguing that -- or we recognize that the Commission conducts these investigation on a country-by-country basis, not a company or a multinational

basis, not focused on one particular multinational, but it is important to understand the relationship between the imports from South Africa and Australia.

Part of Mr. Levy's presentation was simply looking at Australia import volumes going up. The question is where did those import volumes -- what was the impact of those import volumes? What did they really do? Yes, the Australia volumes went up, at the same time volume from non-subject imports went down.

And in fact, the overall impact was to have fewer imports into the U.S. market than previously. So, arguments about volume alone causing issues would suggest that if you look at the combined impact that those would not have occurred during the POI, that it might be other non-subject imports that continued to grow throughout the POI, the Georgian imports and the imports from other South African producers.

We do believe, as we've stated, that you have collected pricing data that is complete, appropriate, and does show actual prices to end users in the U.S. market. I can't comment on whether the -- publicly on whether the domestic producers were operating in a way that doesn't make sense with those prices. Those are the prices they reported.

It would make sense that a producer selling in

the market would potentially close down to improve its costs so that it could be even more competitive. So, it's not necessarily the case that just because Felman and Eramet, if they do have this, have prices lower than imports that necessarily means they were driven there by the imports in the first place or that that was the reason why Felman chose to shutdown to refurbish it's facility in 2013 and again in 2015.

As Dr. Kaplan testified, that was attributable to -- clearly, the second one was attributable to non-import factors and the first shutdown in 2013 also had a number of factors from their own materials that they released that are not related to imports. They're related to costs, and as was testified this morning, maintenance issues.

So, on the price side, we think you've collected appropriate data. We think there's clear testimony on the record that BHP Billiton has not -- sales during the period did not directly impact Ryan's Notes. And there's also testimony that going forward the Australian imports pose no eminent threat of material injury.

We realize that the staff and the Commission have a lot of prior experience with silicomanganese, and we welcome that experience. We ask you to draw upon that learning, to consider this case in light of prior experience because we think we've laid out today a number of factors

that distinguish this case. And we believe you have a record in this case that puts it in the position where the Commission could conclude and will conclude that this is one of those rare instances that a negative preliminary injury determination is fully warranted.

Thank each of you today for your time, attention, and thoughtful questions. Thank you.

MR. MCCLURE: Thank you, Mr. Grace.

On behalf of the Commission and the staff, I'd like to thank the witnesses who came here today, as well as counsel, for helping us gain a better understanding of the product and conditions of competition in the silicomanganese industry.

Before concluding, please let me mention a few dates for you folks to keep in mind. The deadline for submission of corrections to the transcript and for submission of post-conference briefs is Tuesday, March 17.

If briefs contain business proprietary information, a public version is due on Wednesday, March 18. The Commission has tentatively scheduled its vote in these investigations for Friday, April 3. And it will report its determinations to the Secretary of the Department of Commerce on Monday, April 6. Commissioners' opinions will be issued on Monday, April 13.

Thanks to everybody for coming. The conference

is adjourned.

(Whereupon the meeting was adjourned at 1:31 p.m.)

CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Siliconmanganese from Australia

INVESTIGATION NO.: 731-TA-1269

HEARING DATE: 03/12/2015

LOCATION: Washington, D.C.

NATURE OF HEARING: Preliminary

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: 03/12/2015

SIGNED: Mark A. Jagan

Signature of the Contractor or the Authorized Contractor's Representative

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I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceedings of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker identification and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceedings.

SIGNED: Gregory Johnson
Signature of Proofreader

I hereby certify that I reported the above-referenced proceedings of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceedings.

SIGNED: Gaynell Catherine
Signature of Court Reporter