UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	)	**Investigation Nos.:**
SILICON METAL FROM AUSTRALIA, BRAZIL,	)	**701-TA-567-569 AND**
KAZAKHSTAN, AND NORWAY	)	**731-TA-1343-1345 (PRELIMINARY)**

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UNITED STATES OF AMERICA

BEFORE THE

INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF:	) Investigation Nos.:
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KAZAKHSTAN, AND NORWAY	) 731-TA-1343-1345
	) (PRELIMINARY)

Hearing Room B
U.S. International Trade
Commission
500 E Street, SW
Washington, DC
Wednesday, March 29, 2017

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

APPEARANCES:

On behalf of the International Trade Commission:

Staff:

William R. Bishop, Supervisory Hearings and Information Officer

Sharon Bellamy, Records Management Specialist

Michael Anderson, Director of Investigations

Fred Ruggles, Supervisory Investigator

Carolyn Carlson, Investigator

David Guberman, International Trade Analyst

Lauren Gamache, Economist

Janet Freas, Accountant/Auditor

John Henderson, Attorney/Advisor

Opening Remarks:

Petitioner (William D. Kramer, DLA Piper LLP (US)

Respondents (Jonathan Stoel, Hogan Lovells US LLP)

In Support of the Imposition of Antidumping and Countervailing Duty Orders:

DLA Piper LLP (US)

Washington, DC

on behalf of

Globe Specialty Metals, Inc. ("GSM")

J. Marlin Perkins, Vice President - Sales, Globe Metallurgical Inc.

Duane Huck, Corporate Manager, IT & Business Information Systems, Globe Metallurgical Inc.

Jennifer Lutz, Senior Economist, Economic Consulting Services, LLC

William D. Kramer and Martin Schaefermeier - Of Counsel

In Opposition to the Imposition of Antidumping and Countervailing Duty Orders:
Hogan Lovells US LLP
Washington, DC
on behalf of
Wacker Chemicals Norway AS
Wacker Polysilicon North America, LLC
Wacker Chemie AG
Mary Beth Hudson, Vice President, Wacker Polysilicon North America, LLC
Brian Eftink, Vice President, Legal, Wacker Chemical Corporation
Dr. Ralf Widmer, Senior Counsel, Wacker Chemie AG
Oliver Majumdar, Director, Raw Materials Procurement, Wacker Chemie AG
Dr. Kivanc Kirgiz, Vice President, Cornerstone Research
Craig A. Lewis, Jared R. Wessel and Michael G. Jacobson - Of Counsel

Hogan Lovells US LLP
Washington, DC
on behalf of
Simcoa Operations Pty. Ltd.
Shintech Inc.
John Bednarczyk, Regional Sales Manager, Shin-Tech Inc.
Tom Walters, Vice President for Trading, Service Aluminum Corporation
Dr. Kivanc Kirgiz, Vice President, Cornerstone Research
Jonathan T. Stoel and Jared R. Wessel - Of Counsel

Brinks Gilson & Lione
Washington, DC
on behalf of
Ligas de Aluminio S/A - LIASA ("LIASA")
Companhia Ferroligas Minas-Gerais - MINASLIGAS
Thales X. Augusto, Sales Manager, LIASA
Lyle B. Vander Schaaf - Of Counsel

Mayer Brown LLP
Washington, DC
on behalf of
MPM Holdings, Inc.
John Moran, General Counsel, MPM Holdings Inc.
Sydney H. Mintzer - Of Counsel

Smirnow Law
Washington, DC
on behalf of
REC Silicon
Chris Bowes, Director of Global Procurement and Investor Relations, REC Silicon
John P. Smirnow - Of Counsel

Rebuttal/Closing Remarks:
Petitioner (William D. Kramer, DLA Piper LLP (US))
Respondents (Jonathan Stoel and Craig A. Lewis, Hogan Lovells US LLP)

I N D E X

I N D E X

P R O C E E D I N G S

MR. BISHOP: Will the program please come to order?

MR. ANDERSON: Good morning and welcome to the International Trade Commission. This conference is in connection with the preliminary phase anti-dumping and countervailing duty investigations number 701-TA-569 and 568 through 569 and 731-1343 through 1345 concerning silicone metal from Australia, Brazil, Kazakhstan and Norway.

My name is Michael Anderson. I am the director of the Office of Investigations and I'll be presiding over this conference. Among those present from the commission staff are on my far right, Fred Ruggles, the supervisory investigator, and Carolyn Carlson, the investigator. And on my left is our attorney adviser John Henderson, and our economist Lauren Gamache, and our accountant auditor Janet Freas, and our industry analyst David Guberman.

I understand that all parties are aware of the time allocations. And I would remind speakers not to refer to any business proprietary information in your remarks and to speak directly into the microphone for the benefit of the court reporter.

All witnesses must be sworn in before presenting testimony. If there are any questions regarding time allocations, they should be addressed to the Secretary. Are

there any questions?

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. I would also remind everyone to please state your name for the record when you're speaking, so that the court reporter knows who's speaking. It's difficult for him to see who's speaking. I have no other preliminary matters.

MR. ANDERSON: Thank you, Mr. Secretary. With that, let's proceed with opening remarks.

MR. BISHOP: Opening remarks on behalf of petitioner will be given by William D. Kramer of DLA Piper.

OPENING REMARKS OF WILLIAM D. KRAMER

MR. KRAMER: Good morning. A product involved in these investigations silicon metal is a globally traded commodity. The nature of this product and the conditions of competition in the U.S. market make the domestic industry particularly susceptible to import injury. Silicon metal is a product composed almost exclusively of elemental silicon. Imports from the subject countries and the domestic product meet the specifications of customers in all segments of the market and are sold to customers in all segments.

Silicon metal consumers do not distinguish between foreign and domestic suppliers. They do not care

where the silicon metal was produced if it meets their specifications or can be used in their process. The U.S. market is highly competitive. Silicon metal normally is sold through negotiations and competitive bidding in which many competing domestic and import suppliers make price offers. Extremely small differences in price can determine who gets a sale. Consumers frequently change suppliers on the basis of price and -- or obtain price concessions by threatening to change suppliers. Published spot prices are used as benchmarks for both spot and contract sales. Even with a contract in place, the contract price is often indexed or periodically adjusted based on the published spot price.

In addition, the production of silicon metal is a very capital intensive manufacturing process. For that reason, a producer must maintain the highest possible level of capacity utilization to remain viable and can be forced to lower its price or risk losing sales critical to it continued operations.

Imports from Australia, Brazil, Kazakhstan and Norway satisfy each of the criteria the Commission considers in determining whether subject imports compete with each other and the domestic light product in the U.S. market. Accordingly, the Commission should assess the volume and effect of the imports from all four subject countries on a

combined basis.

There are three domestic producers. Globe, by far the largest domestic producer, and two related parties. Mississippi Silicon is a new entrant that is majority owned by a Brazilian silicon metal producer. D.C. Alabama is a subsidiary of Dow Corning, the largest U.S. consumer of silicon metal and is related to a Brazilian producer through common ownership by Dow Corning.

Globe and Mississippi Silicon are merchant market producers. D.C. Alabama Supplies silicon metal to Dow Corning for use in its production process. As a captive supplier, D.C. Alabama is sheltered from the impact of the unfairly traded imports. As the Globe witnesses here today will testify, the U.S. industry is being severely hurt by the dumped and subsidized imports from the subject countries. Over the period of investigation, these unfairly traded imports captured a large share of the U.S. silicon metal market. From 2015 to 2016, the estimated volume of imports from Australia, Brazil, Kazakhstan and Norway increased by more than 20 percent. As the imports increased in volume, the average unit value of the imports fell by more than 19 percent.

While declines in production and shipments have been important factors in the injuries suffered by Globe, the impact of the unfairly traded imports on prices has been

a primary source of the injury to the domestic industry.

The imports have been sold at very low prices that have undercut the prices of the U.S. producers and have caused lost sales volume, lost revenue, price depression and suppression, and declining market prices.

The imports have forced globe to shut down one of its plants and to idle furnaces at two other plants. Employment at Globe's silicon metal operations increased significantly from 2014 to 2015, but then fell steeply in 2016 when the volume of subject imports increased and their average unit values fell. Other employment indicators followed the same trends.

Without relief from the dumped and subsidized imports, there is no prospect of the kind of price and volume recovery necessary to end the severe damage now being inflicted on the domestic industry. Thank you.

MR. BISHOP: Opening remarks on behalf of respondents will be given by Jonathan Stoel of Hogan Lovells.

OPENING REMARKS OF JONATHAN STOLE

MR. STOEL: Good morning, Director Anderson and staff. My name is Jonathan Stoel. I'm a partner at Hogan Lovells here today representing some coal operations PTY Limited, the only Australian producer and exporter of silicon metal.

On behalf of respondents, I respectfully submit you should look skeptically on the only petitioner Global Special Metals and its flimsy allegations in these investigations. I urge you to render a negative determination and to carefully consider the following facts.

Globe is a serial user of the anti-dumping and countervailing duty laws to stifle competition for silicon metal and ferrous silicon in the United States and other markets. Indeed, these petitions before you coincide with Globe's new allegations of dumping and subsidization in Canada against subject -- against silicon metal imports from several countries, including Brazil, Kazakhstan, and Norway.

Major U.S. silicon consumers including Dow Corning, Wacker, MPM Silicon's REC, and Service Aluminum are strongly opposed to Globe's petitions. These companies contribute thousands of jobs to the U.S. economy and they view Globe's requests for anti-dumping and countervailing duties both here and in Canada as seeking to further enhance Globe's already significant market power.

Globe's new trade remedy petitions follow its very recent merger with FerroAtlantica. The merger created a combined company with twice the silicon metal capacity of its nearest western competitor. Globe's own merger related filings explained that the combined company will maintain all existing production facilities of FerroAtlantica and

Globe and will achieve increased profitability through value chain optimization, economies of scale, and reduced costs.

Moreover, the merger solidified Globe's control over U.S. silicon metal imports from South Africa and Canada. This is very important for the Commission's causation's analysis because South Africa and Canada were respectively the first and third largest sources of imports into the U.S. market during the Commission's 2014 to 2016 period of investigation.

Having consummated its merger with FerroAtlantica, Globe has also sought to aggressively defend its longstanding position as the sole U.S. supplier of silicon metal to the merchant market. In particular, Globe has particularly sought to award the building of a new silicon metal plant in Burnsville, Mississippi. For example, Globe has filed motions for preliminary injunctions and temporary restraining orders against Mississippi Silicon, the operator of the $200 million plant.

This anti-competitive behavior has provoked the following retorts in the federal Courts from Mississippi silicon. "Globe seeks to maintain its monopoly status as the only merchant manufacturer of silicon in the United States."

And "Globe has repeatedly tried to present Mississippi silicon from disrupting Globe's position as the

only producer of silicon metal in the United States, the purpose of these lawsuits is to delay or to completely prevent Mississippi Silicon from becoming operational. "

All of Globe's efforts have failed. Mississippi Silicon began operating its 36,000 ton capacity plant in October 2015. Having been unsuccessful in its vigorous attempts to prevent the entry of Mississippi Silicon into the U.S. market, Globe now asks the Commission to shut out imports from Australia, Brazil, Kazakhstan and Norway.

We'll demonstrate in our presentations this afternoon that Globe's claims of material injury at the hands of subject imports are false. In fact, cumulated subject import volumes were stable during the period of investigation. Subject imports did not cause the temporary decline in U.S. pricing for silicon metal that occurred in late 2015 and 2016. Rather, the entry into the U.S. market of Mississippi Silicon, a new low cost producer, led to a rebalancing of silicon supply and demand.

Finally subject imports did not have an adverse impact on Globe. On the contrary, Globe's public financial reports demonstrate that the company performed extremely well in 2014 and 2015, two of the three years of the Commission's period of investigation. Moreover, as the Globe's performance in 2016, I urge you to consider that Globe's executive chairman Alan Kestenbaum resigned that

same year. He was handed a $28.9 million golden parachute, almost equal to the $31.3 million that Globe's Specialty shareholders earned in fiscal 2015.

Lastly, there is no basis for a threat of material injury finding in these investigations. Demand for silicon metal comprises three market segments. Chemicals, polysilicon, and aluminum. As you'll hear this afternoon from our U.S. consumer witnesses, U.S. demand for silicon metal is strong in all three segments and prices today are rising. Globe Itself has admitted that in its forecasts. There is thus no reason for a finding of threat to Globe by reason of subject imports. Thank you and we look forward to your questions later today.

MR. BISHOP: Will the panel in support of the imposition of anti-dumping and countervailing duty orders please come forward and be seated? Our first witness is Marlin Perkins.

STATEMENT OF J. MARLIN PERKINS

MR. PERKINS: Good morning. My name is Marlin Perkins. I'm the vice president of sales at Globe Metallurgical, the principal operating subsidiary of petitioner Globe Specialty Metals. Since 1989, I have supervised the marketing and sale of Globe's entire product line, including silicon metal. Globe is the largest U.S. silicon metal producer with four plants located in Selma,

Alabama; Niagara Falls, New York; Beverly, Ohio; and Alloy, West Virginia..

I am here today to testify about the characteristics and uses of silicon metal, the nature of the U.S. silicon metal market, and the severe negative effects of the dump and subsidized imports from Australia, Brazil, Kazakhstan and Norway on the domestic silicon metal industry. And let me tell you, these effects have been catastrophic.

Silicon metal is a product composed almost entirely of elemental silicon with very small amounts of impurities, such as iron, calcium, and aluminum. Most silicon metal is purchased by silicon -- by chemical manufacturers and aluminum producers. In the chemical sector, silicon metal is the primary raw material used in producing silicones and super high purity forms of silicon, such as polysilicon.

Primary and secondary aluminum producers use silicon metal as an alloying agent. As an alloying agent, silicon metal imparts strength, high fluidity, low shrinkage to aluminum and improves castability and weldability.

silicon metal is a commodity product. Although silicon metal is often described in terms of different grades, there is in fact no uniformly accepted grade classification system. Grades normally refer to ranges of

specifications that are sold to particular types of customers.

These specifications establish the minimum amounts of silicon and the maximum amounts of other elements, such as iron, calcium, and aluminum that the silicon metal may contain. The ranges of specifications vary, depending on the type and end use of the silicon metal such as secondary aluminum production, primary aluminum production, or chemical applications. The differences among the ranges of specifications are very small.

For any given grade or specification, domestic and imported silicon metal are completely interchangeable. Furthermore, so-called higher grade silicon metal can be an often is sold for so-called lower grade applications.

As a commodity, silicon metal is sold primarily on the basis of price. In the market place, you can talk to customers about sales and technical service about quality, or reliability of supply in an effort to differentiate your product from the competition. But what the customer always come back to is price. How much per pound of silicon? The U.S. silicon metal market is highly competitive. There are two domestic merchant market producers, Globe, and Mississippi Silicon, a new producer that entered the market in 2015. In addition, there are many sources of imported silicon metal competing for sales as well.

Publications such as the CRU Monitor and Platt's Metals Weeks regularly publish information regarding silicon metal spot prices. Buyers and sellers use these published prices as benchmarks in negotiating prices for both spot and contract sales. In addition, the published prices are used as the basis for prices in contracts with formula pricing provisions.

For example, a contract may provide the deliveries during a given month are priced at the average of the metal's week prices for silicon metal published in the preceding month. In buying silicon metal, purchasers typically receive offers or bids from at least four to six suppliers, and in many cases, as many as 10 suppliers. Purchasers often will communicate these prices to competing suppliers in an effort to obtain the best price possible.

The availability of published price data and the multiple offers received by purchasers ensure that prices are quickly communicated throughout the market. Domestic and import suppliers compete for sales on the basis of price. A price difference of a half a penny per pound or less can determine who gets a sale. This is true even where the purchaser has established relationship with the supplier. If we are given a second look because we are an existing supplier, we are normally expected to meet the low bid in order to maintain our relationship with the customer.

The silicon metal that Globe produces in sales competes directly with silicon metal imported from the subject countries for sale to U.S. customers. There's nothing special about the imports from any other subject countries or about customer requirements that prevents our silicon metal from competing effectively with the imports. It is simply a matter of price.

The largest domestic consumers of silicon metal are the chemical producers such as Dow Corning, Momentive Performance Materials, and REC Silicon. These companies purchase large quantities of silicon metal by soliciting bids or offers from competing import and domestic suppliers. As a result of the commodity product nature of silicon metal, the size of these purchases and the competitive purchasing process these purchasers have a great deal of pricing leverage.

All the factors combine to make the U.S. silicon metal market extremely competitive and price driven.

The silicon metal producers in Australia, Brazil, Kazakhstan and Norway are highly export oriented. Because they have small or nonexistent home market, producers in these countries are forced to export and the U.S. market is a key export destination for all of these countries.

MR. PERKINS: Kazakhstan is a new entrant in the

United States Market that has quickly established a significant market presence by selling at low prices. From no volume at all in 2014, imports from Kazakhstan increased almost 11,000 short tons in 2016. Imports from all four countries combined grew by more than 20 percent from 2015 to 2016 to an estimated total volume of almost 95,000 short tons.

Furthermore, not only was there a large increase in volume but the average unit value of the imports fell by almost 19 percent over the same time period. These dumped and subsidized imports have severely injured Globe. Our silicon metal operations which have been profitable have suffered very serious financial harm. In addition, as Mr. Huck will describe, we have enforced a shutdown on our Selma, Alabama Plant and idled furnaces at other plants and laid off workers. I would like to explain how the Subject Imports inflicted this injury, based on my experience in the market.

As Vice President of Sales for Globe, I have seen the aggressive pricing of silicon metal from the four countries firsthand. I am directly involved in our sales to domestic customers and serve as their primary point of contact. In dealing with customers, I have seen silicon metal from Australia, Brazil, Kazakhstan and Norway offered at rock-bottom prices that undercut our prices.

Virtually all of our sales are made pursuant to contracts. Most silicon metal contracts are negotiated or competitively bid during the so-called "mating season in the 4th quarter of the calendar year for shipments due in the following year. In the negotiations bidding in the 4th quarter of 2015, Globe in many cases was unable to meet the extremely low prices offered by the Subject Import suppliers and as a result lost a large volume of 2016 sales to primary and secondary aluminum producers. Such sales losses to the Subject Imports have continued into 2017.

In addition to the importers' low prices, other significant factors contributed to the sales losses in 2016 is a particular type of pricing mechanism used by the Subject Import suppliers. These suppliers frequently offer to sell silicon metal at an indexed price, the price is discounted from the published benchmark prices with no floor limiting the level to which the discounted index prices could fall.

For example, they may offer to supply silicon metal in an annual contract for a price 5 cents per pound below the average price published by a specified publication during the month preceding the month of delivery with no floor limiting how low that price might go. For sales in 2016, Subject Imports suppliers offered silicon metal at Index's prices, discounted as much as 8 cents per pound

below the published benchmarks with no floor.

While price indexing is not a new phenomenon in the silicon metal market, such large discounts below published prices were unprecedented. In an effort to avoid being forced to sell at prices below our cost of production, Globe resisted making sales at Index prices below the published benchmarks and also would not agree to index pricings with no floor. By resisting such provisions Globe lost sales to the Subject Imports suppliers.

Globe not only was hurt by the loss of these sales but also by the reduced prices of which we were forced to make sales because of the very low, competing Subject Import prices. Many of these drops in price occurred during the 4th quarter of 2015 purchasing cycle. In addition, one major chemical industry customer forced us to reduce our long-term contract price for the year 2016.

At a second major chemical producer customer we had agreed to a reduced price for the 2nd half of 2016. Finally, even though Globe resisted agreeing to the Index pricing arrangements and sold predominantly on the fixed price basis in 2016, Globe was forced to make a few sales on an Index price basis in order to avoid losing the business altogether. As a result Globe suffered significant injury when the prices under these contracts were driven down by the Subject Imports to below-cost levels in 2016.

We at Globe are proud of our silicon metal manufacturing operations and are confident that we can compete effectively with fairly traded imports. In filing this case, we are asking our government to provide relief from the very serious harm that dumped imports has inflicted on our company and its workers and to allow us to compete with the imports on a level playing field. Thank you very much.

MR. KRAMER: Our next witness is Duane Huck.

STATEMENT OF DUANE HUCK

MR. HUCK: Good morning. My name is Duane Huck. I have been employed by Globe since 1992. I began my career on the production floor, operating and tapping the silicon metal furnaces and have been involved in silicon metal operations ever since. For ten years I was plant manager at three of Globe's silicon metal plants and was directly responsible for the day-to-day operations of the facilities.

For six years, I was Globe's Vice President of Operations. In that position I was responsible for the operations of all of the silicon metal plants. In my testimony, I will describe the silicon metal production process and the devastating injury the imports from Australia, Brazil, Kazakhstan and Norway have inflicted on Globe and its workers.

In our facility, we produce silicon metal

suitable for all applications. Silicon metal is manufactured by smelting high purity quartzite in a submerged, electric arc furnace. In the smelting process, the quartz is combined with carbon-containing reductant such as low-ash coal, charcoal or petroleum coke and a bulking agent usually woodchips. The raw materials are weighed, combined in the proper proportions and a charge and then fed into the furnace.

Once the raw materials have been charged into the furnace, high current, low-voltage electricity is delivered from a transformer system to the furnace through prebaked or self-baking amorphous carbon electrodes. The production process is very energy-intensive, requiring about 13,000 to 14,000 kilowatt hours of electricity to produce one short ton of silicon metal. In the furnace, the charge is heated to approximately 3000 degrees Fahrenheit.

At this temperature, the oxygen and the quartz separates from the silicon and combines with the carbon in the reductant to form carbon monoxide gas. The gas escapes leaving molten silicon metal. The silicon metal is removed or tapped from the furnace on either a continuous or an intermittent basis. In the molten state the silicon metal is often refined by oxygen injection to remove impurities such as aluminum and calcium.

Some impurities cannot be removed from the liquid

silicon and therefore must be controlled by raw material selection. The molten silicon metal is poured into large, flatiron molds or onto beds of silicon metal fines. The resulting ingot or billet is subsequently crushed to the desired size to meet customer specifications.

To meet the specifications of certain chemical industry customers the silicon metal is ground into powder. To operate efficiently and reduce per unit fixed cost the submerged arc furnaces used to produce silicon metal must run continuously 24 hours a day, 7 days per week. One silicon metal product, Silgrain is manufactured using a different process. Silgrain is the trademarked name for high purity silicon metal powder produced by the Norwegian producer Elkem.

I understand that Elkem produces Silgrain by refining ferrous silicon with a silicon content of 90-94 percent using a proprietary chemical leaching process. Except for the manufacturing process, Silgrain is just like other high purity silicon metal powder. Silgrain is composed almost entirely of silicon with very small amounts of impurities.

It is sold for the same applications and through the same channels of distribution as other high purity silicon metal powder, is marketed in the same way and is perceived by customers to be high purity silicon metal

powder. Silgrain is the same product as and is sold in direct competition with Globe's high purity silicon metal powder.

Silicon metal production is a highly capital intensive manufacturing process. Globe's largest assets are its four silicon metal plants and in particular the submerged electric arc furnaces at the plants. Globe has made large investments in its silicon metal production operations to create state0of-the-art facilities capable of producing silicon metal as efficiently as possible. Such investments require the company to be profitable and to generate adequate cash flow.

Silicon metal production involves high fixed costs. To be able to recover from these costs, we need to be able to run the furnaces at the highest rate of capacity utilization possible so that we can spread these costs over a sufficiently large volume of silicon metal sales.

If we are forced to compete with imports sold at dumped and subsidized prices as we are today we have two choices: either lower our prices to the level of the imports so that we can maintain an adequate level of production or lose the sales to the imports. Either way, our financial performance suffers.

As Mr. Perkins explained, in 2016 a large volume of low-priced imports from Australia, Brazil, Kazakhstan and

Norway surged into the U.S. Market taking sales away from Globe and forcing down our prices. In order to lower our cost, we were forced to reduce capacity. We had to shut down our Selma, Alabama plant in February of 2016 which resulted in the loss of more than 90 jobs.

In addition, we had to idle furnaces at two of our other plants which led to additional layoffs and convert a furnace to ferrous silicon production at another plant. Between 2015 and 2016 more than 18 percent of our production related workers lost their jobs. I am familiar with the human toll such layoffs inflict on the workers and their families. Our workers normally are the major and sometimes only breadwinners for their families and the source of health insurance.

Our plants are also major employers and economic contributors to the local communities in which they are located. For this reason, the negative consequences of a plant shut down and the idling of furnaces are far reaching. In addition to the human cost, shutting down capacity increases the per unit cost of the remaining production because as I explained fixed costs are spread over a smaller volume of production and sales.

As prices have collapsed and Globe has lost sales volume to the imports we have been forced to curtail capital investments and to postpone necessary maintenance

expenditures. These steps are only temporary, stopgap measures. When equipment is not replaced on a timely basis and necessary maintenance is postponed, the risk of unexpected extended downtime and lost production increase. Lost production in turn increases per unit cost.

I have devoted my entire career to Globe. We have the world class equipment and workforce required to be highly efficient, to be a highly efficient silicon metal producer. We have proven that we are able to compete successfully with large volumes of fairly traded imports. However when we are faced with imports sold at unfairly low prices and imports subsidized by foreign governments, globe and its workers need the relief from these unfair practices provided under the U.S. Trade Laws. The facts Mr. Perkins and I have described show why it is critical that such relief be provided to the domestic silicon metal industry in this case. Thank you.

MR. KRAMAER: our next witness is Jennifer Lutz.

STATEMENT OF JENNIFER LUTZ

MS. LUTZ: Good morning. I am Jennifer Lutz, Senior Economist at Economic Consulting Services. There are a number of conditions of competition that are distinctive to the U.S. silicon metal market. Silicon metal is a commodity product used in the production of primary and secondary aluminum and in chemical applications, namely the

production of silicones and polysilicon.

Consumers generally require suppliers to meet certain specifications. The differences in such specifications tend to be minor and can be met by both domestic and import suppliers. The Commission has conducted a number of silicon metal investigations and has found that although silicon metal is described in terms of grades, there is no uniformly accepted grade classification system.

These grades instead refer to ranges of specifications that are generally sold to different groups of customers such as chemical grade material. These specifications establish the minimum amounts of silicon and maximum amounts of impurities such as iron, calcium, aluminum or titanium that may be contained in the product. Silicon metal meeting certain specifications is completely interchangeable with other silicon metal meeting the same specifications whether from a domestic or import source.

Production of silicon metal for various types of customers is not separate from production for other types of customers. Silicon metal producers with few exceptions, produce a single product with the same equipment, the same employees and the same raw materials. Because silicon metal is a commodity product, with domestic and import suppliers producing silicon metal that meets the specifications of purchasers in all market segments, competition among market

suppliers is based on price and small differences in price can cause purchasers to switch suppliers.

Information regarding prices in the U.S. Market is readily available. A number of industry publications such as Platt's Metals Week and CRU Monitor publish information on spot prices for silicon metal. Metals Week, for example, surveys producers, traders and consumers as to prevailing spot market prices and publishes the results weekly while the published silicon metal prices reflect specifications typical for the secondary aluminum segment, those prices affect all segments of the silicon metal market.

As I mentioned, silicon metal is used in the production of primary and secondary aluminum, silicones and polisilica. There are no substitutes for silicon metal in these applications. Demand for silicon metal therefore follows demand for these downstream products. Demand for silicon metal is priced inelastic, meaning that a decrease in the price of silicon metal does not lead to a slightly higher consumption.

In the most recent sunset review with respect to silicon metal, the Commission estimated that demand elasticity for silicon metal to be in the range of -0.25 to -0.5. Many domestic and import suppliers compete in the U.S. Silicon metal market. These include three U.S.

Producers and multiple import sources. Globe is a longtime commercial producer of silicon metal.

Dow Corning Alabama was originally a commercial producer but was purchased by Dow Corning and is now primarily a captive producer for Dow-Corning's chemical business. Mississippi Silicon is a more recent addition to the Domestic Industry starting commercial production in late 2015. While the start up of Mississippi Silicon versus some of the downward volume trends in the Domestic Industry it is notable that the company announced plans to build a facility in January of 2014, a month in which U.S. spot prices rose from a $1.25 per pound to a $1.34 per pound, well below the steep and sustained drop in U.S. Spot Prices that occurred in 2015.

The 200 million dollar plant opened in October of 2015 when published prices were well into their decline at only a $1.14 per pound, 22 percent below the 2014 high of $1.46 per pound. The domestic product and imports compete in all segments of the market and no segment is insulated from import competition. Subject Imports volumes have been significant. While the Petition relied on import statistics that incorporated certain assumptions, the Commission has collected questionnaire data that provide good coverage of Subject and Non-Subject Imports and followed the import trends discussed in the Petition.

Based on shipments of imports reported in the importer questionnaires, Subject Imports declined overall from 2014 to 2015 as did the volume of total imports due largely to declines in volumes from Brazil which suffered power shortages during that period. Imports from the other three Subject Countries however increased from 2014 to 2015. In 2016, as total imports declined again Subject Imports increased by more than 20 percent. Estimated Subject Imports accounted for roughly half of total imports in 2015 but the combination of declining total imports and significantly increasing Subject Imports caused Subject Imports to increase their share of total imports in 2016.

The imports statistics show that imports from Kazakhstan in particular increased from 0 in 2014 to just under 3,000 short tons in 2015 to over 10,000 short tons in 2016. Al four Subject Countries have very low levels of home market consumption and their silicon metal industries are highly export oriented.

As Subject Imports increased significantly in volume from 2015 to 2016, the average unit value of these imports fell by 19 percent falling from a 1.33 per pound in 2015 to only 1.08 per pound in 2016 based on U.S. Import statistics. While the combined Subject Import average unit value was generally flat from 2014 to 2015 the average unit value of imports from Norway dropped from $0.22 cents per

pound over that period and imports from Kazakhstan entered the U.S. Market at only $1.15 per pound in 2015 well below the average unit value of Subject Imports and total Imports.

During the POI, Subject Import volumes were significant and increased from 2015 to 2016 absolutely and as a percent of total imports, as a percent of domestic production and as a percent of apparent consumption. The Subject Imports are competitive across all end use categories with Subject Imports supplying primary and secondary aluminum producers and chemical producers.

How did the Subject Imports increase their presence in the U.S. Market? By selling at low prices. As I noted, the volume of Subject Imports increased significantly from 2015 to 2016 while the average unit value of such imports fell by 19 percent. While it is true that the Domestic Industry does not have the capacity to supply all of U.S. Demand, if Subject Imports were drawn into the U.S. Market due to any supply shortages, silicon metal prices should have increased.

Instead, published prices were generally flat through 2014 but started to decline steadily thereafter.

MS. LUTZ: Globe was relatively lucky in 2015, in that it had negotiated fixed price contracts prior to the precipitous decline in spot prices. In 2016, however, it

was forced to face the low prices prevailing in the market. We're still working with the questionnaire price data, but these data show subject imports underselling the domestic industry. Furthermore, purchasers have confirmed switching purchases from domestic product to imports on the basis of price.

While the availability of published market prices and contract prices based on such published prices is not a new phenomenon, you have heard testimony from Mr. Perkins about the increasingly common practice of contracts setting price formulas that sell at significant discounts to the published prices, and without set minimum prices below which contract prices cannot fall.

You have heard testimony from Mr. Perkins that Globe was unwilling to enter into such contracts, and therefore lost significant volume to the subject imports. Had Globe entered into such contracts and been required to sell at a discount to the published price, Globe's financial deterioration in 2016 would have been even worse than what it reported.

The members of the domestic industry suffered the impact of subject imports in different ways. D.C. Alabama is a captive producer and generally is sheltered from import competition. As I noted earlier, Mississippi Silicon announced plans and broke ground on its new plant at

a time when domestic silicon metal prices were relatively high, but started production well after prices had fallen to very low levels.

It is hard to imagine that the company is reaping any rewards from U.S. investment, given that it announced its plans to build the plant when published spot prices were around $1.30 per pound. These prices had fallen sharply by the time the plant opened, and fell further to POI low levels below 86 cents a pound in October 2016.

The clearest data with respect to domestic industry injury come from Globe. This long time commercial supplier, as you have heard from company witnesses, had the option of selling larger volumes in 2016 at uneconomically low prices or losing significant volume. By refusing to offer significant discounts to the published prices, it suffered reductions in production, shipments and sales volumes.

Despite its efforts to keep its prices high enough to cover its costs by sacrificing volume, it suffered declining prices in 2016 along with the declining volumes. It closed one of its facilities entirely, idled two furnaces at other facilities and switched another furnace from silicon metal to ferrosilicon production.

Silicon metal production has high fixed costs, and the volume reductions and furnace shutdowns caused

Globe's fixed costs to be spread out over a smaller and smaller volume of production. As production fell and plants and furnaces were shut down, employment indicators fell significantly in 2016, with the number of PRWs falling by more than 18 percent. Financial indicators fell significantly, showing that the domestic industry has been severely injured by the subject imports.

It is hard to say how long the industry can continue to operate under these conditions. That concludes my testimony, and I'd be happy to answer your questions.

MR. KRAMER: We'll now take questions from staff.

MR. ANDERSON: Thank you Mr. Kramer and thank you for coming here to testify and give you information. I really appreciate you being here today. We'd like to start off with questions from staff, and we'll start with our investigator, Carolyn Carlson.

MS. CARLSON: Good morning. Thank you all for being here today. So the first question I want to start with is Mr. Kramer and Mr. Perkins, you both mentioned that silicon metal is a commodity product. Are there any characteristics of silicon metal produced in any of these four subject countries that are unique to that country that cannot be found elsewhere?

MR. PERKINS: No ma'am, there's not.

MS. CARLSON: Okay, so is there a part of the U.S. market that requires subject imports, since if the U.S. producers do not manufacture those products?

MR. PERKINS: No ma'am. We can meet the specifications of any customer here in the United States.

MS. CARLSON: Okay, thank you. Do you anticipate an increase or decrease in demand for silicon metal in the foreseeable future, and what about regarding the demand for downstream products?

MR. PERKINS: I mean silicon metal, the demand right now is pretty good. I mean you're building 17 million cars a year. That's a good figure. I think the silicon chemical manufacturers are running at a high rate. The solar silicon manufacturers are, they have some issues right now, and I would hope that that would right itself and that would increase demand.

But you know, increasing demand is great, but if you're still facing these extremely low prices, demand is not really going to help that.

MS. LUTZ: Just to clarify, the statistics regarding automobile manufacturer refers to the consumption of aluminum in those cars.

MR. PERKINS: So 17 million, that's a pretty high number. It can only go down from there.

MS. CARLSON: Okay, thank you. How has the

domestic workforce changed or evolved over the last couple of years? Have there been any changes to the industry such as a new technology developed to produce silicon metal, and please identify yourself when you speak.

MR. HUCK: Yes, this is Duane Huck. Could you repeat the question please?

MS. CARLSON: I'm just wondering how the domestic workforce has changed or evolved over the last couple of years, or have there been any changes to technology or any sort of technological developments that we should be aware of?

MR. HUCK: There have been no major, major changes in technology in the last, in the last few years, no. And the workforce, you know, it's the same kind of operation throughout the industry and you know, it's highly specialized and that you can't get workers from other industries and bring them in without, you know, first training them so --

MS. CARLSON: Okay, thank you. Mr. Huck, you mentioned that a furnace had to be switched to all ferrosilicon production. Can you further describe the ease or difficulty with which to switch production from silicon metal to ferrosilicon or to other products in general?

MR. HUCK: Well, there's a few things that have to change in the type of raw materials that are used.

Potentially the type of electrodes that are used in the manufacturing process, and then there's, you know, depending on the particular furnace that's going to change, whether the ceramic refractory lining is suitable for ferrosilicon production can come into play. So that's, those are the things that have to be considered.

MR. PERKINS: I might add if you're switching from silicon metal to ferrosilicon, that's a much easier switch. You change raw materials and, as Duane pointed out, some parameters of the furnace. The very difficult part if you're switching back from ferrosilicon to silicon metal, because at that point you've got a contaminated shell and you have to bleed out the iron and some of the elements that are detrimental to silicon metal.

MS. CARLSON: Thank you for your answers. Mr. Kramer, have you filed any change of scope with the Department of Commerce?

MR. KRAMER: Have we filed a change in scope? No.

MS. CARLSON: Next, I want to turn to imports and free trade zones. Just for any of you, how have free trade zones affected the market for silicon metal, if at all? Or is there a specific approach that the Commission should take in analyzing imports that are admitted to free trade zones? Should they be analyzed any differently from

direct subject imports?

MR. KRAMER: In this case, it's very important for the Commission to take into account the flow of imports into foreign trade zones, and the reason is that large customers sought such zones for the purpose of initially to avoid anti-dumping or countervailing duties. That issue was litigated and --

MR. BISHOP: Mr. Kramer, can you move your microphone closer please.

MR. KRAMER: That issue was litigated before the Department of Commerce, which determined that the FTZ should not be permitted to be used to evade anti-dumping and countervailing duties. Nonetheless, large customers have chosen to import in order to not have to pay the customs duty. So a large portion of the material entered into FTZs, they're manufacturing subzones.

They're used to produce products that in many cases later enter the United States for consumption, and the sales of silicon metal, the use of imports in the FTZs, those displace domestic producer sales. They could be used to manufacture the same products for domestic consumption or for export.

MS. LUTZ: I think one point that Mr. Kramer made that I would like to emphasize is that the reason for setting up an FTZ and bringing in imports for that is to

avoid the import duties on it, suggesting how price sensitive consumers are with respect to silicon metal.

MS. CARLSON: Okay. So you're saying that the Commission should analyze the imports admitted into free trade zones just like any other import?

MR. KRAMER: As we understand Commission practice, the Commission includes in the relevant flow of imports into FTZs which later enter the United States for consumption, without regard to whether they enter as the input or as a component of a downstream product. We think it's important for the Commission to do that in this case.

MS. CARLSON: Okay, that's helpful. Thank you. So can you describe any differences regarding shipments of lump form versus powder form? Are these forms essentially interchangeable?

MR. PERKINS: They're not interchangeable as far as the end use goes. I mean the powder is produced for a chemical manufacturer, and silicon's used in a lump form when making additions to aluminum.

MS. LUTZ: My understanding is that chemical producers, and you can correct me if I'm wrong, who purchase in lump form simply process it into powder themselves before using it?

MR. PERKINS: That is correct.

MS. LUTZ: So it's just a matter of who

converts it into powder.

MS. CARLSON: Okay. So my final question probably for Mr. Kramer or Ms. Lutz, do you have any update regarding the silicon metal proceeding in Canada, and are there any other anti-dumping or countervailing duty orders on silicon metal in third countries? You can answer this in your post-conference brief if that's easier.

MR. KRAMER: We'll provide a further response in the brief, but there is no update with respect to the case in Canada that I'm aware of. There is an order in place with respect to China in Australia, and there is an order in place in the EU with respect to China, imports from China. And of course in the United States there are orders with respect to China and Russia.

MS. CARLSON: Okay, thank you. That concludes my questions.

MR. ANDERSON: Thank you, Ms. Carlson. Just a reminder before I turn the microphone over to Mr. Henderson, would you please identify yourselves. The court reporter can see your names, but it's very helpful in the transcript if you state your name before you respond to the question and speak loudly into the microphone. Thank you.

MR. HENDERSON: Good morning. I'd like to thank you all for coming, particularly those industry witnesses who had to travel to get here. Mr. Kramer, you

characterized the two other U.S. producers, D.C. Alabama and Mississippi Silicon as related parties. What's Petitioners' position as to whether either or both of those firms should be excluded by the Commission form its definition of domestic industry as related parties?

MR. KRAMER: This is Bill Kramer. Our position is that D.C. Alabama should be excluded from the domestic industry, but based on the facts known to us at this point, Mississippi Silicon should be included. With respect to D.C. Alabama, it's a wholly owned by and is a captive supplier to a company whose predominant interest is as a consumer, not as a producer. Based on our analysis of public data, the volume of the parent company's imports into the United States greatly exceeds the volume of its U.S. subsidiary's production.

Furthermore, the parent company Dow Corning benefits from dumped sales and subsidies received by its Brazilian affiliate. In the case of Mississippi Silicon, based on our analysis of the port arrival data the imports into the United States from RENA, the majority owner of Mississippi Silicon, are only a fraction of the volume of Mississippi Silicon's production, and there's no indication that these imports benefit Mississippi Silicon to any significant degree or shelter it from the impact of the unfairly traded imports.

MR. HENDERSON: Thank you. With respect to domestic like product, I didn't hear from Respondents' opening statement whether they're going to make any special arguments on the like product. But I note that in the petition, Petitioners obviously note that the Commission has addressed the like product issue in a number of past investigations and reviews, most recently in the 2014 review of silicon metal from Russia, or at least I believe that's the most recent.

I just wanted to know whether in Petitioners' view whether anything has changed with respect to any of these like product factors since the Commission's most recent proceedings, and particularly noting Mr. Huck's testimony as to the unique production method of this producer in Norway. Thank you.

MR. KRAMER: That is the single exception with respect to manufacturing process. But as Mr. Huck explained, there is no difference with respect to the other like product being considered by the Commission, and that's a single product in the case of all of the other imports. There's no difference between the analysis the Commission has previously performed and the current situation.

MS. LUTZ: This is Jennifer Lutz. I would just add that the imports from Norway are not entirely this Silgrain product that is made by a different process. A

significant portion of the imports are of a lower grade silicon metal product that we understand would be made in the same way as anybody else's silicon metal.

MR. KRAMER: In fact, the lower grade product constitutes the majority of the imports, based on our analysis.

MR. HENDERSON: Thank you. Again, I didn't hear anything in particular from Respondents, but I'm sure we may hear something about it in the afternoon about the question of cumulation of the imports from the four sources, and first I wanted to address any differences in fungibility between imports from any of the four sources and each other or the domestic like product, and again we've just mentioned this unique production method with respect to certain subject imports from Norway.

So that at least would be one issue we hope you could address and any other differences in fungibility. Thank you.

MR. KRAMER: We think the facts are that there are no differences with respect to the factors that the Commission considers in deciding whether the imports compete with each other and with the domestic like product. That's true of Silgrain as well as the others, that it's just a form of high purity silicon metal powder.

MR. HENDERSON: I mean I obviously understand

your position from the petition, but it's always useful if we can get additional testimony on these issues. Same question with respect to channels of distribution. Are there any differences in terms of whether imports use somewhat different ways of getting to the market than domestic producers?

MR. PERKINS: This is Marlon Perkins. No sir. Those channels would be pretty much the same, the domestic or import production.

MR. HENDERSON: Well, you can at least elaborate. I know we have statements in the petition, but would like to get some testimony on this point.

MR. PERKINS: Obviously we are a producer and my primary responsibility is calling on customers. A lot of the import sources are coming in. There may be an importer and then those particular imports are then sold to various distributors. So it's, you know, you can have one importer that's selling to several different distributors. So you're up against, you know, quite a number of competitors.

MR. KRAMER: We can respond further with respect to this, but my understanding is that most of the imports like the domestic product are sold to end users. Some portion is sold through traders, and as to Globe, it principally sells directly to end users. I'm not sure exactly what Mississippi Silicon does.

MR. HENDERSON: We have since we were provided with statements by Respondents of testimony that I assume will be offered in the afternoon, looking at it and noticing a particular point from Mr. Augusto from LIASA, and just seeing something -- now whether this testimony actually gets offered, we'll wait and see.

But there's a written statement here about the unique attributes of silicon metal from Brazil, and among other things it notes that Dow Corning Brazil shipments to the United States are internally captured by Dow Chemical. So those imports do not compete in any way with U.S. production of silicon metal.

So I would give you the opportunity now to respond in advance to testimony that may or may not be offered this afternoon, whether you agree with that assertion and whether this contention with respect to Dow Corning Brazil shipments to the United States, whether that affects the fungibility or any -- or any relevant factor with respect to cumulation of subject imports from Brazil with the subject imports from the other sources. Thank you.

MS. LUTZ: We'll address this more thoroughly in the postconference brief, but Globe certainly believes that it competes with--in all segments, with the subject imports, and that there is no meaningful distinction in their production process that we differentiate its product. And

every pound of silicon metal that goes into a Free Trade Zone is a pound that Globe cannot sell to them.

MR. HENDERSON: Thank you. Looking at the import data--and, as Ms. Lutz pointed out, I'm looking at what's public in the Petition, and our staff, obviously we've been collecting our own data which presumably will bear some resemblance to what's in the Petition, but we'll obviously see, but I noted a couple of things in terms of the import data in the Petition, Exhibit I-36, that, first, it sort of notes that with respect to what's called "target imports," the imports from the four subject countries, that the imports from the four subject countries were, although they declined in 2015, were increased back in 2016 to a level a little bit above what was in 2014. And there also seemed to be different trends with respect to the four different countries.

And as Ms. Lutz noted, the imports from Kazakhstan started--are reported here as zero in 2014, and then were over 10,000 short tons, whatever the proper unit is, and that some of the others went up and down and so forth.

You know, so I'm curious in terms of looking at the trends. Of course what happened in 2013 is before what our likely Period of Investigation, certainly our period of collecting data, but, you know, wondering what--how to

consider the trends as presented in the Petition where imports were at a certain level in 2014, declined in 2015, then increased to a level slightly above the 2014 level with different trends for the four subject countries.

Can you provide some elaboration on that? Thank you.

MS. LUTZ: Well, first it is true that the estimated volumes in 2016 are comparable to the 2014 levels. But the average unit values fell by 26 cents a pound. A 26-cent per pound drop in a product that sells for $1.30 to $1.08 a pound is pretty significant.

The--Globe saw changes in the pricing practices, particularly in the contract negotiations for 2016 where the subject suppliers were offering very large discounts to published prices, and not allowing--not putting any floor in how low the price could go.

For Globe to compete with that, that is very difficult. The decline in volume from Brazil in 2015 accounts for all of the decline in subject imports. And that was caused by, we understand it was caused by interruptions in electrical power supply.

But while the trend over the three-year period does go down and up, the time period that we have focused on is 2016 where the injury takes place. And while the volume is comparable to 2014, the prices were much lower. And that

is where Globe is seeing its injury.

MR. HENDERSON; Thank you. One other question with respect to the import data in the Petition. The Petition indicates the total imports declined from 2014 to 2015 and then again to 2016, and indicating--and I don't want to characterize things, but what would appear to be a substantial decline in nonsubject imports between 2015 and 2016 as subject imports are recorded here as having increased. And I'm just curious what Petitioner's explanation is for the decline in nonsubject imports. On the one hand we have nonsubject imports declining as subject imports are increasing. On the other hand, an issue raised by Respondents is, you know, in their opening statement had to do with affiliation between--and this is something you can correct me--between Globe, Petitioner, and nonsubject producers in I think they said Canada and South Africa.

So I'm just curious whether you can address the issue of volumes in nonsubject imports in terms of possible explanations for what happened between 2015 and 2016. Thank you.

MS. LUTZ: Well certainly I could imagine that many nonsubject import suppliers saw the prices in the U.S. market and said we don't want to sell below our costs, and either found another market or we don't know.

With respect to the related-party imports, South

Africa was the largest supplier of nonsubject imports for a lot of the period, but that volume declined by about a third from '15 to '16. And we can discuss that further in the brief.

And I don't know all of the details, but some portion, I think a large portion of the--all of the imports from Canada are the product of a joint venture that Dow Corning owns 49 percent of.

MR. KRAMER: And Dow Corning is the importer, not Globe.

MR. HENDERSON: Thank you. I have no further questions at this point

MR. ANDERSON: Okay, Thank you, Mr. Henderson. And now I'll turn the microphone over to Ms. Gamache.

MS. GAMACHE: Good morning. My name is Lauren Gamache and I'm from the Office of Economics, and I'd like to thank you all for your presence and testimony today.

I have a follow-up question regarding the raw materials that Mr. Huck had spoken about very briefly, mentioning quartz, coal, and wood chips. And I'm wondering how those prices affect the prices of silicon metal. If you've seen any strong trends one way or the other? And if you're expecting--what you're expecting prices for those raw materials to do in the future?

MR. HUCK: Our experience has been those prices

over the time frame that we're looking at here in 2014-2016 have been relatively flat. And, you know, don't anticipate any sharp increases in those going forward, but, you know, that's to be determined I guess.

MR. PERKINS: Excuse me. This is Marlin Perkins. I think coal prices have been up generally over the last few years, but I guess the long and short of it is, the raw material prices are not dictating our sales price.

MS. GAMACHE: Thank you. My next set of questions is regarding purchasers. I understand that mostly the end users for silicon metal are chemical and aluminum producers. Are there any other types of end users that we should be aware of?

MR. PERKINS: Once again, Marlin Perkins. No, you're correct that silicon chemicals, polysilicon and aluminum consumers are the largest universe. Some of it is sold to high-tech ceramics and that type thing, but that's in much lower quantities.

Die cast aluminum shops buy silicon, but that's really kind of an extension maybe of a secondary or a primary production, because that's what a secondary aluminum producer is making an ingot that is going to a die caster or is going into an automotive part in most cases.

MS. GAMACHE: Aside from price, what other characteristics or qualities are purchasers looking for when

they're making their decisions?

MR. PERKINS: Once again, Marlin Perkins. I mean, you know, we can talk about availability, we can talk about quality, we can talk about repeatability, but at the end of the day it comes down to price. That's the number one determining factor.

MS. GAMACHE: Thank you. My understanding is that most purchases are made via contracts. But for small purchases, are you finding that there are different types of purchasers who prefer to buy on the spot market versus contract?

MR. PERKINS: Not really, no. Once again, Marlin Perkins. No, ma'am. In fact, a lot of them are the same. You may have a contract with a particular customer and he's looking for a few extra loads. So a lot of them are the same.

MS. LUTZ: And I would just add that as we were discussing the topic of the spot market yesterday, the spot market in relation to total consumption is very small. I don't know if we have an estimate of what portion, but it's by far the vast majority of the business is done through contracts.

MS. GAMACHE: Can you describe the demand for products that are downstream from like polysilicon and aluminum? You've mentioned that the automotive sector is a

big sector that influences demand for aluminum, but what about polysilicon, for example?

MR. PERKINS: Polysilicon is a product that, as you said, is downstream--computer chips. So your smartphone, your computer. Most everything, your car, everything has a computer chip in it these days. You know, very small. Very small portions, but, you know, our product goes into a polysilicon operation at 99.25 percent purity. It comes out a polysilicon at 99.999999999 percent, 11 9's they call it. So that is, you know, obviously a market within itself.

There are some trichlorocyline, some gases. One again, the end product is very small I think in comparison to those three major groups that you list there.

MS. LUTZ: And with respect to polysilicon production, I notice that there's a chart in one of the Respondent's presentations showing increased demand for solar panels. And while it's true that that end use is increasing, I think you've seen in the cases that you've done on solar panels that probably about 10 years ago there was a big shortage of polysilicon which drove prices through the roof, and since then everybody's added polysilicon capacity. So the market is generally oversupplied. So while demand may be good, there's a lot of excess capacity in that area.

MS. GAMACHE: One last question. To what extent do imports from nonsubject countries affect competition, in your experience?

MR. PERKINS: Marlin Perkins once again. I think, as we see it, I mean there is no differentiation in the product. So, I mean, nonsubject imports are competing just as we are. And as the imports from Kazakhstan and Norway, Brazil, and Australia.

MS. GAMACHE: Thank you. That concludes my questions.

MR. ANDERSON: Okay, thank you, Ms. Gamache. And now we'll turn the microphone over to Ms. Freas.

MS. FREAS: Thank you for your testimony. I have no questions at this time. Thank you.

MR. ANDERSON: Okay, thank you. Mr. Guberman?

MR. GUBERMAN: Thank you. I was wondering if there is any recycling of silicon from end-of-life products, like in automobiles, and if there is any secondary production, and if Globe is involved with that? Or if it's not something that's cost-effective, or not really done in the industry?

MR. PERKINS: Marlin Perkins. Silicon is recycled, but it is recycled as aluminum. So as an automobile gets to the end of its life, it is shredded, if you will. And that becomes--obviously some of it is ferro

scrap. Some of it is aluminum scrap. And the cast aluminum parts, a wheel, an engine block, a head, a cylinder head, those type products are recycled. And they are, you know, 8 to 11 percent silicon. So silicon is recycled from that standpoint, but not as elemental silicon.

There is--Marlin Perkins again--there is some recycling of electronic products, but that's more of I think a chemical recycling than a furnace type recycling.

MR. GUBERMAN: Thank you. That's all the questions I have.

MR. ANDERSON: Okay. Thank you.

I did want to follow up with a couple of questions and see if any other panelists had any other questions. Okay, so we heard in the opening testimony from Respondents that there was what they characterized as a monopoly status in the merchant market. And you've told us a lot about injury in 2016. Could you tell us more about what the competition patterns were, and some of the prices and the demand in the earlier part of the Period of Investigation. We're supposed to look at three years here, 2014, 2015, and 2016. We've heard a lot of testimony about injury in 2016. Can you tell us more about the difference that was going on before Mississippi Silicon entered the market in 2016?

What was demand like? What were prices like?

What kind of competition were you facing from subject and nonsubject imports?

MS. LUTZ: Well we're still working through the questionnaire data to see what the apparent consumption calculations will show. Our estimates show that there was some decline in apparent consumption from '14 to '15, and then some recovery in 2016.

I think it's--the statement that Globe was trying to exercise monopoly power is somewhat silly when you look at the list of import sources to the U.S. market. There's clearly a lot of parties competing in this market.

MR. KRAMER: For that matter--Bill Kramer--if Globe were a monopolist, presumably it would be able to protect itself from the kind of catastrophic decline in prices that it experienced.

MS. LUTZ: But in twenty--sorry, I'm trying to make sure I get the years correct--in 2015, spot prices started to decline. And we can elaborate on that I our postconference brief, but that we think was certainly affected by the entrance of Kazakhstan to the market, which we understand sells largely on a spot basis.

Because Globe's contracts for 2015 had been set at largely fixed prices at a period when the spot prices were high, they were not affected as much by the decline in spot prices. Other suppliers to the U.S. market may have

had similar experiences because there was not as much pressure to discount to the published prices, and very--rather, I think Marlin estimated less than 10 percent of silicon metal sales in the U.S. are on the spot market. But going into 2016, as demand improved a little bit but not to 2014 levels, Globe started seeing very aggressive behavior by the subject imports selling at sharp discounts to the published prices.

And as to why that happened, well, you've got an afternoon--or the next panel, you can ask that because I certainly can't answer that.

MR. ANDERSON: Well that goes to one of my follow-up questions of was there something driving demand differently? Or something unique about the 2016 contract negotiations that was different than the 2014-2015 contract negotiations?

Obviously you had a new domestic supplier coming on line, but was there anything unique about 2016 that would either, you know, in one way characterized as drawing in imports, or did demand increase dramatically? What was so different about 2016 in the marketplace versus 2014 and 2015?

`MR. KRAMER: One very important difference is the sales arrangements being offered by the subject imports where, as Marlin described, they were selling on a contract

basis with the contract price tied to published indices, with a very, very steep discount from the published price and no floor. So this led to a cycle of declining prices as the index fell. You know, these contract prices were set below the index. Any spot purchase at that level then led to a further decline in the contract price, leading to further spot price declines.

So you had--not only did you have prices that had already declined when companies went into the contract negotiation cycle at the end of '15, but then you had aggressive offers at very low prices and you had this new mechanism introduced into the market under which there were these very steep discounts from the published price.

So it's the fact that offers were made in the contract cycle at these very low prices that carried into the following year, and this mechanism that was being used by the subject imports to obtain sales.

MR. SCHAEFERMEIER: This is Martin Schaefermeier. The other piece of the puzzle we believe are the Brazilian imports that happened in 2016. In 2015, the power crisis in Brazil held back production. Basically, with the turn of the year, power, low-cost power was again available to Brazilian producers.

They were able to quickly basically flip a switch, turn up production, and enter the U.S. market. Now

at that time they had missed the mating season at the end of 2015. So they were selling at the spot market.

That influenced the published prices, driving down prices even further, which had already been falling to the 2015. So that's an additional factor that contributed to the decline of the market prices, the published prices, in 2016.

MS. LUTZ: This is Jennifer Lutz again. I think also Mr. Perkins was mentioning to me that as--so spot prices had been falling throughout 2015, and purchasers took notice of that. And in negotiations for 2016 they pressed harder for lower prices due to those apparent declines.

And so that made the purchasers more aggressive as well.

MR. ANDERSON: Okay. Thank you for that helpful information.

In the three market segments that you're typically characterizing in your brief and talking about here, is there any interplay between the three segments as to which segment might have more influence on price than the other segments? Or is that interplay nonexistent? Or is it equally balanced?

In other words, if you see prices increasing or falling in the chemical sector, will that influence the other segments? Or how would you describe that?

MS. LUTZ: Well I'll let Mr. Perkins comment on this, but as a preliminary matter, so for example the metals we price, if you look at the specifications, it is generally consistent with secondary aluminum specifications.

So the spot prices reflect a product that is likely to be sold in secondary aluminum. These prices, however, are seen by all purchasers in the market and affect prices in the other segments accordingly.

MR. PERKING: Marlin Perkins. I would agree with Ms. Lutz. Everybody sees those prices, be they primary producer, secondary producer, or chemical producer, and they're all pointing to the same numbers.

MR. SCHAEFERMEIER: Martin Schaefermeier, if I may add, the Commission found that prices in all segments of the market are interrelated in the Russia investigation I believe for the first time, and found that again in the most recent Russia sunset review.

MR. ANDERSON: Okay, thank you.

And another question on price. We hear about the production difference for this Silgrain product, but should the Commission consider--or what's your view on the fact that it's a trademarked product? And are there any other grades under the like-product analysis that are trademarked? And would you think that that trademark would command a higher price, or have a difference in the pricing of that

product in the marketplace?

MR. PERKINS: Marlin Perkins.

Mr. Anderson, it is a trademark product, but we compete with it. We sell it to the same customers that they sell to for the same application that they sell it to, so it's a trademark, but I'm not sure it's any different than the product that we offer to them every day.

MR. ANDERSON: Thank you. And my last comment on pricing is, Ms. Lutz, I know you said you're still looking at the questionnaire data, but I would invite all parties; particularly, in the post-conference brief if you could look at the questionnaire data. You gave us a lot of pricing data on averaging of values, but if you can look at -- we look forward to further comments on the actual pricing data and the questionnaire results.

MS. LUTZ: I suspect we will have quite a lot to say about that, but couldn't discuss it here.

MR. ANDERSON: Okay. And then turning to a question about financials, can you either say or in your post-hearing brief has there been any changes in the cost of your inputs in the production of silicon metal during the period of investigation, and if there has been changes in costs of inputs, including costs of energy and raw materials and so forth, how that has impacted your COGS, your Cost of Goods Sold during the period of investigation. You can

either do that now or in a post-conference brief.

MR. KRAMER: Bill Kramer.

We'll address it in our post-conference brief.

MR. ANDERSON: Okay, thank you.

That's all the further questions I have. I would like just see if our staff has any further follow-up questions?

Okay, with that, I very much want to thank the witnesses for being here today and thank you for coming into the Commission and testifying. It's been very helpful to hear about your industry and hear more details regarding the case.

I think with that we'll take a 15-minute break and then we'll resume in, let's say, 11:25 by the clock on the wall. Thank you very much.

MR. ANDERSON: Good morning. I think it's still morning. Welcome to the International Trade Commission and Mr. Lewis and the panels. And by the way, welcome to all the counsel and those who've come into D.C. to be here today in this proceeding. Mr. Lewis, when you're ready, please proceed.

STATEMENT OF CRAIG A. LEWIS

MR. LEWIS: Thank you very much, and good morning. My name is Craig Lewis. I am a partner at Hogan Lovells. I'm appearing today on behalf of Wacker

Polysilicon North America, a large consumer of silicon metals, and Wacker Chemical Norway, a producer of silicon metal that, as discussed in our questionnaire, does not export silicon metal to the United States. Norway's other silicon metal producer, Elkem, unfortunately was unable to provide a witness for this hearing, but they will be joining in our post conference brief.

Before turning the floor over to the various industry witnesses around this table, I'm going to walk briefly through the statutory criteria for injury and give you an overview as to why those criteria do not support an affirmative finding by the Commission.

Volume. Globe's petition essentially concedes the injury to the domestic industry was not caused by an increase in the volume of subject imports. Even by Globe's own calculations, subject imports were flat over the POI, going from 94,000 short tons in 2014 to 79,000 in 2015, and then back up to slightly higher at 95,000 in 2016.

Globe also concedes, as it must, that imports are a natural and necessary element of supply in the U.S. market for the simple reason that there is insufficient U.S. production capacity to meet U.S. demand. Industries that depend on silicon metal would be forced to shut down if imports are excluded from the market.

Prices. U.S. market prices for silicon metal

dropped in late 2015 and 2016. Globe has built its injury claim entirely around this fact, blaming imports. However, there are at least two fatal flaws in Globe's argument.

First, the 2016 price decline is not evidence of a chronic condition of the U.S. market, nor does it even represent a trend. It was a single short-term event that has already been reversed. The most recent fourth quarter press release from Globe's parent company, Ferroglobe, candidly states that "over the course of the fourth quarter of 2016, spot prices for Ferroglobe's key products in the United States and Europe increased substantially, as compared to the third quarter of 2016."

In other words, as quickly as the price drop appeared in the U.S. market, it has vanished again. We submit that the law requires the Commission to conduct an objective assessment of market conditions over the entire three-year period of investigation. The Commission cannot decide to impose duties on imports for five years or more based upon a single ephemeral data point, no matter how convenient that was for petitioners in bringing this case.

The second flaw in Globe's pricing argument relates to causation. There is simply no evidence correlating the temporary price decline with subject import volumes. To the contrary. The evidence undeniably shows that the biggest event in the U.S. silicon market during

this period was entirely domestic in nature, the entry of Mississippi Silicon as a new low-cost, local competitor.

As a new entrant with one of the world's lowest cost structures, Mississippi Silicon leveraged its cost position to price aggressively to capture market share from Globe. In an effort to defend its market share against its new domestic rival, Globe responded by aggressively cutting its own prices, incurring pain in the short term to protect its long-term position in the U.S. market. The confidential data on the record clearly demonstrates these facts.

Globe attempts to hide the loss of market share to Mississippi Silicon through a subtle slight-of-hand in Exhibit I-36 of the petition, when it inexplicably combines market shares for Globe and Mississippi Silicon. This masks the fierce combat for market share between these two competitors. This is, unfortunately, par for the course for Globe, an entity that has a long and unfortunate history of lacking candor before the Commission.

Third, the silicon metal industry experienced significant cost declines, particularly for energy inputs during this period, and there'll be more testimony on that point.

Globe also claims that the price decline in late 2016 is attributable to the restart of silicon metal, for instance, in Brazil, and a diversion of product to the

United States. However, I would simply note that the actual import data presented in the petition shows the imports for Brazil fell over the POI from 64,000 short tons in 2014 to 52,465 in 2016. So the facts don't hit the theory with respect to Brazil. However, they clearly do with respect to Mississippi Silicon.

Relatedly, we would ask that the Commission conduct the BRATs replacement benefit analysis vis- -vis imports from South Africa and Canada, an especially important question in this investigation, given that Globe controls exports from these two countries, and the fact that U.S. production is insufficient to meet U.S. demand. In summary, Globe's theory of price-based injury collapses from its own weight. The price decline has already come and gone, and was never caused by subject imports to begin with.

Which brings us to threat. Whether analyzed on a cumulated or a non-cumulated basis, there's no reasonable indication of threat and material injury from subject imports. The U.S. silicon metal market has recovered from its temporary downturn in 2016 and has fully absorbed the new capacity from Mississippi Silicon. Global demand for silicon metal, especially for use in the production of polysilicon, is both robust and growing.

The U.S. industry has restructured and is more competitive than it's ever been in its entire history.

These facts are noted by the positive outlook taken by Globe during the 2016 fourth quarter earnings call, where it candidly disclosed that "we have entered into sales contracts for 2017 that are 15 to 20% above fourth quarter spot prices." This is Globe's own words.

And right now, yes, continuing, we are negotiating already, of course, our contracts for Q2 and prices are definitely going up versus prices in Q1. The significant improvement in the financial outlook for Globe and other U.S> producers is buoyed by the very strong projections for continued growth and demand in the key market segments for silicon metal.

Specifically, the continued growth for demand for polysilicon and demand in the chemical industry for silicon metal used to manufacture silicons. The domestic industry problem in the near term will not be subject imports, but how the industry will continue to meet this growing demand with limited domestic production capacity.

Finally, as counsel to one of the Norwegian producers, I'd like to offer a few comments on the lack of threat from Norway in particular. As noted in our questionnaire response, Wacker has not exported from Norway to the United States and has no incentive to do so under any foreseeable conditions.

Likewise, while I'm limited in what I can say

about Elkem in a public forum, I would note that the volumes from Elkem are limited and Elkem is facing capacity constraints notwithstanding the partial closure of Momentive's Leverkusen facility in Germany that was mentioned in the petition.

For these reasons, subject imports from Norway are not likely to increase significantly within the foreseeable future, and cannot be considered a threat to the U.S. industry. Thank you very much for your time and I'm happy to answer any questions the staff may have.

MR. ANDERSON: Thank you, Mr. Lewis. And next witness?

STATEMENT OF DR. KIVANC KIRGIZ

DR. KIRGIZ: Good morning. My name is Kivane Kirgiz. I'm a vice-president with Cornerstone Research and I hold a PhD in Economics with concentration in Industrial Economics. I was asked by the respondents to analyze, from an economic perspective, factors that may have impacted silicon metal prices during the period of investigation.

In 2015 and 2016, two economic factors, unrelated to subject imports, likely played an important role in determining silicon metal prices in the U.S. Also these factors are consistent with falling silicon metal prices in the U.S.

The first economic factor is new entry.

Mississippi Silicon opened a new production facility in October, 2015. This is the first silicon metal production facility to open in the U.S. in the last forty years. Mississippi Silicon's installed capacity is 36,000 metric tons per year, which represents over a 15% increase in the existing production capacity in the U.S.

Mississippi Silicon sells all of its output to the merchant market in the U.S. The only other producer in the U.S. selling to the merchant market is Globe. Therefore, Mississippi Silicon is in direct competition with Globe for customers in the U.S. Mississippi Silicon claims that it is one of the lowest cost producers in silicon metal in both North America and the world. Indeed, an industry publication estimates the net operating costs of Mississippi Silicon to be one of the lowest in the U.S. and in the world.

A new entrant's economic incentive is to acquire new customers from its rivals to fill its capacity. One way to acquire new customers that do not have existing contracts, is to offer lower prices, especially if the entrant has lower costs than its rivals. As a measure of economics, Mississippi Silicon's entry into the market is consistent with causing downward pressure on prices. I understand that you will hear testimony later today from silicon metal customers indicating that Mississippi Silicon

indeed came into the market with low prices.

The second economic factor is lowest production costs for silicon metal in the U.S. during 2015 and 2016. As Exhibit 1 in the handout shows, U.S. industrial electricity prices declined in 2015 and 2016. Electricity is the largest cost item in silicon metal production. A leading industry publication also estimates that average net operating costs in the U.S. have declined in 2015 and 2016. Exhibit 2 shows these cost declines. In markets where suppliers such as Globe and Mississippi Silicon compete for customers, such cost reductions would translate to price reductions.

I was also asked by respondents to comment on the structure of silicon metal supply to the U.S. merchant market if subject imports are excluded from the U.S. market. Currently, Globe's U.S. plants, Mississippi Silicon, subject imports and imports from nonsubject countries serve the merchant market in the U.S. After its merger with FerroAtlantica Group, Globe controls the vast majority of imports from nonsubject countries.

Based on publicly available information, Globe controlled close to 60% of the supply to the U.S. merchant market in 2016. If subject imports are excluded from U.S. market, Globe is likely to increase its dominant position in U.S. merchant market and achieve monopoly or near monopoly

power. I present calculations of market shares using confidential data in my post conference report. Thank you for your time.

STATEMENT OF MARY BETH HUDSON

MS. HUDSON: Is this on? Okay. Good morning. My name is Mary Beth Hudson. I am the vice-president of Wacker Polysilicon North American, otherwise known as WPNA, and the site manager for Wacker's polysilicon facility in Charleston, Tennessee. I have a degree in chemical engineering and have worked in the U.S. manufacturing industry for twenty-eight years. I've been with Wacker for over eighteen years at our Kentucky and Tennessee facilities. I appreciate the opportunity to meet with you, and thank you for the opportunity to testify today.

I'm appearing on behalf of WPNA and its 650 employees and their families who depend on WPNA's continued operations of the Charleston site for their livelihood. This fundamentally requires access to high-quality silicon metal. WPNA uses silicon metal primarily from the U.S. manufacturers as the key raw material to produce a hyper pure polysilicon.

Additionally, I'm here to give voice to the over 500 employees in our silicon's division who are located throughout the United States and are also potentially affected by this action. Overall, Wacker operates nine

locations across the United States, employing around 1,500 people. We are proud that we recently celebrated our 50th anniversary in the United States.

WPNA's Tennessee facility, which started production in early 2016, represents a $2.5 billion commitment to state-of-the-art, high value-added manufacturing here in the U.S. Wacker had many options, but chose to locate in the United States to meet the growing demand of polysilicon globally. This investment is the largest single private investment ever in the State of Tennessee.

WPNA represents not just a commitment to the production of polysilicon in the United States, but rather an investment in the entire U.S. value chain. As mentioned in our questionnaire response, WPNA is committed to sourcing the maximum possible amount of silicon metal from U.S. producers.

WPNA consumes roughly 22,000 metric tons of silicon metal per year at full capacity. With our new plant, we have significantly increased the domestic demand for silicon metal and thus supported the U.S. silicon metal industry. Sourcing from the U.S. also makes great business sense. The U.S. industry manufactures a high-quality product with the right specifications for our demanding production processes while enjoying benefits of proximity to

our Tennessee facility.

In fact, most silicon metal producers outside the United States, including Norwegian and Kazakh suppliers, have so far been incapable of supplying WPNA due to our quality requirements. Simply put, in a perfect world, we would buy American all the time, every time. However, this is not possible. Even with the addition of Mississippi Silicon to the U.S. industry in 2015, there is simply not enough U.S. production capacity to supply all the demand in the U.S. market. As Globe said in its petition, imports have long been a normal part of U.S. supply. I agree. Imports are an essential part of this market and will continue to be.

I understand that Globe claims in its petition that silicon metal in all grades, regardless of who manufactures it, is entirely interchangeable and therefore competes only on the basis of price. This does not reflect my company's experience or market reality. As I noted, WPNA produces an ultrapure polysilicon product, and the silicon metal input used to manufacture that product must meet exacting specifications.

Silicon metal is a highly-engineered product. The quality and consistency of silicon metal produced in the United States and around the world depends critically on the quality of raw materials used, for example, the quality of

the quartz and/or charcoal used, and also the technology and knowhow employed by the manufacturer in running its furnaces.

The quality of silicon metal we need at WPNA to manufacturer hyper pure polysilicon is of a higher grade than other lower grades such as those used in aluminum manufacturer. Wacker is wide recognized as the global quality leader in polysilicon. To illustrate the purity level of our product, the level of contaminants that we can tolerate in our polysilicon is equivalent to one single sugar cube dissolved in a body of water equivalent to two and a half times the size of the tidal basin.

Silicon metal quality is the driver of finished product polysilicon quality. Given the importance of quality of the raw material, our suppliers must pass a three-step qualification process and also subsequent continuous monitoring without changes to their manufacturing location, process conditions or raw materials. Frequently, suppliers have difficulty meeting these high standards.

For example, when Globe requested that we be supplied by their facility in Beverly, Ohio, they were unable to meet our qualification requirements due to issues with aluminum content. While Globe was ultimately qualified in a subsequent trial, this demonstrates the ultrahigh quality demanded for our polysilicon manufacturer.

Similarly, we also encountered issues with another U.S. supplier, Mississippi Silicon. After the technical qualification, we encountered issues with the physical characteristics of their product as delivered that forced us to abandon its use and seek alternative suppliers.

Another important factor that distinguishes suppliers of silicon metal for us is the suppliers' ability to provide a consistent and stable supply. Any variance in the quality of silicon metal or supply could severely disrupt our manufacturing operations and result in extended shutdown, maintenance repairs and/or scrapped product.

Furthermore, practically and economically, the reactors cannot be stopped and restarted every time a different batch of silicon metal is put into the reactors. In order to ensure high reactivity and selectivity, the silicon metal used in the reaction process needs to be of both a particularly high and stable quality. This is why we cannot easily switch manufacturers and suppliers.

As you can tell from these comments, it's not just true that all silicon metal is interchangeable and competes only on the basis of price. From our perspective, silicon metal is not a commodity product. Assured levels of quality and consistency are not luxuries for us; they are absolutely critical necessities for our operations in Tennessee.

Unfortunately, the petitioner in this investigation, Globe's Specialty Metals, is not as committed to the U.S. polysilicon industry and its customers, more generally, as we are to U.S. manufacturing. In particular, it's important for the Commission to understand what happened to WPNA during our critical ramp-up phase of our facility in 2016.

We contracted with Globe to supply our full silicon metal demand during that critical time. Unfortunately, Globe failed to timely supply the contracted amount and repeatedly pushed us to consider other suppliers, including specifically, Mississippi Silicon and Simcoa in Australia. In a search for other suppliers, we reached out to Mississippi Silicon, which also could not supply the quantities meeting our requirements. Only as a last resort, we reached out to an Australian producer, Simcoa, to diversify a portion of our supply and make up for the failure by the U.S. industry to support our needs.

Lastly, I would like to say a word about prices. I understand that Globe is arguing that imports from the four countries under investigation drove down prices in the U.S. market in 2015 and 2016. Our experience in the industry suggests otherwise. I think it's important for the Commission to recognize that the price decline was clearly only a temporary phenomenon.

2016 was a special year for the industry. First and foremost, a new supplier came into the market in the form of Mississippi Silicon. As I expect the data you have will show, Mississippi rapidly expanded production and shipments of silicon metal through aggressive marketing. This obviously had a negative impact on market prices, particularly in comparison to the very high prices that prevailed in 2015.

Thank you for your time. On behalf of the 650 hard-working Tennesseans and Wacker's other U.S. employees and their families, I appreciate your consideration.

STATEMENT OF CHRISTOPHER BOWES

MR. BOWES: Good morning. My name is Christopher Bowes. I'm the Director of Investor Relations and Global Sourcing at REC Silicon.

During my 14 years at REC Silicon, I've had many different responsibilities, but one responsibility that I've maintained during my entire time there has been sourcing of silicon metal.

My responsibilities of sourcing silicon metal include developing the corporate sourcing strategy, developing new sources, maintaining existing sources, and negotiating supply contracts. REC Silicon is the leading producer of advanced silicon materials supplying high purity polysilicon and silicon to the solar and electronics

industries worldwide. We combine over 30 year's experience and best-in-class proprietary technology to deliver our customers' expectations.

Our two U.S.-based plants have a capacity of more than 20,000 metric tons, high purity polysilicon and we're the largest producer of silicon gas in the world. We currently employ over 530 people in our Washington State and Montana locations. Access to global markets is important to us as we export over 95 percent of our products. Our ability to compete globally, however, and the fate of our U.S. employees would be severely impaired if we were not able to access global sources of silicon metal.

Following the earlier presentations, I would like to address a few issues from REC's perspective. To begin, it's important to recognize that there are different aspects of our sourcing strategy that include factors other than price and these factors are equally or possibly more important than price. Our sourcing strategy for silicon metal includes maintaining multiple qualified suppliers. It's important for REC Silicon to maintain multiple sources for security of supply and security in changing market conditions.

Before the merger of FerroAtlantica and Globe, we purchased from both FerroAtlantica and Globe as part of this diversity strategy. Once the merger of these two

companies took place, REC Silicon made the conscious decision to buy less from FerroGlobe than we'd previously did from FerroAtlantica and Globe combined simply because we viewed FerroGlobe as one source and we wanted to maintain our diversified supply base.

It should be recognized that the silicon metal we purchase is a specialized, high-quality product. It is not a commodity product. Meeting specification does not necessarily equal production results in our process. Indeed, our AC silicon has a qualification process that can take up to two years to complete.

Due to high quality standards in the polysilicon industry and the sensitivity of our process, we cannot simply buy silicon metal from any producers. There are only a few sources in the world that are qualified to supply REC at this time. Even with qualified suppliers there are only specific plants that are qualified from that supplier. In addition, our manufacturing process requires that we use grounded or sized silicon. This is what the Commission questionnaire refers to as "powder." REC Silicon has no ability to size our own silicon, so we purchase the materials sized from our suppliers. Not every supplier of silicon metal even has the capability to grind silicon. FerroGlobe, for example, only has fine sizing at one of its U.S.-based plants and the capacity is limited.

Another important aspect of our sourcing silicon metal that is somewhat unique to REC Silicon is our location. Most consumers of silicon metal in the U.S. are located in the eastern or Midwestern part of the country close to where the product is manufactured. In contrast, REC Silicon plants are located on the other side of the country and our Washington plant is only a few hours drive from the Seattle ports.

Inland freight costs for imported silicon metal are almost three times less than shipping domestic silicon metal across the United States.

In conclusion and recognizing that there are several important factors other than price which influence our silicon metal purchasing decisions, Petitioners' claims are without merit. I'd be happy to answer any questions either now or in post-conference submission. Thank you for your attention.

STATEMENT OF JOHN MORAN

MR. MORAN: Good morning. My name is John Moran. Since September 21, 2015, I've been Senior Vice President and General Counsel for MPM Holdings, Inc., or MPM, which is the parent company of Momentive. We are producers of silicones. Our headquarters are in New York State and we have approximately 2600 employees in the United States who depend on access to high-quality silicon metal.

MPM uses silicon metal to produce a number of silicon-based chemical products, including adhesives, sealants, and resins. In fact, MPM is one of the largest buyers of silicon metal in the United States. We work directly with silicon metal manufacturers to ensure that we get the quality and predictability in their product that we need to competitively produce ours. Therefore, MPM disagrees with the assertion by Globe that silicon metal is a commodity product that primarily competes on price. MPM values quality and predictability in its silicon metal providers above price.

In addition, I think it's important that the Commission take into account the fact that Globe and the U.S. industry, more broadly, cannot supply the entire U.S. merchant market for silicon metal. There's an insufficient capacity in the U.S. to supply the growing demand in the merchant market, which is driven by growth in aluminum, polysilicon, in MPM industry, silicones and other chemicals.

We also worry about potential trade action against foreign suppliers given Globe's propensity to shift production between the ferrosilicon and silicon metal, which are produced by Globe using the same equipment. As a result, Globe is an uncertain supplier of silicon metal when U.S. demand for ferrosilicon increases. When Globe chooses not to supply the silicon metal market, MPM needs to rely on

foreign sources. Accordingly, insuring availability for multiple sources is a necessary component of MPM's strategy for guaranteeing a supply of high-quality silicon metal to produce silicones here in the United States.

Finally, it is important to note that a new U.S. silicon metal manufacturer, Mississippi Silicon, came online during 2015 and will supply 36,000 tons to the U.S. merchant market and is now a direct competitor of Globe. We are in the process of qualifying Mississippi Silicon as our supplier since products are not interchangeable, per say, and require a rigorous qualification process for chemical applications.

MPM's view is that many of the so-called issues that the merchant market suggested by Globe were a result of Mississippi Silicon's market entry, which Globe opposed.

Thank you for your time. I'll be happy to answer any questions the staff may have.

STATEMENT OF TOM WALTERS

MR. WALTERS: Good morning. My name is Tom Walters. Since 2001, I've been the Vice President for Trading at Service Aluminum Corporation, which today is one of the largest aluminum scrap brokers in the United States.

We purchase over 300 million pounds of aluminum scrap per year. Service Aluminum provides aluminum product knowledge and fiscal and futures market information to

suppliers and consumers in the scrap aluminum industry.

Thank you for the opportunity to testify today. Service Aluminum has purchased annually as much as 4 to 500 short tons. As a major supplier or buyer of silicon metal, I would like to share my perspectives on the U.S. market. I'll focus on three points: (1) demand for silicon metal is divided among three market segments; (2) Service Aluminum and others in the aluminum market segment buy silicon metal on long-term contracts one year longer, not on the spot market; and (3) Globe has not been a consistent supplier of silicon metal to Service Aluminum Corporation.

Demand for silicon metal is comprised of three market segments. They are as follows: chemicals, polysilicon primarily for solar panel production and aluminum alloy. I can gladly report that today U.S. demand for silicon in the aluminum alloy segment is strong. Silicon metal prices had declined from the middle of 2015 when the Mississippi Silicon plant came online for the first three quarters of 2016, but the prices I am now paying to my suppliers are rising. I expect this trend to continue through 2017 and 2018.

I'd like to tell you a little bit how we typically buy silicon metal at Service Aluminum. We rely on long-term partners, such as Simcoa to deliver silicon to us. These arrangements are not conducted on the basis of spot

market prices. Rather we source our silicon through contract typically one year long. Our prices are generally fixed or infrequently are based on the Platts Index.

It is very important to me and my company that are suppliers honor our contracts. That is, if the spot market declines then I will still pay the higher contract price. And if the spot market rises, I expect our suppliers to honor the lower contract price. It is evident from these arrangements that neither Service Aluminum nor Simcoa, as a price maker as to silicon metal. Rather on a yearly basis we assess prices in the market and reach an agreement about what the price should be in the coming year.

Finally, I'd like to contrast Simcoa and other current suppliers with Globe. Globe is the largest supplier of silicon metal in the United States market and generally has strong bargaining position against buyers. Based on my 30 years in the aluminum industry, I can attest that Globe has not been a consistent supplier of silicon metal to Service Aluminum Corporation.

In fact, notwithstanding my company's significant place in the U.S. silicon market, the truth is that until last week Globe had not approached my company to sell silicon metal for more than 10 years. I've long presumed that this was because Globe's U.S. plants have been operating at high capacity utilization levels and profitably

selling silicon to other customers in, for example, the higher-valued chemical and polysilicon segments of the market.

Thank you for your time. I'm happy to answer any questions that you may have.

STATEMENT OF THALES XAVIER AUGUSTO

MR. WILSON: Hi. My name is Thales Xavier Augusto. I am the Sales Manager of LIASA, producer of silicon metal in Brazil that was established in 1966.

Thank you for taking the time to meet with us today to hear our side of the story. It is important matter. LIASA and all the producers in Brazil oppose to this investigation because we do not believe that the Petitioner, Globe Metallurgical is injured or certain injury by our imports or imports from the other subject countries.

For 27 years I have been working for LIASA exclusively in the silicon metal business and I am very familiar with the dynamics as well as with the historical developments of the market. The Petitioner, Globe, is part of Ferroble PLC. It's the largest producer of silicon metal in the Western world with many plants in different parts of the world.

FerroGlobe production capacity for silicon metal is 420,000 metric tons. In addition, it has an annual production capacity of 900,000 metric tons to produce other

alloys. FerroGlobe arose from the management between FerroAtlantica Group and Globe Specialty Metals that concluded in December 2015. Before they joint venture, FerroAtlantica had already concluded a joint venture with Pechiney Eletrometallergie of France.

FerroGlobe's presence and power in the international market is a reflection of its local and regional influence. It is only producers of silicon metal in Canada, France, Spain, and South Africa. And in the United States it has almost 80 percent of the merchant capacity, which is capacity available to the free market.

All the Brazilian producers use charcoal as a resin in their production process rather than coal. We simply don't know whether the producers in the other subject countries with charcoal in their production of silicon metal. Also, our production technology offers a very high efficiency for the chemical industry with high reactivity and selectivity on the silicon process.

We have low levels of impurities. For example, low volume content, which is important for polysilicon production in the chemical industry. The low level of iron due to the high quality of raw materials like quartz in our product is very important for the primer aluminum industry. Almost all silicon metal production in Brazil is lump form. Only one Brazil producer, LIASA, supply silicon metal in

powder form.

These are some attributes that differentiate Brazilian silicon metal from silicon metal imported from other countries. Most of our exports are dedicated to Europe. We also have sales domestically and other countries like South America and we also export to Asia and the Middle East. We forecast healthy demand from our products in this other markets.

Silicon metal from Brazil is also unique because the largest exporter to the United States, Dow Corning Brazil ship to its related entity that manufacture silicon based products in the United States. It also has related silicon metal producers in the United States, Dow Corning Alabama and West Virginia Alloys.

Also, LIASA, has a related entity that produce silicon metal in United States, Mississippi Silicon. Rima has a related sales entity in the United States called Polymetallurgical Corporation that handles the sales of silicon metal from both Mississippi Silicon and Rima. Of course, Rima and Dow Corning in Brazil would never do anything to harm the related production entities in the United States.

Moreover, because of Dow Corning in Brazil's shipments to the United States are internally captured by Dow Chemical, those imports do not compete in any way with

U.S. production of silicon metal. Dow Corning Brazil's exports to the United States comprise about 80 percent of exports of silicon metal from Brazil.

Globe allege adverse price affects from the subject imports, particularly, from Brazil. The data and imports reported by independent market watch publication, CRU, contradicts Globe's allegation. CRU has reported that all silicon metal price have fallen since 2014 due to a global movement attributed to the various factors. One of these factors is the reluctance of customers to treat Globe and FerroAtlantica as separate entities.

Customers sought an alternative source of supply when these two entities were merging to become one entity. Globe and FerroAtlantica both aggressively compete on price to retain the premium market share. Importantly, at the same time prices were declining in the world and U.S. market in 2014 and continued in 2015 Brazilian production declined significantly and ceased for LIASA and MINASLIGAS due to energy crisis that affect our ability to obtain electricity at price that allowed us to continue to produce. Other Brazilian producers also reduced their production during this time period.

So when the Commission considers the declining price that begun in 2014 and continued into 2015, it should realize that these coincides with the periods when Brazilian

production and exports to the United States declined significantly. We show in our handout on CRU report declining while the production was shutdown in Brazil, the lack of correlation is obvious.

Any long term contract negotiation for 2016 generally occurred from September to November 2015. During this period, the price were adversely affected by microeconomic factors caused by Globe's recent global mergers as well by the market share dispute between Globe and Mississippi Silicon, which only recently entered into the market.

Despite that, the PLATTS published DDP price for 553 Midwest was on the level of $1.50 per pound. Reports indicated that Globe might award most of its annual contracts on the incredible and historically low formula of PLATTS published DDP price for 553 Midwest minus eight cents per pound or more. Offering eight cents per pound below this published price is extraordinary. This resulted in sharp price declines that reflect throughout the market.

After gradually resume its production around November 2015, LIASA had to re-start negotiation, new contract with customers. However, due to the aggressive price competition and result in price declines caused by Globe we did not conclude any annual contract during 2016. We refused to follow Globe's extremely low price and walk

away from long-term contracts at this low price.

Another producer, Brazilian producer, MINASLIGAS, did not even ship to the United States during 2015 and 2016 despite coming back online during this time period. Globe's low price offers in the long-term contract also vastly impacted price in the spot market. However, because Globe won many long-term contracts at this historically low price it was not adversely impacted as other producers from the resulting low price in the spot market. Now Globe is trying to blame imports for price declines that is created. Imports of silicon metal from Brazil are to insignificant to have had the impact on price that Globe allege.

Globe publicly announced in October 2016 at the 22nd CRU Ryan's Notes Ferroalloys Conference at Doral, Florida and again in November 2016 at the Silicon Metal Market Forum in Prague that would no longer consider any formal price for 2017 and that the price would need to increase in 2017.

This simple declaration by Globe was capable of bringing positive reactions in the market that with increased price and it demonstrates Globe's control over the market conditions around the world. It's clear that any diverse price affects that Globe complaints about were the direct result of its own policies and actions and not caused

by imports from Brazil or other subject countries.

Thank you. And I'll be happy to answer any of your questions.

STATEMENT OF JOHN BEDNARCZYK

MR. BEDNARCZYK: Good afternoon. My name is John Bednarczyk. Since 2001, I've been the Regional Sales Manager for Shintech, Inc., the U.S. sales affiliate of Simcoa Operations Pty., Ltd., an Australian producer of high-quality silicon metal.

Thank you for the opportunity to testify today. I would like to share my perspective on the U.S. and global markets for silicon metal. In the process, I will address certain misperceptions about those markets that have been set forth by the Petitioner, Globe Specialty Metals, Inc. In particular, I would like to address the role of Mississippi Silicon in reducing U.S. prices during the second half of 2015 and 2016, the silicon market's view of Globe as an unreliable supplier and the global demand picture for silicon metal.

First, in analyzing prices of silicon metal in the U.S. market during 2015 and 2016, the Commission must take into account the impact of Mississippi Silicon, which now produces around 15 to 20 percent of the U.S. merchant market for silicon metal.

In September of 2015, Mississippi Silicon began

selling into the U.S. silicon metal market, particularly, the U.S. spot market. Based on conversations with my customers, I understand that Mississippi Silicon has been offering significant and unprecedented price discounts from the Platts Index price in order to gain market share. Mississippi Silicon's significant discounts from the Platts price are an addition to its five to six cent per pound cost advantage due to the new $2 million plant's geographic proximity to its customers.

In this regard, it is important for the Commission to recognize that Mississippi Silicon is one of the lowest cost producers in the industry, not only here in the United States, but globally. This gives Mississippi Silicon a major competitive advantage.

MR. BEDNARCYZK: Relatedly, I want to convey the market's response to Mississippi Silicon's entry. In my opinion, the low prices offered by Mississippi Silicon in mid- to late 2015 were the principal cause of the low U.S. silicon prices that followed in 2016. Second, it is important for the Commission to appreciate the grave concerns that my customers have with relying on Globe as a supplier.

I am aware of examples of Globe failing to follow through on supply commitments. To be blunt, Globe is not considered to be a trust, reliable supplier in the

industry. On the other hand, Simcoa has built its business on being a long-term fair price supplier to our U.S. customers, to whom we provide supply diversification.

Put another way, Simcoa does not attempt to compete against Globe on price, but rather by supplying our long term customers with timely, high quality product. Lastly, I would like to talk about demand for silicon metal. Globally, demand today for silicon metal is strong and increasing, driven in large by the use of silicon metal and polysilicon. Demand from the aluminum and chemical sectors also remains robust.

Accordingly, Simcoa is anticipating very strong sales in both 2017 and 2018. In the United States, we're anticipating rising prices and demand for silicon metal through the rest of 2017 and into 2018. Regardless, Simcoa's ability to ship to the U.S. market is heavily restricted due to our pre-arranged 2017-2018 sales and lack of available production capacity, our long term commitments through supply affiliated companies in Japan and Thailand, and our significant long term contracts to supply other markets such as the EU.

I thank you for your time, and I am happy to answer any questions that the staff may have.

MR. STOEL: Good afternoon. This is Jonathan Stoel again from Hogan Lovells here today

representing Simcoa Operations PTY Limited. I want to make only one direct point to you this morning. Exports from Australia do not pose a threat to Globe. Simcoa has been a steady presence in the U.S. market for the past 15 years.

The company has long term contracts with U.S. customers and is a price taker in the market. Other factors further demonstrate that Simcoa cannot threaten Globe. Simcoa is not a wilted product shift unlike Globe. Simcoa has long term commitments in 2017 and 2018 with non-U.S. customers, thereby limiting available supply.

Simcoa is not subject to trade remedy actions in other jurisdictions, and Simcoa has a history of very high capacity utilization, essentially utilizing its entire capacity over the past several years. Thank you. I look forward to your questions later today.

STATEMENT OF OLIVER MAJUMDAR

MR. MAJUMDAR: Good afternoon. My name is Oliver Majumdar. I am the Director of Raw Materials Procurement at Wacker Chemie AG, WPNA parent company in Germany. I've worked for Wacker for 17 years. I have an advanced degree in Chemical Engineering. Thank you for the opportunity to testify today.

In my capacity as director of Raw Materials Procurement at Wacker, I am directly involved in all of the Wacker Group's purchases of silicon metal worldwide. As a

result, I'm also quite familiar with silicon metal production in the United States, and in other countries under investigation.

Indeed, I've worked to qualify a number of subject suppliers involved in this case, and to negotiate purchases with them. In the limited time available to me, I would like to share some specific background information concerning the silicon metal industry in Norway that is under investigation.

Wacker has a silicon metal manufacturing facility located in Norway, Wacker Chemical Norway or WCN. Even though the Wacker Group has its own silicon metal production plant in Norway and a polysilicon plant in Tennessee that consumes silicon metal, WCN does not export any silicon metal to the United States. The reason for this is quite simply that WCN only currently produces silicon metal with specifications suitable for the production of silicons, but not polysilicon.

This is because the plant in Norway does not use the appropriate type of raw materials. WCN has therefore only produced and exported silicon metal to its parent in Germany, and smaller amounts of unintentionally produced off specification material of substantially lower quality that is sold as scrap in the Norwegian market. None of the silicon metal produced by WCN has been ever exported

to the United States.

I also want to mention a few points about the capacity of our plant in Norway. First, as our questionnaire response indicates, WCN's production capacity actually declined during the investigation period, as one of WCN's small furnace units was demolished in April 2016. The demolished furnace permanently reduced the capacity of the plant in Norway by 20 percent, which is about 8,000 metric tons annually. As a result, WCN has less, not more capacity at the end of the investigation period.

Second, the WCN smelters are already operating at completely full capacity. All of the silicon metal product that is produced at WCN is destined to be captively consumed by our affiliated silicons plant in Germany. There is therefore no excess capacity available to sell silicon in the United States market from our smelter in Norway.

Third, I understand the Globe claims that it only takes a few days and little cost to make the switch from ferrosilicon to silicon metal. That may be true for Globe. It is not true for us, nor do I believe it is true for many other silicon metal producers. WCN does not produce any products other than silicon metal. Due to technical and institutional factors, WCN cannot switch production between silicon metal and other non-subject products such as ferrosilicon.

WCN's plant is specialized in silicon metal, and if the company needs to switch furnaces for the production of ferrosilicon, it will result in significant costs. The only other silicon metal producer in Norway is Elkem. I cannot speak directly for Elkem, but I do not believe that they are disruptive force in the U.S. silicon metal market.

Globe claims that the closure of the upstream part of the upstream part of Momentive's silicon plant in Germany has devastated Elkem, and forced the company to divert shipments to other markets including the United States. However, I understand that Elkem has succeeded in replacing those sales with customers outside of North America.

As a result, and I would expect the company's questionnaire response will show this, Elkem has very little excess capacity to increase exports to the United States. For all those reasons, the Norwegian exporters, Wacker and Elkem both, are not a potential source of injury to Globe or any other U.S. producer. In fact, Wacker has not even participated in the U.S. market, and has no realistic prospect of doing so. Thank you for your time.

MR. LEWIS: That concludes our direct presentation. May I ask for a time check in terms of how much time we have left?

MR. BISHOP: You have eight minutes remaining, but you get no time from your direct. You have ten minutes for close.

MR. LEWIS: Okay. That settles that.

MR. ANDERSON: Okay. That concludes your testimony? Okay, thank you very much, and I want to thank all the witnesses for your testimony and for being here today, and we'll now turn the time over to staff and we'll start with Ms. Carlson.

MS. CARLSON: Good afternoon. Thank you also from me for being here and for your testimony, particularly if you came from out of the country. It's greatly appreciated. The first two questions I have is mainly for the foreign producers and exporters, and anyone representing them. Mr. Majumdar, you said you have knowledge of production and processes in other countries, so feel free to -- maybe this is directly towards you, but anyone else can respond as well.

So does your country and any of the four subject countries follow the same production standards as standards in the U.S., and if there are other producers in your country as well, how about those producers? Mr. Augusto, you touched on this a bit, but if anyone else, feel free to expand.

MR. LEWIS: Speaking for myself, I confess I

didn't catch. What was the question?

MS. CARLSON: So in your countries or in any of the four subject countries, does production follow the same production standards as standards in the United States, and if there are other producers in your country as well, how about those producers?

MR. MAJUMDAR: So the smelting process is similar. The Norwegian producers use a cold source which is different from the Brazilian producers. So that gives the final product a different characteristic.

MR. BISHOP: Please remember to state your name.

MR. MAJUMDAR: Sorry, Oliver Majumdar.

MR. AUGUSTO: Yeah. Thales Augusto from LIASA. We are a quality producer. We can meet most of the requirements. We have some special characteristics like using the charcoal. Not every producer in the world they can do so. So what else? Yes, yes.

(Pause.)

MR. AUGUSTO: We don't know exactly a lot about the production of the other Brazilians. We can talk about LIASA.

MR. LEWIS: This is Craig Lewis on behalf of Wacker. I would just add to this. This, at least the way I understand your question, ties in more broadly to the

commodity issue I think in some respects, and I would refer you to the testimony rom Mrs. Hudson from WPNA with respect to that. The story that she told about qualifying Globe I think is pretty telling in that respect, that there's no question that Globe is able to qualify and has supplied Wacker in the past.

But these requirements are so specific and so hard to meet that actually initially during the wrap-up phase of that facility in WPNA, Globe was unable to meet those requirements. I think that's an illustration of yes, you may argue that every supplier has the theoretical capability of meeting a particular spec, but there's a big gap between theoretical capability and actually delivering a product that meets those specifications.

I think the second example that Mary Beth gave illustrates that again, you had Mississippi Silicon that actually managed to meet the requirements in trial runs. So you know, performed appropriately in terms of manufacturing the product. But then when it was actually delivered to the plant, it turned out it had some physical issues. I'm not sure if I'm free to discuss exactly what those are in a public forum, but rendered it completely unusable and it actually had to be abandoned.

MR. STOEL: Ms. Carlson, this is Jonathan Stoel for Simcoa. I think it was discussed actually by

Globe this morning and by others, that there is a difference in terms of material that's been ground versus the lump form, and there's only some producers around the world, a handful of them that can do the grinding and deliver that to the high end spectrum of the market. Simcoa is one of those producers and that's been attractive to certain customers.

MS. HUDSON: So this is Mary Beth Hudson. Just to elaborate, we had some issues not only with the physical properties of the material from some of our suppliers, but also the handling, so the physical characteristics.

If you could see some of our operators and how their uniforms were covered in soot and they were -- had this black material from head to toe, you would understand the challenges that they had and how important it is to have the correct particle size, the size of the material for handling purposes, as well as the chemical composition of the silicon metal.

MR. BOWES: Chris Bowes, REC Silicon. One point along with the point Mary Beth was making. For our process and our qualification process, there's really three major points that each supplier has to meet. That's the ability to produce powder to meet our specification, which is our own unique specification, and then once they meet specification, it has to perform while in our process.

There's been instances where a supplier can meet specification, but then for some reason their product doesn't perform well in our process. Those are really three main points for us.

MR. VANDER SCHAAF: This is Lyle Vander Schaaf on behalf of the Brazilian producers, MINASLIGAS and LIASA. MINASLIGAS isn't here, so I think I should say something about them and it would be remiss of me not to. But I think you'll see reflected in their questionnaire response that they pride themselves on their quality.

They expect a higher price because they view their product as being a high quality product. You heard the testimony earlier that they did not sell in the United States in 2015 and 2016, because they couldn't command the price that they think that they deserve for their quality product.

Rima is another producer in Brazil. We don't represent them, but they are a supplier as you heard Mr. Bowes talk about them being a supplier to REC. He just testified about the quality and the requirements of that product. REMA has the ability to grind, to sell powder and then the other producer is Dow Corning Brazil.

I would just point to any information that we received from Dow Corning about their specifications and requirements, I know from the market that Dow Chemical has

exacting specifications and they require very high quality products. So I would imagine that Dow Corning Brazil's product is of a high quality and produced under some of the highest standards of silicon metal producers in the world.

So I would put the Brazilian producers as a whole at the highest levels in terms of their production processes and capabilities and so forth. And Mr. Thales tells me because of the quality of their materials, raw materials.

MR. BOWES: This is Chris Bowes again. I just wanted to add one point on the three criteria that I listed. It's important to note that right now in the U.S., there's only actually one plant for us, one plant of silicon metal that meets those three criteria suitable for our consumption.

MR. MINTZER: I just wanted -- this is Sydney Mintzer from Meyer Brown on behalf of MPM. As Mr. Moran mentioned earlier, it can take nine to twelve months to qualify a plant, and this isn't a polysilicon plant. This is a silicon production plant. This is a plant that fits well within just the GR chemical industry.

So even in the chemical industry at large, even if two producers sell at the same -- purportedly sell at the same grade, it's still going to require nine to twelve months to switch. There's no such thing in the

industry as just switching on a dime. You can't do that.

MR. LEWIS: This is Craig Lewis. Sorry for the flood of thoughts here, but related to that too, I think it's one point that might have gotten a little bit lost in the direct testimony. Qualification isn't a one time event, you get qualified and you have a lifetime achievement award and you can service that client forever. Certainly at least speaking with respect to Wacker, it's an ongoing evaluation. If you make any changes, and correct me if I'm wrong on this, in your facility location, changes in your raw materials, you have to undergo that entire qualification process all over again. But you might want to elaborate on that.

MR. MAJUMDAR: So suppliers tend to change the raw materials based on market conditions or whoever delivers the lower cost. We would notice that immediately in the buy elements in the product. So we keep -- even though we qualify a supplier, we keep an eye on what they're doing currently and we visit their plants. We audit them and keep track of how the production is going.

So any changes in the process or in the raw material mix immediately shows up in the composition of our product.

MR. STOEL: Sorry to add. This is Jonathan Stoel again. I just wanted to add one side from the legal

perspective and maybe to preempt I'm sure a question Mr. Henderson is going to ask us. We are still evaluating domestic like product. Obviously, I think it's clear from all the testimony today, particularly from the U.S. customers who know what's going on in their plants and in their downstream manufacturing operations that contribute thousands of jobs to the U.S. economy, that price is not the key thing here.

You're hearing about the need for timely supply, for a supply that's of high quality. So when you have those types of characteristics and conditions in the market, with all due respect to the other side it's not just about price. You can't just say take Product A and Product B. Product A is cheaper, so we buy Product A. That's clear, that everybody here today is saying the same thing.

Whether that amounts to a domestic like product issue, you know, that's a legal matter and the lawyers are still assessing that and obviously we have the post-conference brief. But we'll be sure to give you an answer to that question.

But I think it's very important that as you consider the conditions of competition and how that affects particularly the price comparisons that you've got in the questionnaires, I think you have to think about these different factors that have been said this afternoon.

MS. CARLSON: Thank you for all those answers. So for the foreign producers again, do any of you have any plans to expand capacity in the foreseeable future, or to increase exports of silicon metal, and if so, to which destinations?

MR. LEWIS: Well, I'm happy to speak for Wacker. As our testimony indicates --

MR. BISHOP: Please state your name.

MR. LEWIS: Oh, I'm sorry. Craig Lewis on behalf of Wacker. As our testimony indicated, Wacker has not exported anything from Norway, doesn't plan to do so in the foreseeable future.

MR. AUGUSTO: This is Thales Augusto from LIASA. We have no plans to expand capacity for the near and immediate term future, and we have no intention to export or to increase export to the United States, because we -- our near market is Europe.

MR. VANDER SCHAAF: Just again speaking on behalf of MINASLIGAS, you'll see that reflected in their responses as well, that the U.S. is not a major part of their market. They haven't shipped in 2015 or 2016 and their main market as well is Europe.

MR. BEDNARCYZK: Hi, this is John Bednarcyzk with Simcoa. Simcoa doesn't have any plans to expand capacity at the current time.

MS. CARLSON: Okay, thank you, and feel free to address any of these questions in the post-conference brief as well. So the exporters in these foreign countries, to what degree are your exports that are being exported to the United States competing with exports of other countries into the United States?

So for example, exports from Simcoa into the United States competing with exports from any of the other three subject countries.

MR. BEDNARCYZK: Yeah, I'd say that's true. I think Simcoa exports to the United States --

MR. BISHOP: Please state your name.

MR. BEDNARCYZK: Sorry, John Bednarcyzk. I would say Simcoa's exports to the United States are competing against other incoming material from outside the United States.

MS. CARLSON: Okay. So next, I want to turn to imports, and this is a similar question I asked in the first panel, mainly towards the importers, REC Silicon maybe. So can you explain reasons why you might import into free trade zones and how that might impact the U.S. silicon metal market, and is there a specific approach the Commission should take in analyzing these imports?

(Pause.)

MR. SMIRNOW: A couple. John Smirnow,

representing REC, Smirnow Law. You know earlier we heard the suggestion that companies are using the free trade zones to avoid ADCVD by bringing finished goods into the United States. That's not allowed by U.S. law. If you use product that's subject to an ADCVD in a free trade zone and the finished goods enter the U.S., under U.S. law you're required to tender those duties. So that I think there was a legal mistake made there earlier today.

From REC's perspective, their FTZs as you heard in the testimony, 98 percent of that product never enters the commerce, the customs territory of the U.S. It's exported. In addition, you should recognize that in REC's FTZ charter, it specifically says that the zone will not be used to avoid ADCVD duties for product that's being exported. So it's an extra layer that was added by the FTZ.

MR. LEWIS: This is Craig Lewis, Hogan Lovells. I think we'd like to elaborate on this in the post-conference brief for a variety of confidentiality reasons. But I would suggest though that to the extent that these are captively consumed imports, they're not competing with domestic producers, and I think that's the important producer.

I think it may raise some challenges in terms of calculating the import volumes, although I think with your questionnaire responses presumably that's been

resolved. But we'd like to elaborate post-conference.

MS. CARLSON: Please do so. Thank you. Just out of curiosity, does the role of currency, has that played any role in affecting your business in the United States or not, in the exchange rates? Feel free to elaborate on that in the post-conference brief as well. That concludes my questions. Thank you.

MR. ANDERSON: Okay, thank you. Mr. Henderson.

MR. HENDERSON: Thank you, and I'd also like to express my appreciation to all the particularly the industry witnesses who did travel, including from foreign countries to get here. The first question is the same question I asked the Petitioners earlier. Do Respondents have any position as to whether the Commission should exclude the two other U.S. producers besides the Petitioner from the domestic industry as related parties?

MR. STOEL: Mr. Henderson, this is Jonathan Stoel. I think our position, and we'll obviously handle this more in the post-conference brief is that no other domestic producers should be excluded. They all have vital interests in production of the domestic like product in the United States. Dow Corning will tell its own story I think at a different time. Mississippi Silicon obviously entered the market specifically to produce silicon metal. So I

think there's no question that its goal, you don't invest $200 million with the intent of not having a primary interest to be producing in the United States. So we think you need to look at all three producers.

We do recognize that there is a captive consumption issue, and I think at this time we'll plan on addressing that in the post-conference brief.

MR. HENDERSON: Thank you. I'm certainly looking forward to those briefs, many sets of them I'm sure. And the question you already anticipated about the domestic like product, and again I'm sure I'll have to wait to the post-conference briefs to see what people may be arguing on, but obviously we're interested in the same question I asked the Petitioners' counsel this morning, is are there any changes that we should be thinking of with respect to information about any of the six factors from the last Commission proceeding on this, which appeared to be the five year review on Russia from 2014.

So any -- apart from what your ultimate position will be, are there -- is there information on any of these six factors that we should be thinking about?

MR. LEWIS: Craig Lewis, Hogan Lovells. Again, we'd like to address this in post-conference. But I would say that there are definitely some significant changes in the market. I'm not -- I think we're still assessing

their impact legally on the factors for like product. But not least of those is the emergence of the polysilicon market as a very significant driver in the industry.

That's not a factor I think you had previously, and it's incredibly important particularly with the array of consumers you have in front of you. So we'll take that into account in providing that analysis to you.

MR. HENDERSON: Thank you, and again trying to understand and appreciate the testimony that we've heard from all the industry witnesses, certainly contesting the contention that silicon metal products from different sources or different suppliers are interchangeable. But are Petitioners or excuse me, are Respondents arguing that silicon metal from let's say the four subject import sources and domestic sources are not fungible for cumulation purposes?

MR. LEWIS: Sorry to be a broken record. I think we're still assessing that for post-conference briefing. I think the key thing for us, as we've laid out today, is that apples to applies comparisons are misleading. So fungibility, you know, it has a technical definition that the Commission has applied. We understand that and we'll certainly brief that.

But I think the key point is you can't take silicon metal of any type and any grade and compare it head

to head. That's simply false, and I think everybody here has been unified on that. Just to pick up on one thing that Mr. Bernard just said, yeah it's true that Simcoa of course competes in the market with other imports.

But for example Kazakhstan selling to the aluminum market is very different than my clients Simcoa selling to Tennessee, where they need the absolute top purity of silicon metal to make their downstream product. So there is a difference, and I just don't think it's fair to say one silicon, piece of silicon metal equals another. We just have to keep saying that to you.

MR. VANDER SCHAAF: And I think there's a distinction. This is Lyle Vander Schaaf. There's a distinction between the like product analysis and the competition or attenuated competition issue. Within the domestic like product, I don't believe there's a silgrain product produced in the United States. So the question of whether silgrain is fungible is not necessarily a like product issue.

It would be a question of whether Dow Corning's, Mississippi Silicon's and Globe's products are fungible with each other, and whether there are the same channels of distribution and the other factors. But we do argue there is definitely attenuated competition between many of the imports and the domestic product because you

can't trade one and swap out one type of silicon metal for another.

Different sizes and dimensions, powder versus lump, different impurity levels are demanded, different grades are demanded and you cannot swap one for the other in many instances. So this attenuates competition and it demarcates a product that usually, historically by this agency and by economists doesn't define a "commodity" product.

And so it's a unique situation here, where you recognize only within a grade, for example, does Globe argue all these are interchangeable and they're fungible. But that sort of defeats the definition of a commodity product, when you have multiple grades, multiple demands of end users, multiple specifications, multiple impurities that if they're not met they can't buy the product.

That sort of belies the definition of a commodity product, as the Commission typically defines it. That we see is more of an attenuated competition causation kind of issue, and we definitely argue that there is limited fungibility in that regard.

MR. LEWIS: Craig Lewis, if I might add, from Hogan Lovells. I agree with the comments of both of my colleagues, but I did want to emphasize that I think we do want to address the cumulation issue in the post-hearing,

because I think while we haven't -- don't have a position to present to you right now on that, I think there are some significant factors that could support decumulation arguments.

We've talked a lot about the differences in physical characteristics. I think even more importantly is the orientation of producers to different market segments, and the lack of overlap that there is for certain suppliers. For example, I don't think -- I think it's fair to me to say that the Kazakh suppliers are vying for Wacker's business, and -- so that's just to give you an indication.

But I think my point being that I think there is ^^^^ this question is worthy of evaluation by the Commission. It shouldn't be set aside and should be addressed.

MR. HENDERSON: Thank you, and I appreciate all these comments. As I said, we'll be looking at the post-conference briefs and I certainly realize that substantively there's an attenuated competition argument that would relate to any causation analysis. But I want to again encourage people to the extent they're arguing that first for the present material injury analysis, that they're arguing that lack of fungibility of channels of distribution or whatever, that that's clearly, you know, broken out as a cumulation argument so we're sure what points you're

making.

And again, since we've heard several arguments particularly with respect to Norwegian producers and Australian producers about how they're unlikely to be a threat in the future, I would encourage parties to make an argument about cumulation for threat purposes, and I would also encourage Petitioners to address this issue in their post-conference brief as well. Thanks. That's all the questions I have for now.

MR. ANDERSON: Thank you, Mr. Henderson. Ms. Gamache.

MS. GAMACHE: I'd also like to thank everyone for coming again. I just have a few quick questions, and I'm sorry if they seem repetitive. These are going to be more just invitations to expand and give us a little bit more detail. Ms. Hudson had talked about qualities other than price that purchasers value, and I'm wondering if anybody else would like to the list.

I have like timeliness, composition requirements, quality of inputs. I would just like to invite other end users or firms who would like to share their customers' preferences to do so.

MR. WALTERS: This is Tom Walters here with Simcoa. As far as timeliness is concerned, in the aluminum industry silicon is used as an alloy agent and it is

imperative that any alloy of silicon never run out of that product. Consistency of supply and reliability is probably one of the most key factors in consideration when we choose suppliers.

MR. BOWES: This is Chris Bowes. So I think diversity of supply is highly important to us. We've seen port slowdowns or strikes, we've seen floods at and fires at processing facilities that have slowed down production. We've seen rail car shortages domestically. There's a myriad of different factors that happen and that can slow down supply chain, foreign and domestic.

So for us, that diversity of supply is key to help maintaining the continuous nature of the need for silicon for us.

MR. MINTZER: This is Sydney Mintzer from Mayer Brown on behalf of Momentive. I just wanted to reiterate Mr. Moran's testimony, where he did indicate that certainty of supply is critical. Indeed, he referenced that Globe is an uncertain supplier in the silicon metal market, and we do intend to elaborate more in our brief on this particular issue.

MR. STOEL: I just want -- Jonathan Stoel for Simcoa. Just one point on -- that applies to a few things. It was previously mentioned by Mr. Bowes and others proximity to production. It seems strange, but Australia is

actually closer to the United States on the west coast in some ways than the eastern producers here in the U.S. So there is a geographic advantage to some extent to Australia, and I think you heard earlier the discussion of cost of transportation and that does play a factor.

MS. GAMACHE: Building on that, do lead times tend to vary between country sources significantly, and if so does that affect purchasers' sourcing decisions or importers' sourcing decisions?

MR. BOWES: This is Chris Bowes. So for us on the west coast, I can sometimes get product from foreign sources quicker than I can domestic. It's actually pretty close, so much so that it's truly the lead times aren't a factor for us. Once we set up our contracts and set up a supply chain and have continuous deliveries, it's really not a factor for us.

MR. MAJUMDAR: This is Oliver Majumdar from Wacker. Last year when we have the ramp up of our facility in Tennessee, we had various problems like you have in the ramp up of a new facility. At times, we didn't know what was causing the problems, and we had to, so to speak, quarantine the existing raw material we had in our silos, and quickly replace it with other material.

In this case, we requested Globe to quickly give us some more material from a different batch, but it

would have been great to have Mississippi, who's just 120 miles away from us, to also supply us. Lead times from any other foreign producers would be far too long for that to even happen.

MS. HUDSON: And just to elaborate a little bit, Mary Beth Hudson. We operate 24 hours a day, seven days a week, 365 days a year, and we never take the entire plant down. So having a continuous supply of the material we need meeting our specifications is very, very critical. We have limited storage space.

MS. GAMACHE: Thank you. I have one last question regarding the merger between Globe and Ferroatlantica. Mr. Augusto touched on this a little bit, but I'm wondering how this has affected purchasers' sourcing decisions in your experience?

MR. MAJUMDAR: If I may respond, Oliver Majumdar from Wacker Chemie. We protested strongly at the DRG and other forums against the merger of Ferroatlantica and Globe because okay number one, it reduces choice as a procurement person worldwide, and the other point was that with the market forces going on, there's a tremendous price pressure on the market.

The DRG in the end dismissed our concerns and went ahead and didn't object to the merger, saying that there would be enough choice from the global markets for

U.S. consumers in this case. So they dropped their objections to the merger.

MR. BOWES: This is Chris Bowes. As I stated in my testimony, we looked at the merger as taking two sources to one and so we viewed them as we do now as one source and in order to maintain that diverse supply that is part of our strategy, we reduced our overall purchases from them for that reason.

MR. MORAN: This is John Moran from Momentiv, and I would say something like what Chris said. We viewed it as a reduction in choice of suppliers. So it did cause us to re-look at what our sourcing process was going to look like.

MR. LEWIS: This is Craig Lewis, Hogan Lovells. Just one comment on that. I think you're likely to hear from Petitioners that diversity of supply just means that purchasers want to play sources off of each other to drive prices down. But I think you've heard a lot of testimony here today that very clearly shows that there's technical reasons why you need a steady and reliable supply, because you can't shut these facilities down.

I think another thing that you've heard too, and this is about putting all the eggs in the Ferro-Globe basket is that Globe has a track record of shifting production from ferrosilicon to silicon and back and forth

as it suits their financial interests. I don't fault them for pursing their own financial interest, but if you're a customer from that -- of Globe, that's a factor to take into consideration.

I would ask my colleagues if they have any stories along these lines to elaborate. But the stories I've been hearing is that consumers have felt that they've been left in the lurch when they've needed supply of silicon metal, and when market prices were high for ferrosilicon Globe doesn't answer their calls.

MR. STOEL: This is Jonathan Stoel. Let me just add one more point to Mr. Lewis' comment. I think you've heard from all the witnesses, and I think Globe has admitted as well, that it's clear that demand in the United States clearly outstrips U.S. supply, even if you include the new Mississippi silicon plant.

So I'd respectfully submit to you, the Commission, that if you exclude all of the countries before you from the U.S. market, you're going to be benefitting Globe's own supply from Canada and also from various countries in Europe and other places. That's not what the U.S. trade remedy laws are intended, and you have various means through Brask and other ways that you've looked at that particular factor.

So I forgot about South Africa, sorry. So the

biggest exporters to the United States other than a couple of the countries before you are Globe's own places. They shouldn't be allowed to come to you and ask for relief and get a little of increasing their production in other countries and shipping it here, and that's exactly what's going to have to happen if the four countries before you are found to be under order. I don't think that's what Congress or anybody else intended with the law.

MS. GAMACHE: Thank you. That concludes my questions for now.

MR. ANDERSON: Thank you. Ms. Freas, your turn.

MS. FREAS: I have no questions, thank you. Thank you for coming.

MR. ANDERSON: Mr. Guberman.

MR. GUBERMAN: In terms of production process, I think it was mentioned a couple of times that when Mississippi Silicon entered the market, they benefitted from lower cost production. Is there any -- do you have any detail on why, because I was under the impression that the manufacturing process was fairly similar across the board. So is there any particular reason that they had that advantage from lower cost of production?

MR. MAJUMDAR: Oliver Majumdar from Wacker Chemie. If I may answer that, I think in one of the

testimonies you heard that this was the first plant built in the United States after 40 years. Of course as a German I'm proud about that they used German technology to build a nice furnace. It's state of the art. If you visit Globe's West Virginia plant, you see a diametrically different condition of production and how things are done.

Globe in their testimony mentioned that they need 13,000 to 14,000 kilowatt hours to produce. If you would look at the industry's statistics, one ton of silicon metal needs 9-1/2 to 10 megawatts to produce actually if you use state of the art equipment. So that's a big difference. If you use the latest technology of transformers and electrodes and so on, you can achieve significant cost savings.

Another thing is logistics. Chris Bowes mentioned it earlier. They are located beside a counter. They have access to quartz from Alabama. So to produce a ton of silicon metal you need six tons of ingredients. To bringing that all in and producing, selecting the right site which you can do if you're a new entrant and you locate your site in a place which is logistically close to quartz and other raw materials, you lower your costs.

MR. STOEL: Mr. Guberman, Jonathan Stoel. Just one point. There is confidential information from industry sources that talks about these costs comparatively

plant by plant, and we're constrained here obviously. But we'll put that on the record for you so you'll have a clear picture, I think.

MR. GUBERMAN: And also the companies that are producing polysilicon grade silicon, are they also manufacturing the other silicon materials or is that it? Are they specializing for the most part?

MS. HUDSON: This is Mary Beth Hudson from Wacker Polysilicon. We only produce polysilicon material at our Tennessee facility. We do not produce any other product, and it is primarily used in the solar industry.

MR. BOWES: Chris Bowes, REC Silicon. So our primary product is polysilicon. We also produce Xylene gas, which is a specialty product.

MR. GUBERMAN: Okay, thank you. No more questions.

MR. ANDERSON: All right, thank you Mr. Lewis. I have a couple of follow-up questions, and I appreciate all the testimony and responses so far. Mr. Lewis, I think it was you in the early part of the testimony, you were talking about looking at the difference in the financial results and the costs of production between the two domestic U.S. producers, Mississippi Silicon and Globe.

I just either now or in the post-conference brief, we take your point, but how can we balance that with

the mandate in the statute, that we have to look at the U.S. industry in the aggregate, in the results in the analysis?

MR. LEWIS: Craig Lewis, Hogan Lovells. For obvious reasons we'd like to address that in the postconference, but I do think you need to evaluate the industry as a whole. We don't disagree with that point.

There is some specific information we have about the financial results that have been reported to you that we intend to elaborate on in the confidential filing that impact that combined picture.

MR. STOEL: Mr. Anderson, Jonathan Stoel. Just to echo one other comment by Mr. Lewis on this issue, it's really important the Commission, as I think Mr. Henderson asked earlier this morning, look across the full spectrum of the POI. I mean, you are tasked to look at the Period of Investigation, not to look at one year.

We all know that there are ups and downs in a particular year that may affect performance. For example, a merger may have an impact on the company's performance. Or there may be other factors.

This company, Globe, did very, very well in 2014 and '15. There's no question about that. The public record, all the 10Ks, 10Qs, et cetera, will show you that. So to the extent there may have been something going on in 2016, it was very limited. And they themselves are saying

prices are going up, demand is going up. That doesn't sound like injury or threat of material injury to me. That sounds like something was going on with them on a very temporary basis and they've corrected that and are going to do well moving forward.

MR. ANDERSON: Okay. Thank you for those comments.

Mr. Kirgiz? Did I say that correctly?

MR. KIRGIZ: Yes, you did.

MR. ANDERSON: Okay, thank you. I appreciate your testimony. I did have a couple of follow-up questions. You gave us a couple of very interesting handouts, and I just wanted to clarify on the slide on page 3. Could you just tell us the source? Is this from CRU? From Platts? What's the source of the spot prices here? And I presume this is in dollars-per-pound?

MR. KIRGIZ: Mike, maybe you could help with this. I think this is not one of my slides.

MR. ANDERSON: It's something you could handle in a postconference brief, by the way, if you wanted to clarify.

MR. MAJUMDAR: What we used--Oliver Majumdar--what we used is mostly CRU. So the costs should be from CRU.

MR. ANDERSON: Okay, great. Thank you.

And you made some interesting arguments about the

new entrant and the impact of a new entrant in the industry. And about you would expect to see, or that would have some impact on pricing. And you talked about it would be temporary.

But I've also heard today that there are several suppliers here who have come from great distances to testify that a new entrant is still trying to qualify, or not meeting qualifications, or is taking time to qualify.

So in contrast to the testimony about prices have rebounded and prices are going up, wouldn't we expect to see, as Mississippi Silicon becomes more qualified and has more customers that qualify them, that those prices wouldn't go back up? They'd actually go back down? And according to the testimony you provided earlier, they came in with some volume. They're going to keep coming in with more volume as we get further out and they qualify. So wouldn't we expect to see prices to go back down? The theory seems to break in 2017, if they're still trying to qualify.

MR. KIRGIZ: My understanding is they are, as of August 2016, they are already at 90 percent capacity utilization. So they are not going to be able to offer additional volume that would put downward pressure on prices in 2017. That's based on their public disclosures.

So the prices would have a downward pressure if they were to offer even more supply. But my understanding

is they are already at full capacity.

MR. VANDER SCHAAF: I think there are other dynamics at play, as well, though. You had the mergers going on by Globe internationally, which Mr. Augusto testified had an impact on the market. Now that Mississippi Silicon is established, you have a lot of times expectations that are more of an impact on price than actual market factors.

And because of the international settlement of those mergers, and you also have Globe publicly stating we believe, you know, taking a step back we believe Globe is a price leader. Them publicly announcing that they are going to demand price increases is consistent with the theory that they're the price leader. The market is following them.

Mr. Augusto testified that when they made that dramatic announcement in their long-term contracts quoting eight cents below the international price that was being reported, it created an impact that you're seeing in the trends that we're showing you in these graphs.

And so those effects have dissipated, and now Globe is demanding higher prices. You're seeing increased demand. And so I think you will see increased prices, even though Mississippi Silicon probably will be getting qualified.

MR. BOWES: This is Chris Bowes. So in recent

conversations that I've had directly with Mississippi Silicon, they've informed me that they were sold out for 2016--or, excuse me, 2017, for this year; that they had no additional capacity available.

MR. LEWIS: Craig Lewis for Hogan Lovells. Just to latch onto a comment from Mr. Stoel, too, I think somebody amongst you raised ths point, too, saying well you saw volumes of imports in 2014. They dropped off. 2016 is kind of back to where it was. And I think that's the right way of looking at this. That effectively what happened in 2015 was there was a shock to the system.

And that had an impact. Our position is, and I think is fully supported by the facts, that that shock was principally Mississippi Silicon. But the issue you raised is, you know, well shouldn't prices now sort of settle at a lower level?

I don't think that's correct. I think what's happened is it took a relatively short amount of time, and I think the fact that demand is as strong as it is explains why it was as short as it was. But for the market to absorb this new source of supply in the market, it had a temporary fleeting effect on the industry. It's already over. Prices are already up. There's ample evidence of that, including the fourth quarter statements by Globe themselves to their shareholders saying that.

And, you know, I understand that Petitioners-- this particular company has a history of using the dumping laws and other forms of litigation as a way to advance its economic interests. That's fine. That explains the timing of this Petition on March 8th of this year. But I think the Commission's job is to evaluate this three-year period. And I think the facts clearly point to there was a temporary disruption. It's been absorbed, and the price levels are going back up as you'd expect them to do in a very robust market that silicon metal producers are facing.

MR. MAJUMDAR: If I may add something?

MR. ANDERSON: Please, go ahead.

MR. MAJUMDAR: Oliver Majumdar, Wacker Chemie. The Petitioner earlier mentioned something about the policy of silicon over capacities in the world, and there no demand being there for solar. The demand for silicon metal, according to CRU and others, is about 290,000 tons for the last year. Last year we went online and we bumped up that demand by another 22,000 tons. We are completely sold out for the product we make in Tennessee. So the demand is increasing and we can sell it. So the demand for polysilicon is growing 9 percent worldwide. So there's a big silicon metal demand for this product, and we need to get it from somewhere. So it's going to come in from outside because the U.S. industry is not expanding anymore.

MR. ANDERSON: Okay. Thank you. Thank you all for that additional information.

We have heard from a couple of purchasers here--I think it was Mr. Moran and Mr. Bowes that with the merger of Globe and the other company that keep your diversity and mitigate your supply risks, or purchaser risks that you were looking to other sources, could you either now or in a postconference brief, when you treated those as no longer two separate entities or suppliers, where did you go for your other sources? Did you go to any of the four subject producers that are under this proceeding? Or was it nonsubject sources?

MR. BOWES: This is Chris Bowes. I'd like to address that and explain that in the postconference briefs, please.

MR. MORAN: This is John Moran. Likewise. That's commercially sensitive, so we'll do it in the brief.

MR. ANDERSON: Okay, thank you very much.

Another quick question. On the powder versus lump, and can anybody say, either now or in a postconference brief, the relative size of those two different markets in the U.S.? How much of the U.S. market is powder versus lump silicon metal?

MR. STOEL; This is Jonathan Stoel. That's a good question. We will address that in the postconference brief.

MR. ANDERSON: Okay. Alright, thank you.

I think my last question is, so I've heard a lot about this is not a commodity product for the very specific reasons of the technical aspects, the different markets, the applications, the end uses, and it's been very helpful.

Once you get past the qualification stage, it could be argued that it's all about price. And I'm just wondering, the Commission has had several investigations where we have commodity products that have characteristics like having published price series like CRU and Platts, and I just wondered if you could either speak now or in a postconference brief to that tension between evidence in the market that there are commodity prices, and they're published, and they're signaled through public price lists or price indices, versus the fact that you're arguing here that these are not commodity products.

And I understand that the qualification stage and the quality stage that you're arguing differences there, but at the price level if you could characterize your thoughts on that I'd appreciate it.

MR. STOEL: This is Jonathan Stoel, Mr. Anderson. That's a very good question and one we will certainly address in the postconference brief.

I think it is important, when we talk about Platts, typically we're talking about 5-5-3. And that's,

you know, mostly for aluminum. For example, Mr. Walters and people that are his customers. When you start talking about the chemical and the polysilicon, that's a very different product. And I think as the staff starts to look at the confidential data, you'll notice that the pricing is quite different, and there's a big divergence. And the relationship between 5-5-3 and what's going on with those other products I think is complicated, and all of us will take a look at that and get back to you in the postconference brief.

MR. ANDERSON: Okay, and I appreciate that. And anything in the context of previous decisions by the Commission where we've had some of these same factors and same indices, and so forth, would be appreciated.

Thank you. Okay, with that I think we're done with our questions. We really appreciate the responses and for your preparations, and for being here. I have heard an illusion to the Tidal Basin, and I hope to all our witnesses who have traveled very long distances that perhaps there will be time in your trip to visit one of the highlights of Washington, D.C. this time of hear, which is some beautiful blossoms around the Tidal Basin.

So with that, I'd like to thank this panel and we will take like a five-minute break to let people get ready for closing arguments. So in five minutes we will proceed

with closing arguments.

Thank you.

(Whereupon, at 1:08 p.m., a five-minute break was taken in the proceeding.)

MR. BISHOP: Come to order. We will now turn to rebuttal and closing remarks. Rebuttal and closing remarks on behalf of Petitioner will be given by William D. Kramer of DLA Piper. Mr. Kramer, you have 10 minutes.

CLOSING REMARKS OF WILLIAM D. KRAMER

MR. KRAMER: Of course, we'll comprehensively address the Respondent's claims in our post-conference brief, but I'd like to address certain key points.

I think one of the most critical points concerns the suggestion that the price injury to the domestic industry is due to the pricing conduct of domestic producers. I know the Respondents disagree as to which domestic producer is responsible for the price injury, but in either case, the record evidence regarding the extremely low prices at which the imports from the subject countries were sold and the underselling by subject imports contradict the suggestion that this is injury self-inflicted by the domestic industry.

Globe was specifically identified by two Respondents as having aggressively cut its prices as having taken the unprecedented step of selling on an index basis

with a discount of eight cents from the Platts Metals Week price. I mean that testimony is simply not true. I mean Globe largely -- you know predominately sold on a fixed-price basis. Globe did not discount to anywhere near that degree. When the few contracts, which were indexed and Globe did not in any case agree to a contract without a floor and so you know Globe was not responsible for the extremely low prices which have critically injured it.

And I'd also point out that this company that sold predominately on a fixed-price basis and would not agree to these large discounts from an index and would not agree to not having any floor constitutes roughly 75 percent of the domestic industry production and sales in the merchant market.

The second point I'd like to address are these statements that Globe has significant market power, was trying to maintain its monopoly status I mean these are transparently baseless statements. I mean if Globe had such power it would not have allowed itself to be in the position of being severely hurt by these very low prices.

Another point I'd like to make is that we heard a lot of testimony from the chemical producers about their very stringent specifications, the extreme difficulty or you know near impossibility of suppliers meeting these specifications and at the same time you know they're here in

strong opposition to the petition and are expressing concerns about losing access to supply from the subject countries. You know, presumably, they must think that silicon metal from the subject countries can meet their specifications.

I'd like to address the point about evasion of the anti-dumping and countervailing duties laws through the use of foreign trade laws. It is true if you manufacture a product in a manufacturing subzone and then enter that product into the United States you know the duty has to be paid if there's a component that's subject to anti-dumping duties it has to be paid when the merchandise enters. That is not true in circumstances in which a downstream product is manufactured in an FTZ and then exported. So it was the case that originally these FTZs were established for the purpose of trying to evade the anti-dumping and countervailing duty laws.

The foreign trade's own board, after this was litigated, imposed prohibitions on their use for that purpose, which would've been unnecessary if the existing regulations addressed that concern.

Finally, I'd just like to say that in this case there's unequivocal evidence of -- I'm sorry, I want to make one further point.

One of the "critical flaws" that was identified

in Petitioner's case was that the price decline that has occurred has already been reversed, that the price drop has vanished. There was just a fleeting affect and that the price affect has come and gone.

And there were statements made referring to Globe --fourth quarter statement to investors by Globe referring to spot price increases, which, by the way, concerned various products such as manganese as well as Silicon Metal and others. And the fact is that there has been some improvement, some which has occurred since the case was filed, but what we're talking about is spot price improvements due to extremely depressed levels. I mean if you're -- a 15 percent increase may sound good, but it's not if you're starting from a severely below cost level.

In conclusion, there's unequivocal evidence of injury to the domestic industry, along with clear evidence that this injury has occurred by reason of the low priced, dumped and subsidized imports from the subject countries that undercut the domestic industry's prices. Nothing in the testimony you heard today detracts from these facts. Thank you.

MR. ANDERSON: Thank you, Mr. Kramer.

MR. BISHOP: Rebuttal and closing remarks on behalf of Respondents will be given by Jonathan Stoel and Craig A. Lewis of Hogan Lovells.

CLOSING REMARKS OF CRAIG A. LEWIS

MR. LEWIS: Good afternoon, Commission staff. First of all, thank you very much for your time. I think like me you probably didn't have much of a lunch and I realize it's late in the afternoon or moderately late in the afternoon, so we're going to divide up our closing comments, but I'd like to just make a few summary observations from this hearing. And I hope you appreciate that we have provided you with a broad range of views and facts from both the producer and the consumer side of this industry, people who directly participate in the industry. And we will, of course, as we've said many times, be elaborating in our post-conference brief.

So what'd we learn today from this testimony? First, silicon metal is anything but a commodity. It is a complete canard to suggest that it's a commodity. In fact, getting to a question that was raised at the very end of the hearing about grades and whether there's benchmarks. Well, I think Petitioners themselves said it in their direct presentation. There really aren't any grades, accepted you know standard grades for this product. I think that tells you something about the fact that this is not a commodity product. They can't even agree on a common spec for the product.

But aside from that, you've heard plenty of

testimony on that commodity issue and I hope that that's been put to rest, this notion that all that a company like Wacker cares about is the price. And if a supplier from Kazahstan comes in tomorrow and says I'll offer it for two cents lower that they'll purchase it. That's just not plausible.

Second, this is not a volume case. The volumes as been observed of subject imports at the end of the period were only slightly above what they were at the beginning of the period and demand's growing. That's not really an indication of any significant change.

Third, the performance of the domestic industry, at least for one of the domestic producers not so great in the third year, but your job and the Commissioners job under the statute is not to dwell on a single year. You're supposed to assess, legally speaking, and there's precedent for this, assess the entire three-year period to evaluate the significance of that performance in that one year. And as we will elaborate in our post-conference brief, that was a temporary issue. It's one that has reversed. It has come and gone. It has vanished. And essentially, the story of the last three years is 2014 relatively normal year; 2015 a market disruption from a new entrant in the industry causing a short-term shock to the system; and 2016 the ship has righted itself and we're off with having absorbed this new

capacity and with an industry whose prospects are strong.

That said, there's a debate over what caused the price declined. I listened to a significant amount of testimony from Petitioners on this issue and frankly don't really have a good idea of what exactly their theory is. I think it has something to do with Brazil. I'm sure that it does, but if it does, I think the facts don't fit the Brazil theory. What it is beyond that, other than just a rank statement that you know imports did this? I'm not seeing any evidence backing that up and I think the Commission should look very closely at the record on that score in reaching a determination with respect to what caused the price declines.

So what has changed from 2014 to 2016, Mississippi Silicon and the merger of Globe and Ferro? That's really all that's changed. None of those relate to an injury finding and I don't think the record here also has any basis for claiming threat. There's no evidence from any of the parties represented at this hearing that the subject producers have added capacity or intending to do so in the foreseeable future and as I said, the volumes have not exhibited an upward trend. So I understand that the standard for a negative injury determination at the preliminary stage is fairly low, depending on your point of view, but I would submit that this is essentially a case of

opportunity by Petitioners trying to capitalize on a temporary market phenomenon and in an attempt to blame imports.

And why they would do this let me turn it over to my colleague Jonathan.

CLOSING REMARKS OF JONATHAN STOEL

MR. STOEL: Thank you Craig and thank you to the staff for all the hard work in these preliminary investigations. We know in a 45-day wonder it's a huge amount of work in a short period of time.

I'm just going to make two quick points. The first is that Mr. Kramer questioned certain testimony about Globe's price discounts that was given this afternoon, but I point out that Globe's own 2017 document -- and we've excerpted it here in Slide 9 for you -- states "Removing all discounts to index and contract structure for silicon metal." And then the very next bullet also very important to your consideration is "Capitalizing on supply storage." I ask you to consider that carefully.

Second, I agree with Mr. Kramer that our position in these investigations in this case is about Globe's effort to maintain its market power and its dominance of the U.S. merchant market for silicon metal. You've heard a lot of testimony about that today from the U.S. purchasers who are concerned about having diversity of

supply because of their experiences with Globe's lack of reliability and lack of consistency.

I just want to leave you with one thought in this regard that pertains, as Mr. Lewis said, to Mississippi Silicon, if Globe did not perceive Mississippi Silicon to be a threat to its dominant position in the market, then why did Globe -- and I would ask you to look at our Slide No. 6.

Why did Globe purchase property in Mississippi, file a meritless lawsuit to try to stop the operation of Mississippi Silicon, notwithstanding the $200 million investment that was made in that plant? I think that tells you a lot about what Globe perceived was going to happen in the U.S. market with Mississippi Silicon's entry. And I think the record before you suggests that that was clearly the most important factor in terms of the U.S. market during the POI.

For all the reasons we've provided today, we respectfully ask that you render negative determinations in these investigations. Thank you.

MR. ANDERSON: Thank you Mr. Lewis and Mr. Stoel. On behalf of the Commission and the staff here, I would like to greatly thank the witnesses and the counsel that came today. We recognize that several of you came from great distances and left your businesses to be here to help us gather this information, so we greatly appreciate it,

helping us understand the market and the conditions of competition in the silicon metal industry.

Before concluding, I wanted to mention a few key dates to keep in mind. The deadline for submission of corrections to the transcript and submission of post-conference briefs is Monday, April 3. If briefs contain business proprietary information, a public version is due on Tuesday, April 4. And the Commission has tentatively scheduled its vote on these investigations for Friday, April 21 and it will report its determinations to the Secretary of the Department of Commerce on Monday, April 24. The Commissioner's opinions will be issued on Monday, May 1.

And with that, I thank you all again and this conference is adjourned.

(Whereupon, the conference concluded at 1:31 p.m.)

CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Silicon Metal from Australia, Brazil, Kazakhstan, and Norway

INVESTIGATION NOS.: 701-TA-567-569 and 731-TA-1343-1345

HEARING DATE: 3-29-17

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: 3-29-17

SIGNED: Mark A. Jagan

Signature of the Contractor or the Authorized Contractor's Representative

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: Duane Rice
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: Larry Flowers
Court Reporter