Silicomanganese From India, Kazakhstan, and Venezuela

Investigation Nos. 731-TA-929-931 (Review)

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U.S. International Trade Commission

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Note.–Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 731-TA-929-931 (Review)

SILICOMANGANESE FROM INDIA, KAZAKHSTAN, AND VENEZUELA

DETERMINATIONS

On the basis of the record[1] developed in the subject five-year reviews, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)), that revocation of the antidumping duty orders on silicomanganese from India, Kazakhstan, and Venezuela would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

BACKGROUND

The Commission instituted these reviews on April 2, 2007 (72 F.R. 15726) and determined on July 6, 2007 that it would conduct expedited reviews (72 F.R. 52581, September 14, 2007).

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

VIEWS OF THE COMMISSION

Based on the record in these five-year reviews, we determine under section 751(c) of the Tariff Act of 1930, as amended ("the Act"), that revocation of the antidumping duty orders on silicomanganese from India, Kazakhstan, and Venezuela would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

I. BACKGROUND

The original investigations of silicomanganese from India, Kazakhstan, and Venezuela were instituted based on a petition filed on April 6, 2001, by Elkem Metals Co. ("Elkem") and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5-0639. On May 16, 2002, the Commission determined that an industry in the United States was materially injured by reason of imports of silicomanganese from India, Kazakhstan, and Venezuela that were found by Commerce to be sold in the United States at less than fair value ("LTFV").[1] Commerce issued antidumping duty orders on silicomanganese from India, Kazakhstan, and Venezuela on May 23, 2002.[2]

The Commission instituted these reviews of the antidumping duty orders on April 2, 2007.[3] On July 6, 2007, the Commission determined that the domestic interested party group response to its notice of institution was adequate and that the respondent interested party group responses to the notice of institution were inadequate.[4] In the absence of an adequate respondent interested party group response, or any other circumstances that would warrant full reviews, the Commission determined to conduct expedited reviews of the subject orders pursuant to section 751(c)(3) of the Act.[5]

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Product

In making its determination under section 751(c), the Commission defines the "domestic like product" and the "industry."[6] The Act defines the "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle."[7] In five-year reviews, the Commission looks to the domestic like product definition

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[1] 67 Fed. Reg. 35832 (May 21, 2002); Silicomanganese From India, Kazakhstan, and Venezuela: Inv. Nos. 731-TA-929-931 (Final), USITC Pub. 3505 (May 2002).

[2] 67 Fed. Reg. 36149 (May 23, 2002).

[3] 72 Fed. Reg. 15726 (Apr. 2, 2007).

[4] Confidential Report ("CR") and Public Report ("PR") at Appendix B (Explanation of Commission Determination on Adequacy). The Commission received individually adequate responses from domestic producers Eramet Marietta Inc. ("Eramet") and Felman Production, Inc. ("Felman"), which accounted for the majority of domestic production in 2006. The Commission did not receive a response from any Kazakh or Venezuelan respondent interested party and the Commission found the response from an Indian producer to be individually inadequate. Accordingly, the Commission found the domestic industry party group response to be adequate and the respondent interested party group responses to be inadequate. Id.

[5] CR at Appendix B.

[6] 19 U.S.C. § 1677(4)(A).

[7] 19 U.S.C. § 1677(10). See Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996); Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991). See also S. Rep. No. 249, 96th Cong., 1st Sess. 90-91

(continued...)

from the original determination and any previous reviews and considers whether the record indicates any reason to revisit that definition.[8]

> In these five-year reviews, Commerce has defined silicomanganese, the subject merchandise, as: all forms, sizes and compositions of silicomanganese, except low-carbon silicomanganese, including silicomanganese briquettes, fines and slag. Silicomanganese is a ferroalloy composed principally of manganese, silicon and iron, and normally contains much smaller proportions of minor elements, such as carbon, phosphorous and sulfur. Silicomanganese is sometimes referred to as ferrosilicon manganese. Silicomanganese is used primarily in steel production as a source of both silicon and manganese. Silicomanganese generally contains by weight not less than 4 percent iron, more than 30 percent manganese, more than 8 percent silicon and not more than 3 percent phosphorous.[9]
>
> The low-carbon silicomanganse excluded from this scope is a ferroalloy with the following chemical specifications: minimum 55 percent manganese, minimum 27 percent silicon, minimum 4 percent iron, maximum 0.10 percent phosphorus, maximum 0.10 percent carbon and maximum 0.05 percent sulfur. Low-carbon silicomanganese is used in the manufacture of stainless steel and special carbon steel grades, such as motor lamination grade steel, requiring a very low carbon content. It is sometimes referred to as ferromanganese-silicon. Low-carbon silicomanganese is classifiable under HTSUS subheading 7202.99.5040.[10]

Silicomanganese is used primarily by the steel industry as a source of manganese, a desulfurizer and deoxidizer of steel, and of silicon, a steel deoxidizer.[11] Although manufactured in three grades (A, B, and C) distinguished by their silicon and carbon content, most silicomanganese produced and sold in the United States conforms to the specification for grade B of American Society for Testing and Materials ("ASTM") specification A483. Silicomanganese generally is sold in small pieces of fairly uniform sizes.[12] Silicomanganese is produced by smelting together in a submerged arc furnace sources of silicon, manganese, iron, and a carbonaceous reducing agent (usually coke).[13]

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[7] (...continued)
(1979).

[8] See Stainless Steel Sheet and Strip from France, Germany, Italy, Japan, Korea, Mexico, Taiwan, and the United Kingdom, Inv. Nos. 701-TA-380 to 382 and 731-TA-797 to 804 (Review), USITC Pub. 3788 at 6 (Jul. 2005); Crawfish Tail Meat from China, Inv. No. 731-TA-752 (Review), USITC Pub. 3614 at 4 (July 2003); Steel Concrete Reinforcing Bar from Turkey, Inv. No. 731-TA-745 (Review), USITC Pub. 3577 at 4 (Feb. 2003).

[9] 67 Fed. Reg. 36149 (May 23, 2002). Commerce explained that "the scope covers all silicomanganese, regardless of its tariff classification" and that "[s]ilicomanganese is properly classifiable under subheading 7202.30.0000 of the Harmonized Tariff Schedule of the United States (HTSUS)," while some "may also be classified under HTSUS subheading 7202.99.5040." Id. "Although the HTSUS subheadings are provided for convenience and U.S. Customs Service (Customs) purposes, [Commerce's] written description of the scope remains dispositive." Id.

[10] 67 Fed. Reg. 36149 (May 23, 2002).

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

[12] CR at I-14, PR at I-11.

[13] CR at I-16; PR at I-12.

The definition of the scope of the reviews as set out above is unchanged from Commerce's definition in the original investigations.[14] None of the parties in the original investigations opposed a domestic like product definition coextensive with that scope and the Commission found a single domestic like product on that basis, consisting of all silicomanganese, except low-carbon silicomanganese.[15]

The domestic producers and Nava Bharat contend that the prior like product definition is still appropriate and should be continued, and no party has expressed disagreement with the like product definition.[16] There is no information in the record that would warrant re-examination of the like product definition. We therefore define the domestic like product to be all silicomanganese, except low-carbon silicomanganese, coextensive with Commerce's scope.

B. Domestic Industry

Section 771(4)(A) of the Act defines the relevant domestic industry as the "producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[17]

In the original investigations, the Commission defined the domestic industry as consisting of all domestic producers of silicomanganese, excluding low-carbon silicomanganese. Eramet Marietta Inc. ("Eramet") and its predecessor in interest, Elkem Metals, were the sole domestic producers of silicomanganese during the period for which data were collected in the original investigations. Another producer, Highlanders Alloys, began silicomanganese production after the period for which the Commission gathered data in the original investigations.[18] Felman Production Inc. ("Felman") is the successor in interest to Highlanders, the assets of which Felman purchased out of bankruptcy in February 2006.[19] No party disagrees with a domestic industry definition consisting of all domestic producers of the domestic like product, and no new facts have been presented to warrant a conclusion different from that reached by the Commission in the original investigations.[20] Consistent with our definition of the domestic industry in the original investigations, and of the domestic like product in these reviews, we

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[14] 66 Fed. Reg. 63670, 63672, and 63673.

[15] Silicomanganese from India, Kazakhstan, and Venezuela, Inv. Nos. 731-TA-929-931 (Final), USITC Pub. 3505 at 4-5 (May 2002). Commerce's notice of initiation in the original investigations had not excluded low-carbon silicomanganese from the scope (66 Fed. Reg. 22209 (May 3, 2001)), and a subject Indian producer argued in the preliminary phase of the investigations that low-carbon silicomanganese, even though not produced in the United States, was a separate domestic like product. The Commission disagreed, finding a single domestic like product coextensive with the scope. Silicomanganese from India, Kazakhstan, and Venezuela, Inv. Nos. 731-TA-929-931 (Preliminary), USITC Pub. 3427 at 4-5 (May 2001). Prior to the Commission's determinations in the final phase of the investigations, Commerce excluded low-carbon silicomangenese from the scope. 67 Fed. Reg. 15531 (India), 15535 (Kazakhstan), and 15533 (Venezuela) (Apr. 2, 2002). Thus, the treatment of low-carbon silicomanganese was no longer an issue in the final phase of the investigations. USITC Pub. 3505 at 4-5.

[16] Eramet response to notice of institution ("Eramet Response") at 41, Felman response to notice of institution ("Felman Response") at 12-13, Nava Bharat response to notice of institution ("Nava Bharat Response") at 4.

[17] 19 U.S.C. § 1677(4)(A). In defining the domestic industry, the Commission's general practice has been to include in the industry all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market, provided that adequate production-related activity is conducted in the United States. See United States Steel Group v. United States, 873 F. Supp. 673, 682-83 (Ct. Int'l Trade 1994), aff'd, 96 F.3d 1352 (Fed. Cir. 1996).

[18] USITC Pub. 3505 at 5, n.15.

[19] CR at I-22-I-24, PR at I-16-I-18.

[20] Eramet Response at 41, Felman Response at 12-13; see also Nava Bharat Response at 4.

define the domestic industry in these reviews as all domestic producers of silicomanganese, excluding low-carbon silicomanganese.

III. CUMULATION[21]

A. Overview

Section 752(a) of the Act provides that:

> the Commission may cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews under section 1675(b) or (c) of this title were initiated on the same day, if such imports would be likely to compete with each other and with domestic like products in the United States market. The Commission shall not cumulatively assess the volume and effects of imports of the subject merchandise in a case in which it determines that such imports are likely to have no discernible adverse impact on the domestic industry.[22]

Cumulation is therefore discretionary in five-year reviews, unlike in the case of original investigations, which are governed by section 771(7)(G)(I) of the Act.[23] Because of the prospective nature of five-year reviews and the Commission's discretion with respect to cumulation, we consider significant conditions of competition that are likely to prevail with respect to each subject country if the orders under review are terminated.[24] [25]

The Commission may exercise its discretion to cumulate, however, only if the reviews are initiated on the same day and the Commission determines that the subject imports are likely to compete with each other and the domestic like product in the U.S. market. The Commission generally has considered four factors intended to provide a framework for determining whether the imports compete

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[21] Chairman Pearson and Commissioner Okun note that, while they consider the same issues discussed in this section in determining whether to exercise their discretion to cumulate the subject imports, their analytical framework begins with whether imports from the subject countries are likely to face similar conditions of competition. For those subject imports which are likely to compete under similar conditions of competition, they next proceed to consider whether those imports are likely to compete with each other and with the domestic like product. Finally, if based on that analysis they intend to exercise their discretion to cumulate one or more subject countries, they analyze whether they are precluded from cumulating such imports because the imports from one or more subject countries, assessed individually, are likely to have no discernible adverse impact on the domestic industry. See Steel Concrete Reinforcing Bar From Belarus, China, Indonesia, Korea, Latvia, Moldova, Poland, and Ukraine, Invs. Nos. 731-TA-873-875, 877-880, and 882 (Review), USITC Pub. 3933 (July 2007) (Separate and Dissenting Views of Chairman Daniel R. Pearson and Commissioner Deanna Tanner Okun Regarding Cumulation).

[22] 19 U.S.C. § 1675a(a)(7).

[23] 19 U.S.C. § 1677(7)(G)(I).

[24] See e.g., Allegheny Ludlum Corp. v. United States, 475 F.Supp.2d 1370, 1377-78 (Ct. Int'l Trade 2006) (recognizing the wide latitude the Commission has in selecting the type of factors it considers relevant in deciding whether to exercise discretion to cumulate subject imports in five-year reviews).

[25] Where, in a five-year review, Commissioners Lane and Pinkert do not find that the subject imports are likely to have no discernible adverse impact on the domestic industry and find that such imports would be likely to compete with each other and with the domestic like product in the U.S. market, they cumulate such imports unless there is a condition or propensity – not merely a trend – that is likely to persist for a reasonably foreseeable time and that significantly limits competition such that cumulation is not warranted.

with each other and with the domestic like product.[26] Only a "reasonable overlap" of competition is required.[27] In five-year reviews, the relevant inquiry is whether there likely would be competition after revocation of the orders, even if none currently exists.

The statute precludes cumulation if the Commission finds that subject imports from a country are likely to have no discernible adverse impact on the domestic industry.[28] We note that neither the statute nor the Uruguay Round Agreements Act ("URAA") Statement of Administrative Action ("SAA") provides specific guidance on what factors the Commission is to consider in determining that imports "are likely to have no discernible adverse impact" on the domestic industry.[29] With respect to this provision, the Commission generally considers the likely volume of the subject imports and the likely impact of those imports on the domestic industry within a reasonably foreseeable time if the orders are revoked.

In these five-year reviews, the statutory requirement for cumulation that all reviews be initiated on the same day is satisfied, as all three reviews were initiated on the same day.[30]

In the original investigations, the Commission found a reasonable overlap of competition and cumulated imports from all the subject countries.[31] The domestic producers contend that there have been no changes in this regard since the original investigations and that it is likely that, again, there would be a reasonable overlap of competition among the subject imports from India, Kazakhstan, and Venezuela and between the subject imports and the domestic like product if the orders were revoked.[32] They also argue that subject import volumes from each subject country would likely be large in the event of revocation and would not have no discernible adverse impact.[33]

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[26] The four factors generally considered by the Commission in assessing whether imports compete with each other and with the domestic like product are: (1) the degree of fungibility between the imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions; (2) the presence of sales or offers to sell in the same geographic markets of imports from different countries and the domestic like product; (3) the existence of common or similar channels of distribution for imports from different countries and the domestic like product; and (4) whether the imports are simultaneously present in the market. See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Invs. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), aff'd, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int'l Trade 1988), aff'd, 859 F.2d 915 (Fed. Cir. 1988); Mukand Ltd. v. United States, 937 F. Supp. 910, 915 (Ct. Int'l Trade 1996).

[27] See Mukand, 937 F. Supp. at 916; Wieland Werke, AG v. United States, 718 F. Supp. 50, 52 (Ct. Int'l Trade 1989) ("Completely overlapping markets are not required."); United States Steel Group, 873 F. Supp. at 685. We note, however, that there have been investigations where the Commission has found an insufficient overlap in competition and has declined to cumulate subject imports. See, e.g., Live Cattle from Canada and Mexico, Invs. Nos. 701-TA-386 (Prelim.) and 731-TA-812-813 (Prelim.), USITC Pub. 3155 at 15 (Feb. 1999), aff'd, Ranchers-Cattlemen Action Legal Foundation v. United States, 74 F. Supp. 2d 1353 (Ct. Int'l Trade 1999); Static Random Access Memory Semiconductors from the Republic of Korea and Taiwan, Invs. Nos. 731-TA-761-762 (Final), USITC Pub. 3098 at 13-15 (Apr. 1998).

[28] 19 U.S.C. § 1675a(a)(7).

[29] SAA, H.R. Rep. No. 103-316, vol. I (1994).

[30] CR/PR at I-3.

[31] USITC Pub. 3505 at 5-8.

[32] Eramet Response at 15-16, Felman Response at 4.

[33] Eramet Response at 16-17, Felman Response at 4.

B. Likelihood of No Discernible Adverse Impact

No respondent interested party in these reviews provided an adequate response to the Commission's notice of institution.[34] Thus, the record contains limited information with respect to the silicomanganese industry in the subject countries. Accordingly, we rely on available information when appropriate, which consists primarily of information from the original investigations and information collected in these five-year reviews, including that submitted by the domestic interested parties.[35] [36]

We do not find that revocation of any of the antidumping duty orders on silicomanganese from India, Kazakhstan, and Venezuela would likely have no discernible adverse impact on the domestic industry. Information available indicates that the silicomanganese industry in each of these countries has substantial production capacity and unused capacity.[37] The subject industries are export oriented or demonstrated an export orientation with respect to the United States during the period examined in the original investigations.[38] Silicomanganese, regardless of source, is produced to standard specifications. Domestically produced silicomanganese is highly substitutable with imports from each of the subject countries. Also, in the original investigations some evidence of underselling existed for subject imports from all three subject countries, particularly in the latter part of the period of investigation.[39] Consequently, likely underselling by imports from any of the subject countries to regain market share would be likely to have discernible price-depressing or -suppressing effects.

In light of the prevailing conditions of competition in the U.S. market, including the fungible nature of the product, we do not find that subject imports from India, Kazakhstan, and Venezuela, with their history of increases in volume and at least some underselling of the domestic like product, along with evidence of the substantial unused capacity for producers in each subject country during the period of review and their export focus on the U.S. market in the original investigations, would likely have no discernible adverse impact if the orders were revoked.

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[34] Although Indian producer Nava Bharat's response to the notice of institution was incomplete and otherwise inadequate, we refer herein to certain information included in that response as among the facts available on this limited record. Nava Bharat submitted no additional information in these reviews.

[35] Section 776 of the Act authorizes the Commission to "use the facts otherwise available" in reaching a determination when: (1) necessary information is not available on the record or (2) an interested party or other person withholds information requested by the agency, fails to provide such information in the time, form, or manner requested, significantly impedes a proceeding, or provides information that cannot be verified pursuant to section 782(I) of the Act. 19 U.S.C. § 1677e(a). The verification requirements in section 782(I) are applicable only to Commerce. 19 U.S.C. § 1677m(I). See Titanium Metals Corp., 155 F. Supp. 2d at 765 ("the ITC correctly responds that Congress has not required the Commission to conduct verification procedures for the evidence before it, or provided a minimum standard by which to measure the thoroughness of a Commission investigation.").

[36] Commissioner Okun notes that the statute authorizes the Commission to take adverse inferences in five-year reviews, but such authorization does not relieve the Commission of its obligation to consider the record evidence as a whole in making its determination. 19 U.S.C. § 1677e. She generally gives credence to the facts supplied by the participating parties and certified by them as true, but bases her decision on the evidence as a whole, and does not automatically accept participating parties' suggested interpretations of the record evidence. Regardless of the level of participation and the interpretations urged by participating parties, the Commission is obligated to consider all evidence relating to each of the statutory factors and may not draw adverse inferences that render such analysis superfluous. "In general, the Commission makes determinations by weighing all of the available evidence regarding a multiplicity of factors relating to the domestic industry as a whole and by drawing reasonable inferences from the evidence it finds most persuasive." SAA at 869.

[37] CR at I-47-I-60, PR at I-33-I-44.

[38] CR at I-47-I-60, PR at I-33-I-44.

[39] CR Inv./PR Inv. Tables V-1, V-2. It appears that the domestic producer and certain importers reported data on different bases, which may account for the limited amount of reported underselling. CR Inv./PR Inv. at V-7, n.14.

C. Likelihood of a Reasonable Overlap of Competition

With regard to likely overlap of competition, we note that the relevant inquiry is whether there would likely be competition even if there are no current imports from a subject country.[40] Further, only a "reasonable overlap" of competition is required.[41] We next analyze the four factors the Commission typically examines in determining whether there will be a likely overlap of competition.

Fungibility

In the original investigations, the Commission found widespread agreement that silicomanganese is a commodity product and that there was a significant degree of fungibility among subject imports and between subject imports and the domestic like product. Nearly all purchasers and importers reported that the subject merchandise and the domestic like product could be used interchangeably.[42] In these reviews, Eramet indicated that silicomanganese from all sources remains fungible for most applications.[43] There is no information in the record of the present reviews that indicates that the fungibility of silicomanganese from all sources has changed.

Geographic Overlap

In the original investigations, the Commission found that *** percent of silicomanganese from Venezuela was sold into Eramet's top three markets (***), as were *** percent of silicomanganese from India and *** percent of silicomanganese from Kazakhstan. The Commission found that about *** percent of silicomanganese from Venezuela was sold in the same states as silicomanganese from Kazakhstan, that the overlap between the other subject countries was substantially higher, and that other record evidence indicated that the Venezuela/Kazakhstan overlap was greater than reported in 1999. Thus, the Commission found that imports from all three subject countries and the domestic like product were present to a significant degree in the same geographic markets during the period examined.[44] In these reviews, Eramet contends that, as in the original investigations, all subject imports are likely to be present in the same geographical areas if the orders are revoked.[45] There is no information in the record of these reviews that indicates that the geographic overlap of sales of the domestic like product and the subject imports would be significantly different from that overlap in the original investigations.

Channels of Distribution

In the original investigations, the majority of the domestic like product was sold directly to end users, namely steel mills, as were nearly all of the subject imports from ***. Although the percentage of subject imports from *** sold to end users was *** at the beginning of the period of investigation, that percentage increased and accounted for a majority of those subject imports at the end of the period. Consequently, the Commission found that there was a reasonable overlap in channels of distribution

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[40] See generally Chefline Corp. v. United States, 219 F. Supp.2d 1313, 1314 (Ct. Int'l Trade 2002).

[41] See Mukand Ltd. v. United States, 937 F. Supp. 910, 917 (Ct. Int'l Trade 1996).

[42] CR at I-17; PR at I-13.

[43] Eramet Comments at 6-7.

[44] USITC Pub. 3505 at 7-8.

[45] Eramet Comments at 6-7.

among the subject imports from each country and the domestic like product.[46] In these reviews Eramet asserts that most silicomanganese continues to be sold directly to end users.[47] There is no information in the record of these reviews that indicates that this distribution pattern would change if the orders were revoked.

Simultaneous Presence

In the original investigations, the domestic like product was present in each quarter for which data were gathered. In finding that subject imports from all three subject countries and the domestic like product were simultaneously present in the U.S. market, the Commission emphasized that, from at least the second half of 1999, the domestic like product and silicomanganese from each of the subject suppliers were sold in each quarter.[48] Eramet contends that subject imports are likely to be simultaneously present in the U.S. market if the orders are revoked.[49] There is no information in the record of these reviews that indicates that the simultaneous presence observed in the original investigations would not recur if the orders were revoked.

D. Conclusion

We find that there will likely be a reasonable overlap of competition among subject imports from each subject country and the domestic like product, as well as between subject imports from each country. The record does not indicate that the overlap in competition between the subject imports and the domestic product would be less than during the original investigations. We also see no significant differences in the conditions of competition between subject silicomanganese imports from India, Kazakhstan, and Venezuela on the limited record in these expedited reviews.[50] Accordingly, we exercise our discretion to cumulate the subject imports from all of the subject countries.

IV. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY IF THE ANTIDUMPING DUTY ORDERS ARE REVOKED

For the reasons stated below, we determine that revocation of the antidumping duty orders on silicomanganese from India, Kazakhstan, and Venezuela would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

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[46] USITC Pub. 3505 at 8.

[47] Eramet Response at 15.

[48] USITC Pub. 3505 at 8.

[49] Eramet Comments at 6-7.

[50] Consistent with their footnote, supra, Commissioners Lane and Pinkert do not find a "condition or propensity" that would warrant exercising their discretion not to cumulate the subject imports from India, Kazakhstan, and Venezuela.

A. Legal Standard In a Five-Year Review

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping or countervailing duty order unless: (1) it makes a determination that dumping or subsidization is likely to continue or recur; and (2) the Commission makes a determination that revocation of the antidumping duty order or the countervailing duty order "would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time."[51] The Uruguay Round Agreements Act ("URAA"), Statement of Administrative Action ("SAA"), states that "under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports."[52] Thus, the likelihood standard is prospective in nature.[53] The U.S. Court of International Trade has found that "likely," as used in the five-year review provisions of the Act, means "probable," and the Commission applies that standard in five-year reviews.[54] [55] [56]

The statute states that "the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time."[57] According to the SAA, a "'reasonably foreseeable time' will vary from case-to-case, but normally will exceed the 'imminent' timeframe applicable in a threat of injury analysis in original investigations."[58]

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[51] 19 U.S.C. § 1675a(a).

[52] The SAA, H.R. Rep. No. 103-316, vol. I, at 883-84 (1994). The SAA states that "[t]he likelihood of injury standard applies regardless of the nature of the Commission's original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed." SAA at 883.

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

[54] See NMB Singapore Ltd. v. United States, 288 F. Supp. 2d 1306, 1352 (Ct. Int'l Trade 2003) ("'likely' means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)"), aff'd without opinion, 140 Fed. Appx. 268 (Fed. Cir. 2005); Nippon Steel Corp. v. United States, 26 CIT 1416, 1419 (2002) (same); Usinor Industeel, S.A. v. United States, 26 CIT 14 02, 1404 nn. 3 & 6 (2002) ("more likely than not" standard is "consistent with the court's opinion"; "the court has not interpreted 'likely' to imply any particular degree of 'certainty'"); Indorama Chemicals (Thailand) Ltd. v. United States, 26 CIT 1059, 1070 (2002) ("standard is based on a likelihood of continuation or recurrence of injury, not a certainty"); Usinor v. United States, 26 CIT 767, 794 (2002) ("'likely' is tantamount to 'probable,' not merely 'possible'").

[55] For a complete statement of Commissioner Okun's interpretation of the likely standard, see Additional Views of Vice Chairman Deanna Tanner Okun Concerning the "Likely" Standard in Certain Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Argentina, Brazil, Germany, and Italy, Inv. Nos. 701-TA-362 (Review) and 731-TA-707-710 (Review) (Remand), USITC Pub. 3754 (Feb. 2005).

[56] Commissioner Lane notes that, consistent with her views in Pressure Sensitive Plastic Tape from Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 (June 2004) at 15-17, she does not concur with the U.S. Court of International Trade's interpretation of "likely," but she will apply the Court's standard in these reviews and all subsequent reviews until either Congress clarifies the meaning or the U.S. Court of Appeals for the Federal Circuit addresses the issue.

[57] 19 U.S.C. § 1675a(a)(5).

[58] SAA at 887. Among the factors that the Commission should consider in this regard are "the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic

(continued...)

Although the standard in a five-year review is not the same as the standard applied in an original antidumping or countervailing duty investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to "consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated."[59] It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if the orders are revoked or the suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).[60]

As noted above, because no respondent interested party in these reviews provided an adequate response to the Commission's notice of institution,[61] the record contains limited information with respect to the silicomanganese industries in India, Kazakhstan, and Venezuela. Accordingly, we rely on available information when appropriate, which consists primarily of information from the original investigations and information collected in these five-year reviews, including that submitted by the domestic interested parties.

B. Conditions of Competition and the Business Cycle

In evaluating the likely impact of the subject imports on the domestic industry, the statute directs the Commission to consider all relevant economic factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[62] The following conditions of competition are relevant to our determination.

In the original investigations, the Commission found that, because silicomanganese is used mainly in the manufacture of steel, demand for silicomanganese is closely tied to demand for steel. While silicomanganese can be used by either basic oxygen furnace or electric arc furnace ("EAF") mills (also referred to as mini-mills), EAF mills are the primary consumers. The Commission observed that silicomanganese represented a relatively small share of the total cost of steelmaking, and the absolute price level of silicomanganese had little effect on steel makers' demand for silicomanganese.[63]

As noted above, at the time of the original investigations, Eramet and its predecessor in interest, Elkem, were the sole domestic producers of silicomanganese during the period for which data were collected in the original investigations. The Commission noted, however, that another producer, Highlanders Alloys, had begun production after the period for which the Commission had gathered data.[64] Eramet continues to produce silicomanganese and Felman purchased the assets of Highlanders out of

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[58] (...continued)
products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities." Id.

[59] 19 U.S.C. § 1675a(a)(1).

[60] 19 U.S.C. § 1675a(a)(1). Commerce has not made any duty absorption determinations with respect to the orders under review. CR at I-5, PR at I-4. The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission's determination. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

[61] CR/PR at Appendix B.

[62] 19 U.S.C. § 1675a(a)(4).

[63] USITC Pub. 3505 at 9.

[64] USITC Pub. 3505 at 5, n.15.

bankruptcy in February 2006.[65] Accordingly, Eramet and Felman currently are the sole U.S. producers of silicomanganese.

The Commission found in the original investigations that, even at full capacity, the domestic industry had been able to supply only a portion of domestic demand.[66] In the original investigations, domestic producers accounted for *** percent of the quantity of apparent U.S. consumption in 1998 and for *** percent in 2000.[67]

Based on the available data, overall domestic demand increased from 2000 to 2006. The quantity of apparent U.S. consumption of silicomanganese increased by *** percent between 2000 to 2006, from *** short tons to *** short tons.[68] U.S. producers' shipments, however, rose by only *** percent, from *** short tons in 2000 to *** short tons in 2006. As a percentage of the quantity of apparent U.S. consumption, U.S. producers' shipments declined from *** percent in 2000 to *** percent in 2006, while the share of nonsubject imports increased from *** percent of domestic consumption in 2000 to *** percent in 2006.[69] During the first half of 2004, Eramet experienced a series of major equipment and power supply problems at its Marietta, Ohio facility, which forced the company to reduce silicomanganese production and cut deliveries of the product.[70] Production difficulties at Eramet and Felman tightened domestic supply again in 2007, with both firms reporting furnace shutdowns for repair and maintenance.[71]

Nonsubject imports entered the United States from a variety of sources during the period of review, and increased from 215,644 short tons in 2001 to 440,972 short tons in 2006.[72] Producers accounting for much of the increase during the period of review include those from South Africa, Norway, Georgia, and Romania.[73] Antidumping duty orders are in place with respect to silicomanganese from Brazil, China, and Ukraine, from which there were no imports in 2001, 2005, and 2006, and very small volumes of imports in 2002, 2003, and 2004, included in the totals for nonsubject imports.[74]

The Commission found in the original investigations that silicomanganese is a commodity product made to common industry standards and price is an important factor in purchasing decisions. Although silicomanganese can be produced with some variations in chemistry, the Commission found that silicomanganese consumed in the United States is largely grade B, and silicomanganese with variations in chemistry other than those specified by the ASTM standards is still viewed in the market as silicomanganese.[75]

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[65] CR at I-22 - I-24, PR at I-16 - I-18.

[66] USITC Pub. 3505 at 9. Eramet's capacity was *** short tons in 1998, *** in 1999, and *** in 2000, and was *** in interim 2001 compared with *** in interim 2000.

[67] CR/PR at Table I-8.

[68] CR at I-41, PR at I-30; CR/PR Table I-8.

[69] CR/PR at Table I-8.

[70] CR at I-21 n.68, PR at I-14 n.68.

[71] Eramet suffered two furnace burn-throughs in first-quarter 2007 that forced it to shut down silicomanganese production and declare *force majeure* on its shipments to customers, while Felman encountered difficulties in starting up its plant. Eramet also was confronted with a strike of its workers from August 27, 2006 to February 2, 2007. Although Eramet indicated in its response in these reviews that its normal production levels were resumed ***, a one- to two-month maintenance shutdown to rebuild its furnace is reportedly scheduled for late 2007. CR at I-21 n.71, I-26 - I-27; PR at I-16 n.71, I-18 - I-20.

[72] CR/PR at Tables I-5, I-8.

[73] CR/PR at Table I-5.

[74] CR/PR at Table I-5.

[75] CR at I-17, PR at I-13.

In the original investigations, the Commission also noted that silicomanganese is manufactured in the same facilities used to produce ferromanganese but switching between grades or types of manganese involves significant costs in terms of lost production, reduced productivity, or possible product contamination. Silicomanganese production is capital intensive, and thus requires high levels of capacity utilization for profitable operations.[76]

The Commission also found that, given the widespread availability of pricing data and the commodity nature of the product, producers must react quickly to price changes in order to remain competitive. Contract sales generally do not provide much protection from market price fluctuations because most contract sales of the domestic like product are ***.[77]

We find that the U.S. market for silicomanganese remains highly competitive, and that demand remains cyclically tied to conditions in the U.S. and global steel industries.[78] The domestic industry continues to supply a relatively small portion of overall domestic demand. We find that these conditions of competition in the silicomanganese market provide us with a reasonable basis on which to assess the likely effects of revocation of the orders.

C. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the antidumping and countervailing duty orders are revoked, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.[79] In doing so, the Commission must consider "all relevant economic factors," including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.[80]

In the original investigations, the Commission found that both the absolute and relative volume of cumulated subject imports, and the increases in subject import volume, were significant. Cumulated subject import volume increased from *** short tons in 1998 to *** short tons in 2000, and subject imports' market share increased from *** percent in 1998 to *** percent in 2000. Thus, during the original investigations, the Indian, Kazakh, and Venezuelan producers and exporters demonstrated the ability to increase rapidly exports to the U.S. market. While both apparent U.S. consumption and subject import volume declined in interim 2001, following the filing of the petition, subject imports continued to hold *** percent of the U.S. market in the 2001 interim period. By contrast, the domestic industry increased neither its U.S. shipments nor its market share when demand rose in 2000. Domestically produced silicomanganese accounted for *** percent of apparent U.S. consumption in 2000, down from

[76] USITC Pub. 3505 at 10.

[77] USITC Pub. 3505 at 10; Confidential Views at 12.

[78] Eramet Response at 14.

[79] 19 U.S.C. § 1675a(a)(2).

[80] 19 U.S.C. § 1675a(a)(2)(A)-(D).

*** percent in 1999, and from *** percent in 1998. Substantial quantities of inventories remained in the U.S. market as the volume of subject imports declined in 2001.[81] [82]

During the period examined in these reviews, with the orders in place, the volume of cumulated subject imports was at very low levels, as imports from each subject country declined sharply following imposition of the orders.[83] Due to the lack of response from subject foreign producers in these reviews, there is limited information in the record concerning current levels of production capacity in India, Kazakhstan, and Venezuela. However, available data suggest the presence of significant capacity in the three countries and significant unused capacity in Venezuela. Silicomanganese production in India was at least 187,391 short tons in 2005, an increase of *** percent from reported production of 143,006 short tons in 2000.[84] The Kazakh industry's production was 187,627 short tons in 2005, an increase of *** percent from production of *** short tons in 2000.[85] Silicomanganese capacity in Venezuela was 71,650 short tons in 2006 and production in 2005 was 38,581 short tons.[86] These data reflect a *** percent decline in Venezuelan production in 2005 compared with 2000, but a reduction in Venezuelan capacity of only *** percent, indicating that Venezuelan producers likely are operating only at about 54 percent of their capacity, and likely have more than 33,000 short tons of excess capacity.[87] We also note that the United States was a major export market for Venezuela in the original investigations, accounting for between *** and *** percent of total Venezuelan exports of silicomanganese.[88]

Total exports from the three subject countries increased overall over the period of review.[89] Exports of silicomanganese from India increased *** percent, from *** short tons in 2000 to 169,941 short tons in 2006, and exports from Kazakhstan increased by *** percent, from *** short tons in 2000 to

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[81] USITC Pub. 3505 at 11-12; Confidential Views at 13-15.

[82] In the original investigations, subject imports from India increased from *** short tons in 1998 to *** short tons in 2000, and were *** short tons in interim 2001 compared with *** short tons in interim 2000. India accounted for *** to *** percent of apparent U.S. consumption from 1998 to 2000 and for *** percent in interim 2001 compared with *** percent in interim 2000. CR Inv./PR Inv. at Table IV-7.

Subject imports from Kazakhstan increased from 2,927 short tons in 1998 to 73,189 short tons in 2000, and were 35,636 short tons in interim 2001 compared with 59,379 short tons in interim 2000. Kazakhstan accounted for *** to *** percent of apparent U.S. consumption from 1998 to 2000 and for *** percent in interim 2001 compared with *** percent in interim 2000. CR Inv./PR Inv. at Table IV-7.

Subject imports from Venezuela increased from 19,511 short tons in 1998 to 26,565 short tons in 2000, and were 1,653 short tons in interim 2001 compared with 22,156 short tons in interim 2000. Venezuela accounted for *** to *** percent of apparent U.S. consumption from 1998 to 2000 and for *** percent in interim 2001 compared with *** percent in interim 2000. CR Inv./PR Inv. at Table IV-7.

[83] After totaling 81,145 short tons in 2001, cumulated subject imports fell to 849 short tons in 2002, 6 short tons in 2003, 1,442 short tons in 2004, and 22 short tons in 2005; no subject imports entered in 2006. CR/PR at Table I-4.

[84] CR/PR at Table I-11. Nava Bharat estimated in response to the notice of institution that silicomanganese production in India was *** short tons in 2006 (CR/PR at Table I-11 n.2), *** percent higher than reported production in 2000. Eramet contends that the overall capacity of the Indian manganese ferroalloy industry (silicomanganese and ferromanganese) has increased by 47 percent since the petition was filed in 2001, that the Indian manganese ferroalloy industry is currently operating at two-thirds of its capacity, and that nearly 400,000 short tons of its capacity is unused. Eramet Response at 20-21.

[85] CR/PR at Table I-13.

[86] CR/PR at Table I-15.

[87] CR/PR at Table I-15.

[88] CR/PR at Table I-15.

[89] CR/PR at Tables I-11, I-13, I-15.

206,653 short tons in 2006.[90] Exports from Venezuela decreased over the period of review;[91] however, total exports by the cumulated countries were 77.6 percent greater in 2006 than in 2000.[92]

Thus, the record shows that subject producers continue to have substantial capacity and production, show excess capacity, and are export oriented. These factors, as well as the rapid increase in subject imports in the original investigations, indicate that subject producers are likely to increase exports to the United States significantly upon revocation of the antidumping duty orders.[93] Accordingly, we conclude that the likely volume of the subject merchandise, both in absolute terms and relative to consumption and production in the United States, would be significant, absent the restraining effect of the orders.

D. Likely Price Effects of Subject Imports

In evaluating the likely price effects of subject imports if the antidumping and countervailing duty orders are revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to the domestic like product and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.[94]

The record in these reviews contains limited pricing data for the U.S. market. In the original investigations, the Commission found that silicomanganese is a commodity product sold largely on the basis of price. Over the original period of investigation, prices for the domestic like product first stabilized then declined sharply as the subject import volume and market penetration of the subject imports increased sharply. Because the subject imports are good substitutes for the domestic like product, the import surge during 2000 caused the prices for the domestic like product to fall, even during a period of strong demand.[95]

The Commission found that there was a greater frequency of underselling by the subject imports toward the end of the period of investigation and that, given the commodity nature of silicomanganese, the marked increase in underselling and the substantial increase in the absolute and relative subject import volume were particularly meaningful in light of the wide and rapid dissemination of pricing information in this industry. In addition, the Commission found that purchasers had confirmed several lost sales and lost revenue allegations, indicating that direct competition between the domestic like product and subject imports occurred, and that the domestic industry lost sales on the basis of price.[96]

Finally, the Commission noted that the domestic industry had not been fully able to recoup costs through sales revenue, despite a rebound in apparent U.S. consumption and generally *** during the

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[90] CR/PR at Tables I-11, I-13.

[91] CR/PR at Table I-15.

[92] Total exports from the cumulated subject countries were 215,754 short tons in 2000 and 383,230 short tons in 2006. CR/PR at Tables I-11, I-11 n.4, I-13, I-15.

[93] We also note that the record includes some average unit value data that may indicate that U.S. prices for silicomanganese are higher than prices in other markets, suggesting that the U.S. market may be an attractive export market for subject producers in the event of revocation. CR/PR at Tables I-12, I-14, I-16. We also note that the EU instituted an antidumping investigation in September 2006 in response to the EU industry's allegation that silicomanganese from Kazakhstan (and China and Ukraine) are being dumped. CR at I-44, PR at I-30.

[94] 19 U.S.C. § 1675a(a)(3). The SAA states that "[c]onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices." SAA at 886.

[95] USITC Pub. 3505 at 12-13.

[96] USITC Pub. 3505 at 13-14.

period examined. Accordingly, the Commission found that the increasing volume of subject imports, sold at low and declining prices, played a significant role in preventing price increases. The Commission concluded that subject imports had suppressed and depressed prices to a significant degree and had an adverse effect on U.S. prices.[97]

In these reviews, Eramet indicated that the market prices for silicomanganese in the United States have generally increased since the antidumping duty orders have been in place, although large inventories of subject imports initially kept prices low. Depletion of those inventories and increased demand in the steel industry caused prices to spike in early 2004.[98] Prices fell during the second half of 2004 as steel sector demand slowed, domestic production issues were resolved, and nonsubject imports increased.[99] Prices again increased sharply beginning in March 2007, principally due to an increase in the demand for silicomanganese from the steel sector and constraints on domestic supply.[100] Domestic supply constraints resulted from production difficulties at Eramet and Felman, both of which reported furnace shutdowns for repair and maintenance during 2007.[101] Silicomanganese prices were expected to remain firm through the end of 2007.[102]

Based on the limited pricing data in these reviews,[103] we find it likely that, absent the antidumping duty orders, competitive conditions would return to those prevailing prior to the imposition of the orders. Moreover, given the fungibility between the domestic and subject silicomanganese, the producers in India, Kazakhstan, and Venezuela would have the incentive to lower their prices to recapture U.S. market share. Thus, increased sales of subject imports likely would be achieved by means of aggressive pricing. Based upon the past history of underselling, we find that the subject imports from India, Kazakhstan, and Venezuela would likely enter the United States at prices that would significantly depress or suppress U.S. prices if the orders are revoked.

E. Likely Impact of Subject Imports

In evaluating the likely impact of imports of subject merchandise if the countervailing duty or antidumping duty orders are revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including, but not limited to: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.[104] All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the

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[97] USITC Pub. 3505 at 14, Confidential Views at 18.

[98] Eramet Response at 30-31.

[99] CR at I-21, PR at I-16.

[100] CR at I-21, PR at I-16. Eramet noted, however, that ***. Eramet Response at 4.

[101] CR at I-21, PR at I-16. As noted earlier, Eramet suffered two furnace burn-throughs in first-quarter 2007 that forced it to shut down silicomanganese production and declare *force majeure* on its shipments to customers, while Felman encountered difficulties in starting up its plant. This supply shortage contributed to the spike in the spot market prices. The supply shortage and high prices are expected to continue with Eramet planning a one- to two-month maintenance shutdown to rebuild its furnace in late 2007. CR at 21 n.71, PR at I-16 n.71.

[102] CR at I-21, PR at I-16.

[103] See also CR/PR at Figure I-1.

[104] 19 U.S.C. § 1675a(a)(4).

industry.[105] As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the order at issue and whether the industry is vulnerable to material injury if the order is revoked.[106]

In the original investigations, the Commission found that the sharp increase in subject imports during the period examined caused domestic production and capacity utilization to decline. These indicators began to rise in interim 2001 coinciding with the filing of the petition in April 2001. Inventories of the domestic like product increased towards the end of the period examined. The industry sustained an operating loss in 1999, when apparent U.S. consumption of silicomanganese declined. The surge in subject imports in 2000 caused the industry's shipments to decline and depressed prices notwithstanding increased apparent U.S. consumption in 2000.[107]

After generating an operating profit in 1998, the domestic industry reported operating losses attributable to the subject imports in 1999 and 2000. Capital expenditures by the domestic industry fluctuated but dropped overall during the period. The Commission concluded that, because of significant subject import volume and adverse price effects, the cumulated subject imports had a significant adverse impact on the domestic silicomanganese industry.[108]

In these reviews, given the likely significant increase in the volume of subject imports and the resultant likely intense price competition, we find that the domestic industry would likely experience significant declines in output, sales, and income, with eventual losses in employment and capital and research and development expenditures similar to those experienced in the years examined during the original investigations.

The limited evidence in the record is insufficient to enable us to determine whether the domestic industry producing silicomanganese is vulnerable.[109] The record includes limited current financial

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[105] 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that "the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy" in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the "magnitude of the margin of dumping" to be used by the Commission in five-year reviews as "the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title." 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887. In the final results of its expedited five-year reviews, Commerce found the following dumping margins: for India, 15.32 percent for Nava Bharat, 20.53 percent for Universal Ferro and Allied Chemicals, Ltd., and 17.74 percent for all others; for Kazakhstan, 247.88 percent; for Venezuela, 24.62 percent. CR/PR at Table I-1.

[106] 19 U.S.C. § 1675a(a)(1)(C). The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission "considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." SAA at 885.

[107] USITC Pub. 3505 at 15.

[108] USITC Pub. 3505 at 15-16.

[109] Commissioners Lane and Pinkert find that the record in these expedited reviews is sufficient to demonstrate that the domestic industry is vulnerable to the effects of the subject imports in the event of revocation of the orders. For example, Eramet, which accounted for *** percent of domestic production in 2006, ***, notwithstanding recent increases in spot prices in the U.S. market. CR at I-22, I-26; PR at I-16, I-18. Eramet's per-unit raw material costs increased *** percent from 2003 to 2006, and its power rate *** percent from 2005 to 2007; its ***. CR at I-26, PR at I-18. The production and labor-related difficulties discussed above that Eramet and Felman have experienced exacerbate the industry's current condition. CR at I-23 - I-27, PR at I-17 - I-20. Therefore, despite the effectiveness of the antidumping duty orders, which halted the rapid increase of subject imports, allowed prices in the U.S. market to increase, and led to an increase in U.S. shipment values, CR/PR at Table I-3 and Figures I-1, I-2, the domestic industry is vulnerable to material injury if the orders are revoked.

information regarding U.S. producers of silicomanganese.[110] The record also shows that U.S. producers' U.S. shipments were higher in 2006 in terms of quantity and value compared to 2000.[111]

As discussed above, we find that revocation of the antidumping duty orders likely would lead to significant increases in the volume of cumulated subject imports at prices that would likely undersell the domestic like product and significantly suppress or depress U.S. prices. In addition, the volume and price effects of the cumulated subject imports likely would cause the domestic industry to lose market share, with a significant adverse impact on the domestic industry's production, shipments, sales, and revenue levels. This reduction in the industry's production, shipments, sales, and revenue levels would have a direct adverse impact on the industry's profitability as well as its ability to raise capital and make and maintain necessary capital investments. In addition, we find it likely that revocation of the orders will result in commensurate employment declines for the domestic industry.

Accordingly, based on the record in these reviews, we conclude that, if the antidumping duty orders are revoked, subject imports from India, Kazakhstan, and Venezuela would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

CONCLUSION

For the foregoing reasons, we determine that revocation of the antidumping duty orders on silicomanganese from India, Kazakhstan, and Venezuela would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

[110] CR at I-26, PR at I-18.

[111] CR/PR at Table I-3.

INFORMATION OBTAINED IN THE REVIEWS

INTRODUCTION

On April 2, 2007, in accordance with section 751(c) of the Tariff Act of 1930, as amended ("the Act"),[1] the U.S. International Trade Commission ("Commission" or "USITC") gave notice that it had instituted reviews to determine whether revocation of the antidumping duty orders on silicomanganese from India, Kazakhstan, and Venezuela would be likely to lead to a continuation or recurrence of material injury within a reasonably foreseeable time.[2] [3] On July 6, 2007, the Commission determined that the domestic interested party response to its notice of institution was adequate;[4] the Commission also determined that the respondent interested party response with respect to India was incomplete and individually inadequate.[5] Because Nava Bharat's individual response was inadequate, the Commission determined that the Indian respondent interested party group response was inadequate. The Commission did not receive a response from any Kazakh or Venezuelan respondent interested party and therefore determined that the Kazakh and Venezuelan respondent interested party group responses to the notice of institution were inadequate. In the absence of adequate respondent interested party group responses and any other circumstances that warranted conducting full reviews, the Commission determined to conduct expedited reviews of all orders pursuant to section 751(c)(3) of the Act (19 U.S.C. § 1675(c)(3)).[6] The Commission voted on these reviews on November 14, 2007, and notified Commerce of its determinations on November 28, 2007. Selected information relating to the schedule of these reviews is presented on the following page:[7]

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[1] 19 U.S.C. 1675(c).

[2] 72 FR 15726, April 2, 2007. All interested parties were requested to respond to this notice by submitting the information requested by the Commission. The Commission's notice of institution is presented in app. A.

[3] In accordance with section 751(c) of the Act, the U.S. Department of Commerce ("Commerce") published a notice of initiation of five-year reviews of the subject antidumping duty orders concurrently with the Commission's notice of institution. 72 FR 15652, April 2, 2007.

[4] The Commission received two submissions from domestic producers in response to its notice of institution for the subject reviews. They were filed on behalf of domestic producers Eramet Marietta Inc. ("Eramet") and Felman Production, Inc. ("Felman"). Eramet and Felman are represented by the law firms of DLA Piper US LLP and Vinson & Elkins LLP, respectively. Eramet and Felman indicated in their responses that they are the only domestic producers of silicomanganese. *Response* of Eramet, May 22, 2007, p. 38, and *Response* of Felman, May 22, 2007, p. 9.

[5] The Commission received one incomplete response from respondent interested parties to its notice of institution. It was filed without legal counsel by Nava Bharat Ventures Ltd. ("Nava Bharat"), a producer of silicomanganese in India. Nava Bharat indicated in its response to the Commission's notice of institution that it accounted for *** percent of total production of silicomanganese in India during 2006. Nava Bharat also indicated that it has not exported the subject merchandise to the United States since the issuance of the order in 2002.

[6] 72 FR 52581, September 14, 2007. The Commission's notice of expedited reviews appears in app. A. The Commission's statement on adequacy is presented in app. B.

[7] Cited *Federal Register* notices beginning with the Commission's institution of five-year sunset reviews are presented in app. A.

Effective date	Action	*Federal Register* citation
April 2, 2007	Commission's institution of five-year reviews	72 FR 15726 April 2, 2007
April 2, 2007	Commerce's initiation of five-year reviews	72 FR 15652 April 2, 2007
July 6, 2007	Commission's determinations to conduct expedited five-year reviews	72 FR 52581 September 14, 2007
August 2, 2007	Commerce's final results of expedited five-year reviews	72 FR 42393 August 2, 2007
November 14, 2007	Commission's vote	Not applicable
November 28, 2007	Commission's determinations transmitted to Commerce	Not applicable

The Original Investigations

On April 6, 2001, a petition was filed with Commerce and the Commission alleging that an industry in the United States was materially injured and threatened with further material injury by reason of less-than-fair-value ("LTFV") imports of silicomanganese from India, Kazakhstan, and Venezuela.[8] On April 2, 2002, Commerce made final affirmative LTFV determinations regarding silicomanganese from India, Kazakhstan, and Venezuela.[9] The Commission completed its original investigations concerning silicomanganese from India, Kazakhstan, and Venezuela on May 16, 2002, determining that an industry in the United States was materially injured by reason of LTFV imports of silicomanganese from India, Kazakhstan, and Venezuela.[10] After receipt of the Commission's final determinations, Commerce issued antidumping duty orders on imports of silicomanganese from India, Kazakhstan, and Venezuela.[11]

Commerce's Original Determinations and Subsequent Review Determinations

Since the issuance of the antidumping duty orders, Commerce has conducted no administrative reviews with respect to imports of silicomanganese from India, Kazakhstan, or Venezuela.[12] There have been no new shipper reviews, no changed circumstances determinations, no duty absorption findings, and no scope clarifications or rulings concerning the antidumping duty orders. No HTS categories have been added to the scope and the scope description itself has not changed. The orders remain in effect for all manufacturers, producers, and exporters of the subject merchandise. Information on Commerce's final

[8] The petition was filed by counsel on behalf of Eramet and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5-0639. *Staff Report,* April 16, 2002 (INV-Z-047), p. I-1.

[9] 67 FR 15531-15538, April 2, 2002 (as amended, 67 FR 36149, May 23, 2002).

[10] 67 FR 35832, May 21, 2002; *Silicomanganese From India, Kazakhstan, and Venezuela: Investigations Nos. 731-TA-929-931 (Final),* USITC Publication 3505, May 2002, p. I-2.

[11] 67 FR 36149, May 23, 2002.

[12] On June 30, 2005, Commerce published the initiation of an administrative review of the antidumping duty order on silicomanganese from Venezuela for the period May 1, 2004 through April 30, 2005 (70 FR 37749); however, Commerce rescinded the administrative review, effective October 5, 2005, because Venezuelan producer Hevensa, the only party to request the review, timely withdrew its request (70 FR 58188).

determinations, antidumping duty orders, and expedited five-year review determinations is presented in table I-1.

Commerce's Final Results of Expedited Five-Year Reviews

On May 22, 2007, Commerce notified the Commission that it did not receive an adequate response to its notice of initiation from the respondent interested parties with respect to silicomanganese from India, Kazakhstan, and Venezuela and that it would conduct expedited reviews of the orders.[13] Commerce published the final results of its reviews based on the facts available on August 2, 2007.[14] In its final results, Commerce found that revocation of the antidumping duty orders on silicomanganese from India, Kazakhstan, and Venezuela would likely lead to continuation or recurrence of dumping at margins determined in its original final determinations (see table I-1).[15]

In its final results, Commerce explained that it "normally will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of an order and import volumes for the subject merchandise declined significantly."[16] With respect to the subject reviews, Commerce found that dumping margins have continued to exist at levels above *de minimis* since the issuance of the orders concerning each of the subject countries and the quantity of silicomanganese imported from each of the subject countries decreased significantly following the imposition of the antidumping duty orders. Specifically, imports from India were 849 short tons in 2002 and zero from 2003 through 2007 (year to date); imports from Kazakhstan were zero in 2002, 6 short tons in 2003, zero in 2004, 22 short tons in 2005, and zero in 2006 and 2007 (year to date); and imports from Venezuela were zero during 2002-03, 1,442 short tons in 2004, and zero from 2005 through 2007 (year to date). Therefore, Commerce found that dumping would likely continue to occur if the orders were revoked.[17]

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[13] *Letter from Barbara E. Tillman, Director, AD/CVD Operations, Office 6, Import Administration, U.S. Department of Commerce,* May 22, 2007. Commerce received no responses from respondent interested parties with respect to the orders on silicomanganese from Kazakhstan and Venezuela but received a timely substantive response from Indian respondent interested party Nava Bharat. On May 22, 2007, Commerce determined that Nava Bharat did not account for more than 50 percent of exports by volume of the subject merchandise from India because Nava Bharat reported that it had no exports during the 2002-07 review period. Therefore, Commerce found that Nava Bharat did not submit an adequate response to its notice of initiation. *Issues and Decision Memorandum for the Expedited Sunset Reviews of the Antidumping Duty Orders of Silicomanganese from India, Kazakhstan, and Venezuela; Final Results*, from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, International Trade Administration, Department of Commerce, pp. 1-3.

[14] 72 FR 42393, August 2, 2007.

[15] Commerce explained that it selected the margins from its original final determinations because those are the only calculated rates that reflect the behavior of producers and exporters without the discipline of the orders. *Issues and Decision Memorandum for the Expedited Sunset Reviews of the Antidumping Duty Orders of Silicomanganese from India, Kazakhstan, and Venezuela; Final Results*, from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, International Trade Administration, Department of Commerce, p. 7.

[16] Ibid., pp. 4-5.

[17] Ibid., pp. 5-6.

Table I-1
Silicomanganese: Commerce's final determinations, antidumping duty orders, and five-year review determinations

Action	Date of action	*Federal Register* citation	Period of review	Antidumping duty margins	
				Firm-specific	Country-wide
				Percent ad valorem	
India					
Final determination	04/02/2002	67 FR 15531	04/01/2000-03/31/2001	15.32[1] 20.42[2]	17.69
Amended final determination and antidumping duty order	05/23/2002	67 FR 36149	--	15.32[1] 20.53[2]	17.74
Final results of expedited five-year review	08/02/2007	72 FR 42393	--	15.32[1] 20.53[2]	17.74
Kazakhstan					
Final determination	04/02/2002	67 FR 15535	10/01/2000-03/31/2001	247.88[3]	247.88
Amended final determination and antidumping duty order	05/23/2002	67 FR 36149	--	247.88[3]	247.88
Final results of expedited five-year review	08/02/2007	72 FR 42393	--	247.88[3]	247.88
Venezuela					
Final determination	04/02/2002	67 FR 15533	04/01/2000-03/31/2001	24.62[4]	24.62
Amended final determination and antidumping duty order	05/23/2002	67 FR 36149	--	24.62[4]	24.62
Final results of expedited five-year review	08/02/2007	72 FR 42393	--	24.62[4]	24.62

[1] Nava Bharat.
[2] Universal Ferro and Allied Chemicals, Ltd.
[3] Alloy 2000, S.A.
[4] Hornos Electricos de Venezuela, S.A.

Source: Cited *Federal Register* notices.

Distribution of Continued Dumping and Subsidy Offset Act Funds to Affected Domestic Producers

Qualified U.S. producers of silicomanganese are eligible to receive disbursements from U.S. Customs and Border Protection ("Customs") under the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"), also known as the Byrd Amendment.[18] One claimant (United Steel Paper International Union) received such funds with respect to silicomanganese from Venezuela in 2006. No other CDSOA claims and disbursements were made with respect to silicomanganese from India, Kazakhstan, or Venezuela prior to 2006.[19] Table I-2 presents CDSOA claims and disbursements for Federal fiscal year 2006.

Table I-2
Silicomanganese: CDSOA claims and disbursements, Federal fiscal year 2006[1] [2]

Year	Order	Claimant	Share of yearly allocation	Certification amount[3]	Amount disbursed
			Percent	*Dollars*	
2006	A-307-820 (Venezuela)	United Steel Paper International Union	100.00	20,648.00	20,648.00

[1] The Federal fiscal year is October 1-September 30.
[2] No other CDSOA claims and disbursements were made with respect to silicomanganese prior to 2006.
[3] Qualifying expenditures incurred by domestic producers since the issuance of an order.

Source: Customs' *CDSOA Annual Reports 2002-06*, http://www.cbp.gov/xp/cgov/import/add_cvd/cont_dump/, retrieved on October 1, 2007.

Related Commission Investigations

The Commission has conducted one other grouped investigation and related five-year reviews on silicomanganese with respect to Brazil, China, Ukraine, and Venezuela. Following a petition filed on November 12, 1993, by Elkem Metals Co. ("Elkem") (predecessor firm to Eramet) and the Oil, Chemical and Atomic Workers ("OCAW") Local 3-639, the Commission conducted antidumping duty investigations on silicomanganese from Brazil, China, Ukraine, and Venezuela.[20] On October 31, 1994, Commerce made final affirmative LTFV determinations regarding silicomanganese from Brazil, China, and Venezuela.[21] In addition, an agreement was signed on October 31, 1994, suspending the antidumping investigation on silicomanganese from Ukraine.[22] The Commission completed its original investigations concerning silicomanganese from Brazil, China, Ukraine, and Venezuela on December 14, 1994, determining that an industry in the United States was materially injured or threatened with material injury

[18] 19 CFR 159.64(g).

[19] Customs' *CDSOA Annual Reports 2002-06*, http://www.cbp.gov/xp/cgov/import/add_cvd/cont_dump/, retrieved on October 1, 2007.

[20] *Staff Report*, November 29, 1994 (INV-R-187), p. I-4.

[21] 59 FR 55432, November 7, 1994.

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

by reason of LTFV imports of silicomanganese from Brazil,[23] China,[24] and Ukraine[25] and that an industry in the United States was not materially injured or threatened with material injury, and the establishment of an industry in the United States was not materially retarded, by reason of LTFV imports from Venezuela.[26] After receipt of the Commission's final determinations, Commerce issued antidumping duty orders on imports of silicomanganese from Brazil and China.[27]

On November 2, 1999, the Commission instituted the first five-year reviews of the antidumping duty orders on imports of silicomanganese from Brazil and China and the suspended investigation on silicomanganese from Ukraine.[28] In January 2001, the Commission completed its full first five-year reviews and determined that revocation of the antidumping duty orders on silicomanganese from Brazil and China and termination of the suspended investigation on silicomanganese from Ukraine would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[29] Subsequently, Commerce issued a continuation of the antidumping duty orders on silicomanganese from Brazil and China and the suspended antidumping duty investigation on silicomanganese from Ukraine.[30] On July 19, 2001, the Government of Ukraine submitted a memorandum to Commerce officially requesting termination of the suspension agreement on silicomanganese from Ukraine and, effective September 17, 2001, Commerce issued an antidumping duty order.[31]

On January 3, 2006, the Commission instituted the second five-year reviews of the antidumping duty orders on imports of silicomanganese from Brazil, China, and Ukraine.[32] In August 2006, the Commission completed its expedited second five-year reviews and determined that revocation of the antidumping duty orders on silicomanganese from Brazil, China, and Ukraine would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably

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[23] Commissioners Rohr and Newquist determined that an industry in the United States was materially injured, and Chairman Watson determined that an industry in the United States was threatened with material injury, by reason of LTFV imports of silicomanganese from Brazil. Vice Chairman Nuzum and Commissioners Crawford and Bragg dissented. 59 FR 65788, December 21, 1994; *Silicomanganese From Brazil, the People's Republic of China, Ukraine, and Venezuela: Investigations Nos. 731-TA-671-674 (Final)*, USITC Publication 2836, December 1994, p. I-3.

[24] Chairman Watson, Vice Chairman Nuzum, and Commissioner Bragg determined that an industry in the United States was threatened with material injury, and Commissioners Rohr and Newquist determined that an industry in the United States was materially injured, by reason of LTFV imports of silicomanganese from China. Commissioner Crawford dissented. Ibid.

[25] Commissioners Rohr and Newquist determined that an industry in the United States was materially injured, and Vice Chairman Nuzum determined that an industry in the United States was threatened with material injury, by reason of LTFV imports of silicomanganese from Ukraine. Chairman Watson and Commissioners Crawford and Bragg dissented. Ibid.

[26] Commissioners Rohr and Newquist dissented. Ibid.

[27] 59 FR 66003, December 22, 1994.

[28] 64 FR 59209, November 2, 1999.

[29] 66 FR 8981, February 5, 2001; *Silicomanganese From Brazil, China, and Ukraine, Investigations Nos. 731-TA-671-673 (Review)*, USITC Publication 3386, January 2001, p. 1.

[30] 66 FR 10669, February 16, 2001.

[31] 66 FR 43838, August 21, 2001.

[32] 71 FR 135, January 3, 2006.

foreseeable time.[33] Subsequently, Commerce issued a continuation of the antidumping duty orders on silicomanganese from Brazil, China, and Ukraine.[34]

In its final determinations and subsequent review determinations concerning silicomanganese from Brazil, China, and Ukraine, the Commission found a single domestic like product consisting of all silicomanganese coextensive with Commerce's scope and it found the relevant domestic industry to consist of all domestic producers of silicomanganese.[35] The Commission is scheduled to conduct a third review of the antidumping duty orders on silicomanganese from Brazil, China, and Ukraine beginning in August 2011.

THE PRODUCT

Scope

The imported product subject to the antidumping duty orders on silicomanganese from India, Kazakhstan, and Venezuela has been defined by Commerce as follows:

> For purposes of these orders, the products covered are all forms, sizes and compositions of silicomanganese, except low-carbon silicomanganese, including silicomanganese briquettes, fines and slag. Silicomanganese is a ferroalloy composed principally of manganese, silicon and iron, and normally contains much smaller proportions of minor elements, such as carbon, phosphorous and sulfur. Silicomanganese is sometimes referred to as ferrosilicon manganese. Silicomanganese is used primarily in steel production as a source of both silicon and manganese. Silicomanganese generally contains by weight not less than 4 percent iron, more than 30 percent manganese, more than 8 percent silicon and not more than 3 percent phosphorous. Silicomanganese is properly classifiable under subheading 7202.30.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Some silicomanganese may also be classified under HTSUS subheading 7202.99.5040. This scope covers all silicomanganese, regardless of its tariff classification. Although the HTSUS subheadings are provided for convenience and U.S. Customs Service (Customs) purposes, our written description of the scope remains dispositive. The low-carbon silicomanganese excluded from this scope is a ferroalloy with the following chemical specifications: minimum 55 percent manganese, minimum 27 percent silicon, minimum 4 percent iron, maximum 0.10 percent phosphorus, maximum 0.10 percent carbon and maximum 0.05 percent sulfur. Low-carbon silicomanganese is used in the manufacture of stainless steel and special carbon steel grades, such as motor lamination grade steel, requiring a very low carbon

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[33] 71 FR 52145, September 1, 2006; *Silicomanganese From Brazil, China, and Ukraine, Investigations Nos. 731-TA-671-673 (Second Review)*, USITC Publication 3879, August 2006, p. 1.

[34] 71 FR 54272, September 14, 2006.

[35] *Silicomanganese From Brazil, the People's Republic of China, Ukraine, and Venezuela, Investigations Nos. 731-TA-671-674 (Final)*, USITC Publication 2836, December 1994, pp. I-5-I-8 and I-19-I-25; *Silicomanganese From Brazil, China, and Ukraine, Investigations Nos. 731-TA-671-673 (Review)*, USITC Publication 3386, January 2001, pp. 5-6; *Silicomanganese From Brazil, China, and Ukraine, Investigations Nos. 731-TA-671-673 (Second Review)*, USITC Publication 3879, August 2006, p. 5. The Commission defined the domestic like product differently in its final investigations associated with these current five-year reviews on silicomanganese from India, Kazakhstan, and Venezuela. In those investigations, the Commission found that the domestic like product consisted of all silicomanganese except low-carbon silicomanganese, which was excluded from the scope and was not produced in the United States. *Silicomanganese From India, Kazakhstan, and Venezuela, Investigations Nos. 731-TA-929-931 (Final)*, USITC Publication 3505, May 2002, pp. 4-5.

content. It is sometimes referred to as ferromanganese-silicon. Low-carbon silicomanganese is classifiable under HTSUS subheading 7202.99.5040.[36]

U.S. Tariff Treatment

The merchandise under review is currently classifiable under Harmonized Tariff Schedule of the United States ("HTS") subheading 7202.30.00 ("ferrosilicon manganese"). Goods entering the United States from India, Kazakhstan, and Venezuela under HTS subheading 7202.30.00 are eligible for duty-free column 1-special tariff treatment under the Generalized System of Preferences ("GSP").

In its definition of the scope of the orders published in 2002, Commerce indicated that some silicomanganese (e.g., ferromanganese silicon or low-carbon silicomanganese) may have also been imported under HTS statistical reporting number 7202.99.5040 (an "other" category under the general heading of "ferroalloys").[37] This "other" category was a residual or "basket" category that may have included both subject and nonsubject merchandise. Consistent with past Commission practice regarding silicomanganese, the import data that are presented in this report are derived from only HTS subheading 7202.30.00.

Domestic Like Product and Domestic Industry

The domestic like product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the subject merchandise. The domestic industry is the U.S. producers as a whole of the domestic like product, or those producers whose collective output of the domestic like product constitutes a major proportion of the total domestic production of the product. The Commission's decision regarding the appropriate domestic products that are "like" the subject imported products is based on a number of factors, including (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and, where appropriate, (6) price.

In its original determinations, the Commission determined that there was a single domestic like product consisting of all forms, sizes, and compositions of silicomanganese, except low-carbon silicomanganese.[38] It also found the relevant domestic industry to consist of all domestic producers of silicomanganese, excluding low-carbon silicomanganese.[39]

Domestic producer Eramet noted in its response to the Commission's notice of institution in these current reviews that low-carbon silicomanganese was not produced in the United States during the original investigations and was excluded by Commerce from its scope language. Eramet also noted that, in its other determinations on silicomanganese from Brazil, China, and Ukraine, the Commission found a single domestic like product consisting of all silicomanganese. Concerning its position on the

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[36] 67 FR 36149, May 23, 2002.

[37] HTS statistical reporting number 7202.99.5040 was eliminated beginning in July 1, 2003. The "other" category is now designated by HTS statistical reporting number 7202.99.8040.

[38] *Silicomanganese From India, Kazakhstan, and Venezuela, Investigations Nos. 731-TA-929-931 (Final),* USITC Publication 3505, May 2002, p. 5.

[39] The Commission indicated that Eramet or its predecessor in interest, Elkem, was the sole domestic producer of silicomanganese during the period for which data were collected in the original investigations. It also noted that in February 2002, Highlanders Alloys, LLC ("Highlanders") began production of silicomanganese in its ferroalloy facility in New Haven, WV. Therefore, even though Highlanders was included in the domestic industry, it was not included in the data set given that it began production after the end of the period for which the Commission gathered data. Ibid., pp. 5 and III-1.

Commission's definitions of domestic like product and domestic industry, Eramet stated in its response that "the facts that led the Commission to find a single domestic like product in the original investigations continue to exist today."[40] Felman indicated in its response that it "is not aware of any facts that would cause the Commission to modify its prior like product findings."[41] Nava Bharat indicated in its response that it agrees with the Commission's definitions of domestic like product and domestic industry.[42]

Physical Characteristics and Uses[43]

Silicomanganese, a metallic silvery ferroalloy,[44] is composed principally of manganese, silicon, and iron. It is produced in a number of grades and sizes. Most, but not all, silicomanganese is manufactured and sold to American Society for Testing and Materials ("ASTM") specification A 483, which covers three grades, designated "A," "B," and "C," and differentiated by their silicon and carbon contents.[45] Most silicomanganese produced and sold in the United States conforms to the specification for grade B. Silicomanganese is sold in small pieces of fairly uniform sizes. A typical size of silicomanganese is 3 inches by 1/4 inch.[46]

Silicomanganese is consumed in bulk form primarily by the steel industry as a source of both silicon and manganese, although some silicomanganese is used as an alloying agent in the production of iron castings. Manganese, intentionally present in nearly all steels, is used as a steel desulfurizer and deoxidizer. By removing sulfur from steel, manganese prevents the steel from becoming brittle during the hot rolling process. In addition, manganese increases the strength and hardness of steel. Silicon is used as a deoxidizer, aiding in making steels of uniform chemistry and mechanical properties. As such, it is not retained in the steel, but forms silicon oxide, which separates from the steel as a component of the slag. As an alloying agent, silicon increases the hardness and strength of hot-rolled steel mill products, and enhances the toughness, corrosion resistance, and magnetic and electrical properties of certain steel mill products.[47]

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[40] *Response* of Eramet, May 22, 2007, p. 41.

[41] *Response* of Felman, May 22, 2007, pp. 12-13.

[42] *Response* of Nava Bharat, May 18, 2007, p. 4.

[43] The discussion in this section is based on information from *Silicomanganese From Brazil, China, and Ukraine, Investigations Nos. 731-TA-671-673 (Second Review)*, USITC Publication 3879, August 2006, pp. I-11-I-12.

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

[45] According to standard specifications established by the ASTM, all three grades contain 65 to 68 percent manganese, a maximum of 0.20 percent phosphorus, and a maximum of 0.04 percent sulfur, by weight. Grade A contains 18.5 to 21.0 percent silicon and a maximum of 1.5 percent carbon. Grade B contains 16.0 to 18.5 percent silicon and a maximum of 2.0 percent carbon. Grade C contains 12.5 to 16.0 percent silicon and a maximum of 3.0 percent carbon. Additionally, the content of certain minor elements such as arsenic, tin, lead, chromium, nickel, and molybdenum, is limited. See ASTM Designation A 483-64 (reapproved 1994), *Standard Specification for Silicomanganese*, tables 1 and 2 (chemical requirements).

[46] The dimensions refer to the diameters of the openings used in the standard screens or sieves that are used to size silicomanganese. The first number refers to the screen through which the material must pass, and the second number refers to the screen on which the material is retained, with smaller particles passing through to be recycled or sold as a smaller size. Silicomanganese is a friable product, susceptible to appreciable reduction in size by repeated handling. This generates small lumps and fines (the diameter of small lumps may be one-half that of regular-sized pieces, but there is no specified minimum diameter for fines).

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

Use depends upon the steelmaking practices of a given producer. Silicomanganese may be introduced directly into the steelmaking furnace or added as a chemistry addition/deoxidizer to molten steel at the ladle metallurgy station. As a furnace addition, it is typically used in lump sizes and melted along with other steelmaking raw materials; as a ladle addition, silicomanganese is used in smaller sizes. Silicomanganese is mostly consumed by electric furnace steelmakers in the production of long products, including bars and structural shapes. This use in long products may be due to less restrictive specifications for silicon for these products than for flat-rolled carbon steel mill products, such as sheet and strip.[48] Silicomanganese is believed to account for only a small share of the total cost of end-use steel mill products.[49]

Manufacturing Process[50]

Silicomanganese is produced by smelting together in a submerged arc furnace sources of silicon, manganese, iron, and a carbonaceous reducing agent, usually coke.[51] The reducing agent and the other items are combined in a "charge" (which may include wood chips, dolomite, and a fluxing agent) and electrically heated. Impurities from the ore or other manganese sources are released and form slag, which rises to the top of the furnace and floats on top of the molten silicomanganese. Following smelting, molten metal and slag are removed or "tapped" from the furnace. The molten silicomanganese is poured into large molds (called "chills"), where it cools and hardens. Once the alloy has hardened, the chills are emptied and the alloy is crushed into small pieces and screened to fairly uniform sizes.

Domestic producer Eramet produces silicomanganese at a plant in Marietta, OH, that it purchased in July 1999 from Elkem. Eramet also produces other manganese ferroalloys as well as other alloying agents at that plant.[52] Silicomanganese is manufactured in the same or similar facilities as those used to produce standard ferromanganese, although switching from one grade or type of manganese ferroalloy to another involves costs in terms of lost production, reduced productivity, or possible contamination of the higher grade product. In general, little difference appears to exist between the production processes in the domestic industry and those used abroad to produce silicomanganese. This fact reflects the maturity of the industry, and may be attributed to the diffusion of process technology, techniques, and equipment on a world-wide basis; the similarity of steelmaking techniques; and the commonality of steel recipes.

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[48] Producers of flat-rolled steel mill products reportedly tend to use a combination of ferromanganese and ferrosilicon, which allows them greater control of each individual element.

[49] Purchasers estimated the cost of silicomanganese to represent less than three percent of the cost of the end-use product.

[50] The discussion in this section is based on information from *Silicomanganese From Brazil, China, and Ukraine, Investigations Nos. 731-TA-671-673 (Second Review)*, USITC Publication 3879, August 2006, p. I-13.

[51] For a discussion of inputs, see *Silicomanganese From Brazil, the People's Republic of China, Ukraine, and Venezuela, Investigations Nos. 731-TA-671-674 (Final)*, USITC Publication 2836, December 1994, p. II-9.

[52] Domestic producer Felman, which purchased the non-operating assets of the Highlander plant in New Haven, WV, out of bankruptcy in February 2006, apparently produces only silicomanganese but may have plans to begin production of ferromanganese in the future. *Response* of Felman, May 22, 2007, p. 8; and "Felman Expands Silicomanganese Output Plans," *American Metal Market*, September 11, 2006.

Interchangeability and Customer and Producer Perceptions

Silicomanganese is consumed in bulk form primarily by the iron and steel industries. While produced in grades with slightly different chemistries recognized as ASTM Grades A, B, and C, the vast majority of silicomanganese sold and consumed in the United States is Grade B material, with Grades A and C material being marketed and consumed in the United States in limited quantities.[53]

Imported silicomanganese from the subject countries is generally considered to be interchangeable with domestic silicomanganese in most applications. Industry participants responding to the Commission's questionnaire in the original investigations were asked to discuss the interchangeability between U.S.-produced silicomanganese and the imported subject merchandise. Eramet (the sole domestic producer at that time), most purchasers, and most subject and nonsubject importers reported that the U.S. product, the subject product, and all nonsubject silicomanganese could be used interchangeably. The Commission noted, however, that silicomanganese from India was reported to have a higher phosphorus content than did the U.S.-produced silicomanganese; as a consequence, the application of Indian silicomanganese was limited to the production of products that could accommodate the higher phosphorus content.[54] However, for applications that were suitable, such as static structural steel products, the high-phosphorus silicomanganese was considered interchangeable with ASTM grades A, B, and C of silicomanganese. The Commission's report also noted that the producer or purchaser of the high-phosphorus silicomanganese could blend the product with standard grade silicomanganese to produce a silicomanganese with an acceptable phosphorus content.[55]

In their responses to the Commission's notice of institution in these current five-year reviews, Eramet and Felman indicated that silicomanganese from all sources remains interchangeable in most applications today.[56]

Channels of Distribution

The Commission reported in its original investigations that silicomanganese was usually sold directly from the U.S. producer and importers to end users (both integrated steel mills and mini-mills) throughout the United States; a relatively small amount was exchanged among trading companies or sold through minerals distributors.[57] Silicomanganese was used most frequently in steel long products, which favored its use in mini-mills over integrated steel mills.[58]

In its response to the Commission's notice of institution in these current reviews, Eramet confirmed that there has been little change in the channels of distribution since the Commission

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[53] *Silicomanganese From India, Kazakhstan, and Venezuela, Investigations Nos. 731-TA-929-931 (Final),* USITC Publication 3505, May 2002, pp. 6-7, 10, and I-4; and *Silicomanganese From Brazil, China, and Ukraine, Investigations Nos. 731-TA-671-673 (Second Review),* USITC Publication 3879, August 2006, p. 4.

[54] Although phosphorus makes steel harder, it is usually considered to be an undesirable element because it tends to make steel brittle.

[55] *Staff Report,* April 16, 2002 (INV-Z-047), pp. I-7-I-8 and II-12-II-16; and *Silicomanganese From India, Kazakhstan, and Venezuela, Investigations Nos. 731-TA-929-931 (Final),* USITC Publication 3505, May 2002, p. 7.

[56] *Response* of Eramet, May 22, 2007, pp. 11, 15, and 16; and *Response* of Felman, May 22, 2007, pp. 7 and 8.

[57] At that time, the great majority of Eramet's production and all imported silicomanganese was sold directly to steel mills in the United States. *** imports were sold directly to end users. In addition, *** was sold to end users, but *** was sold to distributors. *Staff Report,* April 16, 2002 (INV-DD-047), pp. I-8 and II-1.

[58] *Staff Report,* April 16, 2002 (INV-DD-047), pp. I-8 and II-1.

conducted its original investigations. Eramet stated in its response that "most sales of silicomanganese are made directly to end users."[59]

Pricing

Silicomanganese is sold by weight and grade. Prices differ by the type of silicomanganese, chiefly determined by manganese and silicon content. In some transactions, there are deductions determined by the levels of impurities.[60] In their responses in these current reviews, domestic producers Eramet and Felman indicated that silicomanganese is a commodity product that is sold primarily on the basis of price.[61]

Price data for silicomanganese are publicly available from the following sources: *Metals Week*, *Ryan's Notes*, and *Metal Bulletin*. In the Commission's original investigations, *** indicated that many *** prices from publicly available data. Importers also reported using such public sources to base their price negotiations since these sources poll the industry and report similar transaction prices.[62] In these current five-year reviews, Eramet indicated that buyers and sellers frequently use the published price data as reference points in determining prices.[63] The firm added that the "availability of such published data and the multiple bids received by most purchasers ensure that pricing changes are quickly communicated throughout the market."[64]

Reported average weekly U.S. free market prices for silicomanganese (in warehouse Pittsburgh) for the period January 8, 2001 through July 6, 2007 as published by *Metal Bulletin* are presented in figure I-1. These data show that silicomanganese prices were in the 20-25 cents per pound range in early 2001 and increased modestly during 2002-03. In its response to the Commission's notice of institution in these current five-year reviews, Eramet argued that prior to the imposition of the antidumping duty orders in 2002, "the low prices of the dumped subject imports caused significant price depression in the U.S. market."[65] Eramet indicated that since the orders were put into place, the market prices for silicomanganese in the United States have generally increased and tend to be significantly higher than those in other major markets such as Japan and Europe.[66] Eramet further noted that, even though the subject imports withdrew from the U.S. market following the orders, U.S. market prices did not immediately increase because substantial quantities of subject import inventories of silicomanganese remained in the U.S. market. Eramet pointed out that as the inventories were depleted, U.S. market prices increased, surpassing the pre-import surge levels in the latter part of 2002 and into 2003.[67]

During the first half of 2004, U.S. silicomanganese prices jumped to about $1 per pound. This increase was caused by U.S. supply constraints,[68] a decline in imports, and a strong demand from a

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[59] *Response* of Eramet, May 22, 2007, p. 15.

[60] *Staff Report*, April 16, 2002 (INV-DD-047), p. V-3.

[61] *Response* of Eramet, May 22, 2007, pp. 11-12 and 16; and *Response* of Felman, May 22, 2007, pp. 5 and 8.

[62] *Staff Report*, April 16, 2002 (INV-DD-047), pp. V-3-V-4.

[63] *Response* of Eramet, May 22, 2007, p. 12.

[64] Ibid.

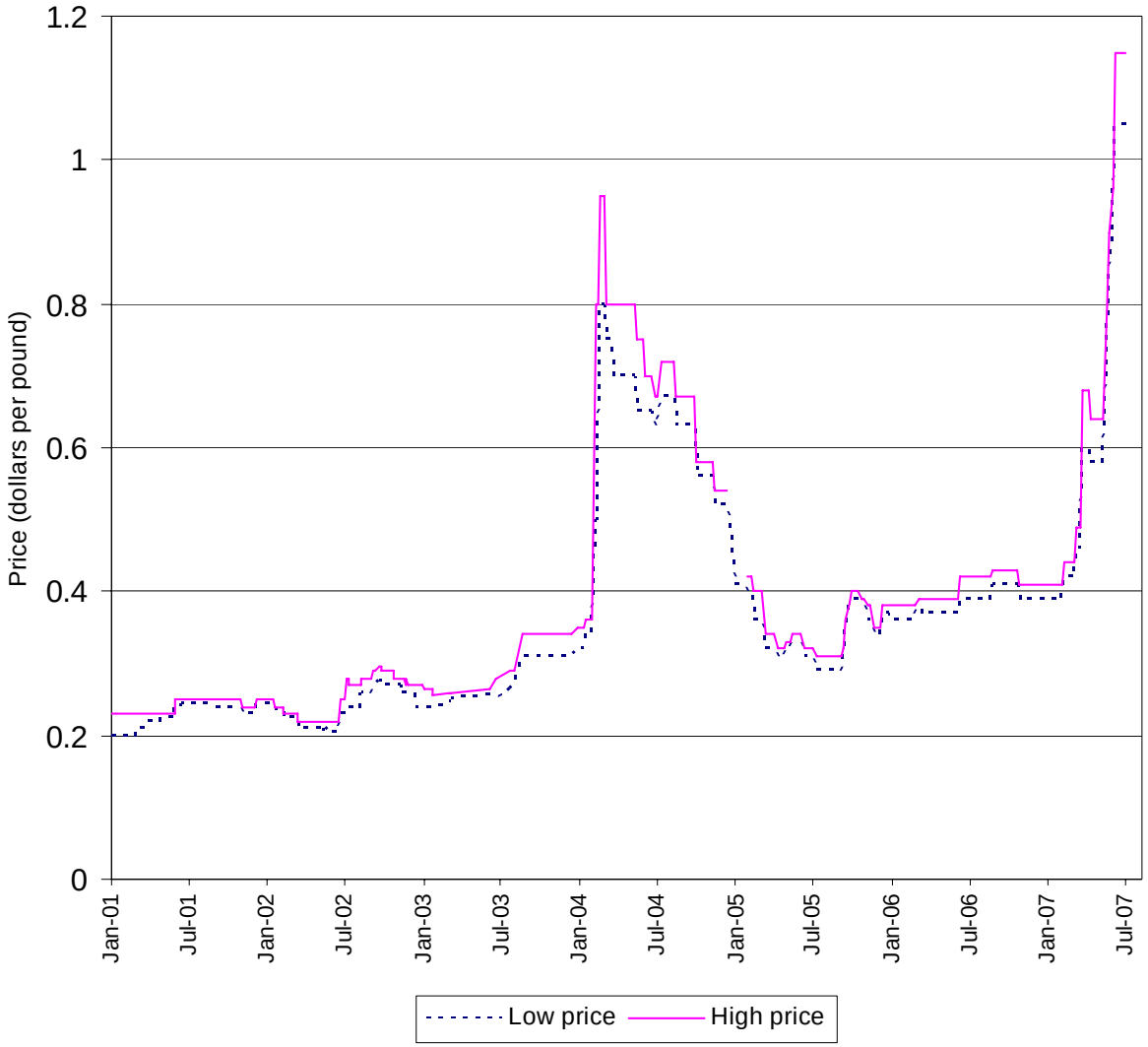
[65] Ibid., p. 29.

[66] Ibid., p. 24.

[67] *Response* of Eramet, May 22, 2007, pp. 30 and 31.

[68] During the first half of 2004, a series of major equipment and power supply problems experienced by Eramet at its Marietta, OH, facility, forced the company to reduce silicomanganese production and cut deliveries of the product.

Figure I-1
Silicomanganese: Reported weekly U.S. free market prices (in warehouse Pittsburgh), January 8, 2001 through July 6, 2007



Note.–"High price" data were not available for the following dates: 7-Jan-05; 14-Jan-05; 21-Jan-05; and 28-Jan-05.

Source: *Metal Bulletin*, found at http://www1.metalbulletin.com/pricing/pricedata.asp?channel=nf&id=3105&back=true.

booming steel industry. Prices fell during the last half of 2004 but moderated somewhat during 2005-06 at between 37 and 43 cents per pound as (1) demand for silicomanganese for the domestic steel sector slowed, (2) supply increased with the resolution of production issues, and (3) nonsubject imports increased.[69] Prices again increased sharply beginning in March 2007, principally due to an increase in the demand for silicomanganese from the steel sector and constraints on domestic supply.[70] Silicomanganese prices ranging above $1 per pound reported in June 2007 were expected to remain firm through the end of the year.[71]

THE INDUSTRY IN THE UNITED STATES

U.S. Producers

There are currently only two operating domestic producers of silicomanganese: Eramet and Felman.[72] Eramet, the larger of the two U.S. producers, accounted for *** percent of domestic production of silicomanganese during 2006.[73] Neither producer is related to any Indian, Kazakh, or Venezuelan producer or exporter of silicomanganese.[74]

Eramet Marietta Inc.

Elkem (predecessor to Eramet), located in Marietta, OH, was the sole U.S. silicomanganese producer at the time of the Commission's original investigations.[75] On July 1, 1999, the French firm Eramet SA and Cogema (wholly owned by the French government) acquired the manganese business, including operations in Norway and Marietta, OH, from Elkem ASA, a Norwegian company. This

[69] Corathers, Lisa A., "Manganese," *U.S. Geological Survey 2005 Minerals Yearbook*, p. 48.3.

[70] Eramet noted, however, ***. *Response* of Eramet, May 22, 2007, p. 4.

[71] Production difficulties at Eramet and Felman have kept supply tight with both firms reporting furnace shutdowns for repair and maintenance during 2007. Eramet suffered two furnace burn-throughs in first-quarter 2007 that forced it to shut down silicomanganese production and declare *force majeure* (an unexpected or uncontrollable event) on its shipments to customers, while Felman encountered difficulties in starting up its plant. This supply shortage contributed to the spike in the spot market prices. The supply shortage and high prices are expected to continue with Eramet planning a one- to two-month maintenance shutdown to rebuild its furnace in late 2007. *Response* of Eramet, May 22, 2007, pp. 4 and 31-32; and various issues of *American Metal Market*, February 10, 2004 through June 26, 2007.

[72] A third domestic producer, Globe Metallurgical Inc. ("Globe"), began producing silicomanganese at its plant in Beverly, OH, at the beginning of 2005 but reportedly shut down production a few months later in March 2005. It is estimated that Globe produced no more than 4,000 short tons of silicomanganese during the first quarter of 2005. "More Cutbacks in SiMn and One Addition," *Ryan's Notes*, April 4, 2005; *Response* of Eramet, p. 14; and *Silicomanganese From Brazil, China, and Ukraine, Investigations Nos. 731-TA-671-673 (Second Review)*, USITC Publication 3879, August 2006, p. I-18.

[73] *Response* of Eramet, May 22, 2007, pp. 2 and 39; and *Response* of Felman, May 22, 2007, pp. 9-10.

[74] *Response* of Eramet, May 22, 2007, p. 38, and *Response* of Felman, May 22, 2007, p. 9.

[75] The Commission reported in its final investigations that a second domestic silicomanganese producer (Highlanders) re-opened its New Haven, WV, silicomanganese plant in December 2001 and began production of silicomanganese in mid-February 2002. Highlanders did not respond to the Commission's request for information in the original investigations. *Staff Report*, April 16, 2002 (INV-Z-047), p. III-1.

acquisition resulted in the transfer of ownership of the Marietta, OH, facility from Elkem to the newly created firm of Eramet Marietta Inc.[76]

Manganese alloys are produced at the Eramet Marietta plant in three electric, submerged arc furnaces. One furnace produces silicomanganese and the other two produce high-carbon ferromanganese.[77] Although other products are produced at the Marietta facility, Eramet produces silicomanganese in a location that is physically separate from the production of all other products the firm produces. Production-and-related workers that are used to produce silicomanganese, as well as the machinery and equipment that the firm uses to produce silicomanganese, typically are not used in the production of any other products.[78]

Felman Production Inc.

In December 2001, Highlanders, a company formed by a group of Israeli investors, acquired a plant in New Haven, WV, that was previously owned and operated by American Alloys for the production of silicon and silicon alloys.[79] Highlanders began production of silicomanganese at the New Haven, WV plant in mid-February 2002 operating one of its three furnaces; however, since that time, the silicomanganese production plant has been plagued with problems ranging from financial woes, service cutoffs by unpaid utilities and suppliers, strikes by unpaid workers, and production and delivery difficulties.[80] Since its purchase of the facility in 2002, Highlanders operated its plant on an extremely sporadic basis and the company declared bankruptcy in May 2005.[81] A fire at the Highlanders facility in October 2005 completely shut down the operations. In February 2006, the non-operating assets of the Highlanders facility was purchased out of bankruptcy for $20 million by Felman and after several months of rebuilding and rehabilitation, Felman restarted operations in September 2006.[82] Press reports indicate that the company has three furnaces for the production of silicomanganese, but has encountered a number

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[76] *Silicomanganese From India, Kazakhstan, and Venezuela, Investigations Nos. 731-TA-929-931 (Final),* USITC Publication 3505, May 2002, p. III-1.

[77] *Eramet Comilog – Plant Information,* http://www.emspecialproducts.com/products.php?group=17, retrieved on July 6, 2007.

[78] *Silicomanganese From India, Kazakhstan, and Venezuela, Investigations Nos. 731-TA-929-931 (Final),* USITC Publication 3505, May 2002, p. III-2.

[79] American Alloys filed for bankruptcy in 2000 and shut its West Virginia facility early in 2001. "Highlanders Starts Second Silicomanganese Furnace," *American Metal Market*, September 18, 2002.

[80] "Highlanders Said in Power Rate Talks as Worker Back Pay Comes Through," *American Metal Market*, July 23, 2002; "Highlanders Initiates Gradual Restart of Shuttered West Virginia Facility," *American Metal Market*, July 31, 2002; "Highlanders Starts Second Silicomanganese Furnace," *American Metal Market*, September 18, 2002; "Power Ills Force Production Halt at Highlanders," *American Metal Market*, November 11, 2002; "In Search of Ferroalloys' Mystery Man," *American Metal Market*, December 16, 2002; "Highlanders Alloys Laid Low by Power, Labor Problems," *American Metal Market*, February 7, 2003; "Boris Bannai Treading on Thin Ice as Highlanders Plant Remains Shut," *American Metal Market*, February 19, 2003; "Judge Tells Highlanders Exec To Sell Stocks To Meet Payroll," *American Metal Market*, February 24, 2003; "Highlanders Silent As Silicomanganese Sings," *American Metal Market*, August 5, 2003; "Privat Expected to Step Forward in Bid to Restart Idled Highlanders," *American Metal Market*, September 24, 2003; "Manganese Madness: The Mysterious Case of Highlanders Alloys," *American Metal Market*, December 9, 2005.

[81] "Manganese Madness: The Mysterious Case of Highlanders Alloys," *American Metal Market*, December 9, 2005; *Silicomanganese From India, Kazakhstan, and Venezuela, Investigations Nos. 731-TA-929-931 (Final),* USITC Publication 3505, May 2002, p. III-1; *Response* of Eramet, May 22, 2007, p. 13; and *Response* of Felman, May 22, 2007, p. 8.

[82] *Response* of Felman, May 22, 2007, pp. 6 and 8.

of difficulties in starting up the plant, which have forced it to shut down two furnaces and to limit production in the third furnace.[83] Felman indicated that its continued investments for reconstruction and modernization, which are still in progress, have totaled approximately $*** million. These investments have created about 200 new jobs and will allow Felman to produce at the running capacity of *** tons per year. The company has longer term plans to further invest, resulting in the further increase in production of approximately *** tons per year that will add approximately 100 new jobs. However, Felman reported that more time and investment is necessary to overcome technical problems inherited from Highlanders at the plant.[84]

U.S. Producers' Trade, Employment, and Financial Data

Data reported by U.S. producers of silicomanganese in the Commission's original investigations and in response to its five-year review institution notice are presented in table I-3. As shown, overall trends for U.S. production, capacity, and shipment indicators presented for silicomanganese declined from 1998 to 2000. Although improvements were reported for the partial-year periods in 2000 and 2001 for several indicators, a deterioration in other key indicators, especially financial indicators, was evident. The Commission noted in its views that "the domestic industry showed poor financial performance and declines in several production related indicators."[85]

Eramet reported in its response to the Commission's notice of institution in these reviews that after the imposition of the antidumping duty orders, the U.S. silicomanganese industry began to enjoy improvements in sales volume and market share with the disappearance of subject imports from the U.S. market. In addition, Eramet noted that a higher level of capacity utilization in its operations provided for a more efficient, lower cost production. As indicated earlier, U.S. price levels improved significantly in 2004, leading to an improvement in revenues and a general strengthening in the U.S. industry's financial performance.[86]

Since that time, however, Eramet reported that "due to rising raw material and energy costs and the adverse impact of increasing volumes of aggressively priced non-subject imports," it has ***. The firm projected ***. *** "*** recent increases in spot prices in the U.S. market." Eramet explained that its per-unit raw material costs increased *** percent from 2003 to 2006 and its power rate *** from 2005 to 2007. During this time, Eramet claimed that its***. As a result of this ***.[87] It added that ***. Eramet also projected ***.

Recent production and labor-related issues at both domestic producers have exacerbated the firms' recent difficulties. In addition to start-up problems encountered by Felman's silicomanganese production facilities, Eramet suffered two furnace burn-throughs that forced it to shut down silicomanganese production and declare *force majeure* in the first quarter of 2007, thereby ***.[88] Eramet also dealt with a strike of its workers from August 27, 2006 to February 2, 2007. Although it indicated

[83] "Power Cuts, 'Technical Obstacles' Batter Felman," *American Metal Market*, February 7, 2007.

[84] *Response* of Felman, May 22, 2007, p. 8.

[85] *Silicomanganese From India, Kazakhstan, and Venezuela, Investigations Nos. 731-TA-929-931 (Final)*, USITC Publication 3505, May 2002, p. 16.

[86] *Response* of Eramet, May 22, 2007, p. 33.

[87] *Response* of Eramet, May 22, 2007, pp. 34 and 35.

[88] *Response* of Eramet, May 22, 2007, pp. 4 and 35.

Table I-3
Silicomanganese: U.S. producers' trade, employment, and financial data, 1998-2000, January-September 2000, January-September 2001, and 2006

Item	1998	1999	2000	Jan.-Sept. 2000	Jan.-Sept. 2001	2006
Average capacity (*short tons*)	***	***	***	***	***	([1])
Production (*short tons*)[2]	***	***	***	***	***	***[3]
Capacity utilization (*percent*)	***	***	***	***	***	([1])
U.S. shipments:						
Quantity (*short tons*)	***	***	***	***	***	***
Value (*$1,000*)	***	***	***	***	***	***
Unit value (*$/short ton)*	***	***	***	***	***	***
Exports:						
Quantity (*short tons*)	***	***	***	***	***	([4])
Value (*$1,000*)	***	***	***	***	***	([4])
Unit value (*$/short ton)*	***	***	***	***	***	([4])
PRWs[5] (*number*)	***	***	***	***	***	([1])
Hours worked (*1,000 hours*)	***	***	***	***	***	([1])
Wages paid (*$1,000)*	***	***	***	***	***	([1])
Hourly wages	***	***	***	***	***	([1])
Productivity (*short tons per 1,000 hours*)	***	***	***	***	***	([1])
Unit labor costs (*per short ton*)	$***	$***	$***	$***	$***	([1])
Net sales (*$1,000*)	***	***	***	***	***	([1])
COGS[6] ($*1,000*)	***	***	***	***	***	([1])
Gross profit or (loss) ($*1,000*)	***	***	***	***	***	([1])
SG&A (*$1,000*)	***	***	***	***	***	([1])
Operating income or (loss) (*$1,000*)	***	***	***	***	***	([1])
COGS/sales (*percent*)	***	***	***	***	***	([1])
Operating income or (loss)/sales (*percent*)	***	***	***	***	***	([1])

[1] Not available.
[2] The Commission's report in the original investigations indicated that Eramet accounted for virtually all U.S. production of silicomanganese at that time. In their responses in these current five-year reviews, Eramet and Felman estimated that together they accounted for all U.S. production of silicomanganese during 2006.
[3] Eramet's production data for 2006 represents ***.
[4] Export data compiled by *Global Trade Atlas* estimate U.S. exports of silicomanganese during 2006 at 8,151 short tons and $8.091 million, which yields a unit value of $993 per short ton.
[5] Production and related workers.
[6] Cost of goods sold.

Source: *Staff Report,* April 16, 2002 (INV-Z-047), tables III-1 and C-1 (data for 1998-2000, January-September 2000, and January-September 2001); *Response* of Eramet, May 22, 2007, p. 39 (data for 2006); and *Response* of Felman, May 22, 2007, p. 10.

in its response in these current reviews that its normal production levels were resumed in ***, a one- to two-month maintenance shutdown to rebuild its furnace is reportedly scheduled for late 2007.[89]

The data presented in table I-3 show that, although the domestic production level in 2006 was *** (*** percent) lower than that reported in 2000, the volume (especially when measured by value) of U.S. shipments by domestic producers was *** higher in 2006 than it was during 2000. The unit value data presented in table I-3 thereby reflect the recent increase in the domestic prices for silicomanganese. According to *Global Trade Atlas* export data, U.S. exports of silicomanganese fell from 7,194 short tons in 2001 to 3,205 short tons in 2002 but increased in every annual period since 2002 to 8,151 short tons in 2006. During the original investigations, Eramet's end-of-period inventories ranged from a low of *** short tons on December 31, 1999, to a high of *** short tons on September 30, 2000.[90] The *U.S. Geological Survey* reported that industry stocks in the United States held by consumers and producers as of December 31, 2005, amounted to 9,182 short tons.[91]

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

U.S. Imports

In the original investigations, the Commission sent importer questionnaires to 46 firms believed to have imported silicomanganese into the United States; only 12 firms supplied the Commission with usable questionnaire information. Because questionnaire data were significantly understated for certain time periods, the Commission relied on official import statistics, adjusted to exclude the U.S. importers' reported imports of low-carbon silicomanganese.

Silicomanganese import data for 1998-2006 are presented in figure I-2 and table I-4.[92] In the original investigations, the combined U.S. imports from India, Kazakhstan, and Venezuela *** on the basis of both quantity and value between 1998 and 2000 and the aggregate share of total imports held by the subject imports increased from *** percent in 1998 to *** percent in 2000. The quantity of U.S. imports from Kazakhstan increased at a considerably higher rate than did U.S. imports from either India or Venezuela during the time period examined by the Commission in its original investigations.

Figure I-2
Silicomanganese: U.S. imports from India, Kazakhstan, and Venezuela, by quantity, 1998-2006

* * * * * * *

[89] *Response* of Eramet, May 22, 2007, pp. 4 and 31-35; and various issues of *American Metal Market*, February 10, 2004 through June 26, 2007.

[90] *Staff Report*, April 16, 2002 (INV-Z-047), table III-1.

[91] Corathers, Lisa A., "Manganese," *U.S. Geological Survey 2005 Minerals Yearbook*, p. 48.3.

[92] As previously indicated, during the original investigations, the import volumes were adjusted to remove imports of low-carbon silicomanganese, which were excluded from the scope of the investigations. The import data presented in this report for 2001-06 are based on official U.S. imports statistics and may include small volumes of low-carbon silicomanganese.

Table I-4
Silicomanganese: U.S. imports, by source, 1998-2006[1]

Item	1998	1999	2000	2001	2002	2003	2004	2005	2006
Quantity (*short tons*)									
India	***	***	***	43,856	849	0	0	0	0
Kazakhstan	2,927	30,585	73,189	35,636	0	6	0	22	0
Venezuela	19,511	18,604	26,565	1,653	0	0	1,442	0	0
Subtotal	***	***	***	81,145	849	6	1,442	22	0
Other[2]	***	***	***	215,644	270,956	294,622	481,588	360,898	440,972
Total	***	***	***	296,790	271,804	294,627	483,030	360,920	440,972
Landed, duty-paid value (*1,000 dollars*)									
India	***	***	***	16,817	478	0	0	0	0
Kazakhstan	1,237	11,444	29,633	14,383	0	3	0	18	0
Venezuela	8,608	6,994	11,315	658	0	0	1,312	0	0
Subtotal	***	***	***	31,858	478	3	1,312	18	0
Other[2]	***	***	***	90,557	119,699	143,952	408,225	249,346	310,157
Total	***	***	***	122,415	120,178	143,955	409,537	249,364	310,157
Unit value (*per short ton*)									
India	$***	$***	$***	$383	$563	([3])	([3])	([3])	([3])
Kazakhstan	423	374	405	404	([3])	$490	([3])	$820	([3])
Venezuela	441	376	426	398	([3])	([3])	$910	([3])	([3])
Subtotal	***	***	***	393	564	490	910	820	([3])
Other[2]	***	***	***	420	442	489	848	691	703
Total	***	***	***	412	442	489	848	691	703
Share of total quantity (*percent*)									
India	***	***	***	14.8	0.3	0.0	0.0	0.0	0.0
Kazakhstan	0.8	9.4	17.8	12.0	0.0	([4])	0.0	([4])	0.0
Venezuela	5.3	5.7	6.4	0.6	0.0	0.0	0.3	0.0	0.0
Subtotal	***	***	***	27.3	0.3	([4])	0.3	([4])	0.0
Other[2]	***	***	***	72.7	99.7	100.0	99.7	100.0	100.0
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

[1] There were no U.S. imports of silicomanganese from the subject countries during January-June 2007.
[2] The largest "other" sources of silicomanganese during 2006 were South Africa, Norway, Georgia, Romania, Australia, Mexico, and Korea.
[3] Not applicable.
[4] Less than 0.05 percent.

Source: Official Commerce statistics, HTS subheading 7202.30.00. Data for 1998-2000 were adjusted to exclude U.S. imports of low-carbon silicomanganese produced in India as reported in Commission questionnaires received in the original investigations. No U.S. importers reported that they imported low-carbon silicomanganese from either Kazakhstan or Venezuela.

The filing of the petition in April 2001 and the imposition of the antidumping duty orders on silicomanganese from India, Kazakhstan, and Venezuela in May 2002 had a noticeable impact on the volume of the subject imports. The quantity of silicomanganese imported into the United States from these three subject countries combined fell by *** percent from *** short tons in 2000 to 81,145 short tons in 2001 and was reduced to only 849 short tons during 2002. Since 2002, there have been relatively small, sporadic quantities of silicomanganese shipped to the United States from the subject countries. In fact, imports from India completely disappeared from the U.S. market after 2002, imports from Venezuela dried up after 2004, and imports from Kazakhstan were totally absent from the market during 2002, 2004, and 2006. Subject imports combined accounted for approximately 0.3 percent or less of total U.S. silicomanganese imports during every calendar-year period from 2002 (the first full year of import relief) to 2006. Nonsubject imports of silicomanganese generally increased from 2001 to 2006, more than doubling from 215,644 short tons in 2001 to 440,972 short tons in 2006. The largest five nonsubject sources of imported silicomanganese during 2006 were South Africa, Norway, Georgia, Romania, and Australia.

The unit values of subject imports of silicomanganese have been higher during the annual periods following the imposition of the orders than during the period examined in the original investigations, although imports from these countries were sporadic and relatively small in volume. Although the unit values for silicomanganese imported from nonsubject countries were generally higher than the unit values for subject imports during 1998-2000, they have been generally lower than the unit values for subject imports beginning in 2002.

Leading Nonsubject Sources of Imports

During the period for which data were collected, imports of silicomanganese entered the United States from a variety of sources other than the three subject countries. The leading nonsubject suppliers are shown in table I-5. The total quantity of silicomanganese imports from all nonsubject sources generally increased during 2001-06, reaching a high of 481,588 short tons during 2004. Countries that were responsible for much of the increase include South Africa, Norway, Georgia, and Romania.

Cumulation Considerations

In assessing whether subject imports are likely to compete with each other and with the domestic like product with respect to cumulation, the Commission generally has considered the following four factors: (1) the degree of fungibility, including specific customer requirements and other quality-related questions; (2) presence of sales or offers to sell in the same geographical markets; (3) common channels of distribution; and (4) simultaneous presence in the market.

In the original investigations, the Commission determined that subject imports were fungible with each other and with the domestic like product. The Commission also determined that imports from all three subject countries and the domestic like product were present to a significant degree in the same geographical markets during the period examined. The Commission found that subject imports were widely available in the U.S. market throughout most of the period examined. In addition, the widespread presence of subject imports was reflected in the extensive quarterly sales data and in the presence of inventories of subject imports throughout the period examined. Finally, the Commission determined that most silicomanganese was sold, directly or indirectly, to the same type of end users, namely, steel makers. Based on the foregoing, the Commission found that a reasonable overlap of competition existed among subject imports and between subject imports and the domestic like product. Therefore, the Commission cumulated subject imports from India, Kazakhstan, and Venezuela for purposes of its material injury

Table I-5
Silicomanganese: U.S. imports from leading nonsubject sources, 2001-06

Item	Calendar year					
	2001	2002	2003	2004	2005	2006
Quantity (*short tons*)						
Covered by antidumping duty orders						
Brazil	0	47	46	60	0	0
China	0	0	21	937	0	0
Ukraine	0	0	22	80	0	0
Subtotal	0	47	90	1,076	0	0
Not covered by antidumping duty orders						
South Africa	101,389	130,560	118,841	175,332	111,116	184,709
Norway	11,464	14,420	31,312	85,436	58,858	85,722
Georgia	5,428	16,048	22,739	37,839	15,974	54,486
Romania	13,220	24,870	37,458	77,494	78,409	35,561
Australia	51,961	52,746	52,577	32,550	39,049	32,018
Mexico	16,406	8,653	12,782	13,569	30,093	19,081
Korea	0	10,582	2,756	18,517	5,750	14,330
Saudi Arabia	0	0	0	0	0	8,278
Russia	0	6,026	4,217	31,823	15,931	4,366
Austria	0	0	0	0	0	1,207
All others	15,777	7,004	11,851	7,951	5,718	1,212
Total, imports not covered by antidumping duty orders	215,644	270,908	294,532	480,512	360,898	440,972
Total, nonsubject imports	215,644	270,956	294,622	481,588	360,898	440,972

Table continued on following page.

Table I-5--*Continued*
Silicomanganese: U.S. imports from leading nonsubject sources, 2001-06

Item	Calendar year					
	2001	2002	2003	2004	2005	2006
	Value (*1,000 dollars*)[1]					
	Covered by antidumping duty orders					
Brazil	0	31	34	102	0	0
China	0	0	16	1,073	0	0
Ukraine	0	0	16	59	0	0
Subtotal	0	31	66	1,234	0	0
	Not covered by antidumping duty orders					
South Africa	40,007	53,842	54,340	153,165	65,295	121,357
Norway	6,643	8,666	20,188	65,730	57,826	76,043
Georgia	2,236	7,516	11,206	35,997	9,332	34,795
Romania	5,993	11,482	18,640	79,071	54,423	23,955
Australia	22,532	22,692	23,309	26,769	22,694	20,900
Mexico	7,425	4,043	6,264	8,927	19,987	12,946
Korea	0	4,975	1,209	14,456	3,766	10,956
Saudi Arabia	0	0	0	0	0	4,994
Russia	0	2,813	2,057	15,821	12,267	3,009
Austria	0	0	0	0	0	516
All others	5,722	3,639	6,672	7,056	3,756	686
Total, imports not covered by antidumping duty orders	90,557	119,669	143,886	406,992	249,346	310,157
Total, nonsubject imports	90,557	119,699	143,952	408,225	249,346	310,157

Table continued on following page.

Table I-5--*Continued*
Silicomanganese: U.S. imports from leading nonsubject sources, 2001-06

Item	Calendar year					
	2001	2002	2003	2004	2005	2006
Unit value (*per short ton*)						
Covered by antidumping duty orders						
Brazil	(2)	$649	$742	$1,711	(2)	(2)
China	(2)	(2)	750	1,145	(2)	(2)
Ukraine	(2)	(2)	721	740	(2)	(2)
Subtotal	(2)	649	739	1,146	(2)	(2)
Not covered by antidumping duty orders						
South Africa	$395	412	457	874	$588	$657
Norway	579	601	645	769	982	887
Georgia	412	468	493	951	584	639
Romania	453	462	498	1,020	694	674
Australia	434	430	443	822	581	653
Mexico	453	467	490	658	664	678
Korea	(2)	470	439	781	655	765
Saudi Arabia	(2)	(2)	(2)	(2)	(2)	603
Russia	(2)	467	488	497	770	689
Austria	(2)	(2)	(2)	(2)	(2)	428
All others	363	520	563	887	657	566
Total, imports not covered by antidumping duty orders	420	442	489	847	691	703
Total, nonsubject imports	420	442	489	848	691	703

[1] Landed, duty-paid.
[2] Not applicable.

Note.–Because of rounding, figures may not add to the totals shown.

Source: Compiled from official Commerce statistics.

analysis. Eramet indicated in its response in these current five-year reviews that the essential conditions of competition have not changed since the Commission's prior determinations.[93]

Available information concerning fungibility and channels of distribution is presented in the sections of this report entitled "Interchangeability and Customer and Producer Perceptions" and "Channels of Distribution," respectively. Additional information concerning geographical markets and simultaneous presence in the market is presented below.

According to official import statistics by customs district, New Orleans, LA, was the primary entry point for subject imports of silicomanganese (table I-6). In addition to New Orleans, imports of silicomanganese from Venezuela also entered the United States through Mobile, AL, in 2004. With respect to geographic markets, Eramet pointed out in its response to the Commission's notice of institution in these current five-year reviews that "the subject imports would be likely to be sold or offered for sale in the same geographic markets as the domestic like product."[94]

Table I-6
Silicomanganese: U.S. imports from India, Kazakhstan, and Venezuela, by customs district, 2001-06

District	Source	Calendar year					
		2001	2002	2003	2004	2005	2006
		Quantity (*short tons*)					
New Orleans, LA	India	43,856	849	0	0	0	0
	Kazakhstan	35,636	0	6	0	22	0
	Venezuela	1,653	0	0	551	0	0
Mobile, AL	Venezuela	0	0	0	891	0	0

Source: Compiled from official Commerce statistics.

A review of monthly import data for January 2001 through December 2006 indicates that imports of silicomanganese from India entered the United States in only nine months during that six-year time period (table I-7); silicomanganese from Kazakhstan was imported in only seven months and silicomanganese from Venezuela was imported in only three months. Imports of silicomanganese from nonsubject sources entered the United States in every month throughout the six-year period. With respect to simultaneous presence in the market, Eramet pointed out in its response to the Commission's notice of institution in these current five-year reviews that "during the original POI, imports from all three subject countries were simultaneously present in the market in large quantities and likely would be again if the orders were revoked."[95]

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

[94] *Response* of Eramet, May 22, 2007, p. 15.

[95] *Response* of Eramet, May 22, 2007, p. 16.

Table I-7
Silicomanganese: U.S. imports, by source and by month, January 2001-December 2006

Period	India	Kazakhstan	Venezuela	Subtotal, subject countries	All other countries	Total, all countries
			Quantity (*short tons*)			
2001:						
January	6,653	0	0	6,653	17,012	23,665
February	0	10,264	0	10,264	9,675	19,938
March	8,252	0	0	8,252	17,157	25,409
April	8,443	6,498	0	14,941	19,567	34,507
May	13,605	3,057	0	16,662	20,566	37,228
June	0	9,204	1,653	10,858	14,056	24,914
July	5,630	0	0	5,630	17,915	23,545
August	0	6,614	0	6,614	16,753	23,367
September	0	0	0	0	22,043	22,043
October	849	0	0	849	20,833	21,682
November	424	0	0	424	18,399	18,824
December	0	0	0	0	21,667	21,667
Total	43,856	35,636	1,653	81,145	215,644	296,790
2002:						
January	0	0	0	0	23,515	23,515
February	424	0	0	424	17,562	17,986
March	0	0	0	0	11,280	11,280
April	424	0	0	424	36,615	37,040
May	0	0	0	0	7,270	7,270
June	0	0	0	0	18,650	18,650
July	0	0	0	0	15,763	15,763
August	0	0	0	0	22,621	22,621
September	0	0	0	0	28,055	28,055
October	0	0	0	0	34,013	34,013
November	0	0	0	0	34,765	34,765
December	0	0	0	0	20,846	20,846
Total	849	0	0	849	270,956	271,804

Table continued on following page.

Table I-7--*Continued*
Silicomanganese: U.S. imports, by source and by month, January 2001-December 2006

Period	India	Kazakhstan	Venezuela	Subtotal, subject countries	All other countries	Total, all countries
			Quantity (*short tons*)			
2003:						
January	0	0	0	0	16,089	16,089
February	0	0	0	0	17,610	17,610
March	0	0	0	0	12,048	12,048
April	0	6	0	6	25,836	25,842
May	0	0	0	0	17,461	17,461
June	0	0	0	0	8,725	8,725
July	0	0	0	0	30,014	30,014
August	0	0	0	0	30,686	30,686
September	0	0	0	0	40,787	40,787
October	0	0	0	0	43,225	43,225
November	0	0	0	0	26,841	26,841
December	0	0	0	0	25,298	25,298
Total	0	6	0	6	294,622	294,627
2004:						
January	0	0	0	0	27,662	27,662
February	0	0	0	0	25,206	25,206
March	0	0	0	0	20,065	20,065
April	0	0	0	0	43,749	43,749
May	0	0	0	0	19,338	19,338
June	0	0	0	0	32,857	32,857
July	0	0	20	20	62,832	62,852
August	0	0	0	0	71,814	71,814
September	0	0	0	0	30,531	30,531
October	0	0	1,422	1,422	60,906	62,328
November	0	0	0	0	48,635	48,635
December	0	0	0	0	37,993	37,993
Total	0	0	1,442	1,442	481,588	483,030

Table continued on following page.

Table I-7--*Continued*
Silicomanganese: U.S. imports, by source and by month, January 2001-December 2006

Period	India	Kazakhstan	Venezuela	Subtotal, subject countries	All other countries	Total, all countries
			Quantity (*short tons*)			
2005:						
January	0	0	0	0	31,870	31,870
February	0	22	0	22	13,354	13,376
March	0	0	0	0	41,446	41,446
April	0	0	0	0	35,329	35,329
May	0	0	0	0	35,260	35,260
June	0	0	0	0	23,146	23,146
July	0	0	0	0	46,097	46,097
August	0	0	0	0	28,636	28,636
September	0	0	0	0	13,372	13,372
October	0	0	0	0	31,798	31,798
November	0	0	0	0	25,811	25,811
December	0	0	0	0	34,778	34,778
Total	0	22	0	22	360,898	360,920
2006:						
January	0	0	0	0	18,792	18,792
February	0	0	0	0	43,590	43,590
March	0	0	0	0	34,295	34,295
April	0	0	0	0	28,538	28,538
May	0	0	0	0	27,495	27,495
June	0	0	0	0	41,302	41,302
July	0	0	0	0	33,765	33,765
August	0	0	0	0	45,647	45,647
September	0	0	0	0	31,395	31,395
October	0	0	0	0	47,315	47,315
November	0	0	0	0	45,473	45,473
December	0	0	0	0	43,365	43,365
Total	0	0	0	0	440,972	440,972

Note.–Figures may not add to the totals shown because of rounding.

Source: Compiled from official Commerce statistics.

Apparent U.S. Consumption and Market Shares

The United States is considered one of the world's largest consumers of silicomanganese.[96] The level of U.S. aggregate demand for silicomanganese depends in large part upon the demand by steelmakers and producers of ferrous castings.[97] In particular, the level of demand is largely dependent on the production of long products in mini-mills.[98] A primary change in demand conditions since the original investigations, as noted by Eramet in its response to the Commission's notice of institution in these current reviews, has been the increase in the prominence of mini-mill electric arc furnace producers in the U.S. steel industry. Eramet explained that as mini-mills find advantages in using silicomanganese, the future demand prospects for silicomanganese appear relatively strong. Regardless, it added that the cyclicality of the steel industry causes the U.S. silicomanganese industry to remain vulnerable.[99]

Apparent U.S. consumption and market shares of silicomanganese for 1998-2000 and 2006 are presented in table I-8. As presented in table I-8, apparent U.S. consumption of silicomanganese fell from 1998 to 1999, but increased in 2000 to a level higher than that reported for 1998. Since the original investigations, apparent consumption increased *** percent from *** short tons in 2000 to *** short tons in 2006.

Eramet indicated in its response to the Commission's notice of institution in these reviews that, as has been the case in the past, the domestic silicomanganese industry currently does not have the capacity to meet all of the domestic demand for the product. Because of this, imports have historically been a "normal part of U.S. supply" but "ordinarily are not disruptive to the market if they are sold at non-dumped prices."[100] The share of apparent consumption held by imports (subject and nonsubject) fell overall from *** percent during 1998 to *** percent in 1999, but increased to *** percent in 2000. Total imports held a *** percent share of domestic consumption during 2006.

Felman indicated in its response to the Commission's notice of institution in these reviews that "U.S. demand has been growing moderately over this period, largely tracking U.S. steel production." However, the company added that "while demand for such downstream products has been robust in recent years, it is not a sustainable trend."[101]

ANTIDUMPING ACTIONS OUTSIDE THE UNITED STATES

The Commission reported during the original investigations that silicomanganese produced in India, Kazakhstan, and Venezuela was not subject to antidumping findings or remedies in any other WTO-member country. However, on July 24, 2006, a complaint was filed with the European Commission ("EC") by industry lobby group Euroalliages on behalf of producers representing more than 50 percent of production of silicomanganese in the European Union ("EU"). The complaint alleged that silicomanganese produced in Kazakhstan (as well as in China and Ukraine) was being "dumped" and was causing material injury to the EC industry. The EC subsequently announced in September 2006 that it would conduct an antidumping investigation of EU imports of silicomanganese from Kazakhstan (and China and Ukraine).[102] Kazakhstan's export data indicate that approximately 27 percent of its total exports of silicomanganese were destined for countries in the EU during 2006. In its response to the

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[96] *Response* of Eramet, May 22, 2007, p. 26.

[97] *Staff Report,* April 16, 2002 (INV-Z-047), p. II-5; *Response* of Eramet, May 22, 2007, p. 14; and *Response* of Felman, May 22, 2007, p. 8.

[98] *Silicomanganese From India, Kazakhstan, and Venezuela, Investigations Nos. 731-TA-929-931 (Final),* USITC Publication 3505, May 2002, p. II-3.

[99] *Response* of Eramet, May 22, 2007, p. 40.

[100] *Response* of Eramet, May 22, 2007, p. 12.

[101] *Response* of Felman, May 22, 2007, pp. 8 and 11.

[102] "EC to Launch SiMn Antidumping Probe," *Platt's Metals Week,* September 11, 2006.

Table I-8
Silicomanganese: U.S. producers' U.S. shipments, U.S. imports, and apparent U.S. consumption, 1998-2000 and 2006

Item	1998	1999	2000	2006
			Quantity (*short tons*)	
U.S. producers' U.S. shipments	***	***	***	***
U.S. imports:[1]				
India	***	***	***	0
Kazakhstan[2]	***	***	***	0
Venezuela	***	***	***	0
Subtotal	***	***	***	0
Other sources	***	***	***	440,972
Total imports	***	***	***	440,972
Apparent U.S. consumption	***	***	***	***
			Value (*1,000 dollars*)	
U.S. producers' U.S. shipments	***	***	***	***
U.S. imports:[1]				
India	***	***	***	0
Kazakhstan[2]	***	***	***	0
Venezuela	***	***	***	0
Subtotal	***	***	***	0
Other sources	***	***	***	310,157
Total imports	***	***	***	310,157
Apparent U.S. consumption	***	***	***	***

Table continued on following page.

Table I-8--*Continued*
Silicomanganese: U.S. producers' U.S. shipments, U.S. imports, and apparent U.S. consumption, 1998-2000 and 2006

Item	1998	1999	2000	2006
	Share of consumption based on quantity (*percent*)			
U.S. producers' U.S. shipments	***	***	***	***
U.S. imports:[1]				
India	***	***	***	0.0
Kazakhstan[2]	***	***	***	0.0
Venezuela	***	***	***	0.0
Subtotal	***	***	***	0.0
Other sources	***	***	***	***
Total imports	***	***	***	***
	Share of consumption based on value (*percent*)			
U.S. producers' U.S. shipments	***	***	***	***
U.S. imports:[1]				
India	***	***	***	0.0
Kazakhstan[2]	***	***	***	0.0
Venezuela	***	***	***	0.0
Subtotal	***	***	***	0.0
Other sources	***	***	***	***
Total imports	***	***	***	***

[1] Import data presented for 1998-2000 were adjusted to remove low-carbon silicomanganese.
[2] Data shown are for U.S. importers' U.S. shipments of imports.

Source: *Staff Report*, April 16, 2002 (INV-Z-047), tables IV-6 and IV-7 for 1998-2000; *Response* of Eramet, May 22, 2007, p. 39; *Response* of Felman, May 22, 2007, p. 10; and official Commerce statistics for 2006.

Commission's notice of institution in these reviews, Eramet argued that "if the EC imposes antidumping relief with respect to the Kazakh imports, the likelihood that Kazakhstan would shift these volumes to the U.S. market in the absence of the orders is very high."[103]

THE WORLD MARKET

The global demand for silicomanganese is tied to the operations of the global steel industry. Global silicomanganese production data are presented in table I-9. These data show that the leading producer countries of silicomanganese during 2005 (the most recent year for which data are available), in decreasing order, were China, Ukraine, South Africa, Norway, and Romania. These data also indicate that production of silicomanganese in the three countries subject to the antidumping duty orders in these current reviews in the aggregate increased by 7.9 percent from 2001 to 2005. India and Kazakhstan accounted for the entirety of that reported increase while Venezuela experienced a downturn in its production. Global silicomanganese production increased 82.0 percent from 4.2 million short tons in 2001 to 7.6 million short tons in 2005.

THE SUBJECT FOREIGN INDUSTRIES

Domestic producers Eramet and Felman indicated in their responses to the Commission's notice of institution in these current reviews that India and Kazakhstan have "dramatically" increased their silicomanganese production and exports since the orders were issued, while Venezuela has not replaced its former exports to the United States with exports to other countries. Eramet also argued that "significant unused silicomanganese production capacity and/or ferroalloy production capacity that could be shifted to silicomanganese production exists in each subject country." Both Eramet and Felman added that there are strong incentives for Indian, Kazakh, and Venezuelan silicomanganese producers to focus their exports on the U.S. market. Eramet noted the fact that U.S. prices have tended to be significantly higher than prices in other export markets, whereas Felman noted that the "main feature of Indian and Kazakhstan producers is the availability of the domestic manganese ore sources that makes them relatively independent from the ore market trends (such as high prices, ore deficit, etc.) and makes them competitive. Given the opportunity, they would expand their exports to the U.S. market."[104]

Net Trade Balance

Data concerning the net trade balance reported for each subject country are presented in table I-10. These data show that the three subject countries were net exporters during every annual period from 2001 to 2006 for which data are available, with the exception of Venezuela during one annual period. During 2004, Venezuela's trade balance swung from net exporter to net importer. Its net imports amounted to 723 short tons during 2004.

[103] *Response* of Eramet, May 22, 2007, p. 26.

[104] *Response* of Eramet, May 22, 2007, pp. 3 and 17; and *Response* of Felman, May 22, 2007, p. 12.

Table I-9
Silicomanganese: World production, by country, 2001-05[1]

Country	2001	2002	2003	2004	2005
	Quantity (*short tons*)				
Argentina	5,677	5,512	5,512	5,512	5,512
Australia	148,811	148,811	148,811	148,811	154,322
Brazil	198,673	201,424	198,634	198,414	119,269
China	1,289,691	1,741,634	1,984,140	2,865,980	4,188,740
France	55,115	55,115	117,946	70,547	71,650
Georgia	27,558	27,558	27,558	27,558	27,558
India	165,345	165,345	176,368	176,368	187,391
Indonesia	7,716	7,716	7,716	7,716	4,409
Italy	99,207	99,207	99,207	99,207	99,207
Japan	68,605	78,225	63,981	80,513	104,415
Kazakhstan	155,645	180,777	197,224	171,214	187,627
Korea	112,299	103,616	100,245	91,399	91,491
Mexico	81,890	80,758	89,532	113,764	115,499
Norway	253,529	253,529	253,529	253,529	253,529
Poland	22,046	8,267	0	0	0
Romania	79,279	93,387	156,415	214,888	220,460
Russia	136,685	139,992	91,491	157,629	159,834
Slovakia	38,581	38,581	38,581	38,581	38,581
South Africa	278,882	348,109	345,187	374,782	308,644
Spain	110,230	110,230	110,230	110,230	110,230
Ukraine	774,243	807,536	815,702	1,168,438	1,102,300
Venezuela	62,434	40,756	33,766	38,581	38,581
Total, all countries, excluding the United States[2]	4,166,694	4,739,890	5,059,557	6,415,386	7,583,824

[1] In addition to the countries listed, Iran is believed to have produced silicomanganese, but production information is inadequate for the formulation of estimates of output levels. Also, data for the United States were withheld by the publication to avoid disclosing company proprietary data. In their responses to the Commission's notice of institution in these current five-year reviews, U.S. producers Eramet and Felman reported that they produced a total of *** short tons of silicomanganese during 2006. Eramet's production data for 2006 represents ***.

[2] Individual country data do not sum to published totals.

Source: Corathers, Lisa A., "Manganese," *U.S. Geological Survey 2005 Minerals Yearbook*, table 8, converted to short tons by Commission staff.

Table I-10
Silicomanganese: Subject country exports, imports, and trade balances, 2001-06[1]

Country	2001	2002	2003	2004	2005	2006
	Quantity (*1,000 short tons*)					
India:						
Exports	46,656	41,593	31,228	78,455	107,582	169,941
Imports	1,151	2,562	1,681	3,861	1,492	58
Trade balance	45,505	39,031	29,547	74,594	106,090	169,883
Kazakhstan:						
Exports	122,854	174,856	163,747	153,586	168,150	206,653
Imports	(2)	(2)	(2)	6,843	8,154	9,401
Trade balance	(2)	(2)	(2)	146,743	159,996	197,252
Venezuela:						
Exports	6,834	10,067	15,617	5,615	9,924	6,636
Imports	2,207	12	8	6,338	7,123	4,800
Trade balance	4,627	10,055	15,609	(723)	2,801	1,836

[1] Positive numbers presented for "trade balance" show net exports and numbers in parentheses presented for "trade balance" show net imports.
[2] Data are not available.

Source: Global Trade Atlas and UN Comtrade.

India

During the original investigations, 21 firms in India were identified as producers of silicomanganese and 4 firms were believed to have exported the product to the United States.[105] The following four producers provided the Commission with a response to its questionnaire in the original investigations: Ispat Alloys Ltd., Nava Bharat, Universal Ferro & Allied Chemical Ltd., and Indsil Electrosmelts Ltd. ("Indsil").[106] In these current reviews, Eramet indicated that there are currently at least 42 producers of silicomanganese in India, which is twice the number identified at the time of the filing of the petition in 2001.[107] [108]

[105] *Silicomanganese From India, Kazakhstan, and Venezuela: Investigations Nos. 731-TA-929-931 (Final),* USITC Publication 3505, May 2002, p. VII-1.

[106] Indsil noted in its response to the Commission's questionnaire in the original investigations that it produced only nonsubject low-carbon silicomanganese. The other three responding producers in India estimated that they accounted for approximately *** of total production of subject silicomanganese in India during 2000. *Silicomanganese From India, Kazakhstan, and Venezuela: Investigations Nos. 731-TA-929-931 (Final),* USITC Publication 3505, May 2002, p. VII-1.

[107] *Response* of Eramet, May 22, 2007, p. 20.

[108] Felman identified five possible silicomanganese producers in India: Khandelwal Ferroalloys Ltd.; Nava Bharat Ferro Alloys Ltd.; Universal Ferro and Allied Chemicals Ltd.; Chattisgarh Electricity Co. Ltd.; and Impex Ferroalloys. *Supplemental Response* of Felman, June 7, 2007, p. 2.

In its response to the Commission's notice of institution in these reviews, Eramet reported that the capacity to produce manganese ferroalloys (silicomanganese and ferromanganese) in India has increased from 810,000 short tons in 2001 to its current level of 1.2 million short tons.[109] With an increase in the capacity to produce manganese ferroalloys in India, production of silicomanganese has also increased. The *U.S. Geological Survey* reported that production of silicomanganese in India increased by 13 percent from 165,345 short tons in 2001 to 187,391 short tons in 2005.

In these current five-year reviews, one Indian silicomanganese producer (i.e., Nava Bharat) provided the Commission with data concerning its silicomanganese production in India. Nava Bharat estimated that it accounted for approximately *** percent of Indian silicomanganese production during 2006.[110] Table I-11 presents trade data for the Indian silicomanganese industry during the original investigations (1998-2000) and the current reviews (2006).

Nava Bharat indicated in its response to the Commission's notice of institution in these current reviews that it has not exported the subject merchandise to the United States since the imposition of the antidumping duty order on silicomanganese from India. Nava Bharat estimated total production of silicomanganese in India during 2006 to be *** short tons and indicated that "no significant addition to capacity is expected in the Indian market within the reasonably foreseeable time." It also noted that "large-scale" increases in the capacities for steel production in India for products that use silicomanganese as an input are planned for the future. The firm argued that these new steel facilities would lead to an increase in demand for silicomanganese in India and result in shortages in the supply of silicomanganese for the home market.[111]

In its response to the Commission's notice of institution in these current reviews, Eramet argued that the Indian silicomanganese industry is "export-oriented."[112] *Global Trade Atlas* statistics concerning exports of silicomanganese (HTS subheading 7202.30) from India for 2001-06 are presented in table I-12. These data show that Indian exports to the world fell by 33.1 percent from 46,656 short tons in 2001 to 31,228 short tons in 2003; however, Indian exports to the world increased over four-fold from 31,228 short tons in 2003 to 169,941 short tons in 2006. Major export markets for the Indian product during 2006 include Italy, the Netherlands, Korea, Turkey, and Greece. Since the imposition of the orders, the average unit values of exports from India to other countries (see table I-12) have generally been lower than U.S. market prices (see figure I-1). Eramet argued in its response to the Commission's notice of institution in these reviews that "the significantly higher prices that generally prevail in the U.S. market, as compared to other export markets for the subject countries, would provide a clear incentive for producers in the subject countries to direct their exports to the U.S. market if the orders were revoked."[113]

Kazakhstan

During the original investigations, the Commission requested and received information from counsel for OJSC Transnational Co. and Aksu Ferroalloy Plant, collectively known as "Kazchrome," the only producer of silicomanganese in Kazakhstan at that time.[114] No response to the Commission's notice of institution in these current reviews was received from the Kazakh producer. Domestic producers

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[109] *Response* of Eramet, May 22, 2007, p. 20.

[110] *Response* of Nava Bharat, May 18, 2007, p. 3.

[111] *Response* of Nava Bharat, May 18, 2007, p. 4.

[112] *Response* of Eramet, May 22, 2007, p. 25.

[113] Ibid., pp. 24 and 25.

[114] *Silicomanganese From India, Kazakhstan, and Venezuela, Investigations Nos. 731-TA-929-931 (Final)*, USITC Publication 3505, May 2002, p. VII-3.

Table I-11
Silicomanganese: India's capacity, production, shipments, and inventories, 1998-2000 and 2006

Item	1998	1999	2000	2006
			Quantity (*short tons*)	
Capacity	165,332	165,332	165,332	([1])
Production	***	***	143,006	***[2]
End-of-period inventories	16,112	18,690	***	([1])
Shipments:				
Internal consumption	***	***	***	([1])
Home market	***	***	55,681	([1])
Exports:				
United States	***	***	74,003	
All other markets[3]	***	***	***	([4])
Total exports	***	***	***	([4])
Total shipments	***	***	146,284	([1])
			Ratios and shares (*percent*)	
Capacity utilization	***	***	86.5	([1])
Inventories to production	***	***	***	([1])
Inventories to total shipments	***	***	***	([1])
Share of total quantity of shipments:				
Internal consumption	***	***	***	([1])
Home market	***	***	38.1	([1])
Exports to:				
United States	***	***	50.6	([1])
All other markets[1]	***	***	***	([1])
All export markets	***	***	***	([1])

[1] Not available.
[2] According to the *U.S. Geological Survey 2005 Minerals Yearbook*, total 2005 production of silicomanganese in India was 187,391 short tons. In its response to the Commission's notice of institution in these current reviews, Indian producer Nava Bharat estimated the total 2006 production of silicomanganese in India to be *** short tons; it also reported that production increased by less than 10 percent between 2004 and 2006.
[3] The primary export markets identified by the Indian producers during 1998-2000 were ***.
[4] According to the *Global Trade Atlas*, India exported 169,941 short tons of silicomanganese during 2006, none of which was destined for the United States.

Source: *Staff Report*, April 16, 2002 (INV-Z-047), table VII-1, for 1998-2000 data (which were provided by Ispat Alloys Ltd., Nava Bharat Ferro Alloys Ltd., and Universal); and *Response* of Nava Bharat, May 18, 2007, p. 3, for 2006 data.

Table I-12
Silicomanganese: India's export shipments, 2001-06

Item	2001	2002	2003	2004	2005	2006
Quantity (*short tons*)						
Exports:						
United States	28,484	424	0	0	0	0
Italy	0	17,650	18,767	23,515	33,832	70,516
Netherlands	0	0	28	2,226	1,251	21,866
Korea	0	0	0	10,999	12,952	15,982
Turkey	6,614	4,268	22	0	424	9,081
Greece	0	0	0	1,743	9,689	8,243
All other[1]	11,558	19,251	12,411	39,972	49,434	44,253
World	46,656	41,593	31,228	78,455	107,582	169,941
Value (*$1,000*)[2]						
Exports:						
United States	10,187	219	0	0	0	0
Italy	0	6,353	7,344	19,526	22,106	37,555
Netherlands	0	0	15	1,919	772	11,881
Korea	0	0	0	9,181	7,152	8,906
Turkey	2,248	1,472	17	0	285	4,722
Greece	0	0	0	1,406	5,218	4,141
All other[1]	3,939	7,103	5,014	31,054	27,488	24,947
World	16,374	15,147	12,390	63,086	63,021	92,152
Unit value (*per short ton*)						
Exports:						
United States	$358	$517	([3])	([3])	([3])	([3])
Italy	([3])	360	$391	$830	$653	$533
Netherlands	([3])	([3])	536	862	617	543
Korea	([3])	([3])	([3])	835	552	557
Turkey	340	345	773	([3])	672	520
Greece	([3])	([3])	([3])	807	539	502
All other[1]	341	369	404	777	556	564
World	351	364	397	804	586	542

[1] Other export markets for the Indian product for 2001-06 include Japan, Spain, Bangladesh, Sri Lanka, the United Arab Emirates, Kenya, Pakistan, Ghana, Indonesia, Uganda, Saudi Arabia, Malaysia, Senegal, Tanzania, Zambia, Nepal, Oman, Thailand, Tunisia, Sudan, Syria, Taiwan, Yemen, the United Kingdom, Venezuela, Singapore, Slovenia, Peru, the Philippines, Poland, Portugal, Russia, New Zealand, Nigeria, Mauritius, Mexico, North Korea, Kuwait, Luxembourg, Israel, Jordan, Algeria, Argentina, Australia, Belgium, Bhutan, Brazil, Chile, China, Colombia, Congo, Croatia, Egypt, Ethiopia, France, and Germany.
[2] F.o.b. port in India.
[3] Not applicable.

Source: *Global Trade Atlas*.

Eramet and Felman indicated in their responses to the Commission's notice of institution in these reviews that, in addition to Kazchrome, there are possibly two other silicomanganese producers in Kazakhstan; Eramet mentioned the relatively small producer Temirtau Chemical and Metal Works ("Temirtau") and Felman mentioned Alash (Ispat-Karmet).[115]

Published sources indicate that production of silicomanganese in Kazakhstan increased 20.5 percent from 155,645 short tons in 2001 to 187,627 short tons in 2005.[116] On its website, Kazchrome reported that it exports 220,460 short tons of low-phosphorus silicomanganese annually, which is almost 33,000 short tons greater than the production level reported by the *U.S. Geological Survey* for 2005.[117] Indeed, Kazakhstan has historically been a substantial net exporter of silicomanganese (see table I-10). Eramet also argued in its response to the Commission's notice of institution in these reviews that Kazakhstan has a very large capacity to produce other ferroalloys such as ferrosilicon and ferrochrome and that this capacity can be shifted to the production of silicomanganese.[118]

Table I-13 presents trade data for the Kazakh silicomanganese industry received during the original investigations (1998-2000) and certain published data for 2006.

In its response to the Commission's notice of institution in these current reviews, Eramet indicated that the Kazakh silicomanganese industry is "export-oriented."[119] *Global Trade Atlas* statistics concerning exports of silicomanganese (HTS subheading 7202.30.00) from Kazakhstan for 2001-06 are presented in table I-14. These data show that total exports of silicomanganese from Kazakhstan to the world increased overall by 68 percent from 122,854 short tons in 2001 to 206,653 short tons in 2006. There were no reported Kazakh exports of silicomanganese to the United States during 2001-06. Other relatively large export markets for Kazakh silicomanganese during 2006 include Russia, Netherlands, Japan, China, and Korea. Eramet argued in its response to the Commission's notice of institution in these reviews that "the significantly higher prices that generally prevail in the U.S. market, as compared to other export markets for the subject countries, would provide a clear incentive for producers in the subject countries to direct their exports to the U.S. market if the orders were revoked."[120]

Venezuela

Hornos Electricos de Venezuela SA ("Hevensa") was identified as the sole producer of silicomanganese in Venezuela during the Commission's original investigations.[121] No response to the Commission's notice of institution in these current reviews was received from any producer or exporter of silicomanganese in Venezuela. Eramet indicated in its response to the Commission's notice of institution

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[115] *Response* of Eramet, May 22, 2007, p. 23; and *Supplemental Response* of Felman, June 7, 2007, p. 2.

[116] Corathers, Lisa A., "Manganese," *U.S. Geological Survey 2005 Minerals Yearbook*, table 8. All silicomanganese production reported by the *U.S. Geological Survey* for Kazakhstan was attributed to Kazchrome. Temirtau reportedly has a production capacity of 35,274 short tons per year of ferromanganese and 16,535 short tons per year of silicomanganese. Production at the Temirtau plant began in 2000; however, at last report Temirtau's annual production amounted to only a few thousand short tons. *Response* of Eramet, May 22, 2007, p. 23.

[117] Kazchrome, http://66.129.79.18/Operations/Kazchrome, retrieved on October 16, 2007.

[118] *Response* of Eramet, May 22, 2007, pp. 26-27.

[119] *Response* of Eramet, May 22, 2007, p. 25.

[120] Ibid, pp. 24 and 25.

[121] *Silicomanganese From India, Kazakhstan, and Venezuela, Investigations Nos. 731-TA-929-931 (Final)*, USITC Publication 3505, May 2002, p. VII-3.

Table I-13
Silicomanganese: Kazakhstan's capacity, production, shipments, and inventories, 1998-2000, and 2006[1]

Item	1998	1999	2000	2006
		Quantity (*short tons*)		
Capacity	***	***	***	([2])
Production	***	***	***	187,627[3]
End-of-period inventories	***	***	***	([2])
Shipments:				
Home market	***	***	***	([2])
Exports:				
United States	***	***	***	0
All other markets	***	***	***	206,653
Total exports	***	***	***	206,653
Total shipments	***	***	***	([2])
		Ratios and shares (*percent*)		
Capacity utilization	***	***	***	([2])
Inventories to production	***	***	***	([2])
Inventories to total shipments	***	***	***	([2])
Share of total quantity of shipments:				
Home market	***	***	***	([2])
Exports to:				
United States	***	***	***	([2])
All other markets	***	***	***	([2])
All export markets	***	***	***	([2])

[1] Data presented for 1998-2000 were provided by Kazchrome, the only producer of silicomanganese in Kazakhstan. No response to the Commission's notice of institution in these reviews was received from the Kazakh producer. Data presented for 2006 were obtained from published sources.
[2] Not available.
[3] Production data presented are for 2005, the most recent period for which published data were available.

Source: *Staff Report*, April 16, 2002 (INV-Z-047), table VII-2 (for 1998-2000 data); *and Global Trade Atlas* and Corathers, Lisa A., "Manganese," *U.S. Geological Survey 2005 Minerals Yearbook*, table 8 (for 2006 data).

Table I-14
Silicomanganese: Kazakhstan's export shipments, 2001-06

Item	2001	2002	2003	2004	2005	2006
Quantity (*short tons*)						
Exports:						
United States	0	0	0	0	0	0
Russian Federation	18,706	92,536	79,897	87,545	78,431	93,204
Netherlands	0	0	0	0	30,092	50,015
Japan	0	0	0	0	9,155	22,391
China	0	0	0	7,974	12,640	16,750
Korea	0	0	0	0	0	6,596
All other[1]	104,148	82,320	83,850	58,067	37,832	17,697
World	122,854	174,856	163,747	153,586	168,150	206,653
Value (*$1,000*)[2]						
Exports:						
United States	0	0	0	0	0	0
Russian Federation	5,754	30,345	29,346	72,422	45,865	54,688
Netherlands	0	0	0	0	17,296	25,954
Japan	0	0	0	0	4,960	11,180
China	0	0	0	4,492	6,705	7,605
Korea	0	0	0	0	0	3,381
All other[1]	35,223	27,138	29,185	48,261	22,151	9,136
World	40,977	57,483	58,531	125,175	96,977	111,944
Unit value (*per short ton*)						
Exports:						
United States	([3])	([3])	([3])	([3])	([3])	([3])
Russian Federation	$308	$328	$367	$827	$585	$587
Netherlands	([3])	([3])	([3])	([3])	575	519
Japan	([3])	([3])	([3])	([3])	542	499
China	([3])	([3])	([3])	563	530	454
Korea	([3])	([3])	([3])	([3])	([3])	513
All other[1]	338	330	348	831	586	516
World	334	329	357	815	577	542

[1] Other export markets for the Kazakh product include Azerbaijan, Switzerland, Italy, Ukraine, Spain, the Czech Republic, Belarus, Moldova, Turkey, and Uzbekistan.
[2] F.o.b. port in Kazakhstan.
[3] Not applicable.

Source: *UN Comtrade* statistics provided in *Response* of Eramet, May 22, 2007, exhibit 22. *Global Trade Atlas* export data are not presented because Kazakhstan did not report export data for 2001-03. *Global Trade Atlas* export data for Kazakhstan for 2004-06 agree with the *UN Comtrade* statistics provided in Eramet's response to the Commission's notice of institution in these reviews.

in these current reviews that, in addition to Venezuelan silicomanganese producer Hevensa, another Venezuelan ferroalloy producer, Ferroatlántica de Venezuela S.A. ("Ferroven"), started a new furnace for the production of silicomanganese in November 2006.[122] Felman identified only Hevensa as a silicomanganese producer in Venezuela.[123]

Hevensa reports on its web site that it currently has the annual capacity to produce 71,650 short tons of grade B silicomanganese.[124] Production data from the *U.S. Geological Survey* estimated that the Venezuelan producer of silicomanganese is producing well below that capacity at 38,581 short tons during 2005.[125] In its response to the Commission's notice of institution in these current reviews, Eramet pointed out that Venezuela produces "significant volumes" of other ferroalloys, including ferrosilicon and ferromanganese, which can be shifted to the production of silicomanganese.[126]

Table I-15 presents trade data for the Venezuelan silicomanganese industry collected by the Commission during its original investigations (1998-2000) and data compiled from published sources for 2006.

In its response to the Commission's notice of institution in these current reviews, Eramet indicated that the silicomanganese industry in Venezuela "has in the past focused on exports to the United States."[127] Statistics concerning exports of silicomanganese from Venezuela during 2001-06 are available from the *Global Trade Atlas*. These data are presented in table I-16. As shown, Venezuelan exports of silicomanganese to all destinations increased from 2001 to 2003, but fell overall from 2003 to 2006. There were no reported Venezuelan exports of silicomanganese to the United States during 2002, 2003, 2005, and 2006. During 2006, about two-thirds of Venezuelan exports of silicomanganese were destined for the Mexican market. Other relatively large export markets for the Venezuelan product include Japan, Netherlands, Peru, and Colombia.[128]

Eramet argued in its response to the Commission's notice of institution in these reviews that after Venezuelan producer Hevensa exited the U.S. market, the company has been unable to replace its former exports to the United States with exports to other countries. Eramet argued further in its response that the U.S. market is especially attractive for producers of silicomanganese in Venezuela because of the geographical proximity to the United States, resulting in lower shipping costs. It cited 2000 export data that show the vast majority of Venezuela's silicomanganese exports being directed to the United States. Eramet also argued that "the significantly higher prices that generally prevail in the U.S. market, as compared to other export markets for the subject countries, would provide a clear incentive for producers in the subject countries to direct their exports to the U.S. market if the orders were revoked."[129]

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[122] Prior to 2006, Ferroven produced only ferrosilicon. However, in November 2006, the company reportedly started a new furnace that produced high-carbon ferromanganese, but was capable of switching to the production of silicomanganese. *Response* of Eramet, May 22, 2007, pp. 23 and 24; "DLA Free To Sell HC Ferromanganese," *Ryan's Notes*, October 9, 2006; "US Sunset Review for SiMn Upcoming," *Ryan's Notes*, March 5, 2007.

[123] *Supplemental Response* of Felman, June 7, 2007, p. 2.

[124] Hornos Electricos de Venezuela S.A., http://www.hevensa.com/, retrieved on October 16, 2007.

[125] Corathers, Lisa A., "Manganese," *U.S. Geological Survey 2005 Minerals Yearbook*, table 8.

[126] *Response* of Eramet, May 22, 2007, pp. 26-27.

[127] *Response* of Eramet, May 22, 2007, p. 25.

[128] According to Hevensa's website, the firm's main export customers include the United States, Peru, Colombia, Japan, Canada, Cuba, Trinidad, and Guatemala. Hornos Electricos de Venezuela S.A., http://www.hevensa.com/, retrieved on October 16, 2007.

[129] *Response* of Eramet, May 22, 2007, pp. 24 and 25.

Table I-15
Silicomanganese: Venezuela's capacity, production, shipments, and inventories, 1998-2000 and 2006[1]

Item	1998	1999	2000	2006
		Quantity (*short tons*)		
Capacity	***	***	***	71,650
Production	***	***	***	38,581[2]
End-of-period inventories	***	***	***	([3])
Shipments:				
Internal consumption	***	***	***	([3])
Home market	***	***	***	([3])
Exports:				
United States	***	***	***	0
All other markets	***	***	***	6,636
Total exports	***	***	***	6,636
Total shipments	***	***	***	([3])
		Ratios and shares (*percent*)		
Capacity utilization	***	***	***	53.8
Inventories to production	***	***	***	([3])
Inventories to total shipments	***	***	***	([3])
Share of total quantity of shipments:				
Internal consumption	***	***	***	([3])
Home market	***	***	***	([3])
Exports to:				
United States	***	***	***	([3])
All other markets	***	***	***	([3])
All export markets	***	***	***	([3])

[1] Data presented for 1998-2000 were provided by Hevensa, the only producer in Venezuela. No response to the Commission's notice of institution in these reviews was received from the Venezuelan producer. Data presented for 2006 were obtained from published sources.
[2] Production data presented are for 2005, the most recent period for which published data were available.
[3] Not available.

Source: *Staff Report*, April 16, 2002 (INV-Z-047), table VII-2 (for 1998-2000 data); *Global Trade Atlas*; Corathers, Lisa A., "Manganese," *U.S. Geological Survey 2005 Minerals Yearbook*, table 8; and Hornos Electricos de Venezuela S.A., http://www.hevensa.com/, retrieved on October 16, 2007 (for 2006 data).

Table I-16
Silicomanganese: Venezuela's export shipments, 2001-06

Item	2001	2002	2003	2004	2005	2006
Quantity (*short tons*)						
Exports:						
United States	1,653	0	0	2,042	0	0
Mexico	22	3,748	10,060	441	4,079	4,409
Japan	0	0	1,323	882	882	992
Netherlands	1,433	0	0	0	0	551
Peru	2,833	3,858	332	0	882	551
Colombia	893	1,384	1,407	1,093	996	132
All other[1]	0	1,077	2,495	1,157	3,085	0
World	6,834	10,067	15,617	5,615	9,924	6,636
Value (*$1,000*)[2]						
Exports:						
United States	615	0	0	1,560	0	0
Mexico	8	1,402	3,858	299	2,381	2,255
Japan	0	0	419	334	240	259
Netherlands	595	0	0	0	0	299
Peru	998	1,215	129	0	495	319
Colombia	339	518	582	872	642	73
All other[1]	0	437	986	632	1,770	0
World	2,555	3,572	5,974	3,697	5,528	3,205
Unit value (*per short ton*)						
Exports:						
United States	$372	([3])	([3])	$764	([3])	([3])
Mexico	364	$374	$383	678	$584	$511
Japan	([3])	([3])	317	379	272	261
Netherlands	415	([3])	([3])	([3])	([3])	543
Peru	352	315	389	([3])	561	579
Colombia	380	374	414	798	645	553
All other[1]	([3])	406	395	546	574	([3])
World	374	355	383	658	557	483

[1] Other export markets for the Venezuelan product include Chile, Cuba, and Trinidad & Tobago.
[2] F.o.b. port in Venezuela.
[3] Not applicable.

Source: *Global Trade Atlas*.

APPENDIX A

FEDERAL REGISTER NOTICES

of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by the University of the Pacific, Department of Biological Sciences faculty in consultation with a representative of the Santa Rosa Indian Community of the Santa Rosa Rancheria, California.

Sometime in the 1950s, human remains representing a minimum of 10 individuals were removed by unknown persons from a site on the north bank of Calaveras Creek on the Stockton campus of the University of the Pacific, Stockton, San Joaquin County, CA. The human remains were given to the faculty of what is now the Department of Biological Sciences. The Department of Biological Sciences has maintained sole possession continuously since that time. The human remains were found in storage in September 2006. No known individuals have been identified. No associated funerary objects are present.

The human remains are Native American based on dental morphology. During consultation, a tribal representative of the Santa Rosa Indian Community of the Santa Rosa Rancheria, California, confirmed that the provenience of the human remains is consistent with that of other discoveries of Native American human remains in the area. The site from which the human remains were removed is known to be the location of Native American burial grounds used by people of both the Miwok and Yokut tribes, and is listed as a burial site in the book *Archeology of the Northern San Joaquin Valley*(Schenk and Dawson, 1929). The descendants of the Miwok and Yokut are members of the Buena Vista Rancheria of Me–Wuk Indians of California; Chicken Ranch Rancheria of Me–Wuk Indians of California; Ione Band of Miwok Indians of California; Jackson Rancheria of Me–Wuk Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract), California; and Tuolumne Band of Me–Wuk Indians of the Tuolumne Rancheria of California. The Ione Band of Miwok Indians of California and Santa Rosa Indian Community of the Santa Rosa Rancheria, California have been primarily associated with the area where the human remains were found.

Officials of the University of the Pacific have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of 10 individuals of Native American ancestry. Officials of the University of the Pacific also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Ione Band of Miwok Indians of California and Santa Rosa Indian Community of the Santa Rosa Rancheria, California.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Michael Capurso, University of the Pacific, Gladys L. Benerd School of Education, 3601 Pacific Avenue, Stockton, CA 95211, telephone (209) 946–2287, before May 2, 2007. Repatriation of the human remains to the Ione Band of Miwok Indians of California and Santa Rosa Indian Community of the Santa Rosa Rancheria, California may proceed after that date if no additional claimants come forward.

The University of the Pacific is responsible for notifying the Buena Vista Rancheria of Me–Wuk Indians of California; Chicken Ranch Rancheria of Me–Wuk Indians of California; Ione Band of Miwok Indians of California; Jackson Rancheria of Me–Wuk Indians of California; Picayune Rancheria of the Chukchansi Indians of California; Santa Rosa Indian Community of Santa Rosa Rancheria, California; Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract), California; Table Mountain Rancheria of California; Tule River Indian Tribe of the Tule River Reservation, California; Tuolumne Band of Me–Wuk Indians of the Tuolumne Rancheria of California; and United Auburn Indian Community of the Auburn Rancheria of California that this notice has been published.

Dated: March 9, 2007

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E7–5976 Filed 3–30–07; 8:45 am]

BILLING CODE 4312–50–S

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–929–931 (Review)]

Silicomanganese From India, Kazakhstan, and Venezuela

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the antidumping duty orders on silicomanganese from India, Kazakhstan, and Venezuela.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on silicomanganese from India, Kazakhstan, and Venezuela would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is May 22, 2007. Comments on the adequacy of responses may be filed with the Commission by June 15, 2007. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: April 2, 2007.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—On May 23, 2002, the Department of Commerce issued antidumping duty orders on imports of silicomanganese from India, Kazakhstan, and Venezuela (67 FR 36149). The Commission is conducting reviews to determine whether

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 07–5–168, expiration date June 30, 2008. Public reporting burden for the request is estimated to average 10 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

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

(2) The *Subject Countries* in these reviews are India, Kazakhstan, and Venezuela.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise*. In its original determinations, the Commission found a single *Domestic Like Product* consisting of all forms, sizes, and compositions of silicomanganese, except low-carbon silicomanganese.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product*, or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission found a single *Domestic Industry* consisting of all domestic producers of silicomanganese, excluding low-carbon silicomanganese.

(5) The *Order Date* is the date that the antidumping duty orders under review became effective. In these reviews, the *Order Date* is May 23, 2002.

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

Participation in the reviews and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the ''same particular matter'' as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was ''personal and substantial.'' However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is May 22, 2007. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is June 15, 2007. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

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

Information to be Provided in Response to This Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country*; or produce *Subject*

Merchandise in more than one *Subject Country*, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country*. As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product*, a U.S. union or worker group, a U.S. importer of the *Subject Merchandise*, a foreign producer or exporter of the *Subject Merchandise*, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

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

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

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

(7) If you are a U.S. producer of the *Domestic Like Product*, provide the following information on your firm's operations on that product during calendar year 2006 (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country*(ies), provide the following information on your firm's(s') operations on that product during calendar year 2006 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

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

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

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

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country*(ies), provide the following information on your firm's(s') operations on that product during calendar year 2006 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in each *Subject Country* since the *Order Date*, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in each *Subject Country*, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry*; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: March 28, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–6050 Filed 3–30–07; 8:45 am]

BILLING CODE 7020–02–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (07–029)]

Aerospace Safety Advisory Panel; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews

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

ACTION: Notice of Upcoming Sunset Reviews

Background

Every five years, pursuant to section 751(c) of the Tariff Act of 1930, as amended, the Department of Commerce (''the Department'') and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for May 2007

The following Sunset Review is scheduled for initiation in May 2007 and will appear in that month's Notice of Initiation of Five–Year Sunset Reviews.

Antidumping Duty Proceedings	Department Contact
Folding Metal Tables and Chairs from the PRC (A–570–868)	Juanita Chen (202) 482–1904
Countervailing Duty Proceedings.	
No countervailing duty orders are scheduled for initiation in May 2007.	
Suspended Investigations.	
No suspended investigations are scheduled for initiation in May 2007..	

The Department's procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3--Policies Regarding the Conduct of Five–Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998). The Notice of Initiation of Five–year (''Sunset'') Reviews provides further information regarding what is required of all parties to participate in Sunset Reviews.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 15 days of the publication of the Notice of Initition.

Please note that if the Department receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue. Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

This notice is not required by statute but is published as a service to the international trading community.

Dated: March 23, 2007.

Stephen J. Claeys,

Deputy Assistant Secretaryfor Import Administration.

[FR Doc. E7–6067 Filed 3–30–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-year (''Sunset'') Reviews

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

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') is automatically initiating a five-year (''Sunset Review'') of the antidumping duty orders listed below. The International Trade Commission (''the Commission'') is publishing concurrently with this notice its notice of *Institution of Five-year Review* which covers the same orders.

EFFECTIVE DATE: April 2, 2007.

FOR FURTHER INFORMATION CONTACT: The Department official identified in the Initiation of Review(s) section below at AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th & Constitution Ave., NW, Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3 - *Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Initiation of Reviews

In accordance with 19 CFR 351.218(c), we are initiating the Sunset Review of the following antidumping duty order:

DOC Case No.	ITC Case No.	Country	Product	Department Contact
A–533–823	731–TA–929	India	Silicomanganese	Dana Mermelstein(202) 482–1391
A–834–807	731–TA–930	Kazakhstan	Silicomanganese	Dana Mermelstein(202) 482–1391
A–307–820	731–TA–931	Venezuela	Silicomanganese	Dana Mermelstein(202) 482–1391
Countervailing Duty Proceedings.				
No countervailing duty proceedings are scheduled for initiation in April 2007.				

DOC Case No.	ITC Case No.	Country	Product	Department Contact
Suspended Investigations. No suspended investigations are scheduled for initiation in April 2007.				

Filing Information

As a courtesy, we are making information related to Sunset proceedings, including copies of the Department's regulations regarding Sunset Reviews (19 CFR 351.218) and *Sunset Policy Bulletin*, the Department's schedule of Sunset Reviews, case history information (*i.e.*, previous margins, duty absorption determinations, scope language, import volumes), and service lists available to the public on the Department's sunset Internet website at the following address: ''http://ia.ita.doc.gov/sunset/.'' All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.Because deadlines in Sunset Reviews can be very short, we urge interested parties to apply for access to proprietary information under administrative protective order (''APO'') immediately following publication in the **Federal Register** of the notice of initiation of the sunset review. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required from Interested Parties

Domestic interested parties (defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b)) wishing to participate in these Sunset Reviews must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the orders without further review. *See* 19 CFR 351.218(d)(1)(iii).

For sunset reviews of countervailing duty orders, parties wishing the Department to consider arguments that countervailable subsidy programs have been terminated must include with their substantive responses information and documentation addressing whether the changes to the program were (1) limited to an individual firm or firms and (2) effected by an official act of the government. Further, a party claiming program termination is expected to document that there are no residual benefits under the program and that substitute programs have not been introduced. *Cf.* 19 CFR 351.526(b) and (d). If a party maintains that any of the subsidies countervailed by the Department were not conferred pursuant to a subsidy program, that party should nevertheless address the applicability of the factors set forth in 19 CFR 351.526(b) and (d). Similarly, parties wishing the Department to consider whether a company's change in ownership has extinguished the benefit from prior non–recurring, allocable, subsidies must include with their substantive responses information and documentation supporting their claim that all or almost all of the company's shares or assets were sold in an arm's length transaction, at a price representing fair market value, as described in the *Notice of Final Modification of Agency Practice Under Section 123 of the Uruguay Round Agreements Act*, 68 FR 37125 (June 23, 2003) *(Modification Notice). See Modification Notice* for a discussion of the types of information and documentation the Department requires.

If we receive an order–specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in the Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order–specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Please consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews.[1] Please consult the Department's regulations at 19 CFR Part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: March 23, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–6071 Filed 3–30–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–801]

Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Initiation of Antidumping Duty New Shipper Reviews

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

EFFECTIVE DATE: April 2, 2007.

SUMMARY: The Department of Commerce (''Department'') has determined that three requests for a new shipper review of the antidumping duty order on certain frozen fish fillets from the Socialist Republic of Vietnam (''Vietnam''), received on January 31, February 18 and February 28, 2007, respectively, meet the statutory and regulatory requirements for initiation. For reasons discussed below, the Department also determined that a fourth request for a new shipper review does not meet the requirements for

[1] In comments made on the interim final sunset regulations, a number of parties stated that the proposed five-day period for rebuttals to substantive responses to a notice of initiation was insufficient. This requirement was retained in the final sunset regulations at 19 CFR 351.218(d)(4). As provided in 19 CFR 351.302(b), however, the Department will consider individual requests for extension of that five-day deadline based upon a showing of good cause.

the antidumping duty order on hand trucks and certain parts thereof (''Hand Trucks'') from the People's Republic of China (''PRC''), received July 2, 2007, meets the statutory and regulatory requirements for initiation. The period of review (''POR'') of this new shipper review is December 1, 2006, through May 31, 2007.

FOR FURTHER INFORMATION CONTACT: Matthew Quigley or Robert Bolling, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4551 or (202) 482–3434, respectively.

SUPPLEMENTARY INFORMATION:

Background

The notice announcing the antidumping duty order on hand trucks from the PRC was published on December 2, 2004. *See Antidumping Duty Order: Hand Trucks and Certain Parts Thereof From the People's Republic of China,* 69 FR 70122 (December 2, 2004). On July 2, 2007, we received a new shipper review request from New-Tec Integration (Xiamen) Co., Ltd. (''New-Tec''). New-Tec certified that it is both the producer and exporter of the subject merchandise upon which the respective request for a new shipper review is based.

Pursuant to section 751(a)(2)(B)(i)(I) of the Tariff Act of 1930, as amended (the ''Act''), and 19 CFR 351.214(b)(2)(i), New-Tec certified that it did not export hand trucks to the United States during the period of investigation (''POI''). In addition, pursuant to section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(A), New-Tec certified that, since the initiation of the investigation, it has never been affiliated with any exporter or producer who exported hand trucks to the United States during the POI, including those not individually examined during the investigation. As required by 19 CFR 351.214(b)(2)(iii)(B), New-Tec also certified that its export activities were not controlled by the central government of the PRC.

In addition to the certifications described above, New-Tec submitted documentation establishing the following: (1) The date on which it first shipped hand trucks for export to the United States; (2) the volume of its first shipment; and (3) the date of its first sale to an unaffiliated customer in the United States.

Initiation of New Shipper Review

Pursuant to section 751(a)(2)(B) of the Act and 19 CFR 351.214(d)(1), we find that the request submitted by New-Tec meets the threshold requirements for initiation of a new shipper review for shipments of hand trucks from the PRC produced and exported by New-Tec.

The POR is December 1, 2006, through May 31, 2007. *See* 19 CFR 351.214(g)(1)(i)(B). We intend to issue preliminary results of this review no later than 180 days from the date of initiation, and final results no later than 90 days from the date the preliminary results are issued. *See* section 751(a)(2)(B)(iv) of the Act.

It is the Department's usual practice, in cases involving non-market economies, to require that a company seeking to establish eligibility for an antidumping duty rate separate from the country-wide rate provide evidence of *de jure* and *de facto* absence of government control over the company's export activities. Accordingly, we will issue a questionnaire to New-Tec, including a separate-rate section. The review will proceed if the response provides sufficient indication that New-Tec is not subject to either *de jure* or *de facto* government control with respect to its exports of hand trucks. However, if New-Tec does not demonstrate its eligibility for a separate rate, it will be deemed not separate from other companies that exported during the POI, and its new shipper review will be rescinded.

On August 17, 2006, the Pension Protection Act of 2006 (H.R. 4) was signed into law. Section 1632 of H.R. 4 temporarily suspends the authority of the Department to instruct U.S. Customs and Border Protection to collect a bond or other security in lieu of a cash deposit in a new shipper review. Therefore, the posting of a bond or other security under section 751(a)(2)(B)(iii) of the Act in lieu of a cash deposit is not available in this case. Importers of hand trucks produced by and exported by New-Tec must continue to post cash deposits of estimated antidumping duties on each entry of subject merchandise (*i.e.*, hand trucks) at the PRC-wide entity rate of 383.6 percent.

Interested parties that need access to proprietary information in this new shipper review should submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214 and 351.221(c)(1)(i).

Dated: July 26, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–14923 Filed 8–1–07; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–823, A–834–807, A–307–820]

Silicomanganese from India, Kazakhstan, and Venezuela: Final Results of Expedited Five-year (''Sunset'') Reviews of the Antidumping Duty Orders

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

SUMMARY: On April 2, 2007, the Department of Commerce (''the Department'') published in the **Federal Register** the notice of initiation of the first five-year sunset reviews of the antidumping duty orders on silicomanganese from India, Kazakhstan, and Venezuela, pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). *See Initiation of Five-year (''Sunset'') Reviews*, 72 FR 15652 (April 2, 2007) (''*Notice of Initiation*''). On the basis of notices of intent to participate and adequate substantive responses filed on behalf of domestic interested parties, and inadequate responses from respondent interested parties, the Department has conducted expedited sunset reviews of these orders pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C). As a result of these sunset reviews, the Department finds that revocation of the antidumping duty orders is likely to lead to continuation or recurrence of dumping at the levels indicated in the ''Final Results of Review'' section of this notice.

EFFECTIVE DATE: August 2, 2007.

FOR FURTHER INFORMATION CONTACT: Martha Douthit or Dara Iserson, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC. 20230; telephone: (202) 482–5050, or (202) 482–4052, respectively.

SUPPLEMENTARY INFORMATION:

Background

The antidumping duty orders on silicomanganese from India, Kazakhstan, and Venezuela were published in the **Federal Register** on May 23, 2002. *See Notice of Amended*

Final Determination of Sales at Less than Fair Value and Antidumping Duty Orders: Silicomanganese from India, Kazakhstan, and Venezuela, 67 FR 36149 (May 23, 2002). On April 2, 2007, the Department initiated the first sunset reviews of the antidumping duty orders on silicomanganese from India, Kazakhstan, and Venezuela, pursuant to section 751(c) of the Act. *See Notice of Initiation*. The Department received notices of intent to participate from Felman Production Inc. (''Felman''), Eramet Marietta Inc. (''Eramet'') (collectively ''domestic interested parties''), within the deadline specified in 19 CFR 351.218(d)(1)(i). Domestic interested parties claimed interested party status under section 771(9)(C) of the Act as producers of the subject merchandise.

On May 1 and May 2, 2007, the Department received substantive responses from domestic interested parties Felman and Eramet, respectively, within the deadline specified in 19 CFR 351.218(d)(3)(i). On May 8, 2007, the Department received a timely substantive response from Nava Bharat Ventures Limited (''Nava Bharat''), a respondent interested party from India.[1] Nava Bharat claimed interested party status under section 771(9)(A) of the Act as a producer/exporter of subject merchandise. On May 22, 2007, the Department determined that Nava Bharat did not provide an adequate response to the *Notice of Initiation* in accordance with 19 CFR 351.218(e)(1)(ii)(A) because its shipments accounted for less than 50 percent of exports of subject merchandise to the United States over the five calendar years preceding the initiation of this review. Pursuant to 19 CFR 351.218(e)(1)(ii)(C)(1), on the same day, the Department notified the International Trade Commission (''ITC'') of its adequacy determination. *See Memorandum to Barbara E. Tillman from the Sunset Team, Sunset Review of the Antidumping Duty Order on Silicomanganese from India: Adequacy Determination*, dated May 22, 2007. The Department, therefore, has conducted expedited sunset reviews of the antidumping duty orders pursuant to section 751(c)(3)(B) of the Act.

Scope of the Orders

For purposes of these orders, the products covered are all forms, sizes and compositions of silicomanganese, except low–carbon silicomanganese, including silicomanganese briquettes, fines and slag. Silicomanganese is a ferroalloy composed principally of manganese, silicon and iron, and normally contains much smaller proportions of minor elements, such as carbon, phosphorous and sulfur. Silicomanganese is sometimes referred to as ferrosilicon manganese. Silicomanganese is used primarily in steel production as a source of both silicon and manganese. Silicomanganese generally contains by weight not less than 4 percent iron, more than 30 percent manganese, more than 8 percent silicon and not more than 3 percent phosphorous. Silicomanganese is properly classifiable under subheading 7202.30.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Some silicomanganese may also be classified under HTSUS subheading 7202.99.5040.

The low–carbon silicomanganese excluded from this scope is a ferro alloy with the following chemical specifications: minimum 55 percent manganese, minimum 27 percent silicon, minimum 4 percent iron, maximum 0.10 percent phosphorus, maximum 0.10 percent carbon and maximum 0.05 percent sulfur. Low–carbon silicomanganese is used in the manufacture of stainless steel and special carbon steel grades, such as motor lamination grade steel, requiring a very low carbon content. It is sometimes referred to as ferromanganese–silicon. Low–carbon silicomanganese is classifiable under HTSUS subheading 7202.99.5040. This scope covers all silicomanganese, regardless of its tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope remains dispositive.

Analysis of Comments Received

All issues raised in the substantive responses by parties to these sunset reviews are addressed in the *Issues and Decision Memorandum for the Expedited Sunset Reviews of the Antidumping Duty Orders of Silicomanganese from India, Kazakhstan, and Venezuela; Final Results from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration*, dated concurrently with this notice (''*Decision Memo*''), which is hereby adopted in this notice. The issues discussed in the *Decision Memo* include the likelihood of continuation or recurrence of dumping and the rate likely to prevail if the orders were revoked. Parties can find a complete discussion of all issues raised in these sunset reviews and the corresponding recommendation in this public memorandum which is on file in B–099, the Central Records Unit, of the main Commerce building. In addition, a complete version of the Decision Memo can be accessed directly on the Department's Web page at *http://ia.ita.doc.gov/frn*. The paper copy and electronic version of the *Decision Memo* are identical in content.

Final Results of Reviews

The Department determines that revocation of the antidumping duty orders on silicomanganese from India, Kazakhstan, and Venezuela would be likely to lead to continuation or recurrence of dumping at the following duty rates:

Manufacturers/Exporters/Producers	Weighted–Average Margin (percent)
India.	
Nava Bharat	15.32
Universal Ferro and Allied Chemicals, Ltd.	20.53
All Others Rate	17.74
Kazakhstan.	
Alloy 2000, S.A.	247.88
Kazakhstan–Wide Rate	247.88
Venezuela.	
Hornos Eléctricos de Venezuela, S.A.	
All Others Rate	24.62

International Trade Commission (ITC) Notification

In accordance with section 752(c)(3) of the Act, we will notify the ITC of the final results of this expedited sunset review.

Notification Regarding Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective orders is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

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

[1] Nava Bharat received an extension to May 8, 2007, to submit its substantive response.

Dated: July 25, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–14947 Filed 8–1–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–469–805

Stainless Steel Bar from Spain: Final Results of Antidumping Duty Administrative Review

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

SUMMARY: On March 28, 2007, the Department of Commerce published the preliminary results of the 2005/2006 administrative review of the antidumping duty order on stainless steel bar from Spain. We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received we did not make changes for the final results. The final weighted–average dumping margin for a single respondent is listed below in the ''Final Results of the Review'' section of this notice.

EFFECTIVE DATE: August 2, 2007.

FOR FURTHER INFORMATION CONTACT: Dmitry Vladamirov or Minoo Hatten, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0665 and (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 28, 2007, the Department of Commerce (the Department) published *Stainless Steel Bar from Spain: Preliminary Results of Antidumping Duty Administrative Review*, 72 FR 14522 (March 28, 2007) (*Preliminary Results*) in the **Federal Register**. The period of review is March 1, 2005, through February 28, 2006.

We invited parties to comment on the Preliminary Results. On April 27, 2007, we received a case brief from the respondent, Sidenor Industrial SL (Sidenor). On May 7, 2007, Carpenter Technology Corporation, Valbruna Slater Stainless, Inc., and Electralloy Corporation, a Division of G.O. Carlson, Inc. (collectively, the domestic interested parties), filed a rebuttal brief. At the request of Sidenor, we held a hearing on May 16, 2007.

We have conducted this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Scope of Order

The product covered by this order is stainless steel bar (SSB). SSB means articles of stainless steel in straight lengths that have been either hot–rolled, forged, turned, cold–drawn, cold–rolled or otherwise cold–finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons or other convex polygons. SSB includes cold–finished SSBs that are turned or ground in straight lengths, whether produced from hot–rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi–finished products, cut length flat–rolled products (*i.e.*, cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (i.e., cold–formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat–rolled products), and angles, shapes and sections.

The SSB subject to this order is currently classifiable under subheadings 7222.10.0005, 7222.10.0050, 7222.20.0005, 7222.20.0045, 7222.20.0075, and 7222.30.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

Analysis of Comments Received

All comments raised in the case and rebuttal briefs by parties in this review of the antidumping duty order on stainless steel bar from Spain are addressed in the ''Issues and Decision Memorandum'' from Stephen J. Claeys, Deputy Assistant Secretary, to David M. Spooner, Assistant Secretary, dated July 26, 2007 (Decision Memorandum), which is hereby adopted by this notice. The Decision Memorandum, which is a public document, is on file in the Central Records Unit, main Commerce building, Room B–099, and is accessible on the Web at http://ia.ita.doc.gov/frn/index.html. The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since The Preliminary Results

With respect to Sidenor, in the *Preliminary Results*, we determined that the use of adverse facts available is appropriate as the basis for the weighted–average dumping margin. For these final results of review, we have continued to rely on the use of adverse facts available in establishing the weighted–average dumping margin for Sidenor for the period of review. Therefore, there were no changes since the *Preliminary Results*.

Use of Adverse Facts Available

In accordance with section 776(b) of the Act, we determine that the use of adverse facts available as the basis for the weighted–average dumping margin is appropriate for Sidenor. As explained in the *Preliminary Results* and in the Memorandum from Mark Todd to Neal Halper, entitled ''Use of Adverse Facts Available for the Preliminary Determination,'' dated March 22, 2007 (AFA Memo), we determined that the cost–of-production (COP) questionnaire responses submitted by Sidenor are incomplete and cannot be used to calculate an accurate dumping margin for Sidenor. Specifically, as a result of the serious deficiencies that we identified and that Sidenor failed repeatedly to address with respect to its reporting of the COP information, we are unable to determine adequately whether the reported COP information reflects, reasonably and accurately, the costs incurred by Sidenor to produce the merchandise under consideration. Without this information, we cannot calculate an accurate dumping margin for this company.

Therefore, as a consequence of the requested necessary information being absent from the record, we find that our reliance on facts otherwise available is warranted pursuant to section 776(a)(1) of the Act. Furthermore, we find that Sidenor has withheld requested information, failed to provide such information in the form and manner required, impeded the conduct of this review, and reported information that could not be verified. As such, pursuant to sections 776(a)(2)(A), (B), (C), and (D) of the Act, we find that the use of facts available for the final results is warranted. For a detailed discussion, please refer to the AFA Memo. See also the Decision Memorandum for a complete discussion of this issue.In addition, we find that Sidenor did not act to the best of its ability in reporting the COP information. Despite our repeated requests for information and

of availability of the Final EA and FONSI for Improvements to the Donna-Brownsville Levee System, in the Lower Rio Grande Flood Control Project, located in Hidalgo and Cameron Counties, Texas. The Final EA addresses comments and recommendations provided by the U.S. Fish and Wildlife Service (USFWS), Natural Resources Conservation Service, Texas Historical Commission, and Texas Commission on Environmental Quality, during the Draft EA review period ending July 31, 2007.

FOR FURTHER INFORMATION CONTACT: Daniel Borunda, Environmental Protection Specialist, Environmental Management Division, United States Section, International Boundary and Water Commission; 4171 N. Mesa, C–100; El Paso, Texas 79902. Telephone: (915) 832–4767; e-mail: *danielborunda@ibwc.state.gov.* Copies of the document have been provided to potentially affected parties, as identified during the Draft EA review process. Single hard copies of the Final EA may be obtained by request at the above address. Electronic copies may also be obtained from the USIBWC Home Page at *http://www.ibwc.state.gov.*

DATES: The Final EA and Final FONSI will be available September 14, 2007.

SUPPLEMENTARY INFORMATION: The USIBWC is authorized to construct, operate, and maintain any project or works by the United States of America on the Lower Rio Grande Flood Control Project (LRGFCP), as authorized by the Act of the 74th Congress, Sess. I Ch. 561 (H.R. 6453), approved August 19, 1935 (49 Stat. 660), and codified at 22 U.S.C. 277, 277a, 277b, 277c, and Acts amendatory thereof and supplementary thereto. The LRGFCP was constructed to protect urban, suburban, and highly developed irrigated farmland along the Rio Grande delta in the United States and Mexico.

The USIBWC, in cooperation with the USFWS, prepared this Final EA for the proposed action of raising the Donna-Brownsville Levee System located in Hidalgo and Cameron Counties, Texas to improve flood control. This levee system is part of the LRGFCP that extends approximately 180 miles from the Town of Peñitas in south Texas to the Gulf of Mexico. The Donna-Brownsville Levee extends 65 miles along the Rio Grande, downstream from the Donna Pump Station in Hidalgo County to an area east of Brownsville, approximately 28 miles upstream of the Gulf of Mexico, in Cameron County.

The Proposed Action would increase the flood containment capacity of the Donna-Brownsville Levee System by raising elevation of a number of levee segments to meet a 3-foot freeboard design criterion for flood protection. Height increases up to 2 feet are typically needed to reach the design freeboard value. The increase in levee height will result in an expansion to the levee footprint by lateral extension of the structure. Structural improvements may be required for some levee segments where seepage is a potential problem.

Dated: September 10, 2007.

Susan Daniel,

General Counsel.

[FR Doc. E7–18140 Filed 9–13–07; 8:45 am]

BILLING CODE 7010–01–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–929–931 (Review)]

Silicomanganese From India, Kazakhstan, and Venezuela

AGENCY: United States International Trade Commission.

ACTION: Scheduling of expedited five-year reviews concerning the antidumping duty orders on silicomanganese from India, Kazakhstan, and Venezuela.

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

DATES: *Effective Date:* July 6, 2007.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background. On July 6, 2007, the Commission determined that the domestic interested party group response to its notice of institution (72 FR 15726, April 2, 2007) of the subject five-year reviews was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting full reviews. Accordingly, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Act.[1] [2]

Staff report. A staff report containing information concerning the subject matter of the reviews will be placed in the nonpublic record on October 29, 2007, and made available to persons on the Administrative Protective Order service list for these reviews. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions. As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the reviews and that have provided individually adequate responses to the notice of institution,[3] and any party other than an interested party to the reviews may file written comments with the Secretary on what determinations the Commission should reach in the reviews. Comments are due on or before November 1, 2007 and may not contain new factual information. Any person that is neither a party to the five-year reviews nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the reviews by November 1, 2007. However, should the Department of Commerce extend the time limit for its completion of the final results of its reviews, the deadline for comments (which may not contain new

[1] Commissioner Deanna Tanner Okun voted to conduct full reviews of all orders due to changes in the conditions of competition in the U.S. market for silicomanganese.

[2] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's web site.

[3] The Commission has found the responses submitted by Eramet Marietta, Inc. and Felman Production, Inc. to be individually adequate. Comments from other interested parties will not be accepted (see 19 CFR 207.62(d)(2)).

factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination. The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

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

Issued: September 10, 2007.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–18111 Filed 9–13–07; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–415 and 731–TA–933 and 934 (Review)]

Polyethylene Terephthalate Film From India and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Notice of Commission determinations to conduct full five-year reviews concerning the countervailing duty order on polyethylene terephthalate (''PET'') film from India and the antidumping duty orders on PET film from India and Taiwan.

SUMMARY: The Commission hereby gives notice that it will proceed with full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) to determine whether revocation of the countervailing duty order on polyethylene terephthalate (''PET'') film from India and the antidumping duty orders on PET film from India and Taiwan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the reviews will be established and announced at a later date. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* September 4, 2007.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: On September 4, 2007, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c)(5) of the Act. The Commission found that the domestic interested party group response to its notice of institution (72 FR 30627, June 1, 2007) was adequate and that the respondent interested party group response with respect to India was adequate and decided to conduct full reviews with respect to the antidumping and countervailing duty orders concerning PET film from India. The Commission found that the respondent interested party group response with respect to Taiwan was inadequate. However, the Commission determined to conduct a full review concerning the antidumping duty order on PET film from Taiwan to promote administrative efficiency in light of its decision to conduct full reviews with respect to the orders concerning PET film from India. A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

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

Issued: September 10, 2007.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–18110 Filed 9–13–07; 8:45 am]

BILLING CODE 7020–02–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos.: 50–18, 50–70, 50–73, 50–183; License Nos.: DPR–1, TR–1, R–33, and DR–10]

In the Matter of General Electric Company (Vallecitos Boiling Water Reactor, General Electric Test Reactor, Nuclear Test Reactor, and ESADA Vallecitos Experimental Superheat Reactor); Order Approving Transfer of Licenses and Conforming Amendments

I

The General Electric Company (GE) is the holder of License No. DPR–1 for the Vallecitos Boiling Water Reactor (VBWR), License No. TR–1 for the General Electric Test Reactor (GETR), and License No. DR–10 for the ESADA Vallecitos Experimental Superheat Reactor (EVESR), which authorize possession but not operation of these facilities. GE is also the holder of License No. R–33 for the Nuclear Test Reactor (NTR), which authorizes possession, use and operation of the facility. The VBWR, the GETR and the EVESR are permanently shut down with possession-only licenses, and are maintained in safe storage with their nuclear fuel removed from the site. The NTR is a research reactor that operates at power levels not in excess of 100 kilowatts (thermal) under the authority of an operating license. The facilities are located at GE's Vallecitos site in Sunol, California.

II

By letter dated January 19, 2007, and supplemented on January 25, 2007, February 23, 2007, March 2, 2007, March 26, 2007, May 16, 2007, May 18, 2007, June 4, 2007, July 6, 2007, and August 9, 2007, (collectively, the Application), GE requested approval by the U.S. Nuclear Regulatory

APPENDIX B

STATEMENT ON ADEQUACY

EXPLANATION OF COMMISSION DETERMINATION ON ADEQUACY

in

Silicomanganese From India, Kazakhstan, and Venezuela

Inv. Nos. 731-TA-929-931 (Review)

On July 6, 2007, the Commission determined that it should proceed to expedited reviews in the subject five-year reviews pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(3)(B).[1]

With regard to each of the reviews, the Commission determined that the domestic interested party group response to the notice of institution was adequate. The Commission received responses to the notice of institution filed by domestic producers Eramet Marietta, Inc. ("Eramet") and Felman Production, Inc. ("Felman"). Because the Commission received individually adequate responses from Eramet and Felman, which represented the majority of domestic production in 2006, the Commission determined that the domestic interested party group response was adequate.

The Commission determined that the respondent interested party group response to the notice of institution in each review was inadequate. In the review concerning subject imports from India, the Commission received one response to the notice of institution from Nava Bharat Ventures, Ltd. ("Bharat"), an Indian producer of the subject merchandise. The Commission determined that Bharat's response was incomplete and individually inadequate. Because Bharat's individual response was inadequate, the Commission determined that the Indian respondent interested party group response was inadequate.

The Commission did not receive a response from any Kazakh or Venezuelan respondent interested party and therefore determined that the Kazakh and Venezuelan respondent interested party group responses to the notice of institution were inadequate. In the absence of adequate respondent interested party group responses and any other circumstances that warranted conducting full reviews, the Commission determined to conduct expedited reviews of all orders.

A record of the Commissioners' votes is available from the Office of the Secretary and the Commission's web site (http://www.usitc.gov).

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[1] Commissioner Deanna Tanner Okun voted to conduct full reviews of all orders due to changes in the conditions of competition in the U.S. market for silicomanganese.