BEFORE THE
U.S. INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF THE INVESTIGATION OF:

SILICON METAL FROM AUSTRALIA,
BRAZIL, KAZAKHSTAN, AND NORWAY

Inv. Nos. 701-TA-567-569 and 731-TA-1343-1345 (Final)
Business Proprietary Information Deleted From Pages i-iv, 2-16, 18-53 and Exhibits 2, 4 and 8

PUBLIC VERSION

PRE-HEARING BRIEF OF
DOW SILICONES CORPORATION

Stephen J. Orava
Neal J. Reynolds
Benjamin J. Bay
Bonnie B. Byers, Consultant

KING & SPALDING LLP
1700 Pennsylvania Avenue, NW
Suite 200
Washington, DC 20006-4707
(202) 737-0500
(202) 626-3737
sorava@kslaw.com

Counsel for Dow Silicones Corporation

February 8, 2017
# TABLE OF CONTENTS

LIST OF EXHIBITS .................................................................................................................. iv  

I. INTRODUCTION ................................................................................................................. 1  

II. BACKGROUND ON DOW SILICONES CORPORATION ................................................. 4  

III. THE COMMISSION SHOULD NOT EXCLUDE DOW SILICONES FROM THE DOMESTIC INDUSTRY AS A RELATED PARTY ........................................ 5  

   A. DC Alabama Accounts For A [ ] Percentage Of Domestic Production ................ 6  

   B. Dow Silicones Does Not Import Silicon Metal From Brazil In Order To Benefit From Dumping Or Subsidization .................................................... 7  

   C. Inclusion Of DC Alabama In The Industry Does Not Skew The Financial Data For The Industry ................................................................. 10  

   D. DC Alabama's And Dow Silicones' Primary Interest Lies In Domestic Production, Rather Than Importation Of The Subject Merchandise ...... 11  

IV. THE COMMISSION SHOULD NOT CUMULATE THE SUBJECT IMPORTS FROM BRAZIL WITH THE SUBJECT IMPORTS FROM AUSTRALIA, KAZAKHSTAN, AND NORWAY BECAUSE THEY DO NOT SIGNIFICANTLY COMPETE WITH THOSE IMPORTS AND THE DOMESTIC LIKE PRODUCT ........................................ 16  

   A. There Is A Limited Degree Of Fungibility Between The Subject Imports From Brazil, The Domestic Like Product, And The Subject Imports From Australia, Kazakhstan, And Norway ...................................... 18  

   B. The Large Majority Of The Imports From Brazil Do Not Compete In The Same Channels Of Distribution As The Domestic Like Product And The Subject Imports From Australia, Kazakhstan, And Norway ................................................................. 19  

V. CONDITIONS OF COMPETITION ..................................................................................... 21  

   A. There Is An Attenuated Level Of Competition Between The Imports From Brazil And The Domestic Like Product ........................................ 21  

   B. Domestic Production Cannot Meet U.S. Demand ...................................................... 23
TABLE OF CONTENTS
(cont'd)

<table>
<thead>
<tr>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>C.</td>
</tr>
<tr>
<td>D.</td>
</tr>
<tr>
<td>E.</td>
</tr>
<tr>
<td>F.</td>
</tr>
</tbody>
</table>

VI. THE DOMESTIC INDUSTRY IS NOT INJURED BY REASON OF SUBJECT IMPORTS FROM BRAZIL ................................................................. 29

<table>
<thead>
<tr>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>A.</td>
</tr>
<tr>
<td>B.</td>
</tr>
<tr>
<td>C.</td>
</tr>
<tr>
<td>D.</td>
</tr>
<tr>
<td>E.</td>
</tr>
</tbody>
</table>

1. The domestic industry experienced the low end of the demand cycle during the period of investigation, causing the industry's [ ] ................................................................................. 38

2. The [ ] reported by Globe are a result of the company's own policies and accounting ........................................................................... 40

   a. [ ] ................................................................................. 40

   b. Globe failed to report [ ] ................................................................................. 44

   c. Globe [ ] ................................................................................. 45
TABLE OF CONTENTS
(cont'd)

<table>
<thead>
<tr>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>d.</td>
</tr>
<tr>
<td>3.</td>
</tr>
<tr>
<td>VII.</td>
</tr>
<tr>
<td>VIII.</td>
</tr>
</tbody>
</table>
LIST OF EXHIBITS

EXHIBIT 1  Canadian International Trade Tribunal, Finding and Reasons: Silicon Metal

EXHIBIT 2  Confidential Declaration of Mike Searcy (APO)

EXHIBIT 3  HiTest Silicon - Proposed Newport, Washington Silicon Metal Facility Presentation

EXHIBIT 4  [ ] (APO)

EXHIBIT 5  Ferroglobe’s Jeffries Industrials Conference Presentation (Aug. 2017)

EXHIBIT 6  Ferroglobe’s Inaugural Investor Day Presentation (Oct. 17, 2017)

EXHIBIT 7  Dow Corning Website, “Dow Corning acquires U.S. and Brazilian silicon metal manufacturing assets.”

EXHIBIT 8  [ ] (APO)

EXHIBIT 9  Ferroglobe Forward Looking Statement Presentation, 2016

EXHIBIT 10  Globe Specialty Metals Website, SILICA FUME


EXHIBIT 12  “Drought ends in Brazil’s Sao Paulo but future still uncertain,” Reuters, Feb. 18, 2016

EXHIBIT 13  “HiTest battling to get approval of Washington Si smelter,” In the Right Vein, Jan. 15, 2018

EXHIBIT 14  CRU Conference Presentation of Pedro Larrea, CEO of Ferroglobe (Oct. 2016)
I. INTRODUCTION

On behalf of Dow Silicones Corporation ("Dow Silicones"),\(^1\) we submit this pre-hearing brief in opposition to Globe Specialty Metals, Inc.'s ("Globe’s") request for the imposition of antidumping and countervailing duties on imports of silicon metal from Brazil. Dow Silicones vigorously opposes Globe’s petitions because the imposition of any duties will undermine the integrated silicon metal, silicones, and polysilicon value chain that is critical to preserving and expanding advanced American manufacturing, employment, and high value U.S. exports. Dow Silicones concurs with the general points made in the Joint Respondent’s Pre-Hearing Brief submitted by Hogan Lovells LLP. In this brief, Dow Silicones demonstrates, based on the record in these investigations, that imports of silicon metal from Brazil are not injuring and are not threatening to injure the domestic silicon metal industry. Accordingly, the International Trade Commission (the “Commission”) should reach negative determinations in these final phase investigations.

As detailed further below, Dow Silicones is a U.S. producer of silicon metal, both through its subsidiary Dow Corning Alabama ("DC Alabama") and its joint venture with the petitioner, WVA Manufacturing ("WVA"). Dow Silicones also has a joint venture with Globe in the only silicon metal producer in Canada, Quebec Silicon Limited Partnership ("Quebec Silicon"). In November 2017, the Canadian International Trade Tribunal ("CITT") determined that the domestic industry, which was made up of this single Globe-Dow Silicones joint venture was not injured by imports from Brazil, Kazakhstan, Laos, Malaysia, Norway, and Thailand.\(^2\) In

\(^1\) Dow Corning Corporation changed its name to the Dow Silicones Corporation, effective February 1, 2018. Dow Silicones’ Amended Entry of Appearance (Feb. 2, 2018).

the Canadian investigations and in these U.S. investigations, Dow Silicons was not consulted or notified prior to Globe’s filing of the petitions and did not participate or certify to any of the data, information, or (mis)representations that Globe submitted to the Canadian authorities or to the Commission during the course of the investigations.\textsuperscript{3}

Here are the key points the Commission should consider regarding these investigations:

- **The domestic producer DC Alabama should not be excluded from the domestic industry.** The primary interest of DC Alabama and its corporate parent, Dow Silicons, lie in domestic production rather than the importation of the subject silicon metal. Dow Silicons has ownership interests in both DC Alabama and WVA, its joint venture with Globe, and the [ ] Dow Silicons also purchases [ ] volumes of silicon metal from other domestic producers. In fact, after Mississippi Silicon began production in 2015, Dow Silicons [ ] in order to purchase [ ] in support of the newest U.S. producer in the market.

- **Imports from Brazil should not be cumulated with imports from the other subject countries.** There is a limited degree of fungibility between imports from Brazil, subject imports, and the domestic like product. This is partially due to the [ ]. In addition, imports from Brazil are sold in significantly different channels of distribution than the other subject imports and the industry, with the [ ].

- **Competition between the imports from Brazil and the domestic industry is attenuated.** There is an extremely small amount of head-to-head competition between the imports from Brazil, the other subject imports, and the domestic like product. [ ] of imports from Brazil are [ ], and [ ] in the United States. Because they do not compete with the domestic like product on the open market in the United States, they did not impact domestic sales and pricing during the period of investigation.

- **Other conditions of competition indicate that the imports from Brazil have not caused material injury to the industry.** Several other conditions of competition indicate that

\textsuperscript{3} In addition, Globe also filed an antidumping petition with the European Commission against imports of silicon metal from Bosnia-Herzegovina and Brazil in November 2017. The European Commission initiated the investigations in December 2017, which are ongoing.
the imports from Brazil have not harmed the sales or prices of the industry or its financial condition. Specifically:

- The industry was consistently unable to supply [ ] of the market during the period, which indicates that the Brazilian and other imports are a necessary source of silicon metal in the market.

- A new U.S. producer, Mississippi Silicon, entered the market in 2015 and immediately engaged in a price war with Globe, driving prices down in the market.

- The volume of the imports from Brazil was not significant during the period. In absolute terms, the volumes of the subject imports from Brazil declined significantly over the period. In addition, [ ] over the period of investigation. Finally, the domestic industry’s [ ] over the period of investigation. As [ ] of imports from Brazil were [ ] imports from Brazil cannot be said to have had any impact on the domestic industry’s sales, production, or market share levels over the period of investigation.

- The imports from Brazil did not adversely affect U.S. market pricing or the domestic industry’s operating and financial performance. In many respects, the industry performed well throughout the period of investigation. For example, its [ ] over the period.

Moreover, although its [ ] these were not the result of direct competition from imports from Brazil. The record demonstrates that any price depression or suppression in the market, as well as any downward financial trends, were the result of the entry of a new domestic producer, Mississippi Silicon, into the market in 2015 and the drop in domestic demand in 2015 and 2016. As a final note, [ ] of the domestic industry are also attributable to Globe’s own internal policies and business decisions, which resulted in “self-injury” to the company.

- Imports from Brazil do not threaten the domestic industry. The domestic industry is not vulnerable to the possible impact of the imports – it continues to enjoy [ ].

For its part, the Brazilian industry is operating at [ ] and demand for its product is growing in other export markets. Furthermore, the volumes and [ ] of the imports from Brazil did not increase over the period of investigation, and they did not have adverse effects on domestic prices.

Ultimately, Globe has failed to show that the statutory requirements have been met. The Commission should reach negative determinations in these investigations.
II. BACKGROUND ON DOW SILICONES CORPORATION

Dow Silicones, until recently known as Dow Corning Corporation, is a U.S. corporation organized under the laws of the State of Michigan and is a 100 percent wholly owned subsidiary of The Dow Chemical Company. The Dow Chemical Company is in turn 100 percent owned by the newly merged DowDuPont Inc.

Dow Silicones is the largest U.S. and global consumer of silicon metal. Dow Silicones (and its thousands of U.S. workers) refines silicon metal at major facilities in Midland, Michigan and Carrollton, Kentucky into intermediates that are used in the production of over 3,000 products at further manufacturing sites in Michigan (Midland and Freeland), Kentucky (Carrollton and Elizabethtown), Indiana (Kendallville), and North Carolina (Greensboro). The products manufactured at these sites include advanced silicones that are used in virtually every industry, including automotive, beauty, healthcare, textiles, and many others. Literally, these silicones are building blocks for the majority of what we use and consume every day and contribute to over $1.2 billion in U.S. exports.

Dow Silicones' affiliate, Hemlock Semiconductor in Hemlock, Michigan, also relies on silicon metal as the starting point for its U.S. manufacturing of high purity polysilicon used as the critical input in the production of solar panels and semiconductors. As discussed further below, the input to high-quality polysilicon requires high purity, low-boron silicon metal, which [...

]. The U.S. polysilicon industry is already highly vulnerable as a result of ongoing trade conflicts with China that caused Hemlock to make significant layoffs and permanently close and demolish its brand new, state-of-the-art $1.2 billion Clarksville, Tennessee polysilicon facility before ever starting operations. The imposition of duties on critical silicon metal supply that is unavailable from U.S. sources will accelerate the harm to the U.S. polysilicon sector.
In order to ensure the security and reliability of supply and the necessary technical specifications, Dow Silicones sources its silicon metal from its wholly-owned U.S. silicon metal producer (DC Alabama), its U.S. joint venture with Globe (WVA), its Canadian joint venture with Globe (Quebec Silicon), its purchases from Globe and the other U.S. producer (Mississippi Silicon),\(^4\) and its [ ].

In fact, Dow Silicones incorporates an average of 95 percent additional U.S. value-added to silicon metal in its U.S. production of the over 3,000 products that do enter the open market. Thus, Dow Silicones is uniquely situated in this investigation across the entire highly complex and integrated value chain, including as a major U.S. producer, U.S. purchaser, U.S. importer, and foreign producer of silicon metal.

III. THE COMMISSION SHOULD NOT EXCLUDE DOW SILICONES FROM THE DOMESTIC INDUSTRY AS A RELATED PARTY

Under section 771(4)(B) of the Tariff Act, the Commission may, in “appropriate circumstances,” exclude from the domestic industry a producer that is related to an exporter or importer of the subject merchandise or that imports the subject merchandise.\(^5\) The Commission’s decision to exclude a related producer from the industry is a discretionary one that

---

\(^4\) When Mississippi Silicon began operations, Dow Silicones [ ] in order to support new U.S. domestic production and enhance its diversity and security of supply.

depends on the facts of each investigation. When deciding whether appropriate circumstances exist to exclude a related party from the industry, the Commission typically considers:

(1) the percentage of domestic production attributable to the importing producer;
(2) the reason the U.S. producer has decided to import the product subject to investigation (that is, whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market);
(3) whether inclusion or exclusion of the related party will skew the data for the rest of the industry;
(4) the ratio of import shipments to U.S. production for the importing producer; and
(5) whether the primary interest of the importing producer lies in domestic production or importation.

As discussed below, the record demonstrates that appropriate circumstances do not exist to exclude the domestic producer DC Alabama from the industry as a related party.

A. DC Alabama Accounts For A [ ] Percentage Of Domestic Production

Throughout the period of investigation, DC Alabama accounted for a [ ] percentage of production, consistently producing approximately [ ] percent of total U.S.

---


7 Changzhou Trina Solar Energy v. USITC, 100 F. Supp. 3d 1314, 1329 (Ct. Int’l Trade 2015); see also Torrington, 790 F. Supp. at 1168.

8 During the preliminary phase of these investigations, the Commission determined that appropriate circumstances existed to exclude DC Alabama from the industry but stated that it intended to examine the issue in any final phase of the investigations. Silicon Metal Prelim at 9-11. In its determinations, the Commission noted that, in the final phase of these investigations, it would examine why Dow Silicones uses subject imports “as a source of supply to the extent that it does, rather than relying more on domestic production by its subsidiary DC Alabama or on purchases from other domestic sources.” Id. at 11 n.49.
production of silicon metal throughout the period of investigation.\textsuperscript{10} During the period of investigation, DC Alabama was also the [ ] U.S. producer of silicon metal, [ ] after Mississippi Silicon entered the market in 2015.\textsuperscript{11} Furthermore, DC Alabama has been a significant producer of silicon metal in the United States for a number of years.\textsuperscript{12} The record thus demonstrates that DC Alabama was a significant U.S. producer and [ ] of silicon metal throughout the period of investigation, indicating that it should not be excluded from the domestic industry.

B. Dow Silicons Does Not Import Silicon Metal From Brazil In Order To Benefit From Dumping Or Subsidization

During the period of investigation, DC Alabama did not [ ].\textsuperscript{13} As a result, petitioner cannot contend that DC Alabama has chosen to import subject merchandise to benefit from dumped or subsidized imports.

Moreover, while it is true that Dow Silicons, DC Alabama’s parent corporation, imported subject merchandise [ ] during the period of investigation,\textsuperscript{14} it did not do so

\begin{itemize}
  \item[9] DC Alabama is a related party under the statute because it [ ]. Prehearing Report in \textit{Silicon Metal from Australia, Brazil, Kazakhstan, and Norway}, Inv. Nos. 701-TA-567-569 and 731-TA-1343-1345 (Final) (Feb. 1, 2018) ("Staff Report") at I-5. Palmyra and DC Alabama are both owned by Dow Silicons Corporation. In addition, [ ].
  \item[10] \textit{Id.} at III-11 and III-12.
  \item[11] \textit{Id.} at III-5. DC Alabama’s share of domestic production was [ ] percent in 2014, [ ] in 2015, [ ] percent in 2016, and [ ] in interim 2017. \textit{Id.}
  \item[12] \textit{Id.} at III-1 n.1, and III-5.
  \item[14] See Staff Report at III-11.
\end{itemize}
in order to benefit from dumped or subsidized pricing. Instead, as Dow Silicones [ ].

First, Dow Silicones [ ].

].  

].  

].  

]. Because no member of the domestic industry, including Globe and DC Alabama, has the ability to [ ].

In other words, Dow Silicones does not [ ] to benefit from dumping or subsidization. Instead, Dow Silicones [ ].

\footnote{Id. at III-11 and III-12; [ ]}.  

\footnote{[ ]}.  

\footnote{Id. }.  

\footnote{Id. [ ]}.  

\footnote{Confidential Declaration of Mike Searcy, attached as \textit{Exhibit 2}, at ¶ 15.}
Dow Silicones also sources silicon metal [ ] because the domestic industry simply cannot come close to satisfying U.S. demand for silicon metal. During the three full years of the period of investigation, apparent consumption of silicon metal in the U.S. market ranged between [ ] ST to [ ] ST. During this same period, the industry’s total reported capacity was [ ], ranging between [ ] and [ ] ST. Thus, even after Mississippi Silicon entered the market in 2015 and began shipping [ ] of silicon metal to the U.S. market in 2016 and 2017, the industry was unable to – and remains unable to – supply [ ]. Because the industry cannot supply U.S. demand for silicon metal, Dow Silicones – like other U.S. firms that use silicon metal in their production operations – must source [ ] of silicon metal from Brazil and other non-U.S. sources of silicon metal. The domestic industry’s inability to supply the U.S. market is further exacerbated by the

---

20 [ ]

21 Id. at IV-25. Apparent consumption in the total U.S. market was [ ] ST in 2014, [ ] ST in 2015, and [ ] ST in 2016. In interim 2017, apparent consumption was [ ] ST. Id.

22 Id. at III-5. The industry’s total capacity was [ ] ST in 2014, [ ] ST in 2015, [ ] ST in 2016 and [ ] ST in interim 2017. Id.

23 A comparison of the industry’s capacity figures in Table III-4 of the Staff Report with the apparent consumption data contained Table IV-9 indicates that the industry’s aggregate capacity level was equivalent to [ ] percent of apparent consumption in 2014, [ ] percent of apparent consumption in 2015, [ ] percent of apparent consumption in 2016 and [ ] percent of apparent consumption in interim 2017.
fact that it is unable to supply the [ ].

In sum, Dow Silicones is not sourcing silicon metal [ ] in order to benefit from dumping or subsidization. Instead, it imports the subject product [ ] because it must do so to continue its advanced downstream U.S. manufacturing operations.

C. Inclusion Of DC Alabama In The Industry Does Not Skew The Financial Data For The Industry

Inclusion of DC Alabama in the industry will not skew the financial results of the industry. For much of the period of investigation, DC Alabama’s [ ] than the industry’s. 25

During the first two years of the period of investigation, for example, DC Alabama and the industry as a whole [ ]. 26 In 2015 and 2016, the ratio of DC Alabama’s operating income to net sales was [ ] percent, respectively, while the ratio of the domestic industry’s operating income to net sales were [ ] percent, respectively. 27 The profitability levels of DC Alabama and the industry [ ] 28

But as discussed in greater detail in Section VI.E.2 below, there are significant issues associated with [ ].

24 Confidential Declaration of Mike Searcy, attached as Exhibit 2, at ¶ 5.

25 Staff Report at VI-16 to VI-19.

26 Id.

27 Id.

28 Id.
Further, the operating income trends for [ ] DC Alabama and the industry as a whole [ ]29 Although there were [ ] in these trends, the industry’s ratio of operating income to net sales [ ] percent in 2014 to [ ] in interim 2017. [ ] DC Alabama’s [ ] between 2014 and interim 2017, [ ] percent in 2015 to [ ] percent in interim 2017.30 Given these [ ] trends, inclusion of DC Alabama in the industry would not skew the financial results of the industry.31

D. DC Alabama’s And Dow Silicons’ Primary Interest Lies In Domestic Production, Rather Than Importation Of The Subject Merchandise

Finally, the record demonstrates that the primary interest of Dow Silicons and DC Alabama lies in domestic production of silicon metal rather than the importation of the subject silicon metal from Brazil.32 As previously noted, the record demonstrates that DC Alabama has produced [ ] of silicon metal throughout the period of investigation.33 Moreover, DC Alabama has [ ]

29 Id.

30 Id.

31 See Wooden Bedroom Furniture from China, Inv. No. 731-TA-1058 (Final), USITC Pub. 3742 (Dec. 2004) (“Wooden Bedroom Furniture”) at 12 (stating that the Commission assesses whether a related producer “benefits disproportionately” from the subject imports and determining that it was appropriate to include in the domestic industry related producers whose operating income levels were higher than the industry average).

32 E.g., Carbon and Certain Alloy Steel Wire Rod from Belarus, Russia, and the United Arab Emirates, Inv. Nos. 731-TA-1349, 1352, and 1357 (Final), USITC Pub. 4752 (Jan. 2018) at 16 n.91.

33 Staff Report at III-5 (indicating that DC Alabama produced approximately [ ] percent of domestic production during the period of investigation).
and [ ]\(^{34}\) and [ ]. Given this, the record indicates that DC Alabama’s interests lie exclusively in the domestic production of silicon metal. Dow Silicones, DC Alabama’s parent, [ ] during the period of investigation.\(^{35}\) From 2014 to 2016, Dow Silicones’ [ ] per year.\(^{36}\) Although these import volumes have [ ] than DC Alabama’s production levels throughout most of the period of investigation, other factors demonstrate that Dow Silicones’ interests lie in domestic production rather than importation [ ].\(^{37}\) These factors include:

- The ratio of Dow’s imports to DC Alabama’s production [ ] during the period of investigation, [ ] percentage points between 2014 and interim 2017;

- In 2015, the middle year of the period of investigation, Dow Silicones’ imports of silicon metal [ ] in volume than DC Alabama’s production;\(^{38}\) and

- Dow Silicone’s imports of silicon metal [ ] were not disproportionately [ ] DC Alabama’s production volumes during the remainder of the period of investigation, with Dow’s imports being [ ] percent [ ]\(^{39}\) at 11 and III-12.

\(^{34}\) Id.

\(^{35}\) Id.

\(^{36}\) Id.


\(^{38}\) Id.
DC Alabama’s production volumes at the end of the period of investigation.\textsuperscript{39}

These factors demonstrate that Dow Silicones did not import silicon metal \[ \text{in a} \] manner that is inconsistent with Dow Silicones having a primary interest in producing and sourcing silicon metal domestically.\textsuperscript{40}

Furthermore, in order to accurately assess whether Dow Silicones’ corporate interests lie in domestic production rather than importation, the Commission must take into account the fact that Dow Silicones has a \[ \text{ownership interest in WVA, a West Virginia joint venture} \] that produces silicon metal.\textsuperscript{41} As the Staff report reflects,\textsuperscript{42} Dow Silicones acquired a \[ \text{percent interest in WVA in 2009.} \] Under the \[ \text{silicon metal production.} \] Dow Silicones has\[ \]

\textsuperscript{39} \textit{Id. at III-12} (showing that Dow Silicones’s imports of subject merchandise were \[ \text{production levels in interim 2017.} \textit{See Wooden Bedroom Furniture} at 12.

\textsuperscript{40} \textit{Uncoated Groundwood Paper from Canada}, Inv. Nos. 701-TA-584 and 731-TA-1382 (Prelim.), USITC Pub. 4732 (Oct. 2017) at 11 (finding that appropriate circumstances did not exist to exclude a related producer from the industry, even though that producers imports were larger than its domestic production).

\textsuperscript{41} \textit{Staff Report at III-2;} \[ \text{].} \]

\textsuperscript{42} \textit{Id. at III-2 and III-3.}

\textsuperscript{43} \[ \text{.} \]

\textsuperscript{44} Confidential Declaration of Mike Searcy, attached as \textbf{Exhibit 2}, at ¶ 15.
Dow Silicones’ [ ] the period of investigation.46

Dow Silicones’ ownership interest in WVA gives the company a direct and substantial interest in that joint venture’s domestic production of silicon metal. Accordingly, the Commission should include Dow Silicones’ [ ] in its analysis when assessing whether Dow’s interests lie in domestic production or importation of the subject imports. As shown in the table below, when the total U.S. production at both of these Dow Silicones’ production facilities is compared to its imports from subject countries, Dow Silicones’ overriding corporate interest in domestic production is apparent.

| Table 1. Dow Silicones’ U.S. Production Exceeds Its Imports Of Subject Merchandise |
|--------------------------------------|---|---|---|---|---|
| DC Alabama Production                | [ ] | [ ] | [ ] | [ ] |
| Dow Silicones’ [ ] WVA Production   | [ ] | [ ] | [ ] | [ ] |
| Total Dow Silicones U.S. Production  | [ ] | [ ] | [ ] | [ ] |
| Dow Silicones Imports of Subject Merchandise | [ ] | [ ] | [ ] | [ ] |
| Difference                           | [ ] | [ ] | [ ] | [ ] |
| % By Which U.S. Production Exceeds Imports | [ ] | [ ] | [ ] | [ ] |

Source: [ ].

45 Id.

46 [ ] Id.
In addition to sourcing silicon metal from its own two U.S. production facilities, Dow Silicones also purchased [47] In 2016, Dow Silicones’ total purchases from [48] [49] In addition, Dow Silicones’ purchased [50] Dow Silicones believes that this [51] Thus, not only is Dow Silicones a significant U.S. producer in Alabama and West Virginia, it also [52] These volumes, considered collectively, are significantly and consistently [53] than Dow Silicones’ imports [54]. This should address the issue raised by the Commission during the preliminary investigation, and lead to a conclusion by the Commission that Dow Silicones should be considered part of the domestic industry for purposes of these investigations.

47 Confidential Declaration of Mike Searcy, attached as Exhibit 2, at ¶ 15.
48 Id.
49 Id.
50 Id.
51 Id.
52 The Commission noted that, in the final phase of these investigations, it would examine why Dow Silicones uses subject imports “as a source of supply to the extent that it does, rather
Finally, as discussed above, despite Dow Silicons’ [ ] U.S. production, it must still import silicon metal [ ]. The record demonstrates that the domestic industry, including DC Alabama, have been [ ] throughout the period of investigation.\textsuperscript{53} The record also demonstrates that the industry has historically been unable to supply [ ] of demand in the U.S. market,\textsuperscript{54} and that it cannot produce the [ ]\textsuperscript{55}.

In light of the foregoing, the record clearly demonstrates that Dow Silicons’ corporate interests lie more in the domestic production of silicon metal than in subject imports.

**IV. THE COMMISSION SHOULD NOT CUMULATE THE SUBJECT IMPORTS FROM BRAZIL WITH THE SUBJECT IMPORTS FROM AUSTRALIA, KAZAKHSTAN, AND NORWAY BECAUSE THEY DO NOT SIGNIFICANTLY COMPETE WITH THOSE IMPORTS AND THE DOMESTIC LIKE PRODUCT**

When assessing whether the subject imports are causing material injury to an industry, the statute directs the Commission to cumulate the subject imports from all countries under investigation if the imports compete with each other and with the domestic like product in the U.S. market, and if the petitions covering the imports were filed on the same day.\textsuperscript{56} When

\textsuperscript{53} Staff Report at III-5. The industry’s capacity utilization rates were [ ] percent in 2014, [ ] percent in 2015, [ ] percent in 2016, and [ ] percent in interim 2017.

\textsuperscript{54} As noted above, even if the domestic industry produced at 100 percent of its capacity, it would still not have been able to supply more than [ ] percent of the market demand for silicon metal, as measured by apparent consumption, during the period of investigation. \textit{Id.} at III-5 and IV-25 (\textit{Compare} Tables III-4 & IV-9).

\textsuperscript{55} \textit{Id.} at III-11 & III-12.

\textsuperscript{56} 19 U.S.C. § 1677(7)(G)(i).
assessing whether subject imports compete with each other and with the domestic like product, the Commission generally considers four factors, including:

(1) the degree of fungibility between subject imports from different countries and between subject 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 subject imports from different countries and the domestic like product;

(3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and

(4) whether the subject imports are simultaneously present in the market.\textsuperscript{57}

Although no single factor is necessarily determinative and the list of factors is not exclusive, these factors provide the Commission with a framework for determining whether the subject imports compete with each other and with the domestic like product.\textsuperscript{58} The Commission requires that there be a “reasonable overlap” of competition between the subject imports and the domestic like product.\textsuperscript{59}

For the reasons discussed below, the Commission should not cumulate the subject imports from Brazil with the other subject imports, given the absence of a reasonable overlap of competition between imports of silicon metal from Brazil, domestically produced silicon metal, and imports of silicon metal from Australia, Kazakhstan, and Norway.


A. There Is A Limited Degree Of Fungibility Between The Subject Imports From Brazil, The Domestic Like Product, And The Subject Imports From Australia, Kazakhstan, And Norway

The record demonstrates that there is a limited degree of fungibility between the subject imports from Brazil, the domestic like product, and the other subject imports. As the Staff Report notes, Brazil was the [ ] supplier of silicon metal with low-boron content during the period of investigation.\(^{60}\) In 2016, for example, there were [ ] U.S. shipments of low-boron silicon metal from Australia, Kazakhstan, or Norway, while [ ] was shipped by U.S. producers.\(^{61}\) Similarly, silicon metal with low-boron content represented [ ] percent of the total commercial shipments of U.S. producers.\(^{62}\) In contrast, silicon metal with low-boron content accounted for [ ] percent of all commercial shipments of silicon metal from Brazil. Thus, there is a very limited degree of overlap between the type of silicon metal imported from producers in Brazil and the types of silicon metal shipped by the U.S. industry and the subject producers in Australia, Kazakhstan, and Norway.

The difference in the volumes of low-boron silicon metal imported from Brazil and those shipped by the U.S. and other subject producers is [ ].\(^{63}\)

\(^{60}\) Staff Report at IV-14 to IV-16.

\(^{61}\) Id.

\(^{62}\) Id.

\(^{63}\) Id. at I-24 n.84, III-11 and III-12; see also Confidential Declaration of Mike Searcy, attached as Exhibit 2, at ¶ 5.
Because the domestic industry is unable to supply this material, [64] In a typical year, [65] Indeed, without access to the imports from Brazil, [66]

Using domestically produced silicon metal or imports of silicon metal from other subject countries is simply not a feasible way of replacing imports of silicon metal from Brazil. Accordingly, the limited degree of fungibility between the imports from Brazil, the other subject imports, and the domestic like product, supports a finding that the subject imports from Brazil should not be cumulated with those from Australia, Kazakhstan, and Norway.

B. The Large Majority Of The Imports From Brazil Do Not Compete In The Same Channels Of Distribution As The Domestic Like Product And The Subject Imports From Australia, Kazakhstan, And Norway

In addition to demonstrating a limited degree of fungibility for the imports from Brazil, the record also highlights the significant distinctions between the channels of distribution in which the subject imports from Australia, Brazil, Kazakhstan, and Norway flow. As the Staff

64 Staff Report at I-24 n.84; see also Confidential Declaration of Mike Searcy, attached as Exhibit 2, at ¶ 5.
65 Confidential Declaration of Mike Searcy, attached as Exhibit 2, at ¶ 5.
66 Id.
67 Id. at ¶ 6.
PUBLIC VERSION

Report shows, during the period of investigation, the [ ] of silicon metal imports from Brazil were shipped to [ ], while [ ] percentage of subject silicon metal imports from Australia, Kazakhstan, and Norway were shipped to this category of purchasers.\(^{68}\) More specifically, throughout the period of investigation, [ ] percent of the subject imports from Brazil were shipped to [ ] on an annual basis.\(^{69}\) In contrast, during this period, [ ] imports of silicon metal from Kazakhstan were shipped to this class of customer,\(^{70}\) and [ ] percent to [ ] percent of Australian imports were shipped to [ ].\(^{71}\) Further, although [ ] percent of Norwegian imports of silicon metal were shipped to this customer class in 2014,\(^{72}\) this percentage [ ] through the rest of the period of investigation, [ ] percent in interim 2017.\(^{73}\) Given the [ ] in the amounts shipped to this category of producers from Brazil and the other subject countries, it is clear that the [ ]

\(^{68}\) Staff Report at II-4 to II-6.

\(^{69}\) Id. In 2014, [ ] percent of imports from Brazil of silicon metal were shipped to [ ] in 2015, [ ] percent of imports from Brazil were shipped to this category of producers; in 2016, [ ] percent were shipped to this category in 2016; and, in interim 2017, [ ] percent were shipped to this category of producers. Id.

\(^{70}\) Id.

\(^{71}\) Id. The percentage of imports from Australia shipped to this category of producers was [ ] percent in 2014, [ ] percent in 2015, [ ] percent in 2016, and [ ] percent in interim 2017.

\(^{72}\) In terms of absolute volumes, the amount of imports from Norway shipped to this category of producers was [ ] ST, which is [ ] ST of Brazilian silicon metal shipped to these producers in that year. Id.

\(^{73}\) Id. The percentage of imports from Norway shipped to this category of producers was [ ] percent in 2014, [ ] percent in 2015, [ ] percent in 2016, and [ ] percent in interim 2017.
] of the imports from Brazil were sold to a different category of purchasers than the [ ] of imports from the other subject countries.

In addition, [ ] in a unique channel of distribution. During the period of investigation, Dow Silicones [ ] of silicon metal and [ ]. In 2016, for example, a total of 68,340 ST of the subject silicon metal was imported from Brazil.  

]  

].  

Because these imports do not [ ], there is an absence of head-to-head market competition between imports from Brazil and either the other subject imports or domestic silicon metal. Given this, the Commission should conclude that this unique distribution channel demonstrates that there is no reasonable overlap of competition between the imports from Brazil and the other subject imports or domestic silicon metal.

V. CONDITIONS OF COMPETITION

A. There Is An Attenuated Level Of Competition Between The Imports From Brazil And The Domestic Like Product

The previous sections of this brief discuss why there was an extremely limited degree of competition between the subject imports from Brazil and domestically produced silicon metal

74 Id. at IV-25.

75 Id. at III-12 and IV-25 (Compare Staff Report, Table III-8, with Table IV-9). Dow Silicones [ ].
during the period of investigation. In particular, throughout the period of investigation, the

].

Instead, they were [ ].

]. Given that these imports [ ].

there was no direct, head-to-head competition between these imports and the industry’s open
market sales of silicon metal, indicating that these imports could not have had a direct impact on
the industry’s sales volumes, pricing, or condition during the period of investigation.

Furthermore, during the period of investigation, a [ ] of the silicon metal
imported by Dow Silicones [ ].

]. As noted previously,

Dow Silicones [ ].

]. Because the Brazilian

silicon metal industry, including Dow Silicones’ related producer Palmyra, [ ].

]., typically [ ].

As noted previously, Dow Silicones [ ].

]. Id. at III-12.

]. Id. at I-24 n.85 and III-11 to III-12.

]. Id.; see also id. at IV-14 and IV-15 (indicating that, in 2016, the domestic industry
produced [ ]).

]. Id. at I-24 n.85 and III-11 to III-12.
Because the domestic industry has had no impact whatsoever on the industry’s sales volumes, pricing, or condition during the period of investigation.

The record indicates that the actual competition between the imports from Brazil and the domestic like product is extremely limited. As a result, the Commission should closely examine the record of this investigation to assess the credibility of the petitioner’s claim that the subject imports are causing material injury to the industry.

B. Domestic Production Cannot Meet U.S. Demand

Domestic production and capacity have been unable to meet demand in the U.S. market throughout the period of investigation, a situation that will not change in the near future. Even after the increase in domestic capacity represented by the entrance of Mississippi Silicon into the market in late 2015, the domestic industry is still unable to meet demand. In 2016, the domestic industry had the capacity to produce. As the domestic industry already operates at a “high level of capacity utilization,” any “future capacity increases would likely require large capital expenditures in the form of additional furnaces.” Although HiTest’s new silicon metal production facility is due to break ground in Newport, WA in the near future,

80 Confidential Declaration of Mike Searcy, attached as Exhibit 2, at ¶ 5.

81 See Staff Report at III-12.

82 Mississippi Silicon added ST in capacity to the domestic industry, and its first shipments to the U.S. market were made in late 2015. Id. at III-5.

83 Staff Report at C-3 and C-4.

84 Id. at II-8.
even the addition of the planned 60,000 ST of capacity from this facility would not remedy the

domestic industry’s inability to meet demand.\textsuperscript{85} Moreover, this capacity will not come online
until 2021, when the domestic industry will have to meet even higher levels of demand. [ ]\textsuperscript{86}
meaning that, when the capacity of the HiTest facility is included in the domestic industry, the domestic
industry would still only have the ability to supply [ ] percent of total U.S. demand in 2022.

C. A New Market Entrant In The United States Significantly Affected The

Domestic Marketplace

As noted above, the entry of a new producer, Mississippi Silicon, with the capacity to
produce [ ] ST of silicon metal, had a significant effect on the domestic market. The
addition of this capacity to the market at the end of 2015 resulted in a price war between Globe
and Mississippi Silicon, because Globe, as well as other producers in both subject and non-
subject countries, consistently had to lower prices to maintain market share. This scenario is

\[ ]\textsuperscript{87} and the [ ]\textsuperscript{88}

\textsuperscript{85} HiTest Silicon – Proposed Newport, Washington Silicon Metal Facility Presentation,
attached as Exhibit 3. Even if the additional capacity represented by the HiTest facility is added
to the total capacity of the domestic industry in 2016, the domestic industry still would [ ].

\textsuperscript{86} [ ]. \textit{Id.}

\textsuperscript{87} [ ].

\textsuperscript{88} [ ].
D. Globe Was The Price Leader Throughout The Period Of Investigation

“Most responding purchasers reported that U.S. producer Globe is a price leader.”\(^{89}\) Not only is Globe a price leader due to its size in the marketplace, but the company is willing to do whatever it takes to maintain this leadership position. This was the case even prior to the Ferroglobe merger. \[^{90}\]

However, the merger creating Ferroglobe, which was finalized in December 2015, consolidated Globe’s leadership position and increased its pricing power in the domestic marketplace. \[^{90}\], stating:

\[\begin{itemize}
\item \[^{91}\]
\item \[^{92}\]
\end{itemize}\]

\[^{89}\] Staff Report at V-9.

\[^{90}\]

\[^{91}\]

\[^{92}\]
In the U.S. market, of the \[ \] ST of capacity in the merchant market, Globe controls \[ \] ST, or about \[ \] percent.97

In fact, Ferroglobe has been aggressively “price signaling” to the market by announcing its own pricing trends and intentions to take advantage of its market position, including announcements at industry conferences where representatives of the company would state that “prices needed to increase.”98 At the Jeffries Industrials Conference in August 2017, Ferroglobe displayed its actual realized prices from April 2016 to April 2017, showing significant price increases.99 As the dominant producer and price leader in the market, Ferroglobe intends, or

---

93 [ 
94 [ 
95 [ 
96 Id. 
97 [ 
98 Hearing Transcript, Silicon Metal from Australia, Brazil, Kazakhstan, and Norway, Inv. Nos. 701-TA-567-569 and 731-TA-1343-1345 (Prelim.) (Mar. 29, 2017) (“Staff Conference Tr.”) at 93 (Mr. Augusto, LIASA).
should at least expect, that these announcements will drive up the market price for silicon metal. As a result, silicon metal prices have [ ] in the fourth quarter of 2017 following Ferroglobe’s announcement of its prices.100 At a recent investor conference, Ferroglobe touted these price increases as the result of its “(o)perational strategy beginning to take shape.”101

In short, [ ]102 [ ],103 This monopolistic behavior by Globe overshadows not only the entire domestic market, but international markets as well.

E. Downstream Producers Need Diversity Of Supply

Stability and reliability of supply is critical to purchasers’ supply chains. Producers, including Globe, are [ ]104 [ ].105

---

100 Staff Report at V-5.

101 Ferroglobe Inaugural Investor Day Presentation (Oct. 17, 2017), attached as Exhibit 6, at 62.

102 [ ]

103 [ ]

104 Confidential Declaration of Mike Searcy, attached as Exhibit 2, at ¶ 12 and Declaration Attachments B and C.

105 Id.
Producers can also shutter supply, sometimes without advance notice, which can cause supply disruptions. For example, [106]. Amazingly, Globe also [107] at precisely the same time it was [ ]. Because of supply chain concerns such as these, Dow Silicones [108]...

F. The Market For Silicon Metal Is Cyclical And The Low Point Was [ ]

Over [ ] percent of all responses to the Commission’s questionnaires, including [ ] U.S. producers, “indicated that the market was subject to business cycles and/or changes in conditions of competition” during the period of investigation. [109] [ ] indicated that silicon metal is subject to business cycles that are heavily dependent on the aluminum industry and many consumer products that use silicones. [110] [ ] also reported that any capacity increases in the market are “lumpy” and fail to address demand increases or decreases smoothly, leading to a marketplace usually in a state of either over- or...
under-supply.\textsuperscript{111} The last “lump” of capacity hit the market in late 2015, when Mississippi Silicon began selling to the merchant market.

\textsuperscript{112} \[
\]
\textsuperscript{113} particularly driven by a \[
\]
\textsuperscript{114} Although silicon metal demand in the United States will grow significantly in the next few years, domestic production, as discussed above, will still be insufficient to meet this demand.\textsuperscript{115}

\textbf{VI. THE DOMESTIC INDUSTRY IS NOT INJURED BY REASON OF SUBJECT IMPORTS FROM BRAZIL}

\textbf{A. The Volume Of Subject Imports From Brazil Is Not Significant}

For the reasons enumerated above, imports from Brazil should not be cumulated with other subject imports but instead should be examined separately by the Commission. On a decumulated basis, the volume of imports from Brazil is not significant for the following reasons.

\textsuperscript{111} \textit{Id.}

\textsuperscript{112} [

\textsuperscript{113} [

\textsuperscript{114} Staff Report at II-16. [

\textsuperscript{115} See Section V.B, \textit{infra}.}
First, the absolute volume of imports from Brazil declined significantly over the period of investigation. Imports from Brazil fell from 83,724 ST in 2014 to 68,340 ST in 2016, a drop of over 18 percent.\footnote{Staff Report at IV-5.} \footnote{\textit{Id.} at III-12 and IV-25 (\textit{Compare} Staff Report, Table III-8, with Table IV-9).} Moreover, exports a proportion of those downstream products containing Brazilian silicon metal from its foreign trade zones ("FTZs"). However, the Commission's questionnaire did not distinguish between total imports into the United States from imports for consumption. It is the Commission's longstanding practice to treat imports into FTZs as subject imports only when such imports enter the U.S. customs territory after transformation.\footnote{\textit{See Certain Cut-To-Length Steel Plate From France, India, Indonesia, Italy, Japan, and Korea}, Inv. Nos. 701-TA-387-391 and 731-TA-816-824 (Final), USITC Pub. 3273 (Jan. 2000).} Once imports of silicon metal from Brazil that never enter the customs territory of the United States (because they are used to produce downstream products for the export market) are excluded, imports from Brazil are even lower.

Second, the volume of imports from Brazil as a share of apparent U.S. consumption in the merchant market \footnote{\textit{Id.}} from 2014 to 2016. The merchant market share of imports from Brazil \footnote{\textit{Id.}} in 2014 to \footnote{\textit{Id.}} in 2016, a \footnote{\textit{Id.}}
Moreover, the share of the merchant market held by imports from Brazil at the beginning and the end of the period of investigation were [\textsuperscript{119}]. At the Staff Conference, Globe’s counsel asserted that Globe considered all of Dow Silicones’ imports of silicon metal from its Brazilian affiliate to the United States, [\textsuperscript{120}] are used captively by Dow Silicones, to be sales that Globe is not able to make due to unfair import competition.\textsuperscript{121} This argument has no merit. First, Dow Silicones [\textsuperscript{122}] Finally, Dow Silicones has also [\textsuperscript{123}]

\textsuperscript{119} Revision to the Staff Report in \textit{Silicon Metal from Australia, Brazil, Kazakhstan, and Norway}, Inv. Nos. 701-TA-567-569 and 731-TA-1343-1345 (Final) (Feb. 7, 2018) (“Revised Staff Report”) at IV-31.

\textsuperscript{120} \textit{Id.}

\textsuperscript{121} Staff Conference Tr. at 49-50 (Ms. Lutz). (“Every pound of silicon metal that goes into a Free Trade Zone is a pound that Globe cannot sell to them.”)

\textsuperscript{122} [\textsuperscript{123}]

\textsuperscript{122} Confidential Declaration of Mike Searcy, attached as \textbf{Exhibit 2}, at ¶15.
from them instead. This is particularly true as Dow Silicons’ purchase of the Brazilian facility from Globe was made as part of the same transaction setting up the WVA joint venture in West Virginia.\textsuperscript{124}

As discussed above, it is critical for users of silicon metal to have diverse sources of supply that meet the company’s quality specifications and that are both stable and reliable.\textsuperscript{125} To this end, [ ]\textsuperscript{126} It was for this reason that Dow Silicons invested in production facilities in Brazil. In fact, Dow Silicons purchased its silicon metal facility in Pará, Brazil from Globe in 2009.\textsuperscript{127} Moreover, as noted above, Globe is not capable of supplying [ ]\textsuperscript{126}.

\textbf{B. The Subject Imports From Brazil Did Not Adversely Affect Domestic Prices During The Period Of Investigation}

Under section 771(7)(C)(ii) of the Tariff Act, when evaluating the price effects of subject imports, the Commission must consider whether: (1) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (2) the effect of imports of such merchandise otherwise depresses prices to a

\begin{itemize}
\item \textsuperscript{124} Dow Corning Website, “Dow Corning acquires U.S. and Brazilian silicon metal manufacturing assets,” attached as \textbf{Exhibit 7}.
\item \textsuperscript{125} \textit{See, e.g.}, Staff Conference Tr. at 119 (Mr. Bowes, REC Silicon) (“Diversity of supply is highly important to us. We’ve seen port slowdowns or strikes, we’ve seen floods at and fires at processing facilities that have slowed down production. We’ve seen rail car shortages domestically. There’s a myriad of different factors that happen and that can slow down supply chain, foreign and domestic.”).
\item \textsuperscript{126} Confidential Declaration of Mike Searcy, attached as \textbf{Exhibit 2}, at ¶ 12-14.
\item \textsuperscript{127} Dow Corning Website, “Dow Corning acquires U.S. and Brazilian silicon metal manufacturing assets,” attached as \textbf{Exhibit 7}.
\end{itemize}
significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.\textsuperscript{128}

In these investigations, the record demonstrates that the subject imports from Brazil did not have a significant effect on domestic prices during the period of investigation. Although the Commission’s price comparison data indicate that the imports from Brazil undersold the domestic like product in a majority of instances and domestic prices declined over the period of investigation,\textsuperscript{129} the record also demonstrates that the imports from Brazil were not a significant cause of these declines. Instead, the record shows that there was a very limited amount of direct price competition between imports from Brazil and the domestic like product throughout the period of investigation, and that any depression or suppression of domestic prices was caused by other market conditions, such as the entry into the market of a new and aggressive producer, Mississippi Silicon, and the declines in demand that occurred in 2015 and 2016.

C. Underselling By The Subject Imports From Brazil Has Not Had A Significant Effect On Domestic Prices

In their prehearing staff report, the Commission staff reported that the subject imports from Brazil undersold domestically produced silicon metal in a majority of instances during the period of investigation,\textsuperscript{130} and that the prices of domestically produced silicon metal generally declined over the period of investigation.\textsuperscript{131} Despite these findings by the staff, the record


\textsuperscript{129} Staff Report at V-11 to V-17, and V-25.

\textsuperscript{130} \textit{Id.} (indicating that the subject imports from Brazil [ ] price comparisons).

\textsuperscript{131} \textit{Id.} at V-23.
demonstrates clearly that any depression or suppression of domestic prices during the period of investigation was not caused by imports from Brazil.

A number of factors demonstrate that there was no causal link between the subject imports from Brazil and any depression and suppression of domestic prices during the period of investigation. First, as noted previously, [ ]

]. Instead, they were directly imported [ ].

132 Because these imports were purchased from a Brazilian producer that is a [ ], there was no direct, head-to-head competition between these imports and the industry’s open market sales of silicon metal, meaning that they could not have had a direct impact on the industry’s sales prices during the period of investigation.

Second, a large percentage of the imports from Brazil consists of [ ].

133 This type of silicon metal is a necessary raw material input in the production of [ ]. Because it [ ].

]. As a result, this [ ]

132 As noted previously, [ ]

]. Id. at III-12.

133 Id. at IV-23 and IV-24 (showing that [ ]).

-34-
simply does not compete with domestic product in the U.S. market. It is clear, therefore, that [ ] have no impact whatsoever on domestic prices in the U.S. silicon metal market.\textsuperscript{134}

Third, a decline in demand in the U.S. market drove down the prices of domestic and imported silicon metal during the latter part of the period of investigation. The record demonstrates clearly that the silicon metal market is a [ ].\textsuperscript{135} When demand [ ], the prices of both domestic and imported silicon metal [ ].\textsuperscript{136} And as demand in the market has [ ].\textsuperscript{137}

Fourth, the prices of domestic and imported silicon metal were significantly affected by the entry into the market in 2015 of Mississippi Silicon, a new and aggressive U.S. producer of silicon metal. Mississippi Silicon’s entry into the market – which added an additional [ ] ST of capacity to the domestic industry – resulted in fierce price competition between the new producer and Globe, forcing Globe and other competitors in the market to lower their prices to maintain their market share.

\textsuperscript{134} As noted above, approximately [ ].\textsuperscript{135} \textit{Id.} at II-14; [ ], attached as \textbf{Exhibit 4}, at 25-26.\textsuperscript{136} Staff Report at V-11 to V-17, and V-25.\textsuperscript{137} \textit{Id.}
And finally, silicon metal price trends in the U.S. market follow closely price trends in the global market. As can be seen in Exhibit 8,\footnote{138} \footnote{139} Indeed, the \footnote{140} Given the fact that prices, there is no basis for petitioner's claim that it is the subject imports from Brazil (and the other subject countries) that have caused the price declines seen in the U.S. market in 2015 and 2016.

In sum, the record indicates that the subject imports from Brazil have not depressed or suppressed domestic silicon metal prices in the U.S. market. Instead, other factors, such as the entry into the market of Mississippi Silicon and demand changes in the market, are the cause of any declines.

D. The Price Comparison Data Demonstrate That There Is No Causal Link Between Domestic Price Declines And The Brazilian Imports

The Commission’s price comparison data also establish that there is no causal link between the subject imports from Brazil and declines in domestic prices during the period of investigation. Specifically, the price comparison data for the three price comparison products show [\footnote{138}, attached as Exhibit 8.\footnote{139} \footnote{140} Id. Id.]
Most significantly, in the case of price comparison product 3, the pricing data show that [141]

The fact that the industry experienced [142] demonstrates that the subject imports were not the cause of domestic price declines during 2015 and 2016, especially given the fact that pricing product 3 was, [143]

Similarly, the price comparison data for product 2 shows that the imports from Brazil were not causing domestic price declines during the period of investigation. [144] In particular, the pricing data show that, in the case of product 2, domestic prices [145]

period, however, the imports from Brazil [146]

[141] Staff Report at V-11 to V-18.
[142] Id. at V-16 to V-18 (Compare Figure V-6 with Figures V-4 & V-5).
[143] Id. at V-15.
[144] Id. at V-13 to V-14.
[145] Id.
[146] Id.
pricing trends, the imports from Brazil were not a significant cause of the domestic price declines [ ] of the period of investigation.147

Given these facts, the price comparison data do not support the conclusion that the subject imports from Brazil were a significant cause of domestic price declines during the period of investigation.

E. The Record In These Investigations Does Not Support A Finding Of A Causal Connection Between Imports From Brazil And The Operating And Financial Performance Of The Domestic Industry

Section 771(7)(C)(iii) of the Tariff Act provides that the Commission, in examining the impact of the subject imports on the domestic industry, “shall evaluate all relevant economic factors which have a bearing on the state of the industry.” These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, gross profits, net profits, operating profits, cash flow, return on investment, return on capital, ability to raise capital, ability to service debt, research and development, and factors affecting domestic prices. No single factor is dispositive and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”148

1. The domestic industry experienced the low end of the demand cycle during the period of investigation, causing the industry’s [ ]

Demand for silicon metal in the U.S. market declined over the period of investigation. [ ]

147 Id.

In 2017, however, demand is anticipated to [149]

Acknowledging the effect that rising demand in the U.S. market is having on prices, Ferroglobe, Globe’s parent company told investors that it expected that rising demand for silicon metal would drive a price recovery in 2017 through 2020, both in the United States and in other markets.152 Ferroglobe also noted that it is “well positioned in the silicon industry” to benefit from increasing demand and prices, and that it “benefits from market demand across a very wide range of applications.” Overall, Ferroglobe notes that the growth in silicon metal consumption is expected to accelerate from prior levels, and that global trends are pushing strong demand.153 Ferroglobe’s assessment regarding strengthening demand and prices is also reflected in industry publications.154 Although the expected increase in silicon metal demand, and the corresponding increase in prices, is good news for the domestic industry, it also highlights the effect that the downturn in demand had on prices and the domestic industry’s financial performance during the period of investigation.

149 [1] attached as Exhibit 4, at 25.

150 Id. at 26.

151 Id.

152 Ferroglobe Forward Looking Statement Presentation, 2016, attached as Exhibit 9, at 5.

153 Id.

154 [1], attached as Exhibit 4, at 26.
Consequently, any [ ] in the operating or financial performance of the domestic industry were ephemeral, [ ] and were the result of cyclical demand declines, not subject imports.

2. The [ ] reported by Globe are a result of the company’s own policies and accounting
   a. [ ]

   In the U.S. Producers’ Questionnaire, the Commission asked domestic producers, including Globe, to report costs of raw materials used in the production of silicon metal. [ ]

   155 Based on information available to Dow Silicones [ ].

   [ ] in the CITT proceeding involving Quebec Silicon, which, like [ ], 156 but also [ ]. According to the CITT, the decision to purchase coal from Alden was taken at the Ferroglobe level. 157 Although Globe attempted to

155 [ ]

156 [ ].

justify the extra expense involved in using this high-priced coal based on its quality, the CITI
was not persuaded by their argument based on evidence that there were only limited advantages
from use of that coal.\textsuperscript{158} Instead, the CITI found that,

While this purchasing strategy may have had an overall benefit for
the Ferroglobe group of companies, \{citation omitted\} it hurt
Quebec Silicon’s margins and profits by forcing it to pay more for
coal (the single largest material component of silicon metal) than it
otherwise could have had it sourced from another provider... The
impact of these sourcing decisions on Quebec Silicon’s bottom line
cannot, therefore, be attributed to the presence of subject goods in
the market; Quebec Silicon admitted that it could have chosen to
pursue different options and/or sources for coal, but did not.\textsuperscript{159}

Ultimately, the CITI recognized that purchasing raw materials from a Ferroglobe
affiliate under this corporate strategy prevented the company from pricing its goods “at a level
that enables it to maximize its profits even if silicon metal prices do rise.”\textsuperscript{160}

Dow Silicones and Globe are [\textsuperscript{161} ].

\textsuperscript{158} Id.

\textsuperscript{159} Id.

\textsuperscript{160} Id. at \textsection 191.

\textsuperscript{161} Confidential Declaration of Mike Searcy, attached as \textbf{Exhibit 2}, at \textsection 10.
Thus, [162]

Dow Silicones estimates that [163]

As in the investigation at the CITT for Quebec Silicon, [164]

However, the [164]

contrary to Globe's assertions, [165]

[162] Id.
[163] Id.
[164] Staff Report at VI-9 n.17.
[165] Confidential Declaration of Mike Searcy, attached as Exhibit 2, at ¶ 11.
[166] Staff Report at VI-9 n.17.
Globe is not only without justification for its [167]. The Staff Report sets out that [ ] byproduct deductions were made to raw material cost, while [ ] byproduct deductions were made to other factory costs. Accounting for byproduct deductions in this manner [168].

The Commission should not allow Globe to manipulate [ ].

Instead, the Commission should recognize that Globe’s [169].

---

167 Id. at VI-13.
168 Furthermore, [ [ ]]. The reality is that the “U.S. Globe Metallurgical unit sells its raw silica fume principally to our wholly owned subsidiary, Norchem Concrete Products.” Globe Specialty Metals Website, SILICA FUME, attached as Exhibit 10. Globe did not report whether it made these transfers at market prices. The price of silica fume is important, [ ].

Dow Silicones, which [ ]

Confidential Declaration of Mike Searcy, attached as Exhibit 2, at ¶ 16.
169 [ ]
b. **Globe failed to report** [ ]

Question II-7 of the U.S. Producers’ Questionnaire asked for the value of transfers to related firms to be made at fair market value. However, if those transfers were made using a different basis, the respondent was instructed to “specify that basis (e.g., cost, cost plus, etc.) and provide value data using that basis for each of the periods noted above.” In response to this question, Globe provided [ ]\(^{170}\) In a later submission, [ ]\(^{171}\)

By [ ]\(^{172}\)

However, [ ]\(^{173}\)

\(^{170}\) [ ].

\(^{171}\) [ ].

\(^{172}\) [ ].

\(^{173}\) Confidential Declaration of Mike Searcy, attached as Exhibit 2, at ¶ 9.
In other words,[174] The Commission’s questionnaire required Globe to report those sales[175]. Globe failed to do so. This[176].

c. Globe[177]

Globe claims that[175].

However, Globe’s[176]. The[176].

Thus,[177]. This
strategy [ ] with the statement by Ferroglobe’s CEO that “Ferroglobe idled facilities with lower operating costs.” 178

Again, the fact [ ]

]. In addition, the [ ] 179 These facts demonstrate [ ] is not attributable to subject imports, but to Globe’s own internal business choices.

d. [ ]

Globe states that imports [ ], 180 even though Globe had already attributed the [ ] 181 However, [ ]

]. [ ]

178 CRU Conference Presentation of Pedro Larrea, CEO of Ferroglobe (Oct. 2016), attached as Exhibit 14, at 18.

179 Revised Staff Report at IV-5.

180 [ ].

181 [ ].
As a result, no negative effects in the performance of the domestic industry resulting from this change in operations are attributable to subject imports.

3. **Price competition between Globe and Mississippi Silicon was responsible for any deterioration in the operating results of the domestic industry**

   Globe fails to demonstrate that subject imports resulted in adverse effects to the domestic industry. Although Globe's financial condition [ ] over the period of investigation, subject imports cannot be blamed for this [ ]. Instead, the Commission has only to look to competition between Globe and the new entrant into the domestic industry, Mississippi Silicon, to understand what led to the [ ]  

   As illustrated in the Joint Respondents' Post-Conference Brief, Globe used baseless litigation and contrived environmental claims in an attempt to block the construction of the Mississippi Silicon facility.  

   "In 2014, Globe initiated a Clean Air Act claim against Mississippi Silicon's new plant in the United States before the plant came online. In order to do so, Globe appears to have manufactured legal standing to bring the lawsuit by purchasing a small house at 16 Front Street in Burnsville, Mississippi." Mississippi Silicon characterized this litigation gambit as "an attempt to weaponize the Clean Air Act for competitive purposes." The U.S. Court of Appeals

---

182 [ ].

183 [ ].

184 *Silicon Metal from Australia, Brazil, Kazakhstan, and Norway: Joint Respondents’ Post-Conference Brief* (Apr. 3, 2017) at 24-25.

185 *Id.*

186 *Id.*
for the Fifth Circuit appeared to agree, describing the purchase of this house as "a little suspect." Once the facility came online, the addition of Mississippi Silicon's substantial new capacity in the market at the end of 2015 resulted in a price war between Globe and Mississippi Silicon, as Globe consistently lowered prices to maintain market share. This scenario is [ ]. Consequently, the Commission must not attribute any decline in the financial or operating indicia of the domestic industry to subject imports, particularly imports from Brazil, because nothing on the record of this preliminary investigation supports such a finding.

VII. THE DOMESTIC INDUSTRY IS NOT THREATENED WITH MATERIAL INJURY BY REASON OF SUBJECT IMPORTS FROM BRAZIL

Section 771(7)(F)(i) of the Act states that in determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the subject merchandise, the Commission shall consider, among other relevant economic factors, 188

(1) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement), and whether imports of the subject merchandise are likely to increase,

187 Id.

188 Section 771(7)(F)(ii) of the Act provides that "The Commission shall consider {these factors} . . . as a whole in making a determination of whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted under this title. The presence or absence of any factor which the Commission is required to consider . . . shall not necessarily give decisive guidance with respect to the determination. Such a determination may not be made on the basis of mere conjecture or supposition."
(II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,

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

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

(V) inventories of the subject merchandise,

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

(VII) (omitted)

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

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

The record in these investigations clearly demonstrates that the domestic industry is not threatened with material injury by subject imports from Brazil.\(^\text{189}\) The domestic industry’s capacity utilization rate [ ] throughout the period of investigation, at about [ ]\(^\text{190}\).

\(^{189}\) For the same reasons discussed above in Section IV, Brazil should not be cumulated with Australia, Kazakhstan, and Norway for the purposes of the Commission’s threat analysis.

\(^{190}\) Staff Report at II-9.
Brazil is also unlikely to increase exports to the United States because it would be difficult to produce any more than Brazil is already producing. Brazilian producers are already [192], and [193]. [194] This is confirmed by [ ]. Because [ ], there are [ ] imports from Brazil entering the merchant market in the United States. 195

In fact, the quantity of imports from Brazil that could enter the U.S. merchant market is in decline. Brazilian producer Rima Industrial A/S is an 80 percent owner of a new silicon metal production facility in the United States, Mississippi Silicon. 196 Rima, [197] plans to replace

191 [ ]
192 Staff Report at II-9. ([ ]).
193 [ ]
194 Id.
195 [ ] and Staff Report at III-12 and IV-25 (Compare Staff Report, Table III-8, with Table IV-9). See also, Staff Conference Tr. at 109 (Mr. Augusto, LIASA).
196 'Premier' Mississippi Silicon Plant Opens, Daily Journal, Oct. 29, 2015, attached as Exhibit 11.
197 [ ]
all of its imports of silicon metal from Brazil to the U.S. market with domestically-produced silicon metal from its new Mississippi Silicon facility. In other words, Rima’s Brazilian-produced silicon metal imports will be completely exiting the U.S. market in the near future.

In addition, silicon metal producers in other large foreign markets cannot meet their home-market demand, requiring that the shortfall be made up by imports. These supply deficits have been growing in recent years. For example, [\textsuperscript{199}]. These deficits demonstrate that there are significant markets open across the globe to Brazilian producers and exporters, markets that are already established for imports from Brazil. As a result, Brazilian producers and exporters do not need to rely, nor will they need to rely in the future, on the U.S. market as a destination for their output. In short, domestic producers are not threatened with Brazilian production shifting to the U.S. market.

Significant issues in the energy sector due to weather conditions in Brazil led many production facilities to cut back on their production, or even stop production of silicon metal altogether, during the period of investigation.\textsuperscript{200} Although the problems with the Brazilian energy market have subsided, “water or energy rationing is considered a long-term risk in a country that relies mostly on hydro-power for electricity,” so there is still a significant risk of

\textsuperscript{198} ‘Premier’ Mississippi Silicon Plant Opens, Daily Journal, Oct. 29, 2015, attached as Exhibit 11.

\textsuperscript{199} Id.

\textsuperscript{200} Staff Conference Tr. at 91 (Mr. Augusto, LIASA).
another weather disruption in the future that could easily lead to further cutbacks in production.\textsuperscript{201}

The price and demand trends in the U.S. market also do not demonstrate a threat to U.S. producers. In 2017, [\textsuperscript{202}]

[\textsuperscript{203}] Ferroglobe also shares in this view of the future marketplace, as the company notes that the growth in silicon consumption is expected to accelerate from historic levels and predicts that demand will grow at a six percent compounded annual growth rate through 2020.\textsuperscript{204}

The result of these demand trends is a massive expansion of domestic silicon metal production. In 2015, Mississippi Silicon finished construction and started production on a [\textsuperscript{205}] ST capacity silicon metal facility.\textsuperscript{205} In addition, a new silicon metal smelting facility in Newport, Washington is in development, which will add 60,000 ST of capacity to the domestic industry.\textsuperscript{206} In other words, an industry that had previously waited almost 40 years to construct a new greenfield facility – DC Alabama, constructed in 1976, was the newest greenfield silicon metal plant in the United States until Mississippi Silicon’s plant opened in

\begin{flushright}
201 “Drought ends in Brazil’s Sao Paulo but future still uncertain,” Reuters, Feb. 18, 2016, attached as \textbf{Exhibit 14}.

202 [\textsuperscript{202}], attached as \textbf{Exhibit 4}, at 26.

203 \textit{Id.}

204 Ferroglobe’s Fourth Quarter 2016 Earnings Presentation (Mar. 16, 2017), attached as \textbf{Exhibit 9}, at 5.

205 Staff Report at III-5.

206 HiTest Silicon – Proposed Newport, Washington Silicon Metal Facility Presentation at 4, attached as \textbf{Exhibit 3}.
\end{flushright}
2015 – will add almost [ ] of brand new capacity in a five to six year period. This recent expansion burst will amount to a [ ] in domestic capacity since 2014.  

In fact, there has been only one threat to this recent and future expansion of the domestic industry: the monopolistic actions of the petitioner itself. As discussed above in Section VI.E.3, Globe used baseless litigation and contrived environmental claims in an attempt to block the construction of the Mississippi Silicon facility before it could become a competitor. While the development of the new HiTest facility is in the early stages, there are already “rumors that Ferroglobe… is behind some of the opposition to the Newport, WA, facility.” It is hard for the domestic industry to grow to meet increasing demand if one of the members of that industry continuously attacks any attempt to grow capacity before ground can be broken.

\footnote{The capacity of the domestic industry totaled [ ] ST in 2014. Staff Report at II-9.}

\footnote{“HiTest battling to get approval of Washington Si smelter,” In the Right Vein, Jan. 15, 2018, attached as \textbf{Exhibit 13}.}
VIII. CONCLUSION

The record in these investigations clearly demonstrates that subject imports from Brazil do not cause material injury to the domestic industry, or threaten material injury going forward. Accordingly, the Commission should make a negative determination in this investigation.

Respectfully submitted,

/s/ Stephen J. Orava
Stephen J. Orava
Neal J. Reynolds
Benjamin J. Bay
Bonnie B. Byers, Consultant

KING & SPALDING LLP
1700 Pennsylvania Avenue, NW
Suite 200
Washington, DC 20006-4707
(202) 737-0500
(202) 626-3737
sorava@klaw.com

Counsel for Dow Silicones Corporation

February 8, 2017
CONFIDENTIAL DECLARATION OF MIKE SEARCY

1. My name is Mike Searcy. I am employed as a Commercial Director for Dow Silicones Corporation ("Dow Silicones"), formerly known as Dow Corning Corporation. I assumed this position in 2014. I have worked for Dow Silicones for 30 years and previously held roles in R&D, Process Engineering, and Operations & Engineering Management. My prior positions at Dow Silicones included Senior Global Supply Manager and Global Silicon Product Line Manager, where I was responsible for the development and execution of Dow Silicones’ global silicon business strategy, including all Dow Silicones related silicon assets, and for directing Dow Silicones’ global silicon commercial team.

2. Dow Silicones is the largest consumer of silicon metal in the world, which the company uses in the manufacturing of silicon-based materials, such as trichlorosilane for the production of polysilicon and dimethylchlorosilane for the production of Siloxane and other silicon based polymers, for thousands of applications from automotive to paper manufacturing and finishing. It is also one of the largest producers of silicon metal in the world. Dow Silicones has manufactured silicon metal in the United States at its DC Alabama facility in Mount Meigs, Alabama since 2003. Dow Silicones is also a 49 percent owner and the primary customer of WVA Manufacturing, LLC ("WVA"), the largest silicon manufacture in the United States, and 49 percent owner of Quebec Silicon Limited Partnership ("QSLP"), the only producer of silicon metal in Canada. WVA and QSLP are both joint ventures with Globe Metallurgical ("Globe"). Dow Silicones also produces silicon metal at two Brazilian facilities. Silicon metal produced in the United States is incapable of meeting our demand for volume and, in some cases, our quality requirements.

3. [ ]

293122
In 2015, the other domestic producers, Globe and Mississippi Silicon, offered contract prices based on a discount from a published index of market price. This has been a common practice in the U.S. silicon industry for many years. In 2016, the discounts offered became excessive as Mississippi Silicon and Globe battled for U.S. market share. Dow Silicones did not participate in this marketing approach either as a buyer or seller recognizing the risk of such aggressive tactics. In 2016, the use of discount contracts based on significant discounts off of published market prices put downward pressure on the index price of silicon metal, which had the effect of lowering the prices in these contracts from month to month. By the end of 2016, Mississippi Silicon and Globe recognized the folly of this pricing mechanism which had resulted in a downward price spiral, leading Globe to announce publicly, and Mississippi Silicon to tell me privately, that they were abandoning their practice of setting prices at a discount off an index price. See Declaration Attachment A.

4. The quality of silicon metal is an important consideration in the production of certain downstream products. Silicon metal is produced in an electric-arc furnace by reducing silica with a carbonaceous reducing agent, such as coal or charcoal, producing silicon metal, silica fume and carbon dioxide gas. Impurities in the quartz and the carbonaceous reducing agents creates impurities, including the presence of boron, in the finished silicon metal. The boron levels found in silicon metal are primarily determined by the type of carbonaceous reducing agent used in the production process: using coal creates silicon metal with a higher level of boron, while using charcoal results in silicon metal with low levels of boron.
5. The levels of boron in silicon metal must be regulated in order to make the silicon metal viable for use in the production of certain downstream products. [ 

]. Globe actually owned one of Dow Silicones’ two silicon metal facilities in Brazil until 2009, when Globe sold this facility to Dow Silicones. By selling this facility to Dow Silicones, Globe itself ensured that Dow Silicones would need to self-source [ 

].

6. [ 

]. In 2015, Brazilian silicon metal manufacturers had difficulty with their power supply as a number of power contracts expired before renegotiations were completed. In addition, hydroelectric power availability was greatly reduced due to weather conditions, and what was available was being sold at extremely high prices. Brazilian producers other than Dow Silicones either ceased or greatly reduced their production of silicon metal, as they could either not afford the high prices for power or, if they had access to low priced power, they could sell that power back to the
grid for higher profits than those that would result from the production of silicon metal. [ 

7. [ 

8. [ 

9. Dow Silicons owns a 49 percent stake in two joint ventures with Globe that produce silicon metal - QSLP in Becancour, Quebec, Canada and WVA in Alloy, West Virginia. [ 

293122
13. [ 

14. Because of supply chain concerns such as these, Dow Silicons’ [ 

15. Moreover, in addition to sourcing silicon metal from its own two U.S. production facilities, Dow Silicons also purchases [ 

6
2016, Dow’s total purchases from [ ] In 

]. [ ] In addition, Dow Silicone’s purchased [ ] Dow Silicones believes that [ ]

16. [ ]

17. In its petition, Globe asserts that there are only minor price differences among different grades of silicon metal. This is not Dow Silicones’ experience. Prices can and do vary depending on the grade and end use for the silicon metal, with prices for chemical and polysilicon grades being generally higher than for aluminum production.
18. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief. This 7th day of February 2017.

Mike Searcy