



Canada Border
Services Agency

Agence des services
frontaliers du Canada

SM 2018 ER

OTTAWA, March 29, 2019

STATEMENT OF REASONS

Concerning an expiry review determination under
paragraph 76.03(7)(a) of the *Special Import Measures Act*
respecting

CERTAIN SILICON METAL
ORIGINATING IN OR EXPORTED FROM CHINA

DECISION

On March 15, 2019, pursuant to paragraph 76.03(7)(a) of the *Special Import Measures Act*, the Canada Border Services Agency determined that the expiry of the finding made by the Canadian International Trade Tribunal on November 19, 2013, in Inquiry No. NQ-2013-003:

- i. is likely to result in the continuation or resumption of dumping of certain silicon metal originating in or exported from China; and
- ii. is likely to result in the continuation or resumption of subsidizing of certain silicon metal originating in or exported from China.

Cet *Énoncé des motifs* est également disponible en français.
This *Statement of Reasons* is also available in French.

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EXECUTIVE SUMMARY

[1] On October 16, 2018, the Canadian International Trade Tribunal (CITT), pursuant to subsection 76.03(3) of the *Special Import Measures Act* (SIMA), initiated an expiry review of its finding made on November 19, 2013, in Inquiry No. NQ-2013-003, concerning the dumping and subsidizing of certain silicon metal originating in or exported from China.

[2] As a result of the CITT's notice of the expiry review, on October 17, 2018, the Canada Border Services Agency (CBSA) initiated an expiry review investigation to determine, pursuant to paragraph 76.03(7)(a) of SIMA, whether the expiry of the finding is likely to result in the continuation or resumption of dumping and/or subsidizing of the subject goods.

[3] The CBSA received a response to its Canadian Producer Expiry Review Questionnaire (ERQ) from Québec Silicon Limited Partnership ("QSLP") and QSIP Canada ULC ("QSIP Canada"), collectively referred to as Quebec Silicon¹. Quebec Silicon is the only Canadian producer of silicon metal in Canada and may also be referred to as "the Canadian producer" in this report. The submissions made by the Canadian producer included information supporting its position that continued or resumed dumping and subsidizing of certain silicon metal from China is likely if the CITT's finding is rescinded.

[4] The CBSA received one response to the Importer ERQ from Rio Tinto Alcan Inc. (RTA)². In the ERQ response, RTA expressed an opinion that the dumping and subsidizing of subject goods from China will not resume if the CITT's finding is rescinded.

[5] In addition to responding to the ERQ, Quebec Silicon³ submitted supplementary information prior to the closing of the record. The CBSA also received case briefs from the Canadian producer, Quebec Silicon⁴, and one importer, RTA⁵. The case brief submitted by the Canadian producer included information supporting its position that continued or resumed dumping and subsidizing of certain silicon metal from China is likely if the CITT's finding is rescinded. The case brief submitted by the importer included information supporting its position that dumping and subsidizing of certain silicon metal from China will not resume if the CITT's finding is rescinded.

[6] Both Quebec Silicon⁶ and RTA⁷ also filed reply submissions in response to the information and arguments made by the other interested party in their respective case briefs.

[7] The CBSA did not receive any responses to the Exporter ERQ from any exporters, nor did any exporters provide a case brief or reply submission.

¹ Exhibits 21 (PRO) and 22 (NC) – Response to Canadian Producer ERQ – Quebec Silicon.

² Exhibits 23 (PRO) and 24 (NC) – Response to Importer ERQ – Rio Tinto Alcan Inc.

³ Exhibits 27 (PRO) and 28 (NC) – Close of Record Documents – Quebec Silicon.

⁴ Exhibits 29 (PRO) and 30 (NC) – Case Briefs – Quebec Silicon.

⁵ Exhibits 31 (PRO) and 32 (NC) – Case Briefs – Rio Tinto Alcan Inc.

⁶ Exhibit 33 (NC) – Reply Submissions – Quebec Silicon.

⁷ Exhibits 34 (NC) and 35 (PRO) – Reply Submissions – Rio Tinto Alcan Inc.

[8] The CBSA did not receive a response to the Foreign Government ERQ from the Government of China (GOC), nor did the GOC provide a case brief or reply submission.

[9] Analysis of information on the administrative record in respect of the excess production capacity for silicon metal in China; China's volume of production and its reliance on exports to address the oversupply of silicon metal in the Chinese market; recent pricing data which suggests that Chinese exporters are selling at low and potentially dumped prices in other markets and well below Canadian import prices; negligible volumes of subject imports into Canada despite cooperative exporters having normal values based on market pricing; and anti-dumping measures in place in Canada and in other jurisdictions on silicon metal from China, indicates a likelihood of continued or resumed dumping into Canada of certain silicon metal originating in or exported from China should the CITT's finding be rescinded.

[10] In addition, analysis of information on the administrative record in respect of the continued availability of subsidy programs for silicon metal producers and exporters in China and a propensity of the GOC to subsidize silicon metal produced in China and exported to other markets as well as a variety of other goods imported into Canada, indicates a likelihood of continued or resumed subsidizing of certain silicon metal originating in or exported from China should the CITT's finding be rescinded.

[11] For the forgoing reasons, the CBSA, having considered the relevant information on the administrative record, determined on March 15, 2019, under paragraph 76.03(7)(a) of SIMA that:

- i. the expiry of the finding in respect of certain silicon metal originating in or exported from China is likely to result in the continuation or resumption of dumping of the goods into Canada; and
- ii. the expiry of the finding in respect of certain silicon metal originating in or exported from China is likely to result in the continuation or resumption of subsidizing of the goods exported to Canada.

BACKGROUND

[12] On April 22, 2013, following a complaint filed by Québec Silicon Limited Partnership and its affiliate QSIP Canada ULC of Bécancour, Quebec, the CBSA initiated investigations pursuant to subsection 31(1) of SIMA, respecting the dumping and subsidizing of certain silicon metal originating in or exported from China.

[13] On October 21, 2013, pursuant to subsection 41(1) of SIMA, the CBSA made final determinations of dumping and subsidizing in respect of the subject goods from China.⁸

⁸ Exhibit 12 (NC) - CBSA - Statement of Reasons - Final Determination.

[14] On November 19, 2013 pursuant to subsection 43(1) of SIMA, the CITT found that the dumping and subsidizing of silicon metal originating in or exported from China were threatening to cause injury to the domestic industry in Canada.⁹

[15] On August 27, 2018, pursuant to subsection 76.03(2) of SIMA, the CITT issued a notice concerning the expiry of its finding, which was scheduled to occur on November 18, 2018. Based on the information filed during the expiry process, the CITT decided that a review of the finding was warranted.

[16] On October 16, 2018, the CITT initiated an expiry review of its finding pursuant to subsection 76.03(3) of SIMA.¹⁰

[17] On October 17, 2018, the CBSA initiated an expiry review investigation to determine whether the expiry of the finding is likely to result in continued or resumed dumping and/or subsidizing of the subject goods.

PRODUCT DEFINITION

[18] The goods subject to the finding under review are defined as:

“Silicon metal containing at least 96.00% but less than 99.99% silicon by weight, and silicon metal containing between 89.00% and 96.00% silicon by weight that contains aluminum greater than 0.20% by weight, of all forms and sizes, originating in or exported from the People’s Republic of China”

Additional Product Information

[19] The subject goods include all forms and sizes of silicon metal, including off-specification material such as silicon metal with high percentages of other elements, such as aluminum, calcium, iron, etc.

[20] Silicon is a chemical element, metallic in appearance, solid in mass, and steel gray in color, that is commonly found in nature in combination with oxygen either as silica or in combination with both oxygen and a metal in silicate minerals. Although commonly referred to as metal, silicon exhibits characteristics of both metals and non-metals. Silicon metal is a polycrystalline material whose crystals have a diamond cubic structure at atmospheric pressure. It is usually sold in lump form typically ranging from 6” x 1/2” to 4” x 1/4” for the metallurgical industry, 1” by 1” and smaller for the chemical industries and also in crushed powder form.

[21] Silicon metal is principally used by primary and secondary aluminum producers as an alloying agent and by the chemical industry to produce a family of chemicals known as silicones.

⁹ Exhibit 13 (NC) – CITT – Findings & Reasons (NQ-2013-003).

¹⁰ Exhibit 1 (NC) – CITT – Notice of Expiry Review of Finding (RR-2018-003)

Production Process

[22] Silicon metal is produced by combining high purity quartzite (consisting principally of natural crystallized silica (SiO₂) with a carbonaceous reducing agent (such as low-ash coal, petroleum coke, charcoal or coal char) and a bulking agent (such as wood chips) in a submerged-arc electric furnace.

[23] In the furnace, the raw materials are smelted at a very high temperature into molten silicon metal. Periodically, the molten silicon metal is tapped from the furnace and poured into large ladles.

[24] Certain impurities, called "slag" – consisting mainly of calcium, aluminum and silicon oxides – are inherent to the production of silicon metal and therefore end up in the ladle with the molten silicon metal. When the molten silicon metal is tapped from the furnace and exposed to oxygen, the slag and molten silicon metal, which have different densities, tend to separate in the ladle. As the slag and molten silicon metal separate, impurities are removed from the silicon metal.

[25] At this point in the process, oxygen can be used to remove additional impurities (aluminum and calcium) from the molten silicon metal, before it is allowed to cool. Oxygen is introduced into the molten silicon metal in gaseous form by means of a porous plug in the base of the ladle.

[26] The molten silicon metal is next poured into molds or onto areas of the plant floor sectioned off using beds of silicon metal fines or sand. Once all of the molten silicon metal has been tapped (drained) from the furnace, the slag is then removed and placed in a slag pot.

[27] After the silicon metal has cooled, it is pre-crushed (e.g., by lifting and dropping the cooled metal onto the floor using a front-end loader). The purpose of such pre-crushing is to yield pieces suitable for transporting to the silicon metal crushing and sizing equipment, which typically is located in a separate area of the plant. At this point, the silicon metal can be stored (i.e., inventoried as work-in-process).

CLASSIFICATION OF IMPORTS

[28] The subject goods are normally classified under the following tariff classification number:

2804.69.00.00

[29] This tariff classification number is for convenience of reference only. The tariff classification number provided may include goods that are not subject goods and subject goods may be imported into Canada under tariff classification numbers other than those provided. Refer to the product definition for authoritative details regarding the subject goods.

PERIOD OF REVIEW

[30] The period of review (POR) for the CBSA's expiry review investigation is from January 1, 2015 and July 31, 2018.

CANADIAN INDUSTRY

[31] In the CITT's original Inquiry (NQ-2013-003), the CITT found that domestically produced silicon metal and the subject goods of the same description were like goods. The CITT also found that the subject goods and the like goods comprised a single class of goods.

[32] The Canadian industry for silicon metal is comprised of a single corporate group that is responsible for the production and the sales of like goods. The single corporate group is comprised of Québec Silicon Limited Partnership ("QSLP") and QSIP Canada ULC ("QSIP Canada"), which are collectively referred to as Quebec Silicon.

[33] QSLP is responsible for the production of silicon metal, which is produced at its facility located in Bécancour, Quebec. QSIP Canada is responsible for the sale of silicon metal produced by QSLP.

[34] QSIP Canada is wholly owned by Ferroglobe PLC. QSLP is 50.99% owned by QSIP Canada; 49% owned by Dow Corning Corporation (DOW); and 0.01% owned by the Quebec Silicon General Partnership Inc. (General Partnership). The General Partnership manages QSLP by virtue of power of attorney and is 51% owned by QSIP Canada and 49% owned by Dow Switzerland Holding GmbH. Based on this structure, Ferroglobe has majority ownership and control over QSLP and complete ownership and control of QSIP Canada.¹¹

[35] Prior to June 2012, Ferroglobe's interests in Quebec Silicon were owned by Bécancour Silicon Inc., an unaffiliated third party. From July 2012 until late 2015, Quebec Silicon was owned by Globe Specialty Metals (Globe). In late 2015, Globe merged with Grupo FerroAtlantica to form Ferroglobe.¹²

[36] Quebec Silicon sells the silicon metal it produces to both end users and to a distributor who then re-sells it to end users. It should be noted that as a result of its ownership stake, Dow is entitled to 49% of the silicon metal produced by QSLP, while QSIP Canada is entitled to the remaining 51% of production. QSIP Canada is responsible for managing the production operations at the Bécancour facility with input from Dow with regards to production planning. All of the silicon metal sold to Dow is exported and Dow does not re-sell any of the silicon metal back into the Canadian market.¹³

¹¹ Exhibit 22 (NC) – Response to Canadian Producer ERQ – Quebec Silicon, response to Questions Q8 and Q9.

¹² Exhibit 22 (NC) – Response to Canadian Producer ERQ – Quebec Silicon, response to Question Q9.

¹³ Exhibit 22 (NC) – Response to Canadian Producer ERQ – Quebec Silicon, response to Question Q9.

[37] Since 2015, Quebec Silicon has increased its capacity to produce silicon metal in Canada. The increase in capacity is primarily the result of achieving higher operating times, improved performance, greater efficiency, and the rebuilding of two furnaces which increased power capacity.¹⁴

CANADIAN MARKET

[38] The Canadian production and the apparent Canadian market for silicon metal cannot be disclosed as the total value and volume of Canadian production of silicon metal during the POR was based on confidential information filed by the sole Canadian silicon metal producer (i.e. Quebec Silicon). The imports of silicon metal from China and all other countries are presented in Table 1 and Table 2 below.

Table 1
Imports of Silicon Metal¹⁵
(Value in CAD)

Source	2015	2016	2017	2018 Jan. – Jul.
China	\$2,706	\$1,314	\$2,128	\$958
Australia	\$2,143,806	\$0	\$5,474,905	\$3,056,845
Bosnia and Herzegovina	\$0	\$0	*	\$1,787,576
Brazil	\$4,056,193	\$9,061,635	\$7,977,008	\$2,010,699
Iceland	\$0	\$0	\$722,340	*
Kazakhstan	\$2,096,611	\$2,072,607	\$676,369	*
Laos	*	*	\$0	*
Malaysia	*	\$1,746,171	\$0	\$0
Norway	\$0	*	*	\$0
Russia	\$1,656,652	*	\$3,383,970	\$644,389
Singapore	\$0	\$0	*	*
Thailand	\$6,128,285	*	\$15,361,914	*
United States	\$2,552,899	\$1,238,678	\$1,474,802	\$788,916
South Africa	\$1,482,725	\$0	*	\$0
All Other Countries	\$571,933	\$92,578	\$450,698	\$7,004
Total Imports	\$44,300,990	\$50,449,121	\$38,212,687	\$28,250,891

*This data cannot be disclosed without revealing confidential information.

¹⁴ Exhibits 22 (NC) – Response to Canadian Producer ERQ – Quebec Silicon, response to Question Q22.

¹⁵ Exhibit 26 (NC) – Finalized CBSA Import Statistics and Canadian Market Table.

Table 2
Imports of Silicon Metal¹⁶
(Volume in Kilograms)

Source	2015	2016	2017	2018 Jan. – Jul.
China	2	3	1	1
Australia	609,719	0	2,115,580	820,000
Bosnia and Herzegovina	0	0	*	480,320
Brazil	1,030,156	4,035,857	3,285,379	572,635
Iceland	0	0	168,228	*
Kazakhstan	669,872	831,895	235,007	*
Laos	*	*	0	*
Malaysia	*	629,999	0	0
Norway	0	*	*	0
Russia	545,969	*	1,279,997	270,456
Singapore	0	0	*	*
Thailand	1,667,024	*	5,570,046	*
United States	606,747	295,718	570,326	197,450
South Africa	422,425	0	*	0
All Other Countries	134,432	22,934	176,909	208
Total Imports	12,153,521	18,817,792	14,430,666	7,660,930

*This data cannot be disclosed without revealing confidential information.

Canadian Production

[39] In terms of volume, domestic sales of silicon metal produced in Canada remained flat in 2016 as compared to 2015. In 2017, the volume of Canadian produced silicon metal sold in Canada dropped by more than 10% as compared to 2016. In the first seven months of 2018, the volume of Canadian silicon metal sold domestically was almost 20% higher as compared to the volume of sales in the first seven months of 2017. With respect to market share, based on sales volumes in Canada, the Canadian producer significantly lost market share to imports in 2016. In 2017, Quebec Silicon's share of the Canadian market improved, although its market share remained below the share it held 2015. Data for the first seven months of 2018 show that the Canadian producer has continued to improve its market share in Canada, with its share being equal to the share it held in 2015.¹⁷

¹⁶Exhibit 26 (NC) – Finalized CBSA Import Statistics and Canadian Market Table.

¹⁷Exhibit 25 (PRO) – Finalized CBSA Import Statistics and Canadian Market Table and Exhibit 21 (PRO) – Response to Canadian Producer ERQ – Quebec Silicon, Appendix 1.

[40] With respect to sales value, the trend in terms of the percentage of market share held by the Canadian producer is similar to the trend above with respect to volume. However, the actual value of sales did not follow the same trend as actual volumes sold. In 2016, prices for silicon metal in the Canadian market dropped significantly as compared to the previous year. While the volume of sales remained flat, the value of sales in Canada of silicon metal produced domestically fell by more than 15%. In 2017, the value of sales of Canadian produced silicon metal dropped as volume dropped in that year as pricing remained comparable to 2016. Data for the first seven months of 2018 show that the value of domestic sales made by the Canadian producer was almost 50% higher than in the first seven months of 2017, which is attributable to the greater sales volume sold and a significant increase in silicon metal prices in the 2018 period.¹⁸

Imports

[41] As seen in Tables 1 and 2 above, imports of subject goods from China during the POR were immaterial and represented less than a tenth of a percent of total imports in terms of both volume and value.

[42] With respect to silicon metal imports from all countries other than China, the total dollar value of those imports, as a percentage of the Canadian market, significantly increased in 2016 as compared to 2015, and then decreased in 2017 and continued to decrease in the first seven months of 2018. The volume of the imports from all countries other than China, as a percentage of the Canadian market, increased significantly in 2016 as compared to 2015, then decreased in 2017 and continued to decrease in the first seven months of 2018.¹⁹

ENFORCEMENT DATA

[43] As shown in Table 3 below, the total amount of anti-dumping and countervailing duties assessed on imports of subject goods from China between 2015 and 2017 equalled \$14,451. This amount is reflective of the minimal amount of subject goods exported to Canada during the POR, as noted in the previous section.

Table 3
Anti-dumping and Countervailing Duties Assessed on Imports of Silicon metal²⁰
(Value in CAD)

Country	2015	2016	2017	2018
China	\$6,360	\$3,090	\$5,002	N/A *

*Enforcement data for this period was not available as of the close of record.

¹⁸ Exhibit 25 (PRO) – Finalized CBSA Import Statistics and Canadian Market Table and Exhibit 21 (PRO) – Response to Canadian Producer ERQ – Quebec Silicon, Appendix 1.

¹⁹ Exhibit 25 (PRO) – Finalized CBSA Import Statistics and Canadian Market Table

²⁰ Exhibit 26 (NC) – Finalized CBSA Import Statistics and Canadian Market Table.

PARTIES TO THE PROCEEDINGS

[44] On October 17, 2018, a notice concerning the CBSA's initiation of the expiry review investigation was sent to the Canadian producer and potential importers and exporters of silicon metal, as well as to the GOC. All of these parties were also sent an ERQ.

[45] The ERQs requested information relevant to the CBSA's consideration of the expiry review factors, as listed in subsection 37.2(1) of the *Special Import Measures Regulations* (SIMR).

[46] The only Canadian producer, Quebec Silicon, participated in the expiry review investigation and provided an ERQ response. One importer, RTA, also participated in the expiry review investigation and provided an ERQ response. None of the exporters contacted for purposes of the expiry review investigation provided a response to the ERQs.

[47] Case briefs and reply submissions were received from counsel on behalf of Quebec Silicon and RTA. No other case briefs or reply submissions were received by the CBSA from any other parties notified by the CBSA at the initiation of the expiry review investigation.

[48] The GOC did not provide a response to the CBSA's ERQ, nor did it submit a case brief or reply submission.

INFORMATION CONSIDERED BY THE CBSA

Administrative Record

[49] The information considered by the CBSA for purposes of this expiry review investigation is contained in the administrative record. The administrative record includes the information on the CBSA's exhibit listing, which is comprised of the CITT's administrative record relating to the initiation of the expiry review investigation, the CBSA's exhibits and information submitted by interested parties, including information which the interested parties feel is relevant to the decision as to whether dumping and subsidizing are likely to continue or resume, if the finding is rescinded. This information may consist of expert analysts' reports, excerpts from trade magazines and newspapers, orders and findings issued by authorities of Canada or of a country other than Canada, documents from international trade organizations such as the World Trade Organization and responses to the ERQs submitted by Canadian producers, exporters and importers.

[50] For purposes of an expiry review investigation, the CBSA sets a date after which no new information submitted by interested parties may be placed on the administrative record or considered as part of the CBSA's investigation. This is referred to as the closing of the record date. This allows participants time to prepare their case briefs and reply submissions based on the information that is on the administrative record as of the date the record closed. For this expiry review investigation, the administrative record closed on December 18, 2018.

POSITION OF THE PARTIES – DUMPING

Parties Contending that Continued or Resumed Dumping is Likely

[51] The participating Canadian producer, Quebec Silicon, made representations in its ERQ response and in its case briefs and reply submissions supporting its position that dumping of certain silicon metal from China is likely to continue or resume should the CITT's finding expire. Therefore, they argued that the anti-dumping measures should remain in place.

[52] The main factors identified by the Canadian producer can be summarized as follows:

- increasing production and overcapacity in the global and Chinese silicon metal markets;
- China's export orientation and dominance in unprotected silicon metal export markets;
- slowing demand for silicon metal worldwide including China;
- decreasing prices for silicon metal in the global and Chinese silicon metal markets;
- a propensity to dump in silicon metal markets other than Canada;
- low-priced competition in the Canadian market from non-Chinese sources; and
- the inability of Chinese exporters to sell at normal values in the Canadian market.

Increasing production and overcapacity in the global and Chinese silicon metal markets

[53] The Canadian producer noted that there is significant global excess capacity for silicon metal and that the excess capacity is primarily attributable to China. Using 2017 CRU data as its benchmark, the Canadian producer pointed out that China accounted for 83% of total global capacity to produce silicon metal. In citing the amount of silicon metal actually produced in China, Quebec Silicon noted that Chinese silicon metal producers were operating at a low utilization rate when comparing actual production to available capacity.²¹

[54] Quebec Silicon also cited a recent October 2018 Silicon Market Outlook report published by CRU, which demonstrates that a substantial amount of new capacity has been recently added in China. The Canadian producer noted that the excess capacity is more than enough to satisfy apparent demand in North America.²² It should be noted that this new capacity is in addition to the existing excess capacity noted above, which is many times the size of the entire apparent Canadian market in 2017.²³

²¹ Exhibit 30 (NC) – Case Briefs – Quebec Silicon, p. 16 and 33.

²² Exhibit 30 (NC) – Case Briefs – Quebec Silicon, p. 16-17.

²³ Exhibit 30 (NC) – Case Briefs – Quebec Silicon, p. 33-34.

[55] The Canadian producer also referenced the recently completed reviews of anti-dumping measures conducted by the United States International Trade Commission (USITC) and the European Commission (EC). In determining that anti-dumping duties should continue to apply to Chinese silicon metal, the USITC, in May 2018, and the EC, in July 2016, determined that China had significant unused production capacity.²⁴

[56] Further, the Canadian producer noted that capacity outside of China and the Commonwealth of Independent States (CIS) is also expected to grow, with the growth being partly driven by greenfield additions to capacity in Iceland and Malaysia.²⁵

[57] Quebec Silicon contended that there was no market for pre-existing excess capacity and that there will be no market for the new capacity additions referenced above in the future. It further argued that the significant capital investments made by Chinese producers to increase capacity will result in Chinese producers seeking to supply whatever markets are available, including the Canadian market should the current finding expire.²⁶

[58] In addition to expanding its already massive capacity to produce silicon metal, the Canadian producer also highlighted China's dominance in actual production of the subject goods. Citing CRU data, Quebec Silicon noted that Chinese production of silicon metal in 2017 was enough to not only satisfy the entire Chinese market but a significant portion of the demand outside of China.²⁷

[59] The Canadian producer also noted China's production has significantly increased since 2013 and that this has resulted in a greater availability of subject goods for export to foreign markets. In 2013, the Canadian producer referred to the gap between Chinese production and Chinese demand and noted that the gap is forecasted to widen in 2018. In 2018, Quebec Silicon noted that CRU forecasted Chinese production to continue to significantly exceed Chinese demand. Based on these production and demand figures, it noted that since the finding had been put in place in 2013, the additional silicon metal available for export from China has reached an amount several times greater than the estimated apparent market for 2018.²⁸

[60] Looking forward, the Canadian producer noted that CRU recently forecasted Chinese production of silicon metal to increase between 2017 and 2023 as a result of the capacity additions being made in western China. Quebec Silicon also noted that while China's share of total global production is forecasted to drop slightly by 2022, China will remain as the dominant global producer of silicon metal.²⁹

²⁴ Exhibit 30 (NC) – Case Briefs – Quebec Silicon, p. 18.

²⁵ Exhibit 30 (NC) – Case Briefs – Quebec Silicon, p. 19.

²⁶ Exhibit 30 (NC) – Case Briefs – Quebec Silicon, p. 17.

²⁷ Exhibit 30 (NC) – Case Briefs – Quebec Silicon, p. 33.

²⁸ Exhibit 30 (NC) – Case Briefs – Quebec Silicon, p. 23.

²⁹ Exhibit 30 (NC) – Case Briefs – Quebec Silicon, p. 34-35.

China's export orientation and dominance in unprotected silicon metal export markets

[61] Quebec Silicon contended that since Chinese production capacity far exceeds China's domestic demand for silicon metal, there is an imperative for producers to produce silicon metal and get it to market, including export markets. The Canadian producer further argued that this imperative is exacerbated in non-market economies like China where wholly or partly state-owned producers may be influenced by political pressures such as maintaining employment rates, as opposed to making production decisions based on market conditions.³⁰

[62] The Canadian producer noted that China exported a significant portion of its silicon metal production in 2017. As the largest exporter of silicon metal in 2017, China's export volume was more than double that of the next two largest exporters of silicon metal combined (i.e. Brazil and Norway). Quebec Silicon also pointed out that Chinese exports were forecasted by CRU to reach an all-time high in 2018, further demonstrating China's export orientation. In acknowledging that the forecast for the coming years predicted a decline in Chinese exports, the Canadian producer noted that the actual volume forecasted to be exported demonstrates that China will remain a dominant exporter of silicon metal going forward. It argued this will be particularly likely given the slowing demand in China and significant excess capacity.³¹

[63] In addition to the overall picture presented above, the Canadian producer also provided examples of China's dominance in specific export markets for silicon metal, particularly those where trade measures are not currently in place. In making reference to figures for the top ten Chinese export markets in 2017, excluding the European Union (EU), the United States of America (U.S.), Canada, and Australia, the Canadian producer demonstrated that China dominates those markets. Quebec Silicon contended that in dominating those export markets, exports from countries other than China become displaced and domestic producers in those export markets are forced to seek out other markets. The Canadian producer supported this assertion by referencing two specific markets which are summarized below.³²

[64] The Canadian producer noted that in Norway, China's sixth largest export market in 2017, Chinese imports represented almost all imports of silicon metal into Norway in that year. However, during that same period, Norway produced a substantial amount of silicon metal and almost all of the Norwegian silicon metal was exported to other markets rather than being sold domestically.³³

³⁰ Exhibit 30 (NC) – Case Briefs Quebec Silicon, p. 39.

³¹ Exhibit 30 (NC) – Case Briefs Quebec Silicon, p. 39.

³² Exhibit 30 (NC) – Case Briefs Quebec Silicon, p. 19-20.

³³ Exhibit 30 (NC) – Case Briefs Quebec Silicon, p. 20-21.

[65] The second export market referenced by Quebec Silicon was Thailand. The Canadian producer noted that as China's third largest export market, Chinese imports of silicon metal dominated the Thai market. It noted that while Thailand has significant silicon metal production capacity, it produced less than a third of its available production capacity for silicon metal in 2017. Further, the Canadian producer noted that almost one-third of the silicon metal produced in Thailand in 2017 was exported to Canada at dumped prices³⁴, which was a result of China's market dominance in Thailand.³⁵

[66] Finally, in an attempt to demonstrate that China's global reach extends to North American markets, Quebec Silicon notes that Mexico is currently a significant export market for Chinese produced silicon metal. As China's fifth largest export market in 2017 (excluding the EU, U.S., Canada and Australia), Chinese silicon metal represented a significant proportion of Mexican imports in 2015, 2016, and 2017. To conclude, the Canadian producer noted that its examples show that China dominates export markets and is the global low-price leader and that it will dominate the Canadian market as it does in every other market should the finding expire.³⁶

Slowing demand for silicon metal worldwide including China

[67] The Canadian producer pointed out that despite the increases to global capacity expected in the future, CRU forecasts growth in global demand for silicon metal to slow in the coming years.³⁷

[68] With respect to China, Quebec Silicon noted that Chinese domestic demand is also forecasted to grow at a reduced rate. The Canadian producer contended that despite the significant reduction in demand growth projected for the 2018-2022 period by CRU, China is continuing to expand capacity despite its already low capacity utilization rates which will lead it to continue flooding global markets.³⁸

[69] In support of the forecasted slowdown in demand for silicon metal in China, the Canadian producer referenced China's economic slowdown as a whole. Citing an IMF World Economic Outlook published in October 2018, Quebec Silicon noted that China's real GDP grew by 10.6% in 2010 but that GDP growth dropped to 6.9% in 2017. The IMF report then projected that China's GDP growth will decline further, dropping to 6.6% in 2018 and falling further to 6.2% in 2019. In addition, it noted that a recent economic outlook published by the OECD shows the same figures for 2017 and 2018, while forecasting GDP growth in China to slow to 6.3% in 2019 and 6% in 2020.³⁹

³⁴ On October 3, 2017, the CBSA determined in *Silicon Metal II* that subject silicon metal goods exported from Thailand were dumped. However, on November 2, 2017, the CITT determined that the dumping of those goods had not caused injury and were not threatening to cause injury to the domestic industry.

³⁵ Exhibit 30 (NC) – Case Briefs – Quebec Silicon, p. 22-23.

³⁶ Exhibit 30 (NC) – Case Briefs – Quebec Silicon, p. 20 and 40.

³⁷ Exhibit 30 (NC) – Case Briefs – Quebec Silicon, p. 24.

³⁸ Exhibit 30 (NC) – Case Briefs – Quebec Silicon, p. 24 and 36.

³⁹ Exhibit 30 (NC) – Case Briefs – Quebec Silicon, p. 35-36.

[70] In addition to the overall economic slowdown occurring in China, the Canadian producer also noted that downstream industries which use silicon metal for production are experiencing reduced demand. One example referenced is the Chinese aluminum industry, a major user of silicon metal, which, according to the China Nonferrous Metals Industry Association (CNIA), has experienced a decrease in demand growth from double-digits to just 6%.⁴⁰

[71] Quebec Silicon also noted that CRU forecasts demand in China's largest two export markets, Japan and Korea, to remain flat through 2023. According to 2017 figures, Chinese exports to these two markets represented approximately 42% of total Chinese exports. The Canadian producer contended that as a result, Chinese producers will be looking to other export markets to sell the additional volume expected to result from forecasted increases in production.⁴¹

Decreasing prices for silicon metal in the global and Chinese silicon metal markets

[72] The Canadian producer contended that China is the global price leader with respect to silicon metal and that near-term forecasted pricing in most markets demonstrate that prices are declining globally. Quebec Silicon also noted that pricing information in 2017 shows that the average Chinese export price was below the average Chinese domestic price for silicon metal.⁴²

[73] Quebec Silicon noted that CRU pricing data for Grade 553 shows that U.S., EU, Japan, and Chinese domestic and export prices all peaked in March/April of 2018 and that prices have subsequently continued to decline since then through to November 2018. The Canadian producer also noted that pricing for Grade 441 showed a similar pricing trend during the same period.⁴³

[74] In focusing on China, Quebec Silicon contended that CRU pricing information indicates that Chinese producers would likely resume selling dumped silicon metal into Canada given that current pricing shows China is exporting silicon metal at dumped prices. In addition to noting that the average Chinese export price in 2017 was below the average Chinese domestic selling price, Quebec Silicon noted that the average Q1-Q3 2018 export price for silicon metal in China was also below the average Chinese domestic selling price. Quebec Silicon also cited a November 2018 report by FerroAlloyNet stating that the recent "market transaction price has broken through the actual cost of silicon metal plants".⁴⁴

[75] In addition to the arguments summarized above regarding the recent and continued decline in Chinese pricing, which were based on CRU publications, Quebec Silicon also cited articles and data from sources such as American Metal Market, S&P Global Platts, and Shanghai Metals Markets to support its assertion that Chinese pricing was continuing to soften.⁴⁵

⁴⁰ Exhibit 30 (NC) – Case Briefs – Quebec Silicon, p. 38.

⁴¹ Exhibit 30 (NC) – Case Briefs – Quebec Silicon, p. 41.

⁴² Exhibit 30 (NC) – Case Briefs – Quebec Silicon, p. 25.

⁴³ Exhibit 30 (NC) – Case Briefs – Quebec Silicon, p. 25-26.

⁴⁴ Exhibit 30 (NC) – Case Briefs – Quebec Silicon, p. 26-27.

⁴⁵ Exhibit 30 (NC) – Case Briefs – Quebec Silicon, p. 32-33.

[76] The Canadian producer also attempted to demonstrate that Chinese export prices were dumped in 2017 by comparing the 2017 average Chinese export prices for Grades 441 and 553 to a constructed cost-based normal value using Chinese costing information reported by CRU. Quebec Silicon adjusted CRU's reported costs upwards claiming that CRU's costs were understated based on Ferroglobe's actual costs in 13 facilities compared to the costs reported by CRU for those same 13 facilities. It also allocated general selling and administrative expenses and financial expenses based on Ferroglobe's financial information for 2017. Finally, it added an amount for profit based on the profit earned by Quebec Silicon in the first half of 2018 to arrive at a cost-based normal value. In comparing that constructed normal value to the reported Chinese export prices, it argued that Grades 441 and 553 were dumped by margins ranging between 46% and 63%.⁴⁶

A propensity to dump in silicon metal markets other than Canada

[77] The Canadian producer contends that Chinese silicon metal exporters have demonstrated a propensity to dump silicon metal around the world based on the existing anti-dumping measures by the U.S., EU, and Australia currently in force.⁴⁷

[78] With respect to the U.S. anti-dumping measures, Quebec Silicon noted that in July 2017, the U.S. Department of Commerce determined that a revocation of the anti-dumping order on Chinese silicon metal would likely lead to the continuation or recurrence of dumped goods at a weighted average margin of dumping of 139.49%. Following this determination, the USITC completed its fourth sunset review in May 2018, where it determined that revocation of the order would likely lead to continuation or recurrence of material injury within a reasonably foreseeable time. In that decision, the USITC observed that there was significant unused production capacity in China and that despite claims of shut-downs, available data showed that production of silicon metal in China had increased 44.5% between 2011 and 2015. The USITC also stated that given the large unused capacity in China, its ability to ship worldwide, and a reported decline in exports from China to its largest Asian export markets in recent years, Chinese producers would have both the incentive and the ability to direct additional subject imports into the United States in the event of revocation.⁴⁸

⁴⁶ Exhibit 30 (NC) – Case Briefs – Quebec Silicon, p. 27-31.

⁴⁷ Exhibit 30 (NC) – Case Briefs – Quebec Silicon, p. 44-46.

⁴⁸ Exhibit 30 (NC) – Case Briefs – Quebec Silicon, p. 44-45.

[79] With regard to the anti-dumping measures in place in the EU, the Canadian producer noted that these measures had been recently reviewed in 2016 and that the EU continued the previous finding at that time. Quebec Silicon noted that in its decision to continue the finding, the EU indicated that China had a “significant spare capacity to increase their exports very rapidly.” The EU also noted that Chinese prices to other third markets were lower than prices on the Union market, particularly in respect to Japan where Chinese pricing was 25% below prices in the Union. In concluding, the EU found that attractive prices in the Union market as compared to other third markets would likely result in significant quantities being redirected to the Union market should the anti-dumping measures be allowed to lapse. Further, the EU indicated that Chinese subject exports would likely undercut Union pricing significantly by 13.6% and that this would be the price level in which Chinese exports would enter the Union market absent the finding.⁴⁹

[80] The Canadian producer also noted that Australia had imposed anti-dumping duties on Chinese silicon metal in June 2015, with dumping margins ranging from 18.3% to 27.0%.⁵⁰

Low-priced competition in the Canadian market from non-Chinese sources

[81] The Canadian producer contended that there are various sources of low-priced offshore imports in the Canadian market and that Chinese silicon metal producers would have to compete at these prices or likely offer lower pricing in order to penetrate the Canadian market.⁵¹

[82] Quebec Silicon stated that following the implementation of provisional duties in *Silicon Metal 2* in July 2017, silicon metal imports from countries not subject to those duties entered the Canadian market at low prices. The Canadian producer noted that following the decision not to implement final duties in *Silicon Metal 2* in November 2017, exporters from Brazil and Thailand resumed shipping low-priced silicon metal into the Canadian market. Quebec Silicon also noted that imports from various countries, including Brazil and Thailand, had been determined to have been dumped by the CBSA in its final decision preceding the CITT’s decision not to impose final duties.⁵²

[83] While Quebec Silicon did not demonstrate that the low-prices it refers to are at dumped levels, they presented the average pricing of the imports in 2017 and the first-half of 2018 to show that import pricing is below Quebec Silicon’s average pricing in those periods. The Canadian producer also cited a price quote for silicon metal it received in 2018 from a Chinese producer and contended that this price is significantly lower than prices available from all other sources currently available in Canada.⁵³

⁴⁹ Exhibit 30 (NC) – Case Briefs – Quebec Silicon, p. 45-46.

⁵⁰ Exhibit 30 (NC) – Case Briefs – Quebec Silicon, p. 46.

⁵¹ Exhibit 30 (NC) – Case Briefs – Quebec Silicon, p. 47-48.

⁵² Exhibit 30 (NC) – Case Briefs – Quebec Silicon, p. 47.

⁵³ Exhibit 30 (NC) – Case Briefs – Quebec Silicon, p. 47-48.

The inability of Chinese exporters to sell at normal values in the Canadian market

[84] The Canadian producer noted that Chinese silicon metal imports have been negligible as there were no subject imports in quantities greater than 4 MT in any given year during the period of 2016 through to the first-half of 2018. As such, it contended that the general absence of subject goods in the Canadian market since the finding was put in place demonstrates that Chinese exporters are not exporting subject goods at normal values to Canada and were unable to do so. As a result, they concluded that Chinese exporters of silicon metal would resume shipping subject goods at dumped prices should the finding expire. As a final point, Quebec Silicon also contended that the inability of Chinese silicon metal exporters to sell at normal value to Canada occurred at a time when silicon metal customers in Canada had an imperative to diversify their supply base.⁵⁴

Parties Contending that Continued or Resumed Dumping is Unlikely

[85] The participating importer, RTA, made representations in its ERQ response and in its case briefs and reply submissions supporting its position that dumping of certain silicon metal from China is not likely to continue or resume should the CITT's finding expire. Therefore, they argued that the anti-dumping measures in place should be allowed to expire.

[86] The main factors identified by the importer can be summarized as follows:

- the global supply and demand balance and pricing dynamics of silicon metal;
- production costs of silicon metal in China have increased causing export prices to increase;
- China's main export market for silicon metal is Asia;
- negligible imports of subject goods into Canada due to the ministerial specification of normal values; and
- RTA has no established supply chain in China.

The global supply and demand balance and pricing dynamics of silicon metal

[87] RTA contended that global consumption of silicon metal has increased strongly. Citing a July 2017 silicon metal outlook published by Roskill Information Services (Roskill), the importer noted that the average growth rate for silicon metal consumption increased globally by 5.8% between 2010 and 2016 due to the strong demand growth experienced in end-use markets that use silicon metal in production (i.e. aluminum alloys, silicones, and polysilicon for solar application). Further, Roskill anticipates that silicon metal use in the aluminum sector will grow at an average annual rate of 3.4% between 2016 and 2026.⁵⁵

⁵⁴ Exhibit 30 (NC) – Case Briefs – Quebec Silicon, p. 48-49.

⁵⁵ Exhibit 32 (NC) – Case Briefs – Rio Tinto Alcan Inc., p. 5.

[88] In its case briefs, the importer also highlighted a number of points concerning the supply and demand balance both globally and in China and also addressed markets where Chinese silicon metal exports dominate those markets. The case briefs also addressed production output in Brazil and particular aspects of the U.S. and Norwegian silicon metal markets. Details respecting these particular points were marked confidential by the importer and only the information available in the non-confidential version of the case briefs has been included in this *Statement of Reasons*.⁵⁶

[89] With respect to prices, RTA contended that the pricing dynamic for silicon metal has changed since 2013. It noted that prior to 2013, prices for exports of subject goods were relatively low by U.S. pricing standards, typically the highest in the world, as subject exports were not competing against North American prices in Canada. RTA contended that North American pricing was essentially unavailable at that time given that there was a minimal amount of Canadian silicon metal available for sale in Canada due to Quebec Silicon's supply agreements with Dow in the U.S. and Wacker Chemie AG of Germany. Rather, RTA contended that subject goods export pricing at that time was based on Chinese and Asian prices because there was no competitive North American supply in Canada.⁵⁷

[90] The importer also contended that there is a rising price environment for silicon metal in the Canadian market, subject to short term market ups and downs, given the increase in demand and static capacity in Canada. RTA claimed that Chinese exporters are aware of North American pricing and continue to price at prevailing market conditions as they do with exports to Japan and Korea based on a comparison of 2018 pricing information for Korea, Japan, and China.⁵⁸

Production costs of silicon metal in China have increased causing export prices to increase

[91] RTA contended that production costs for silicon metal in China have increased which has caused export prices to also increase. According to a report by American Metals Market, silicon export prices from China have continued to increase due to the rising costs of raw materials. The importer also noted that the spot market quotation for silicon raw material graphite electrodes more than tripled from the May-to-June period in 2017 and that rising power costs have also resulted in some refineries halting operations.⁵⁹

⁵⁶ Exhibit 32 (NC) – Case Briefs – Rio Tinto Alcan Inc., p. 5-6.

⁵⁷ Exhibit 32 (NC) – Case Briefs – Rio Tinto Alcan Inc., p. 4 and Exhibit 24 (NC) – Response to Importer ERQ – Rio Tinto Alcan Inc. p. 6-7.

⁵⁸ Exhibit 32 (NC) – Case Briefs – Rio Tinto Alcan Inc., p. 4-5 and Exhibit 24 (NC) – Response to Importer ERQ – Rio Tinto Alcan Inc. p. 6-7.

⁵⁹ Exhibit 24 (NC) – Response to Importer ERQ – Rio Tinto Alcan Inc. p. 14.

[92] The importer also cited an article by Forbes in 2017 stating that China implemented an unprecedented crackdown to address pollution and that 40% of factories were shutdown for emissions testing and over 80,000 factories were assessed fines and charged with criminal offenses as a result of emissions. As a result of government actions, orders were late or missed and costs increased which potentially caused prices to rise. Citing Metal Bulletin, RTA noted that the GOC investigated 30 provinces and regions including metal hubs in Yunnan and Guangxi for environmental non-compliance. In August and September 2017, many refineries were forced to halt operations causing spot supply tightness.⁶⁰

China's main export market for silicon metal is Asia

[93] The importer contended that Chinese exports have focused on Asia for many years since the implementation of anti-dumping measures against certain silicon metal by Canada, Australia, the EU and the U.S. and that Asia is China's main export market. RTA supported this contention by referencing the USITC data from its fourth review in May 2018, showing that China's main export markets from 2014 to 2016 were Japan, Korea, Thailand, Germany and India.⁶¹

Negligible imports of subject goods into Canada due to the ministerial specification of normal values

[94] RTA contended that the imports of subject goods into Canada since the finding have been negligible because of the normal values calculated by the CBSA. RTA noted that the CBSA initiated a section 20 investigation against China for silicon metal and that the GOC failed to respond to the CBSA's questionnaire sent to them at initiation. RTA claimed that only two producers responded to the Requests for Information and that one of the responses was found to be incomplete. RTA noted that the CBSA made a section 20 determination that "Domestic prices are substantially determined by the GOC, and there is sufficient reason to believe that the domestic prices of silicon metal are not substantially the same as they would be in a competitive market." As a result, the CBSA determined normal values pursuant to ministerial specification under section 29(1) of SIMA which disregarded Chinese costs and domestic market prices. RTA contended that the section 20 determination was made by the CBSA on the basis that the GOC and Chinese exporters were not cooperative.⁶²

[95] RTA further contended that the normal values determined by the CBSA cannot be relied on as evidence that China cannot sell at or above normal values because the normal values are a technical result of China's non-cooperation in the 2013 CBSA investigation. They only indicate that China did not cooperate to the CBSA's satisfaction in the 2013 investigation.⁶³

⁶⁰ Exhibit 24 (NC) – Response to Importer ERQ – Rio Tinto Alcan Inc. p. 15.

⁶¹ Exhibit 24 (NC) – Response to Importer ERQ – Rio Tinto Alcan Inc. p. 14.

⁶² Exhibit 32 (NC) – Case Briefs – Rio Tinto Alcan Inc., p. 9 and Exhibit 24 (NC) – Response to Importer ERQ – Rio Tinto Alcan Inc. p. 13.

⁶³ Exhibit 32 (NC) – Case Briefs – Rio Tinto Alcan Inc., p. 9.

RTA has no established supply chain in China

[96] RTA contended that it would not be easy for it to immediately arrange the purchase of subject goods in the event that the finding would expire. It noted that it had not imported subject goods from Chinese exporters since the finding and that its procurement model has changed drastically since 2013. The importer stated that it has adopted a “bifurcated approach” to sourcing silicon metal, which involves dividing its purchases of silicon metal between Quebec Silicon and “limited overseas imports”. RTA contended that by supplementing its purchases of Canadian silicon metal with imports, it avoids relying too heavily on a single source of supply.⁶⁴

[97] RTA contended that silicon metal supply is “precarious” and that product availability shifts regularly due to market changes and “Ferroglobe’s prolific use of trade remedy actions to eliminate competition.” RTA noted that by having a greater number of sources of silicon metal, its supply chain will be more diverse and secure.⁶⁵

CONSIDERATION AND ANALYSIS – DUMPING

Likelihood of Continued or Resumed Dumping

[98] In making a determination under paragraph 76.03(7)(a) of SIMA whether the expiry of the finding is likely to result in the continuation or resumption of dumping of the goods, the CBSA may consider factors identified in subsection 37.2(1) of the SIMR, as well as any other factors relevant in the circumstances.

[99] Guided by the aforementioned factors and having considered the information on the administrative record, the following list represents a summary of the CBSA’s analysis conducted in this expiry review investigation with respect to dumping:

- excess production capacity for silicon metal in China;
- China’s volume of production and its reliance on exports to address the oversupply of silicon metal in the Chinese market;
- recent pricing data which suggests that Chinese exporters are selling at low and potentially dumped prices in other markets and well below Canadian import prices;
- negligible volumes of subject imports into Canada despite cooperative exporters having normal values based on market pricing; and
- anti-dumping measures in place in other jurisdictions against silicon metal from China.

[100] As mentioned earlier in this report, the CBSA received ERQ responses from the sole Canadian producer (Quebec Silicon) and one importer (RTA). In addition to ERQ responses, the Canadian producer and the importer also submitted case briefs and reply submissions.

⁶⁴ Exhibit 32 (NC) – Case Briefs – Rio Tinto Alcan Inc., p. 6-7.

⁶⁵ Exhibit 32 (NC) – Case Briefs – Rio Tinto Alcan Inc., p. 7.

[101] The CBSA relied on information submitted by these parties, as well as other information on the administrative record for purposes of this expiry review investigation.

Excess production capacity for silicon metal in China

[102] While information regarding annual Chinese production capacity for silicon metal is limited, information on the administrative record shows that Chinese silicon metal capacity far exceeds capacity in the rest of the world and that much of that capacity remains underutilized.

[103] According to a report by Roskill, China accounted for 75% of global capacity and 65% of the world's total production of silicon metal in 2016. It also noted that global silicon metal capacity utilization was estimated to be 51% in 2016, which "reflects the overcapacity and low utilization rate which characterises the Chinese silicon metal industry." Roskill estimated that world silicon metal production reached 2.7 million MT in 2016. Using its estimated utilization rate, this suggests that world capacity in 2016 would have been around 5.3 million MT, meaning China's silicon metal capacity would have been almost 4 million MT. At 65% of world production, Roskill's numbers suggest that China would have produced approximately 1.8 million MT, resulting in an excess capacity of just over 2 million MT. Based on import data and Canadian sales data collected by the CBSA, excess Chinese capacity would be equal to more than 60 times the entire size of the Canadian market.⁶⁶

[104] According to Quebec Silicon, the available CRU data only provides information covering the global and Chinese capacity for silicon metal in 2017. Based on that information, China accounted for more than three-quarters of the total global silicon metal production capacity in 2017 and was operating at a very low capacity utilization rate when comparing capacity with actual production. Further, the CRU data indicates that a very significant amount of excess capacity for silicon metal existed in China in 2017. In comparing CBSA data on the total apparent Canadian market in 2017 with Chinese excess capacity data from CRU in the same year, Chinese excess capacity would have been more than 150 times the size of the entire Canadian market.⁶⁷

⁶⁶ Exhibit 15 (NC) – CBSA Research Articles – Tab 3, "Outlook for silicon metal diverges sharply from that of. ferrosilicon" – Roskill Information Services Ltd., p. 3 and Exhibit 25 (PRO) – Finalized CBSA Import Statistics and Canadian Market Table.

⁶⁷ Exhibit 29 (PRO) – Case Briefs – Quebec Silicon, p. 16; Exhibit 23 (PRO) – Response to Importer ERQ – Rio Tinto Alcan Inc. – Attachment 25(2) – "CRU Silicon Metal Outlook", p. 26; and Exhibit 25 (PRO) – Finalized CBSA Import Statistics and Canadian Market Table.

[105] Despite the lack of capacity data for 2018, information on the administrative record indicates that Chinese production capacity is expected to continue to increase in the near term. According to a September 2017 article by S&P Global Platts, CNIA data indicated that 1.77 million MT of new silicon metal capacity was planned, mainly in Xinjiang, over the next two to three years. However, the article did caution that the CNIA expected delays in the construction of the new capacity. In an outlook on the 2018 silicon metal market, Roskill noted that while Chinese ferrosilicon production has been subject to increasingly stringent government controls on overcapacity and emissions, silicon metal capacity and output has been permitted to increase further.⁶⁸

[106] Information available in CRU's October 2018 Outlook report supports the articles referenced in the paragraph above. While providing greater detail and specifying particular capacity expansion projects in specific regions, CRU also noted that certain projects had been suspended or stopped. However, despite the delays and possible cancellations of certain projects, CRU data still showed that a large amount of new capacity had been constructed and, in some cases, was already in operation. The new capacity, which has been added despite the low capacity utilization rates noted above, is so large that it is more than 30 times the entire size of the Canadian market in 2017.⁶⁹

[107] Information from CRU shows that most of the actual and planned silicon metal capacity expansions in China are focused on the northwestern province of Xinjiang and that most of the silicon metal in China is now produced in Xinjiang. The main reason for additional capacity being added to Xinjiang, as well as it being the largest silicon metal producing province, is that the cost of production is substantially lower in Xinjiang due to significantly lower electricity costs. This is due to the fact that silicon metal producers in Yunnan and Sichuan only have access to less expensive electricity during the rainy season. In fact, electricity costs are so much higher during the dry season (i.e. from November to April) in southern China, that silicon metal producers in Yunnan and Sichuan traditionally partially or fully halt production until lower hydroelectricity costs become available in the rainy season. Conversely, lower electricity rates in Xinjiang are available year-round and are lower than even the lowest rates available in Yunnan and Sichuan during the rainy season.⁷⁰

⁶⁸ Exhibit 15 (NC) – CBSA Research Articles – Tab 4, “China urges repositioning its silicon sector as strategic raw material source: CNIA”, S&P Global Platts, p. 2 and Tab 6, Advertisement for “Silicon & Ferrosilicon: Global Industry, Markets & Outlook 2018”, Roskill Information Services, p. 1.

⁶⁹ Exhibit 27 (PRO) – Close of Record Documents – Quebec Silicon – Attachment 6 - “CRU Silicon Metal Outlook” Supplementary Tables, Table S.8: New silicon capacity in China.

⁷⁰ Exhibit 23 (PRO) – Response to Importer ERQ – Rio Tinto Alcan Inc. – Attachment 25(1) – “CRU Silicon Cost Data Service”, p. 7-14; Exhibit 27 (PRO) – Close of Record Documents – Quebec Silicon – Attachment 6 - “CRU Silicon Metal Outlook” Supplementary Tables, Table S.8: New silicon capacity in China; and Exhibit 16 (PRO) – CBSA Metal Bulletin Articles – Tab 9, p 1.

[108] Given the advantage of lower costs in Xinjiang, it is not surprising that the province went from being the second largest producer of silicon metal in China, behind Yunnan, to becoming the largest producer in the first-half of 2018. According to CNIA data, in the first-half of 2018, Xinjiang accounted for 47.4% of Chinese production of silicon metal, while Yunnan accounted for 16% and Sichuan 11%. CRU projections show that this trend will only continue as we move towards 2023, with the gap between Xinjiang and China's other two main silicon metal producing provinces widening even further. By 2023, CRU projects that Xinjiang will account for the vast majority of total Chinese production of silicon metal.⁷¹

[109] Given the immense excess Chinese production capacity for silicon metal that existed in 2016 and 2017; the significant increases in Chinese capacity in the near term combined with already low capacity utilization rates prior to those increases; Chinese exporters of silicon metal would have the ability to significantly and easily increase production and resume exporting significant volumes to Canada and could certainly supply the entire Canadian market absent the CITT's finding.

China's volume of production and its reliance on exports to address the oversupply of silicon metal in the Chinese market

[110] According to CRU data, from 2015 to 2018, China's production volume of silicon metal continually increased and China accounted for the majority of total global production during that period. Looking forward, China's production volume is expected to continue to increase each year after 2018. While China's share of total world production is projected to decrease slightly over the period, Chinese production of silicon metal is projected to remain well above half of the total global production in each of the next five years.⁷²

[111] With respect to domestic demand for silicon metal in China, from 2015 to 2018, China's consumption continually increased during the period. Further, Chinese domestic demand for silicon metal is projected to continue rising over the next five years.⁷³

⁷¹ Exhibit 23 (PRO) – Response to Importer ERQ – Rio Tinto Alcan Inc. – Attachment 25(1) – “CRU Silicon Cost Data Service”, p. 7-14 and Exhibit 15 (NC) – CBSA Research Articles – Tab 4, “China urges repositioning its silicon sector as strategic raw material source: CNIA”, S&P Global Platts, p. 2 and Tab 8, TAB 8. “Detailed and comprehensive review of the Chinese silicon metal and polysilicon markets, part 1”, Patrick Ryan’s In the Right Vein, p. 2.

⁷² Exhibit 27 (PRO) – Close of Record Documents – Quebec Silicon – Attachment 6 - “CRU Silicon Metal Outlook” Supplementary Tables, Table 2.2: Silicon Production by Country.

⁷³ Exhibit 27 (PRO) – Close of Record Documents – Quebec Silicon – Attachment 6 - “CRU Silicon Metal Outlook” Supplementary Tables, Table IV: World Silicon Demand Forecast.

[112] In 2015, Chinese production significantly exceeded domestic demand and by 2017, the gap between production and domestic demand widened further. The gap between Chinese production and Chinese demand is projected to narrow incrementally over the next five years until 2023. While the increases in domestic demand in China are forecasted to exceed projected increases in production over the 2019-2023 period, the 10-year trend of Chinese silicon metal production vastly exceeding Chinese demand will continue in the near future.⁷⁴

[113] Given the significant gap between Chinese production and domestic demand, Chinese silicon metal producers have had to rely on export markets to consume more than a third of their production between 2015 and 2018. While exports as a percentage of total production in China have decreased over the 2015-2018 period, the actual volume of Chinese silicon metal exports has increased. While Chinese exports as a percentage of Chinese production are projected to continually decrease between 2019 and 2023, the volume of silicon metal exports from China will remain significantly higher than 500,000 MT during the five-year forecast period.⁷⁵

[114] Data from CRU shows that world production has exceeded world demand since 2013 and will continue to do so through to the end of the forecast period in 2023. In both 2015 and 2016, the volume of global production in excess of global demand remained flat. In 2017, excess global production fell by half, only to rise markedly in 2018 and reach more than double the amount of excess production reported in the 2015-2016 period. CRU projects that global production will continue to exceed global demand by an amount comparable to the 2015-2016 period in each year throughout the forecast period of 2019-2023.⁷⁶

[115] Despite excess global production, China has continued to significantly increase capacity, as noted earlier, as well as actual production. During the period of 2015 and 2018, the total increase in Chinese production volume was greater than the volume in which global production exceeded global demand for silicon metal. Going forward, this trend will continue as global production is projected to continue to exceed global demand between 2019 and 2023 while Chinese production is forecasted to increase by an even greater amount over the same period.⁷⁷

⁷⁴ Exhibit 27 (PRO) – Close of Record Documents – Quebec Silicon – Attachment 6 - “CRU Silicon Metal Outlook” Supplementary Tables, Table 2.2: Silicon Production by Country and Table IV: World Silicon Demand Forecast.

⁷⁵ Exhibit 27 (PRO) – Close of Record Documents – Quebec Silicon – Attachment 6 - “CRU Silicon Metal Outlook” Supplementary Tables, Table 3.1: World silicon supply dynamics; Table S.5: Estimated silicon consumption in China; Table 2.1: World Silicon Production; Table 2.2: Silicon Production by Country and Table IV: World Silicon Demand Forecast.

⁷⁶ Exhibit 27 (PRO) – Close of Record Documents – Quebec Silicon – Attachment 6 - “CRU Silicon Metal Outlook” Supplementary Tables, Table 3.1: World silicon supply dynamics; Table 2.1: World Silicon Production; Table 2.2: Silicon Production by Country; Table III: World Silicon Production Forecast; and Table IV: World Silicon Demand Forecast.

⁷⁷ Exhibit 27 (PRO) – Close of Record Documents – Quebec Silicon – Attachment 6 - “CRU Silicon Metal Outlook” Supplementary Tables, Table 3.1: World silicon supply dynamics; Table 2.1: World Silicon Production; Table 2.2: Silicon Production by Country; Table III: World Silicon Production Forecast; and Table IV: World Silicon Demand Forecast.

[116] Based on the CRU data regarding global production exceeding demand and the increases in Chinese silicon metal production, the volume of excess global production has been and continues to be driven by significant increases in Chinese capacity and production volumes. Moving forward towards 2023, the total volume of excess global production is forecasted by CRU to be greater than the entire size of the Canadian apparent market.⁷⁸

[117] Based on the information above, it is apparent that there will be more than enough Chinese produced silicon metal in excess of Chinese domestic demand that, combined with projected global excess production, could be used to easily supply the entire Canadian market going forward to 2023. The paragraphs above demonstrate that based on current and projected volumes of silicon metal production in China through to 2023, Chinese exporters will have to continue to rely on export markets to absorb more than a quarter of all silicon metal produced in China. This is in addition to the fact that producers are already operating at low capacity utilization rates and additional capacity continues to be added.

Recent pricing data which suggests that Chinese exporters are selling at low and potentially dumped prices in other markets and well below Canadian import prices

[118] In reviewing the pricing data available on the administrative record, the information suggests that exports of silicon metal from China to other markets in certain recent periods could be below domestic selling prices in China, making them potentially dumped prices. The information also shows that in certain periods, Chinese export prices of certain grades of silicon metal appear to fall below average net operating costs in China.

[119] According to CRU data, Chinese silicon metal has accounted for almost all silicon metal imports into Japan and Japan has been China's largest export market during the 2015-2017 period.⁷⁹ In looking at the most recent quarterly pricing data published by CRU Bulk Ferroalloys Monitor (BFA) in December 2018, Japanese import pricing of Chinese origin silicon metal in Grade 553 in each of the first three quarters of 2018 is at or below the reported Chinese domestic selling price for Grade 553. Monthly CRU BFA pricing data also shows that in the most recent period, November 2018, the Chinese domestic price is higher than the Japanese import price of China origin silicon metal.⁸⁰

⁷⁸ Exhibit 29 (PRO) – Case Briefs – Quebec Silicon, p. 16; Exhibit 23 (PRO) – Response to Importer ERQ – Rio Tinto Alcan Inc. – Attachment 25(2) – “CRU Silicon Metal Outlook”, p. 20; and Exhibit 25 (PRO) – Finalized CBSA Import Statistics and Canadian Market Table.

⁷⁹ Exhibit 27 (PRO) – Close of Record Documents – Quebec Silicon – Attachment 6 – “CRU Silicon Metal Outlook” Supplementary Tables, Table S.20: Silicon trade matrix based on imports, 2015; Table S.21: Silicon trade matrix based on imports, 2016; and Table S.22: Silicon trade matrix based on imports, 2017.

⁸⁰ Exhibit 27 (PRO) – Close of Record Documents – Quebec Silicon – Attachment 3 – “CRU Bulk Ferroalloys Monitor – Bulk ferroalloy prices Quarterly” and “BFA – Monthly Prices”.

[120] In examining recent export pricing information for Grade 553, available from Metal Bulletin, and comparing it to Chinese domestic pricing reported by CRU BFA, it appears that Chinese export prices in the first seven months of 2018 are below domestic selling prices in China and well below prices for Grade 553 in Europe. The difference in these prices suggests that the Chinese export price during the period could possibly be dumped. It should be noted that the Chinese domestic prices reported by CRU BFA are delivered-at-place (DAP), meaning the goods are delivered to the location of the buyer in China. The export prices reported by Metal Bulletin are free-on-board (FOB), which means the exporter delivers them to the port and loads them onto the vessel. As such, the direct comparability of the CRU BFA and Metal Bulletin prices would depend on how far the Chinese buyer is from the producer versus how far the producer is from the port, but in any event prices should be similar.⁸¹

[121] In comparing Metal Bulletin's monthly average pricing for Chinese export sales of silicon metal for the period of October 2017 to September 2018 to the Chinese average net operating cost for 2017 and 2018, as reported by CRU in its November 2018 cost report, it was found that the monthly average Chinese export price fell below cost in July 2018 and remained below cost through September 2018. This suggests that Chinese silicon metal prices for export markets may have been dumped during the most recent period in which there is pricing information on the administrative record.⁸²

[122] The average annual Chinese export prices as reported by CRU for the two most common grades of silicon metal, Grades 553 and 441, were also compared to the annual weighted average import price for all silicon metal imported into Canada during the POR. The comparison showed that the annual average export prices from China for both grades fell well below the weighted average Canadian import price for silicon metal throughout the POR.⁸³

[123] Based on the pricing analysis above, recent pricing information suggests that Chinese export prices are well below recent Canadian import prices and that Chinese exporters are selling at very low and potentially dumped prices in other markets, including China's largest export market. In the event that the current finding were to expire, it is therefore likely that silicon metal exported from China to Canada would be at substantially lower prices than current imports into Canada and that those prices would likely be dumped.

⁸¹ Exhibit 27 (PRO) – Close of Record Documents – Quebec Silicon – Attachment 3 – “BFA Monthly Prices” and Exhibit 18 (PRO) – Metal Bulletin Average Pricing Data – October 2017 to September 2018. Note that prices shown in the graph were converted to CAD using the monthly foreign exchange rates published by the Bank of Canada.

⁸² Exhibit 18 (PRO) – Metal Bulletin Average Pricing Data – October 2017 to September 2018; and Exhibit 23 (PRO) – Response to Importer ERQ – Rio Tinto Alcan Inc. – Attachment 25(1) – “CRU Silicon Cost Data Service”, p. 4. Note that prices shown in the graph were converted to CAD using the monthly foreign exchange rates published by the Bank of Canada.

⁸³ Exhibit 23 (PRO) – Response to Importer ERQ – Rio Tinto Alcan Inc. – Attachment 25(2) – “CRU Silicon Metal Outlook”, p. 45; and Exhibit 25 (PRO) – Finalized CBSA Import Statistics and Canadian Market Table. Note that prices shown in the graph were converted to CAD using the annual foreign exchange rates published by the Bank of Canada.

Negligible volumes of subject imports into Canada despite cooperative exporters having normal values based on market pricing

[124] As noted by both RTA and Quebec Silicon and confirmed by CBSA import statistics, imports of subject goods into Canada since the finding, including during the POR, have essentially been non-existent. While the Canadian producer contended that this was due to Chinese exporters' inability to export at prices at or above normal values, RTA contended that it was specifically due to the normal values calculated by the CBSA because the normal values are a technical result of China's non-cooperation in the CBSA's 2013 investigation.

[125] It should be noted that the CBSA did not determine the existence of section 20 conditions based on the lack of cooperation of the GOC and Chinese exporters. As detailed in the *Statement of Reasons* (SOR) issued at the final determination, an analysis of factors including: GOC export control measures; state-ownership in the Chinese silicon metal sector; government influence on the price of inputs used in the production of silicon metal; government purchases of silicon metal; government policies and regulations directed at production levels and participants; government restrictions on the use and supply of inputs; and Chinese domestic silicon metal prices, led to the CBSA determining that domestic prices were substantially determined by the GOC, and that there was sufficient reason to believe that the domestic prices of silicon metal were not substantially the same as they would have been in a competitive market.⁸⁴

[126] It should be noted that six Chinese exporters fully cooperated with the CBSA's investigation and received normal values. The SOR explains that normal values were determined under section 29 of SIMA pursuant to ministerial specification due to the fact that insufficient information was received from surrogate producers located outside of China, which prevented the CBSA from being able to determine normal values pursuant to paragraph 20(1)(c) of SIMA. As a result, normal values for the six cooperative exporters of subject goods were determined under section 29, based on prices for Grade 553 published by Metal Bulletin that were adjusted to remove an amount for freight. For grades other than 553, the published prices were adjusted to reflect pricing premiums for higher grades of silicon metal.⁸⁵

[127] The CBSA notes that while Japan and Korea represent China's two largest export markets over the POR, recent Chinese export prices are still well below pricing in both the European and U.S. market.⁸⁶

⁸⁴ Exhibit 12 (NC) - CBSA Statement of Reasons – Final Determination (English and French), paragraphs 65 to 142.

⁸⁵ Exhibit 12 (NC) - CBSA Statement of Reasons – Final Determination (English and French), paragraphs 50 and 143-149.

⁸⁶ Exhibit 18 (PRO) - Metal Bulletin Average Pricing Data - October 2017 to September 2018. Note that prices shown in the graph were converted to CAD using the monthly foreign exchange rates published by the Bank of Canada.

[128] Based on the above, it appears that Chinese exporters choose not to export to Canada while continuing to export to other markets at prices substantially lower than prices reported in the European and U.S. markets. Further, as noted in the preceding section, prices to China's largest export market are not only lower than prices to other markets, they are substantially lower than prices of Canadian imports and potentially below Chinese domestic selling prices and Chinese net operating costs in certain periods. As such, in the event that the CITT's finding were to expire, pricing data strongly suggests that export prices to Canada would be substantially below current Canadian import prices and prices in other comparable markets.

Anti-dumping measures in place in other jurisdictions against silicon metal from China

[129] As noted earlier in the report, anti-dumping measures are currently in place against Chinese silicon metal in the U.S., EU, and Australia.

[130] Most recently, the USITC completed its fourth review of the anti-dumping measures in place against Chinese silicon metal in May 2018 and determined that the measures should continue. The original anti-dumping duty order issued by the US Department of Commerce dates back to June 1991, demonstrating a long history of dumping and likelihood of continued or resumed dumping by Chinese exporters. The highest amount of U.S. anti-dumping duty currently in place against Chinese silicon metal equals 139.49%.⁸⁷

[131] The EU also recently conducted a review of its anti-dumping measures in place against Chinese silicon metal and in July 2016 determined that the measures should continue. The rates of anti-dumping duty that apply to Chinese subject goods range from 16.3% to 16.8%. It should be also noted that since EU anti-dumping measures were originally put in place in December 1995, the EU has conducted two anti-circumvention investigations and found that exporters located in both Korea and Taiwan had circumvented the finding against Chinese silicon metal.⁸⁸

[132] In addition to the recent reviews and continuations of existing anti-dumping measures in both the U.S. and the EU, Australia recently conducted an original investigation and determined in June 2015 that Chinese silicon metal was both dumped and subsidized. Combined anti-dumping and countervailing duties currently in place against Chinese silicon metal range from 14.1% to 53.6%.⁸⁹

⁸⁷ Exhibit 17 (NC) - Report: U.S. International Trade Commission - Silicon Metal from China (Fourth Review) - May 2018 and Exhibit 27 (PRO) - Close of Record Documents - Quebec Silicon - Attachment 6 - "CRU Silicon Metal Outlook" Supplementary Tables, Table S.23: Penalty duties related to silicon as of end-September 2018.

⁸⁸ Exhibit 14 (NC) - EU Regulation No 1077/2016 - Expiry Review China Silicon Metal; EU Regulation No 311/2013 - Anti-Circumvention Investigation Taiwan; and EC Regulation No 42/2007 - Anti-Circumvention Investigation Korea.

⁸⁹ Exhibit 28 (NC) - Close of Record Documents - Quebec Silicon, Attachment 6, Australia Anti-Dumping Commission, Silicon metal exported from the People's Republic of China - Findings in Relation to a Dumping Investigation and Findings in Relation to a Subsidy Investigation (June 3, 2015) and Exhibit 27 (PRO) - Close of Record Documents - Quebec Silicon - Attachment 6 - "CRU Silicon Metal Outlook" Supplementary Tables, Table S.23: Penalty duties related to silicon as of end-September 2018.

[133] Based on the information on the administrative record, as summarized above, there is a long history of anti-dumping measures in jurisdictions other than Canada, which demonstrates a propensity of Chinese exporters to dump silicon metal into international markets across multiple continents. The recent decisions in the U.S., the EU and Australia all suggest that there is a strong likelihood that Chinese exporters of silicon metal would resume dumping subject goods into Canada should the CITT let the current finding expire.

Determination Regarding Likelihood of Continued or Resumed Dumping

[134] Based on the information on the administrative record demonstrating that: Chinese silicon metal producers have significant excess production capacity; Chinese producers continue to produce large volumes of silicon metal in excess of Chinese demand and rely on exports to address oversupply in the Chinese market; recent pricing data shows that Chinese exporters are selling at low and potentially dumped prices in other markets and well below Canadian import prices; the volume of Chinese exports of silicon metal to Canada have been negligible since the finding despite cooperative exporters having normal values based on market pricing; and anti-dumping measures in place in Canada and in other jurisdictions demonstrate that Chinese silicon metal exporters have a propensity to dump into export markets, the CBSA determined that the expiry of the finding is likely to result in the continuation or resumption of dumping into Canada of certain silicon metal originating in or exported from China.

POSITION OF THE PARTIES – SUBSIDIZING

Parties Contending that Continued or Resumed Subsidizing is Likely

[135] The participating Canadian producer, Quebec Silicon, made representations in its ERQ response and in its case briefs and reply submissions, supporting its position that the subsidizing of certain silicon metal from China is likely to continue or resume should the CITT's finding expire. Therefore, they argued that the countervailing measures should remain in place.

[136] The main factors identified by the Canadian producer can be summarized as follows:

- Information available demonstrates that Chinese export prices are below cost;
- countervailable subsidy programs are available to Chinese silicon metal producers and exporters; and
- a propensity of the Government of China to subsidize a variety of goods imported into Canada and subject goods exported to other markets.

Information available demonstrates that Chinese export prices are below cost

[137] The Canadian producer contended that it is commercially unfeasible to sell goods below cost and therefore it is reasonable to conclude that Chinese silicon metal producers are receiving subsidies from the GOC in an amount equal to the difference between their operating costs and selling price. Quebec Silicon used Chinese cost information published by CRU in combination with Ferroglobe's costs to construct an estimated total cost to produce silicon metal in China. In comparing that total cost with the reported export prices for Grades 553 and 441, the Canadian producer estimated margins of subsidy equal to 40% and 25%, respectively. Quebec Silicon further argued that the estimated margins of subsidy are supported by the recent subsidy finding in Australia against Chinese silicon metal as well China's notification to the WTO on subsidy programs.⁹⁰

Countervailable subsidy programs are available to Chinese silicon metal producers and exporters

[138] To demonstrate that countervailable subsidies have been available to Chinese producers and exporters since the finding was put in place in Canada, the Canadian producer cited the June 2015 decision by Australia to impose countervailing duties on Chinese silicon metal. It noted that the Australian authorities had investigated 44 programs and had found 38 to be countervailable and that, following a review in November 2015, the amount of subsidy currently applicable ranged from 6.3% to 32.3%.⁹¹

[139] Quebec Silicon also noted that two of the Chinese exporters that cooperated in the 2015 Australian investigation and that are now subject to countervailing duties are companies that also participated in the CBSA's original investigation in 2013.⁹²

[140] The Canadian producer also referenced China's recent notification on subsidies submitted to the WTO in July 2018 to highlight the fact that it contained 16 programs which are identical or similar to those programs identified in both Australia's 2015 investigation as well as in the CBSA's 2013 investigation. Further, Quebec Silicon noted that in a recent online news article, the Chairman of the Silicon Industry Branch of the CNIA confirmed that the future development of the silicon industry will be supported by the state's support for the development of new materials and new energy industries.⁹³

⁹⁰ Exhibit 29 (PRO) – Case Briefs – Quebec Silicon, p. 49-50.

⁹¹ Exhibit 29 (PRO) – Case Briefs – Quebec Silicon, p. 51.

⁹² Exhibit 29 (PRO) – Case Briefs – Quebec Silicon, p. 53-54.

⁹³ Exhibit 29 (PRO) – Case Briefs – Quebec Silicon, p. 54-55.

A propensity of the Government of China to subsidize a variety of goods imported into Canada and subject goods exported to other markets

[141] Quebec Silicon contended that the GOC has a propensity to subsidize a variety of Chinese products, including subject goods. In addition to the countervailing measures in place against Chinese silicon metal in both Australia and Canada, the Canadian producer noted that of the 22 measures in force against Chinese products in Canada, 19 of those measures include countervailing duties. Based on China's recent notification to the WTO as referenced above, many of the same subsidy programs are still available in China. As such, the Canadian producer contended that almost nothing has changed since 2013 and that subject goods would be exported at subsidized prices should the finding be rescinded.⁹⁴

Parties Contending that Continued or Resumed Subsidizing is Unlikely

[142] In reviewing the participating importer's ERQ response, case briefs, and reply submissions, the CBSA notes that it is RTA's position that the subsidizing of certain silicon metal from China is not likely to continue or resume should the CITT's finding expire. However, while it is RTA's contention that the evidence indicates subsidization of the subject goods is not likely to resume, none of the submissions made by RTA include specific arguments which relate solely to subsidy. In this regard, all of RTA's arguments have already been summarized in the *Position of the Parties – Dumping* section of this report.

CONSIDERATION AND ANALYSIS – SUBSIDIZING

Likelihood of Continued or Resumed Subsidizing

[143] In making a determination under paragraph 76.03(7)(a) of SIMA as to whether the expiry of the finding in respect of goods from China is likely to result in the continuation or resumption of subsidizing of these goods, the CBSA may consider factors identified in subsection 37.2(1) of the SIMR, as well as any other factors relevant in the circumstances.

[144] Guided by the aforementioned factors and having considered the information on the administrative record, the following list represents a summary of the CBSA's analysis conducted in this expiry review investigation with respect to subsidizing:

- the continued availability of subsidy programs for silicon metal producers and exporters in China; and
- a propensity of the Government of China to subsidize silicon metal produced in China and exported to other markets as well as a variety of other goods imported into Canada.

⁹⁴ Exhibit 29 (PRO) – Case Briefs – Quebec Silicon, p. 56.

The continued availability of subsidy programs for silicon metal producers and exporters in China

[145] At the time of the conclusion of the CBSA's original subsidy investigation in 2013, the CBSA had identified 91 subsidy programs and had found that 6 of the 91 identified programs had conferred benefits to the cooperative exporters. The CBSA determined that 100% of the subject goods exported from China were subsidized and that the weighted average amount of subsidy, expressed as a percentage of the export price, was equal to 21.1%. The amounts of subsidy found for the cooperative exporters ranged from 1,460.5 to 1,934.5 Renminbi (RMB) per MT. For all other exporters, the amount of subsidy was determined under Ministerial Specification pursuant to subsection 30.4(2) of SIMA. The amount of subsidy determined for non-cooperative exporters was equal to 1,945.0 RMB/MT.⁹⁵

[146] Detailed descriptions of the programs and explanations as to why they were regarded as countervailable subsidies are contained in the CBSA's *Statement of Reasons* issued at the final determination.⁹⁶

[147] In reviewing China's most recent subsidy notification filed with the WTO in July of 2018⁹⁷, the CBSA noted that some of the programs available during the original investigation period appear to remain available and that there are new programs that have been added since 2013, which could potentially be used by silicon metal producers and exporters. While the names used by the GOC for the programs can differ from those used by the CBSA, the following list of programs highlights some of the programs included in the notification that are identical or similar to programs included in the original investigation and that could be potentially available to Chinese silicon metal producers and exporters. The list below is only meant to provide some examples of the continued availability of subsidy programs in China, which could potentially be used by Chinese silicon metal producers and is not meant to be exhaustive.⁹⁸

- i. Preferential tax policies in the western regions: this program is available from 2001-2020 and provides reduced income tax rates and exemptions of value-added tax (VAT) on imported equipment for enterprises in encouraged industries located in specified regions. The regions include the largest silicon metal producing provinces of Sichuan, Yunnan, and Xinjiang.
- ii. Preferential tax policies for high or new technology enterprises: this program is available from 2008 to the present and provides a reduced income tax rate to high or new technology enterprises.

⁹⁵ Exhibit 12 (NC) - CBSA Statement of Reasons - Final Determination (English and French), Table 3; Appendix 1; and Appendix 2.

⁹⁶ Exhibit 12 (NC) - CBSA Statement of Reasons - Final Determination (English and French), Appendix 2.

⁹⁷ Exhibit 28 (NC) - Close of Record Documents - Quebec Silicon - Attachment 30 - "China's New and Full Notification Pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures - G/SCM/N/315/CHN.

⁹⁸ Exhibit 28 (NC) - Close of Record Documents - Quebec Silicon - Attachment 30 - "China's New and Full Notification Pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures - G/SCM/N/315/CHN, p. 11-14, 22, 45, 79, and 82.

- iii. Preferential tax policies for the additional calculation and deduction of research and development expenses: this program is available from 2008 to the present and provides a reduced income tax rate to enterprises for the development of new technologies, new products and new techniques.
- iv. Preferential tax policies for enterprises transferring technology: this program is available from 2008 to the present and provides an income tax exemptions and/or reductions to resident enterprises who transfer technology.
- v. Preferential tax treatment for products produced with integrated utilization of resources: this program is available from 2015 to the present and provides tariff exemptions on imported equipment for projects encouraged by the state.
- vi. Preferential tax treatment for import of equipment: this program is available from 1998 to the present and provides VAT exemptions and/or reductions to enterprises using specified types of raw materials and energy resources.
- vii. Fund for development of strategic emerging industries: this program is available from 2012 to the present and provides funding to promote innovation and key technologies for projects in strategic industries.
- viii. Reward and support fund for restructuring of industrial enterprises: this program is available from 2016 to the present and provides funding allocations based on excessive capacities dissolved in steel, coal and other industries.

[148] Since the final determination of the original investigation, and throughout the period of review, the information available on the administrative record indicates that the GOC continues to have subsidy programs that are available and could potentially be used by Chinese producers and exporters of silicon metal.

A propensity of the Government of China to subsidize silicon metal produced in China and exported to other markets as well as a variety of other goods imported into Canada

[149] As highlighted by the Canadian producer and noted earlier in the report, of the 22 trade measures in Canada currently in place against Chinese goods, 19 of those measures include countervailing duties in addition to anti-dumping duties.⁹⁹

[150] Information on the administrative record also shows that Australia recently conducted an original countervailing investigation respecting Chinese silicon metal and determined that Chinese silicon metal was subsidized. In its determination issued on June 3, 2015, following the completion of the investigation, the Anti-Dumping Commission of Australia found that cooperative exporters had been subsidized by a margin of 6.3% and that all other exporters had been subsidized by a margin of 37.6%.¹⁰⁰

⁹⁹ Exhibit 30 (NC) – Case Briefs – Quebec Silicon, p. 56.

¹⁰⁰ Exhibit 28 (NC) – Close of Record Documents – Quebec Silicon, Attachment 6, Australia Anti-Dumping Commission, Silicon metal exported from the People's Republic of China – Findings in Relation to a Dumping Investigation and – Findings in Relation to a Subsidy Investigation (June 3, 2015).

[151] The existence of numerous countervailing measures in place in Canada against a variety of Chinese goods, including silicon metal, and the countervailing measures recently put in place in Australia on Chinese silicon metal demonstrates that Chinese producers and exporters of silicon metal have received countervailable benefits from the GOC and will likely continue to receive countervailable subsidies in the future.

Determination Regarding Likelihood of Continued or Resumed Subsidizing

[152] Based on the information on the administrative record in respect of the continued availability of subsidy programs for silicon metal producers and exporters in China and a propensity of the Government of China to subsidize silicon metal produced in China and exported to other markets as well as a variety of other goods imported into Canada, the CBSA determined that the expiry of the finding is likely to result in the continuation or resumption of subsidizing of certain silicon metal originating in or exported from China.

CONCLUSION

[153] For the purpose of making a determination in this expiry review investigation, the CBSA conducted its analysis within the scope of the factors found under subsection 37.2(1) of the SIMR. Based on the foregoing consideration of pertinent factors and analysis of the information on the administrative record, on March 15, 2019, the CBSA made a determination pursuant to paragraph 76.03(7)(a) of SIMA that the expiry of the CITT's finding made on November 19, 2013, in Inquiry No. NQ-2013-003:

- i. in respect of certain silicon metal originating in or exported from China is likely to result in the continuation or resumption of dumping of the goods; and
- ii. in respect of certain silicon metal originating in or exported from China is likely to result in the continuation or resumption of subsidizing of the goods.

FUTURE ACTION

[154] On March 18, 2019, the CITT commenced its inquiry to determine whether the expiry of the finding with respect to the dumping and subsidizing of certain silicon metal from China is likely to result in injury. The CITT's Expiry Review schedule indicates that it will make its decision by August 22, 2019.

[155] If the CITT determines that the expiry of the finding with respect to the goods is likely to result in injury, the CITT will make an order continuing the finding in respect of those goods, with or without amendment. If this is the case, the CBSA will continue to levy anti-dumping and/or countervailing duties on dumped and/or subsidized importations of the subject goods.

[156] If the CITT determines that the expiry of the finding with respect to the goods is not likely to result in injury, the CITT will make an order rescinding the finding in respect of those goods. Anti-dumping and/or countervailing duties would then no longer be levied on importations of the subject goods, and any anti-dumping and/or countervailing duties paid in respect of goods that were released after the date that the finding was scheduled to expire will be returned to the importer.

INFORMATION

[157] For further information, please contact the officer listed below:

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