

**THE DUMPING OF SILICON METAL
ORIGINATING IN OR EXPORTED FROM THE FEDERATIVE
REPUBLIC OF BRAZIL, THE REPUBLIC OF KAZAKHSTAN,
LAO PEOPLE'S DEMOCRATIC REPUBLIC, MALAYSIA, THE
KINGDOM OF NORWAY, THE RUSSIAN FEDERATION AND
THE KINGDOM THAILAND AND SUBSIDIZATION OF
SILICON METAL ORIGINATING IN OR EXPORTED FROM
THE FEDERATIVE REPUBLIC OF BRAZIL,
THE REPUBLIC OF KAZAKHSTAN, MALAYSIA, THE
KINGDOM OF NORWAY, AND THE KINGDOM THAILAND**

Public Statement of Evidence

of Alan Kestenbaum

December 30, 2016

Conlin Bedard LLP
220 Laurier Avenue West, Suite 700
Ottawa, ON K1P 5Z9

Paul Conlin/Benjamin Bedard/Shannel
Rajan

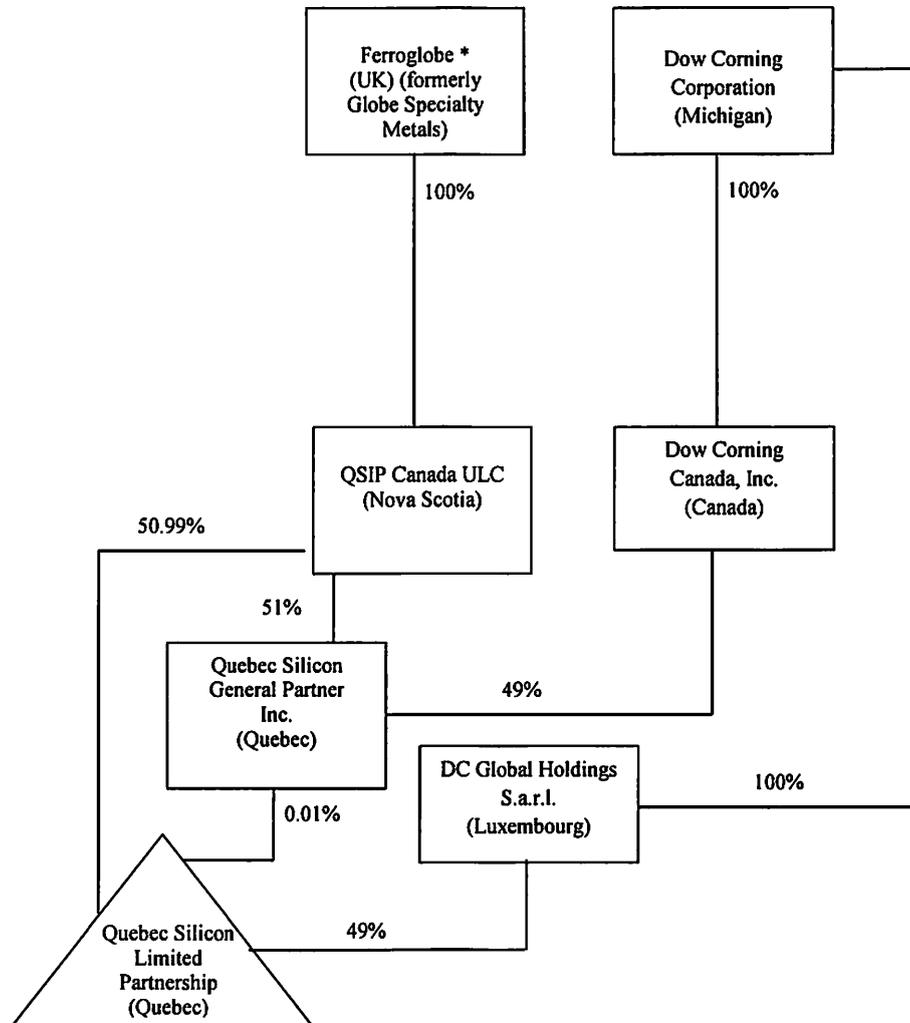
Tel: 613.782.5777
Fax: 613.249.7226

The Dumping of Silicon Metal Originating in or Exported from the Federative Republic of Brazil, the Republic of Kazakhstan, Lao People’s Democratic Republic, Malaysia, the Kingdom of Norway, the Russian Federation and the Kingdom of Thailand and the Subsidization of Silicon Metal Originating in or Exported from the Federative Republic of Brazil, the Republic of Kazakhstan, Malaysia, the Kingdom of Norway, and the Kingdom of Thailand

**Public Statement of Evidence
of
Alan Kestenbaum**

I, Alan Kestenbaum, of the City of Miami in the State of Florida, affirm that:

1. I am the Executive Chairman of Ferroglobe plc, which is the ultimate majority owner of Québec Silicon Limited Partnership (“QSLP”), the sole Canadian producer of silicon metal, and QSIP Canada ULC (“QSIP Canada”) which operates the facility and is responsible for sales to the Canadian market.
1. On the basis of my extensive experience, I have knowledge of the matters herein after deposed. Where I rely on my information and belief, I have so stated and I confirm that I verily believe said information to be true.
 - A. **Introduction**
 2. I make this statement in support of QSIP’s complaint to the Canada Borders Security Agency pursuant to section 31 of the *Special Import Measures Act* (“SIMA”) regarding the dumping and subsidization of certain silicon metal
 3. Below is a flow chart detailing the organization structure of QSLP and QSIP Canada.



* owns QSIP Canada ULC through wholly-owned subsidiaries.

4. Québec Silicon General Partnership Inc. (Quebec), (the “**General Partnership**”), is 51% owned by QSIP Canada and 49% owned by Dow Corning (Dow Corning Canada, Inc.). QSIP Canada is ultimately owned by Ferroglobe PLC (“**Ferroglobe**”). The General

Partnership is governed by a standard shareholders' agreement, with majority control save for certain minority protections.

5. QSLP is 50.99% owned by QSIP Canada and 49% owned by Dow Corning Corporation, through its wholly-owned subsidiary DC Global Holdings S.r.a.l, and 0.01% by the General Partnership. However, the General Partnership manages the Limited Partnership by virtue of a power of attorney and the General Partnership is in turn managed pursuant to the shareholders' agreement referenced above. Thus, Ferroglobe and its subsidiaries have majority ownership in and control over QSLP.
6. Prior to June 2012, Ferroglobe's interests in the partnership were owned by Bécancour Silicon, Inc., an unaffiliated third party ("BSI").
7. QSLP is the sole Canadian producer of silicon metal. Its sales to the Canadian market are made through QSIP Canada. Although Dow is entitled to its share of QSLP's output, it is not involved in the day to day management of QSLP. Dow participates in production planning and has access to certain information and QSIP Canada operates the facility and makes the sales.
8. Previously, QSIP Sales ULC ("QSIP Sales") facilitated sales destined for Wacker Chemie AG ("Wacker") in Germany. This contract with Wacker is no longer in force. Currently, QSIP Sales is inactive and all sales are made by QSIP Canada. The Complainant is in the process of amalgamating QSIP Sales into QSIP Canada. Neither QSIP Sales nor QSIP Canada has sold silicon metal to Wacker since 2014.

B. Canadian History of Silicon Metal

9. The only Canadian facility of Silicon metal began operation in 1976 as SKW Electro-Metallurgy Canada Ltd. (later renamed as SKW Canada, Inc.), which was an indirect subsidiary of Viag AG.
10. In 1999, Viag AG sold SKW Canada to Safeguard International Fund, LP, which renamed the company Bécancour Silicon, Inc. ("BSI"). In 2004, Timminco purchased BSI from Safeguard International Fund, LP.

11. On October 1, 2010 BSI established a production partnership with Dow Corning in respect of silicon metal production at Bécancour, with Dow Corning receiving 49% equity in QSLP and entitled to receive []% of the facility's production.
12. For a period of time, BSI attempted to broaden its product mix and tried to produce solar grade silicon through its Timminco solar division. Production of this product was not successful and was terminated in January 2010.
13. With no reliable source of revenue from its principal asset, BSI Timminco entered into creditor protection in January 2012. As part of that court supervised process, QSIP Canada acquired BSI's 51% interest in QSLP.
14. In late 2015, Globe and Grupo FerroAtlántica combined businesses form Ferroglobe. QSIP Canada is now ultimately owned by Ferroglobe. The Ferroglobe company involved in sales activity with respect to the production facility is QSIP Canada ULC, which is responsible for all sales.
15. The QSLP facility has a production capacity of approximately [] MT per year. Ferroglobe has []% of the facility's production at a price approximately equal to the fully loaded cost of production plus a fixed margin and Dow Corning has []% of the facility's production at the same price.

C. Product Specifications

16. Customers have very specific requirements for the silicon metal that they purchase, with respect to the minimum silicon content and maximum contents of impurities. However, customers can and do purchase silicon metal that does not meet their specifications, based on price.
17. Specifications of chemical producers typically require silicon metal that contains less than 0.4% iron, less than 0.05% calcium, and less than 0.25% aluminum, although individual customer specifications may vary.

18. Specifications of primary aluminum producers typically require silicon metal that contains less than 0.5% iron (although some low-iron specifications call for less than 0.35% iron) and less than 0.07% calcium (although some specifications call for less than 0.015% calcium). Again, actual specifications vary by customer.
19. Specifications of secondary aluminum producers typically allow for no more than 1% iron and no more than 0.35% calcium. The current trend is for reduction in both iron and calcium in the final silicon metal product.
20. With respect to silicon content, chemical and primary aluminum customers normally specify a minimum silicon content above 99.0%. Secondary aluminum customers may allow a lower percentage content of silicon, but even they typically require a minimum of 98.5%.
21. Producers unintentionally manufacture product that fails to meet the specifications required by customers, with respect to silicon and impurity contents. Such product can be generated because of errors in operating the furnace, the use of raw materials containing higher than normal impurities, a furnace start-up, or other reasons. The amount of production that fails to meet the specifications of a specific order is less than 5%.
22. Nonetheless, off-specification production will usually meet the specification of another order and is therefore sold without a price discount.
23. There are no uniformly accepted 'grades' of silicon metal. Silicon metal 'grades' refer to ranges of specifications that are typically sold to particular groups of customers, with the first number listing the iron limit, the second the aluminum limit and the third the calcium limit. For example, "1101" silicon metal has a maximum 0.10% iron, 0.10% aluminum and 0.01% calcium content whereas "553" has maximum 0.5% iron, 0.5% aluminum, and 0.3% calcium content. These specifications establish the maximum amounts of impurities, such as iron, calcium, or aluminum that the silicon metal may contain.
24. Customers in North America generally specify the exact percentages they want in a product. Both QSLP and producers in the Subject Countries produce silicon metal that

meets the specifications of Canadian consumers. As a result, competition among suppliers is fundamentally based on price, and relatively small differences in price can lead consumers to switch suppliers.

D. Product Process

25. QSLP uses a double-deck screen system to capture material of different sizes. The screen system has two slots into which screens are inserted that capture material of various dimensions. QSLP typically sets up the screen system as follows: the top screen has 4" openings, to collect product that is smaller than 4" and the bottom screen has 1/2" openings, to collect product that is smaller than 1/2". The resulting screened product has nothing larger than 4" or smaller than 1/2". Everything smaller than 1/2" is collected after it passes through the bottom screen. The collected pieces are: (1) sold to chemical customers who do not require minimum sized pieces; (2) crushed further to produce specialty silicon powders for use in the ceramic or refractory industry; (3) are recycled during the casting process; or (4) are re-melted in ladles to produce a larger size.
26. QSLP normally crushes and sizes silicon metal to fulfill orders for particular customers. For customers that want silicon metal packed in large "big bags" (also called "supersacks"), QSLP normally packs the silicon metal immediately after crushing and sizing (and hold the packed silicon metal in inventory until shipment). For customers that want the material shipped in bulk (*i.e.*, shipped in covered railcars or dump trucks), QSLP inventories the bulk silicon metal in bins or compartments until loading.
27. QSLP has operated and continue to operate with excess capacity.

E. Dow Silicon Metal Facilities in Brazil

28. Note that there are two Dow silicon metal facilities in Brazil. My understanding is that these facilities do not export to Canada; rather Dow silicon metal is used internally by Dow chemical facilities.

F. Import Threats

29. Sales to the Complainant's largest customers have been compromised due to low priced imports arriving from Brazil, Kazakhstan, Laos, Malaysia, Russia, Thailand and Norway.

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31. [

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CRU Under-estimation

32. It has been our experience that CRU consistently under-estimates producer costs. Attached as Confidential Attachment 13 to the Complaint are the costs of 13 Ferroglobe silicon metal facilities that we have prepared so that they may be compared with the reported costs by CRU. The Ferroglobe costs were prepared from our financial statements and presented in the manner used by CRU.

I, Alan Kestenbaum, Chairman of Ferroglobe plc certify that the information in the Witness Statement is true, accurate and complete.

“Confidential version signed by Alan Kestenbaum”

Alan Kestenbaum