



ANTI-DUMPING NOTICE NO. 2014/08

Silicon Metal

Exported from the People's Republic of China

Initiation of an Investigation into Alleged Dumping and Subsidisation

Customs Act 1901 – Part XVB

I, Dale Seymour, Commissioner of the Anti-Dumping Commission, have initiated an investigation following an application lodged by Simcoa Operations Pty Ltd, the sole manufacturer of silicon metal ("the goods") in Australia. The application seeks the publication of a dumping duty notice and a countervailing duty notice in respect of silicon metal ("the goods") exported to Australia from the People's Republic of China.

The application alleges that the goods have been exported to Australia at prices less than their normal value and were in receipt of countervailable subsidies and that the dumping and subsidisation has caused material injury to the Australian industry through:

- lost sales volumes;
- reduced market share;
- price depression;
- price suppression;
- loss of profits and profitability;
- reduced return on investment; and
- reduced capacity utilisation.

The non-confidential version of the application, which contains the basis of the alleged dumping and subsidisation, is available on the public record.

A notice under subsection 269TC(4) of the *Customs Act 1901* (the Act) advising initiation of this investigation was published in *The Australian* newspaper on 6 February 2014.

The Goods

The following is a description of the goods covered by the investigation:

- Silicon metal containing at least 96.00 percent but less than 99.99 percent silicon by weight; and
- Silicon metal containing between 89.00 percent and 96.00 percent silicon by weight

that contains aluminium greater than 0.20 percent by weight,

of all forms (i.e. lumps, granules or powder) and sizes.

The goods are currently classified to the tariff subheading 2804.69.00 (statistical code 14) of Schedule 3 to the *Customs Tariff Act 1995*. These goods are duty free.

Investigation Process

The investigation period is 1 January 2013 to 31 December 2013. The Anti-Dumping Commission (the Commission) will examine exports to Australia of the goods during that period to determine whether dumping and subsidisation has occurred. The Commission will examine details of the Australian market from 1 January 2010 for injury analysis purposes.

Where the Parliamentary Secretary to the Minister for Industry (Parliamentary Secretary) is satisfied, as to goods of any kind, that:

- (a) the amount of the export price of the goods that have already been exported to Australia is less than the normal value of those goods, and the amount of the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods; and
- (b) because of that, material injury to an Australian industry producing like goods has been or is being caused or is threatened, or the establishment of an Australian industry producing like goods has been or may be materially hindered;

the Parliamentary Secretary may, by public notice, impose interim dumping duties.

Where the Parliamentary Secretary is satisfied, as to goods of any kind, that:

- (a) a countervailable subsidy has been received in respect of the goods; and
- (b) because of that, material injury to an Australian industry producing like goods has been or is being caused or is threatened, or the establishment of an Australian industry producing like goods has been or may be materially hindered;

the Parliamentary Secretary may, by public notice, impose interim countervailing duties.

Where there are grounds for the Parliamentary Secretary to publish a dumping duty notice and a countervailing duty notice in respect of the goods, the Commission will examine whether the trade in the dumped or subsidised goods give rise to retrospective notices being published pursuant to section 269TN of the Act, and make recommendations to the Parliamentary Secretary accordingly.

As the application alleges matters relevant to the Parliamentary Secretary's consideration of the lesser duty rule, namely:

- there is a "particular market situation" pursuant to subparagraph 269TAC(2)(a)(ii) of the Act; and
- a countervailable subsidy has been received in respect of the goods the subject of the application (raising matters of compliance with Article 25 of the World Trade Organisation Agreement on Subsidies and Countervailable Measures),

the Commission will examine these matters and make recommendations to the Parliamentary Secretary as to the proposed level of duty to be applied in any dumping and countervailing duty notice.

Lodgement of Submissions

Interested parties, as defined by subsection 269T(1) of the Act, are invited to lodge submissions concerning the publication of the dumping duty notice sought in the application, no later than the close of business on 18 March 2014, addressed to:

The Director
Operations 2
Anti-Dumping Commission
Level 5 Customs House
5 Constitution Ave
Canberra City ACT 2601

Or by email operations2@adcommission.gov.au or by fax to +61 2 6275 6888.

Interested parties wishing to participate in the investigation must ensure that submissions are lodged by the due date. Interested parties should note that I am not obliged to have regard to a submission received by the Commission after the date above if to do so would, in my opinion, prevent the timely placement of the statement of essential facts on the public record.

Interested parties may reply to matters raised by other parties during the course of the investigation and in response to the statement of essential facts.

I am obliged to maintain a public record of each inquiry. The public record must contain, among other things, a copy of all submissions from interested parties. Letters and electronic mail are generally regarded as submissions if they contain information relevant to the inquiry.

Interested parties claiming that information contained in their submission is confidential, or that the publication of the information would adversely affect their business or commercial interests, must:

- (i) provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information that does not breach that confidentiality or adversely affect those interests, or
- (ii) satisfy me that there is no way such a summary can be given to allow a reasonable understanding of the substance of the information.

Submissions containing confidential information must be clearly marked "For Official Use Only".

Interested parties must also lodge a non-confidential version or a summary of their submission in accordance with the requirement above, which will be placed on the public record. Parties must provide two copies of each version.

Public Record

Documents included in the public record are available at www.adcommission.gov.au. Alternatively, the public record may be examined at the Commission office by contacting the case manager on the details provided below.

Provisional Measures

A preliminary affirmative determination may be made not earlier than 60 days after the date of initiation provided that there appears to be sufficient grounds for the publication of a dumping and countervailing duty notice. In accordance with section 269TD of the Act, provisional measures, in the form of securities in respect of interim dumping and countervailing duty that may become payable on the goods, may be imposed where a preliminary affirmative determination has been made.

Statement of Essential Facts

The dates specified in this notice for lodging submissions must be observed to enable me to report to the Parliamentary Secretary within the legislative timeframe. A statement of essential facts will be placed on the public record by 27 May 2014, or by such later date as the Parliamentary Secretary may allow in accordance with section 269ZHI of the Act. The statement will set out the essential facts on which I propose to base a recommendation to the Parliamentary Secretary. That statement will invite interested parties to respond to the issues raised within 20 days of the statement being placed on the public record.

Submissions received in response to the statement of essential facts will be taken into account in completing the report and recommendation to the Parliamentary Secretary.

Report to the Parliamentary Secretary

A recommendation to the Parliamentary Secretary will be made in a report on or before 11 July 2014 (or such later date as the Parliamentary Secretary may allow), unless I terminate the investigation.

The Parliamentary Secretary must make a declaration within 30 days after receiving the report, or due to special circumstances, such longer period as the Parliamentary Secretary considers appropriate.

Review Officer

Certain parties will have the right to seek review with the Anti-Dumping Review Panel in accordance with Division 9 of Part XVB of the Act, of either a decision by me to terminate the investigation, or a decision of the Parliamentary Secretary after considering my report.

Anti-Dumping Commission Contact

Enquiries about this notice may be directed to the case manager on telephone number +61 2 6275 5649, fax number 1300 882 506 or +61 2 6275 6888 (outside Australia) or operations2@adcommission.gov.au.

Dale Seymour
Commissioner
Anti-Dumping Commission

6 February 2014