Certain Silicon exported from P R China – Dumping and Countervailing Verification Visit with Hua'an Linan Silicon Co., Ltd and Guizhou Liping Linan Silicon Industry Co., Ltd

Introduction

By application, Simcoa Operations Pty Ltd ("Simcoa") has asserted that a "market situation" for silicon metal in China prevails. Simcoa's position is based upon recent findings by the Canadian Border Services Agency ("CBSA") in its Statement of Reasons dated 5 November 2013 where it established that the Government of China ("GOC") influenced the domestic price of silicon metal in China through a number of export control measures. These included:

- the export tax on silicon metal (applicable until 1 January 2013);
- the 17 per cent VAT that did not apply to exported silicon metal (thereby imposing downward pressure on domestic silicon metal prices);
- direct control of domestic silicon metal prices as evidenced by export quotas and limited export approvals to select Chinese corporations. CBSA was also satisfied that the GOC did impose minimum export prices for silicon metal.

Simcoa is also aware from the CBSA Statement of Reasons that the GOC influences the pricing of electricity to industrial producers including to specific capital-intensive industries that are high-energy consumers. The CBSA confirmed that Chinese silicon producers in Yunnan Province received electricity at beneficial rates when contrasted with other heavy industry producers nearby[1].

As electricity constitutes up to 40-50 per cent of the production cost (excluding S,G&A) of silicon metal and, as indicated by CRU, is priced at up to 32 per cent discount on general industrial selling prices for electricity, the heavily discounted electricity price has a significant impact in reducing the cost (and selling price) of silicon metal in China. Additionally, the GOC intervenes in the industry by restricting the size of silicon metal production facilities, limiting access to the industry for new market entrants, and enforcing closure of small-scale silicon metal production facilities.

Cooperative Manufacturers

The Anti-Dumping Commission ("the Commission") has received completed exporter questionnaires for two manufacturers of the goods under consideration. The manufacturers are:

(i) Guizhou Liping Linan Silicon Industry Co., Ltd; and
(ii) Hua'an Linan Silicon Industry Co., Ltd.

Hua'an Linan Silicon Industry Co., Ltd ("Hua'an Linan") is related to the exporter K-Metal (also completed an exporter questionnaire response – "EQR") who purchases the silicon metal from its related manufacturer.

Dumping

The EQR responses of the two manufacturers indicate that they both sell the goods under consideration domestically. Hua'an Linan indicates that it only sells domestically and is not an exporter of silicon metal. Hua'an Linan sells domestically to K-Metal, who then exports to Australia. Simcoa has demonstrated that a market situation for silicon metal is evident in China. Normal values for Chinese silicon producers (assuming full cooperation from the participating Chinese manufacturer) can be based upon the producer's cost-to-make-and-sell ("CTM&S"), with adjustments to reflect market conditions.

[1] Refer Canadian Border Services Agency Statement of Reasons, Silicon Metal exported from P R China, 5 November 2013.

For Hua'an Linan, Simcoa submits that the Commission determine normal values based upon Hua'an Linan's CTM&S, with market values for electricity and coal substituted for Hua'an Linan's ctual electricity and coal costs.

A similar approach to normal value determination will be required for Guizhou Liping Linan Silicon Industry Co., Ltd ("Guizhou").

Simcoa submits that as K-Metal is an agent/distributor of silicon metal in China, normal values for K-Metal will be based upon its related manufacturer Hua'an Linan's CTM&S data (adjusted for market conditions)[2].

Market selling prices – electricity and coal

CBSA was able to access market selling prices in China – particularly in the Yunnan province – where it was able to confirm that electricity sold to non-silicon industrial consumers in Yunnan were charged higher prices than the silicon manufacturers. In the absence of accessing electricity prices for other industrial users in Fujian province (for Hua'an Linan), the Commission can refer to electricity prices in CRU.

Simcoa is aware that Guizhou's electricity prices are higher than prevailing prices for silicon producers in Yunnan province (according to CRU data). Simcoa contends that the Commission examine the electricity price for Guizhou and contrast with the CRU data to validate whether Guizou's electricity price is consistent with market selling prices.

The CBSA also determined that the GOC substantially influences the selling price of coal in China. The Commission has also previously concluded that coal selling prices in China are influenced (see Reports No. 190 and 193) by the GOC. The Commission will therefore be required to substitute a market selling price for coal into the producer's normal values.

Chinese domestic selling prices

Simcoa highlights with the Commission that the CBSA determined Chinese domestic selling prices were 43 to 50 per cent below the determined normal values in the 2012 investigation period. Simcoa anticipates that similar margins will be evident between Chinese domestic prices and the constructed selling prices for each of the two Chinese producers involved in exports of silicon metal to Australia in 2013.

<u>Subsidies</u>

Hua'an Linan indicates in its completed EQR that it has not received any benefits in the form of subsidies from the GOC. In the CBSA inquiry, however, it was determined that Hua'an Linan had received benefits under the following two programs:

- Program 81 – VAT Exemptions on Domestically Purchased Equipment; and
- Program 82 – Utilities Provided by Government at Less Than Fair Market Value.

The overall subsidy margin for Chinese exporters of silicon metal was 21.1 per cent. CBSA identified 91 programs where the GOC provided a benefit to companies within the ferro-alloy sector, of which silicon metal producers are a sub-component.

The subsidies fall within the following broad categories:

i) Special economic zones (SEZ) incentives;
ii) Grants;
iii) Preferential Loan Programs;
iv) Preferential Tax Programs;

[2] As per the methodology of Chinese producers in China and Hong Kong based exporters in Report No. 190.

v) Relief from Duties and Taxes on Materials and Machinery;
vi) Goods/Services Provided by Government at Less Than Fair Value;
vii) Reduction in Land Use Fees; and
viii) Additional Programs and Incentives in China's latest WTO notification (2011).

The completed EQR of Hua'an Linan and Guizhou indicate a company tax rate payable of 17 Percent. The corporate tax rate in China is 25 per cent. It would appear from the producer's EQR that a reduced tax rate is paid by Hua'an Linan and Guizhou. The Commission is requested to examine the tax rates paid by both exporters to establish whether a benefit has been received by either company.

Hua'an Linan has received benefits under Programs 81 and 82 (as indicated above). In respect of Program 81, it is understood that the benefit involved the non-payment of the 17 per cent VAT on purchases of domestic production equipment. This constitutes a financial contribution paid by the GOC and confers a benefit to the producer in the form of a grant. As the GOC has not cooperated with this investigation, the Commission will be unable to determine if the subsidy is specific. The benefit applies over the useful life of the equipment, with an annual benefit quantifiable over the quantity of goods produced in the investigation period.

Program 82 relates to the purchase of electricity from the State, Provincial or Municipal authority. On the basis of the EQR from Hua'an Linan and Guizhou, electricity purchases appear to be from provincial authorities. The Commission is requested to examine both companies electricity purchases and obtain information of rates paid by both companies. As a guide in determining whether electricity has been provided at less than adequate remuneration, the Commission can benchmark the Chinese producers' electricity rates with CRU information on Chinese provincial electricity prices.

It would appear from the EQR that Hua'an Linan and Guizhou are purchasing electricity from State Owned Enterprises ("SOEs") which may be considered public bodies (that exercise authority vested by the GOC). As the electricity prices are less than market prices (as confirmed by the CBSA when contrasted with prices paid by other heavy industrial users in the respective province), a benefit is considered to have passed to the producer from the public body.

Other subsidy programs

The EQR do not detail any information on subsidy programs that may apply to the two silicon metal producers Hua'an Linan and Guizhou. Simco encourages the Commission to question the cooperative Chinese producers as to any benefits received under the remaining 89 programs identified by CBSA.

Additional evidence of GOC influence on the Ferro-alloy (including Silicon Metal) sector

Simcoa notes that the CBSA also identified GOC restrictions that were applied to the industrial silicon sector. This involved the restriction of energy consumed per unit of silicon produced at 12,000 kwh or less, energy consumed at 3,500 kg of coal or less, and restrictions on the carbonaceous reducing agents (including charcoal limits of 900 kg per tonne), along with other further restrictions (including micro-silica dust emissions).

In addition to the raw material consumption restrictions, provincial governments 9including Yunnan) had imposed controls on silicon metal furnaces operating at 6,300 KVA or lower from operating, and had moved to phase out furnaces at 12,500 KVA or lower. Yunnan also directed that production capacities at certain locations (Dehong, Baoshan, Lincang and Wenshan) would be capped, to limit production in Yunnan province for silicon metal at 1.4 million tonnes.

Current and future production capacity for silicon metal in China was therefore restricted by the GOC (including by the State, Provincial and Municipal governments), imposing production capacity and limits on silicon metal production.

Impact of GOC influences

The GOC has provided silicon metal manufacturers in China with benefits that distort selling prices on the Chinese domestic market. Simcoa submits that the GOC influences have resulted in a ‘particular market situation’ for silicon metal and as a result, domestic selling prices are unsuitable for determining normal values.

The Commission, therefore, will rely upon the producer/exporter’s CTM&S plus an amount for profit as the basis for normal value.