



# **ANTI-DUMPING NOTICE NO 2024/042**

*Customs Act 1901 – Part XVB*

## **Silicon Metal**

**Exported to Australia from**

**The People's Republic of China**

### **Initiation of Continuation Inquiry No 651 into Anti-Dumping Measures**

*Notice under section 269ZHD(4) of the Customs Act 1901*

I, Isolde Lueckenhausen, Acting Commissioner of the Anti-Dumping Commission (Commissioner),<sup>1</sup> have initiated an inquiry into whether the continuation of anti-dumping measures, in the form 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 (China) is justified.

The anti-dumping measures are due to expire on 3 June 2025 (specified expiry day).<sup>2</sup>

#### **1. The goods**

The goods subject to the anti-dumping measures and this inquiry are:

*Silicon metal containing:*

- *at least 96.00 per cent but less than 99.99 per cent silicon by weight; and*
- *between 89.00 per cent and 96.00 per cent silicon by weight that contains aluminium greater than 0.20 per cent by weight;*

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

---

<sup>1</sup> References in this document to individuals holding positions as Commissioner or within the Anti-Dumping Commission (commission) are references to whoever occupies the position at the time. This includes when the position is held in an acting capacity.

<sup>2</sup> On and from 4 June 2025, if not continued, the anti-dumping measures would no longer apply.

The goods are generally, but not exclusively, classified to the following tariff subheadings of Schedule 3 to the *Customs Tariff Act 1995*:<sup>3</sup>

Tariff Subheading	Statistical Code	Description
2804.69.00	14	Silicon: Other

## 2. Background to the anti-dumping measures

The anti-dumping measures were initially imposed by public notices on 3 June 2015 by the then Parliamentary Secretary to the Minister for Industry and Science.<sup>4</sup> This followed their consideration of the Commissioner's recommendation in *Anti-Dumping Commission Report No 237* (REP 237) as a result of investigation 237 (original investigation).<sup>5</sup>

The original investigation and the imposition of the anti-dumping measures resulted from an application made under section 269TB of the *Customs Act 1901*<sup>6</sup> by Simcoa Operations Pty Ltd (Simcoa) representing the Australian industry producing like goods to the goods subject to the anti-dumping measures.

Following an inquiry, the anti-dumping measures were continued by the then Minister for Industry, Science and Technology for a further five years from 4 June 2020.<sup>7</sup> This followed their consideration of the Commissioner's recommendation in *Anti-Dumping Commission Report No 524* (REP 524).

Further details on the goods and existing anti-dumping measures are available on the Dumping Commodity Register on the commission's website ([www.adcommission.gov.au](http://www.adcommission.gov.au)).

## 3. Application for continuation of the anti-dumping measures

Division 6A of Part XVB sets out, among other things, the procedures to be followed in dealing with an application for the continuation of anti-dumping measures.

In accordance with section 269ZHB(1), I published a notice on the commission's website on 11 April 2024.<sup>8</sup> The notice invited the following persons to apply for the continuation of the anti-dumping measures:

- the person whose application under section 269TB resulted in the anti-dumping measures (section 269ZHB(1)(b)(i)), or
- persons representing the whole or a portion of the Australian industry producing like goods to the goods covered by the anti-dumping measures (section 269ZHB(1)(b)(ii)).

---

<sup>3</sup> These tariff classifications and statistical codes may include goods that are both subject and not subject to the anti-dumping measures. The listing of these tariff classifications and statistical codes are for convenience or reference only and do not form part of the goods description. Please refer to the goods description for authoritative detail regarding goods subject to the anti-dumping measures.

<sup>4</sup> Anti-Dumping Notice (ADN) No 2015/71.

<sup>5</sup> Electronic Public Record (EPR) 524, document no 9.

<sup>6</sup> All legislative references in this notice are to the *Customs Act 1901*, unless otherwise stated.

<sup>7</sup> ADN No 2020/036.

<sup>8</sup> ADN No 2024/020.

On 10 June 2024, an application for the continuation of the anti-dumping measures was received from Simcoa. A non-confidential version of the application is available on the commission's public record.

Having regard to the application and the original investigation, I am satisfied that Simcoa is the person under section 269ZHB(1)(b)(i) because Simcoa's application under section 269TB resulted in the existing anti-dumping measures.

Like goods are defined under section 269T(1). Sections 269T(2), 269T(3), 269T(4), and 269T(4A) are used to determine whether the like goods are produced in Australia and whether there is an Australian industry producing like goods.

Having regard to the application, original investigations, and previous continuation inquiry, I am satisfied that Simcoa produces like goods and that it represents the Australian industry.

#### **4. Consideration of application under section 269ZHD(1)**

Pursuant to section 269ZHD(1), I must reject an application for the continuation of anti-dumping measures if I am not satisfied of one or more of the matters referred to in section 269ZHD(2). These are:

- the application complies with section 269ZHC,<sup>9</sup> and
- there appear to be reasonable grounds for asserting that the expiration of the anti-dumping measures to which the application relates might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.<sup>10</sup>

#### **5. Assessment under section 269ZHD(2)(a) – compliance with section 269ZHC**

I consider that the application complies with the requirements of section 269ZHC because it is in writing, in a form approved by me for the purposes of this section, contains the information that the form requires, is signed in the manner indicated by the form, and was lodged in a manner approved under section 269SMS, being by email to the commission's email address provided in the instrument under section 269SMS.<sup>11</sup>

#### **6. Assessment under section 269ZHD(2)(b) – reasonable grounds**

##### Applicant's claims

In its application, Simcoa claims, among other things, that:

- the expiration of measures will likely lead to a recurrence of the material injury that the anti-dumping measures are intended to prevent
- sufficient evidence exists for the commission to conclude that the expiration of the anti-dumping measures would likely lead to a continuation or recurrence of dumping of the goods exported to Australia
- the continuation or recurrence of dumping would be at margins at least equal to, or higher than those found in the original investigation

---

<sup>9</sup> Section 269ZHD(2)(a).

<sup>10</sup> Section 269ZHD(2)(b).

<sup>11</sup> A copy of the instrument can be found on the commission's website at [www.adcommission.gov.au](http://www.adcommission.gov.au).

- anti-dumping measures, both dumping and countervailing, by other jurisdictions on silicon metal from China is an indication that dumping, and subsidisation is likely to continue or recur in Australia if measures were to expire
- that in REP 524 the Minister accepted the commission's recommendation that a market situation applied to silicon metal in China, and that the variable factors ascertained in REP 524 had changed from the original investigation
- Government of China (GOC) policies specific to silicon metal have not waned over the period following publication of REP 524 and a market situation in respect of silicon metal sold in China continues to apply
- the volume of subject imports was minimal during the proposed inquiry and import statistics have demonstrated that the measures have had an effect on imports of silicon metal from China
- the existence of exports from China, albeit in small volumes during the proposed inquiry period indicates the presence of well utilised distribution links which provides an opportunity for exporters to quickly increase sales volume of dumped and injurious silicon metal if the anti-dumping measures are removed
- China remains the world's largest producer of silicon metal and its capacity and production continues to increase
- during the period between February 2010 (when previous measures that applied to silicon metal exported from China expired), and the time of Simcoa's application in January 2014 that led to measures in REP 237, it suffered the following injury from dumped and subsidised exports from China:
  - loss in sales volume
  - reduction of market share
  - price depression
  - loss of profits and profitability
  - reduced returns on investment
- China's excess capacity and inventory would likely be used to increase exports to Australia should the measures expire
- trade measures on silicon metal exported from China to other countries would likely make the Australian market attractive should the measures expire
- the expiration of measures will likely lead to increased volumes of dumped goods which will result in material injury in the form of:
  - reduced sales
  - reduced market share
  - price depression and suppression
  - loss of profits
  - loss of productivity
  - reduced return on investment and capacity utilisation
- these injury factors will have negative effect on other areas such as employment, wages, growth, and investment.

As part of its application, Simcoa provided export data for the goods to demonstrate that China continues to export the goods to Australia. It has also provided extracts from the anti-dumping measures that apply in other jurisdictions, confidential Chinese production cost estimates sourced from subscription services, website references, and third-party studies. This is to support their recurrence or

continuation of dumping claims, as well as particular market situation and excess production capacity claims that exist in China.

## **7. The commission's consideration**

In assessing Simcoa's claims, the commission considered the information provided in the application, information obtained from the Australian Border Force (ABF) import database, findings from REP 237 and REP 524, and other information relevant to the application.

The commission examined data from the ABF import database and has observed that exporters from China have continued to export the goods to Australia, albeit in low volumes, since the anti-dumping measures were continued in 2020.

The commission also compared ABF import data to the import data provided by Simcoa in its application and observed that they follow similar patterns including export volumes. This appears to support Simcoa's assertion that manufacturers in China have maintained distribution links into the Australian market.

The commission notes the information provided by the applicant regarding anti-dumping measures that apply in other jurisdictions, Canada, the European Union and the United States of America. The commission considers that with these measures in place, it may make the Australian market an attractive option for Chinese exporters should the measures expire.

The commission has also viewed the evidence provided that supports Simcoa's claims that China remains the world's largest producer of silicon metal and that its capacity and production continues to increase. These are provided in non-confidential attachments to Simcoa's application. The commission finds it reasonable to conclude from this evidence that China's capacity to produce silicon metal has increased since the measures were last continued.

In the absence of other data, the commission considers it reasonable for Simcoa to present dumping and countervailing margins ascertained in REP 237 and 524 as evidence to support its assertion that dumping and countervailing has continued or will recur at similar levels.<sup>12</sup> This is also supported by the evidence of dumping and countervailing margins from other jurisdictions on silicon metal from China.

The commission also finds it reasonable for Simcoa to present findings from REP 237 of the injury that it suffered when anti-dumping measures were last removed in February 2010, as an indication of what is likely to occur if anti-dumping measures were to expire. The commission finds it reasonable to assert that similar injury as outlined in Simcoa's application and summarised in section 6 above would occur.

## **8. Conclusions**

Having regard to the application, Simcoa's claims and other relevant information set out in this notice, I am satisfied that, in accordance with section 269ZHD(2)(b), there appear to be reasonable grounds for asserting that the expiration of the

---

<sup>12</sup> The commission found in REP 237 and 524 that exporters received a financial contribution by a government or public body that confers a benefit on the recipient in 44 subsidy programs. The commission also found each subsidy to be specific. The commission has reconsidered the historical evidence associated with REP 237 and 524 and considers there is adequate evidence tending to prove the ongoing existence of the relevant subsidy programs.

anti-dumping measures might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent. Based on the above findings, I have therefore decided to not reject the application.

**9. This continuation inquiry**

For this inquiry, I will examine the period from **1 July 2023 to 30 June 2024** (the inquiry period) to determine whether dumping and subsidisation has occurred.

Following my inquiry, I will recommend to the Minister for Industry and Science (Minister) whether the notices should:

- (i) remain unaltered, or
- (ii) cease to apply to a particular exporter or to a particular kind of goods, or
- (iii) have effect in relation to a particular exporter or to exporters generally, as if different variable factors had been ascertained, or
- (iv) expire on the specified expiry day.

**10. Proposed model control code structure**

The Commission undertakes model matching using a Model Control Code (MCC) structure to identify key characteristics that will be used to compare the goods exported to Australia and the like goods sold domestically in the country of export.<sup>13</sup> The table below outlines the Commission’s proposed MCC structure for this inquiry.

Category	Sub-category	Identifier	Sales data	Cost data
Grade	441	A	Mandatory	Mandatory
	2202	B		
	3303	C		
	3301	D		
	1101	E		
Packaging	10kg (box/bag)	1	Mandatory	Mandatory
	250kg bag	2		
	500kg bag	3		
	1000kg bag	4		
	1250kg bag	5		

Proposals to modify the proposed MCC structure should be raised as soon as is practicable, but no later than **8 August 2024**.

Interested parties are encouraged to make a submission on whether any proposed modifications to the MCC structure should be accepted by the commission. Any changes to the MCC structure will be considered by the commission and reported in verification reports or in the statement of essential facts (SEF).

---

<sup>13</sup> Guidance on the Commission’s approach to model matching is in the Dumping and Subsidy Manual, available at [www.adcprommission.gov.au](http://www.adcprommission.gov.au).

## 11. Public record

I must maintain a public record for this inquiry. The EPR hosted on the commission's website ([www.adcommission.gov.au](http://www.adcommission.gov.au)) contains, among other things, a copy of all non-confidential submissions from interested parties. Documents hosted on the EPR can be provided upon request to interested parties.

## 12. Submissions

Interested parties, as defined in section 269T(1), are invited to lodge written submissions concerning the continuation of the measures, no later than **8 August 2024**, being 37 days after publication of this notice. The Commission's preference is to receive submissions by email to [investigations2@adcommission.gov.au](mailto:investigations2@adcommission.gov.au).

Submissions may also be faxed to +61 3 8539 2499, or addressed to:

The Director, Investigations 2  
Anti-Dumping Commission  
GPO Box 2013  
Canberra ACT 2601

Interested parties wishing to participate in the inquiry must ensure that submissions are lodged promptly. Interested parties should note that I am not obliged to have regard to a submission received after the date indicated above if to do so would, in my opinion, prevent the timely placement of the SEF on the public record.

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 "OFFICIAL: Sensitive ". Interested parties must lodge a non-confidential version or a summary of their submission in accordance with the requirement above (clearly marked "PUBLIC RECORD").

## 13. Statement of essential facts

The dates specified in this notice for lodging submissions must be observed to enable me to report to the Minister within the legislative timeframe. I will place the SEF on the public record on or before **21 October 2024**,<sup>14</sup> that is, within 110 days after the publication of this notice, or by such later date as I may allow in accordance with section 269ZHI(3). The SEF will set out the essential facts on which I propose to base a recommendation to the Minister concerning the continuation of the anti-dumping measures.

Interested parties are invited to lodge submissions in response to the SEF within 20 days of the SEF being placed on the public record. Submissions received in

---

<sup>14</sup> The due date is 20 October 2024, however, as this falls on a Sunday, the effective due date is the following business day.

response to the SEF within 20 days of the SEF being placed on the public record will be taken into account in completing my report and recommendation to the Minister.

#### **14. Report to the Minister**

I will make a recommendation to the Minister in a report on or before **4 December 2024**, that is, within 155 days after the date of publication of this notice, or such later date as I may allow in accordance with section 269ZHI(3).

The Minister must make a declaration within 30 days after receiving the report, or if the Minister considers there are special circumstances, such longer period, ending before the specified expiry day, as the Minister considers appropriate. If the Minister receives the report less than 30 days before the specified expiry day, the Minister must make the declaration before that day.

#### **15. The Commission Contact**

Enquiries about this notice may be directed to the Case Manager at [investigations2@adcommission.gov.au](mailto:investigations2@adcommission.gov.au)

Isolde Lueckenhausen  
Acting Commissioner  
Anti-Dumping Commission

2 July 2024