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Public File

Dear Sir/Madam

Investigation No. 524 – Continuation of anti-dumping measures – silicon metal exported from the People's Republic of China

I. Background

Anti-Dumping Notice No. 2019/112 ("ADN No. 2019/112) published on 5 September 2019 notified the commencement of an investigation into the continuation of anti-dumping measures on silicon metal exported from the People's Republic of China ("China").

The anti-dumping measures are due to expire on 3 June 2020.

The goods the subject of the anti-dumping measures are:

> "*Silicon metal containing:*
>
> - *at least 96 per cent but less than 99.99 per cent of 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.*"

Simcoa Australia Pty Ltd ("Simcoa") is the sole Australian manufacturer of silicon metal ("the goods") the subject of the measures. On 16 August 2019 Simcoa lodged an application to the Anti-Dumping Commission ("the Commission") seeking a continuation of the anti-dumping measures so that the measures would not be allowed to expire. Simcoa's application asserted that the expiry of the measures would result in a recurrence of dumping and subsidisation that the anti-dumping measures were intended to prevent.

The Commission published ADN 2019/112 notifying the commencement of an inquiry into the continuation of the measures as requested by Simcoa.

Simcoa provides this submission to the Commission in support of its application that the measures not be allowed to expire.

II. Exporter co-operation

Simcoa understands that the Commission has not received cooperation from a Chinese exporter the subject of the anti-dumping measures. The absence of cooperation of a Chinese exporter in the current proceedings should not be interpreted as indicative of an absence of a future threat of dumping and/or material injury to the Australian industry, should the measures be allowed to expire.

Simcoa further understands that the absence of exporter co-operation presents a potential concern concerning the absence of contemporary normal value information. Simcoa retains the option of addressing this matter further, however, it is considered that in the absence of relevant and contemporary cost of production data for a Chinese silicon metal producer, it is open to the Minister to adjust normal value determined in Investigation No. 237 for increases in CPI to reflect pricing levels in 2018/19.

Simcoa will consider this matter further.

III. <u>CBSA/CITT Sunset Review – 2019</u>

In its application for the continuation of anti-dumping measures, Simcoa evidenced that the Canadian Border Services Agency ("CBSA") had a made a decision on 15 March 2019 that:

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

A final decision of the Canadian International Trade Tribunal ("CITT") as to whether the expiry of the measures will likely lead to a continuation of injury was due on 22 August 2019 (post Simcoa's 16 August 2019) application for the continuation of the measures.

On 22 August 2019, the CITT confirmed that it was satisfied that the rescission of anti-dumping measures on silicon metal exported from China[1] "*would, in and of itself, cause material injury to the domestic industry*".

In arriving at this finding the CITT considered the following relevant facts concerning global demand for silicon metal and China's role as the largest supplier[2]:

- Global demand and global production of silicon metal increased significantly since the last expiry review in 2013 (the original investigation period in Investigation No. 237);
- According to CRU Group, global demand for silicon metal was approximately 3 million tonnes;
- CRU Group predicts global demand to increase modestly in 2019, and more significantly in 2020 and 2021;
- China's share of global production has increased since 2013, and now accounts for approximately two-thirds of global production of silicon metal;
- Chinese exports of silicon metal peaked in 2018 and are expected to gradually decrease through until 2023.

In further examining the likelihood of dumped and subsidised exports from China, the evidence before the CITT established:

- China's share of total global production is in 2018 greater than what it was in 2013;
- The Chinese producers' excess production is "***massive***, *and overall Chinese production capacity is growing*";
- Chinese excess capacity is more than 100 times the size of the entire Canadian market, with the vast proportion "non-captive";
- The Chinese silicon metal industry's reliance on exports is substantial and China's exports have increased significantly since 2013; and
- The "*massive Chinese excess capacity will continue to create significant pressure on Chinese producers to seek export sales*".

In light of the confirmation of the excess capacity of the Chinese industry the CITT concluded that "*it cannot be disputed that total Chinese production capacity, and Chinese excess production capacity, are tens if not hundreds of times larger than the entire Canadian market*[3]." Importantly, and of immediate relevance, the Chinese producers the subject of measures possess the "*capacity to export*

[1] Canadian International Trade Tribunal (CITT), Expiry Review No. RR 2018-003, P.27 (See at Non-Confidential Attachment 1).
[2] *Ibid,* P.11.
[3] *Ibid,* P. 20.

massive volumes of silicon metal to Canada over the next 12 to 24 months, should the finding be rescinded".

The CITT's conclusion on the likely import volumes of Chinese silicon metal should the measures be rescinded (i.e. allowed to expire)[4]:

> "*Were the finding rescinded, the resumption or continuation of dumping would likely lead to a significant increase in the volume of subject imports (in both absolute and relative terms) over the next 12 to 24 months. This is underscored by the fact that Chinese silicon metal was absent from the Canadian market during the POR. Future volume increases would be driven by the low prices if the subject imports. These gains would come at the expense of both non-subject imports, and like goods, despite the fact that RTA's procurement strategy is likely to guarantee some volume for the domestic industry.*"

CITT further considered the impact of selling prices for Chinese silicon metal exports. CITT's findings are consistent with Simcoa's understanding of the global silicon metal market and confirmed that spot prices (driven primarily by Chinese exports) increased through until 2018 and during 2019 have been in decline[5]. However, the CITT noted that "*silicon metal is a commodity product that trades largely (though not exclusively) on the basis of price.*"

The CITT also found that the expiry review in 2013 assisted "*in stabilizing the Canadian silicon metal market*". It was further satisfied that the single Canadian producer's "*gains in the domestic market were made possible by the absence of Chinese silicon metal from the domestic market at quantities and price points existing at the time of the Inquiry No. NQ-2013-003 and also by RTA and Alcoa's [i.e. the two largest Canadian domestic customers of silicon metal] need for a reliable and secure supply.*[6]"

Although there was some stabilisation of the Canadian market following the expiry review in 2013, the CITT considered that even with an absence of Chinese imports of silicon metal in the period of review (i.e. 2016 to 2018), it was satisfied that Chinese imports "*are likely to significantly undercut the prices of the domestic like goods if the finding expires*". CITT was also satisfied that should the measures be rescinded, the domestic Canadian industry would also experience price depression and price suppression from the Chinese exports to Canada that would undercut the selling prices of the Canadian domestic industry.

Overall, CITT was satisfied[7]:

> "*.....if the finding is rescinded, the greater availability of low-priced Chinese silicon metal for import into Canada would, with respect to both its domestic customers, put pressure on the domestic producer to reduce prices or lose significant volumes of sales to imports of the subject goods. Consequently, the rescission (i.e. expiry) of the finding would likely result, in and of itself, in a significant decrease in domestic sales and/or sales prices. In light of the timing of negotiations and orders, it is uncertain whether the rescission of the finding would impact sales prices and volumes for 2019. It would, however, impact sales prices and volumes in 2020 and 2021.*
>
> *The expiry of the finding [imposing measures] would thus have a negative impact on the domestic industry's sales volume and/or value, with a corresponding decline in output, capacity utilisation, and market share. Employment would suffer, with possible layoffs. Wages would initially be protected by the existing collective agreement. Upon renewal in 2021, however, the rescission of the finding would have a negative impact on potential increases and may lead to demands for concessions. Planned investments during the next 12 to 24 months would be jeopardised.*"

For the stated reasons the CITT was satisfied that the Canadian industry would experience a recurrence of dumping and material injury if the measures were rescinded.

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[4] *Ibid*, P.22-23.
[5] As evidenced by Platts International commentary – refer Simcoa Application for Continuation of Measures, P.8.
[6] CITT Expiry Review, No. RR 2018-003, P.12.
[7] *Ibid*, P.27.

IV. US Sunset Review – 2018

Anti-dumping measures applicable to silicon metal exported from China to the USA have been in place since 10 June 1991.

There have been three sunset (i.e. continuation) reviews of the measures by the USDOC.

The US International Trade Administration ("USITA") published a continuation of an anti-dumping order on 4 June 2018 (fourth expiry review) in respect of silicon metal exported from China (Refer Non-Confidential Attachment 2).

Determinations by the US Department of Commerce ("DOC") and US International Trade Commission ("USITC") found that revocation of the dumping Order "*would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States*". The USDOC determined that if the dumping Order was revoked "*then the weighted-average dumping margin established in the investigation of silicon metal from the PRC, 139.49 per cent, represents the margin of dumping most likely to prevail if the Order were revoked.*[8]" (Refer Non-Confidential Attachment 3).

The date of the decision to extend anti-dumping measures on silicon metal exported from China by USDOC was 25 May 2018.

V. Expiry of measures – Australian market

Simcoa considers that the findings of CBSA and CITT concerning the expiry of measures in Canada, and the findings of USDOC and USITC concerning the continuation of measures in the USA, are consistent and reflective of the position in Australia should the anti-dumping and countervailing measures on silicon metal exported from China be allowed to expire on 3 June 2020.

The anti-dumping measures imposed in June 2015 permitted Simcoa to recover from the injurious effects of dumping and subsidisation that were confirmed in the 2013 investigation period in Investigation No. 237. Whilst the recovery was not immediate, it was gradual and enabled Simcoa to recover lost sales volumes and market share that the Chinese exports of silicon metal had supplied.

Simcoa's application for the continuation of measures confirmed the environment for silicon metal sales in 2019 is one of decline, with excess production capacity in China. Consistent with the CITT sunset review there exists a likelihood that Chinese silicon metal exports would undercut selling prices in Australia should the measures be rescinded. The CITT also examined the possibility that domestic Canadian customers of silicon metal could mix supply – source from both the Canadian industry and from Chinese exports – to lower overall costs for silicon metal consumed. Simcoa concurs with this position in Australia and is concerned that should the measures be allowed to expire on 3 June 2020, it is likely that Chinese exporters would again seek to resume exports to the Australian market at prices that would undercut Simcoa's selling prices.

The Australian market for silicon metal is approximately xxxxx-xxxxx tonnes per annum – approximately [*percentage*] of the size of the Canadian market for silicon metal (i.e. 30,000 MT[9]). The excess production capacity in China is therefore approximately 100 times the size of the Australian market. Should the measure be allowed to expire it is considered a very real, immediate concern, that Chinese producers would utilise available excess production capacity to supply the Australian market. This was the same concern of the CITT when it determined that should measures be rescinded there was a likelihood that the Canadian industry would again experience material injury from dumping.

The US authorities held the same concerns in the fourth US sunset review to continue the measures against Chinese exporters of silicon metal.

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[8] US Department of Commerce Memorandum, A-570-806, 27 June 2017, P. 7.

[9] CITT Expiry Review, P.11.

VI. Conclusions

Simcoa has outlined in its application for anti-dumping measures that it considers exports of silicon metal to Australian during 2018/19 were at dumped prices. This is based upon a comparison of a constructed normal value for Chinese producers (i.e. A$3241 to A$3541) during 2018/19 and Chinese weighted average export prices to Australia over the same period (i.e. A$2455 per tonne). Dumping margins in the range of 32.0 to 44.2 per cent are evident.

Simcoa's *prima facie* dumping margins are lower than those determined by the USDOC (139.49 per cent).

It is Simcoa's concern that should the measures be allowed to expire on 3 June 2020 it is likely that Simcoa would experience a recurrence of dumping, subsidisation and material injury. This concern is based on the following facts:

- Chinese exporters of silicon metal have significant excess production capacity to supply product should an opportunity arise (i.e. the measures are withdrawn);
- Chinese exporters have a long-established supply history with customers on the Australian market, and in the absence of measures, would likely resume supply;
- China's production of silicon metal in 2019 is estimated at 2.017 million tonnes, with domestic consumption estimated at 1.2 million tonnes (according to CRUGroup[10] (See extract at Confidential Attachment 4) with excess production of 800,000 tonnes per annum destined for the export market;
- Chinese production volumes are expected to continue to grow through until 2023 – refer Confidential Attachment 4;
- Chinese exports of silicon metal in 2018/19 have been at dumped prices;
- Anti-dumping measures applicable in Canada and the USA have recently been extended as a consequence of recent sunset reviews (in 2018 for USA, and 2019 for Canada);
- Investigating authorities in Canada and the USA determined that should measures be rescinded/revoked in either jurisdiction it is likely that Chinese exporters of silicon metal would export at dumped and injurious prices into the Canadian and US markets, respectively;
- whilst the measures have enabled Simcoa to recover lost sales volumes and market share following imposition in 2015, should the measures be allowed to expire it is considered likely that Chinese exports to Australia would increase at prices that undercut Simcoa's selling prices; and
- there exists a strong likelihood that should the measures expire Simcoa would be subject to ongoing and sustained material injury as Chinese export prices are currently (i.e. during 2019) in decline due to the oversupply position in China.

Simcoa considers that there exists a high likelihood that in the absence of anti-dumping measures it would again experience material injury from dumping and subsidisation from Chinese exports of silicon metal to Australia.

[10] Silicon Metal Market Outlook, CRUGroup, March 2019.

VII. Recommendations

Simcoa requests the Commission to recommend in its Statement of Essential Facts that should the anti-dumping and countervailing measures be allowed to expire on exports of silicon metal from China to Australia, it is likely that the Australian industry would experience a recurrence of dumping and subsidisation, and material injury, that the measures were intended to prevent.

If you have any questions concerning this submission, please do not hesitate to contact me on (08) 9780 6762, or Simcoa's representative Mr John O'Connor on (07) 3342 1921.

Yours sincerely

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