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23 May 2014

Ms Joanne Reid
Director
Anti-Dumping Commission
c/o Australian Customs and Border Protection Service
Customs House
5 Constitution Avenue
CANBERRA ACT 2601

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Dear Ms Reid

Re: Inquiry into Silicon Metal exported from P R China – Market Situation

Background

Simcoa Operations Pty Ltd ("Simcoa") is the applicant company that has requested the imposition of dumping and countervailing measures on exports of silicon metal from the People's Republic of China ("China"). Simcoa is the sole Australian producer of silicon metal.

In its application for measures, Simcoa asserted that Chinese domestic selling prices for silicon metal are influenced by the Government of China ("GOC") and that domestic selling prices are lower than they otherwise would be.

This submission summarizes the level of influence of the GOC on the silicon metal sector in China.

Market Situation

The recent Canadian Border Services Agency ("CBSA") finding of 5 November 2013 into the silicon metal industry in China provides a clear insight into the level of government influence in the sector. The CBSA identified silicon as a metal included within the broader ferroalloy sector. This finding was based upon industry publications – notably CRU and Metal Bulletin – identifying silicon metal pricing and market reporting as falling within the ferroalloy industry. Simcoa included a copy of the "National Industrial Policy of the Chinese Ferroalloy Industry" published by the National Development and Reform Commission ("NDRC") dated 15 June 2011 that specifically includes silicon within the ferroalloy sector, to which the GOC policies apply.

CBSA also identified the GOC's 12th Five-Year Plan as a key influencing factor that selling prices for silicon in China were "*not substantially the same as they would be if they were determined in a competitive market*".

In the absence of cooperation from the GOC in this investigation, Simcoa submits that the relevant available information to the Anti-Dumping Commission ("the Commission") includes the CBSA's findings on silicon and the ferroalloy sector in China. CBSA identified the GOC influenced the silicon sector in China via a range of instruments. These are identified hereunder.

(i) GOC Export Control Measures

The GOC imposed a 15 per cent export tax on silicon exports. The measure was identified in a recent WTO Panel report "China – Measures Relating to the Exportation of Various Raw Materials". The export

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tax was removed on 1 January 2013, however, the GOC's selective nature of the tax impost highlights the GOC's willingness to readily exercise discretion to encourage/discourage exports.

Additionally, the GOC does not permit a refund of the 17 per cent Value-Added Tax ("VAT") on exports of silicon. The non-refund of VAT discourages exports of silicon and encourages domestic sales (and thereby depresses the domestic selling prices in China with increased supply for the Chinese market).

CBSA also referenced an analysis undertaken by Guosen Securities (HK) dated 7 February 2012 that confirms the GOC applied export quotas to silicon metal (one of nine products). Please refer to Guosen Securities (HK) extract at Non-Confidential Attachment 1.

In support of the available information on export quotas applicable to silicon, CBSA identified an article by Platts in December 2012 that "China's Ministry of Commerce (MOFCOM) had granted licenses to 255 Chinese producers and trading companies to export ferroalloys. The ferroalloys subject of the licenses include "ferrosilicon". Please refer to Non-Confidential Attachment 2.

The impact of the export controls identified is to reduce exports of silicon metal and increase domestic supply. This causes an excess supply position in China, suppressing domestic selling prices. The GOC has historically argued that the export controls assist in addressing environmental and resource efficiency concerns. However, this has been dismissed by the Trade Policy Review Report for China (dated 5 July 2010) and stated that whether it was the intention of the GOC or not, the export control measures divert supply to the domestic market and apply downward pressure on domestic prices, resulting in government assistance to the affected industries that ultimately contribute to the products (i.e. silicon) achieving a comparative advantage.

(ii) Government influence on the Price of Inputs used in Silicon manufacture

Simcoa has provided information in its application that electricity prices in China are influenced by the GOC. The CBSA identified that electricity accounts 55 to 60 per cent of the cost of production for silicon in China. Simcoa provided supporting information that the electricity costs in Yunnan and Zinjang provinces – with a combined 36 production capacity for silicon in China – have electricity prices of between 20 and 30 per cent below other silicon-producing provinces. The CBSA identified information that indicated the electricity-intensive producers in Yunnan province benefited from preferential rates from electricity providers. It further established that five electricity providers are State Owned Enterprises accounting for approximately 50 per cent of electricity production in China.

Coal is a further raw material input that is the subject of government influence. The CBSA also confirmed that coal, which accounts for approximately 8-10 per cent of the silicon cost of production – is heavily influenced by SOEs in the sector through a broad range of "policies, laws, regulations, production caps and production ceilings". The GOC's 12th Five-Year Plan also details plans to cap production and capacity in the coal sector.

The information readily available to the CBSA confirmed the Canadian industry's assertions that raw material inputs used in silicon manufacture in China are influenced by the GOC. The level of influence results in reduced selling prices for the key raw materials electricity and coal , that are at suppressed levels (with electricity in the silicon-producing Yunnan province at levels 20-30 per cent below other Chinese provinces).

(iii) GOC policies aimed at influencing silicon production

Simcoa included an extract from the NDRC on the National Industrial Policy of the Chinese Ferroalloy Industry". As has been confirmed, silicon metal falls within the ferroalloy industry. The document identifies the need for structural reform in the ferroalloys industry, particularly referencing the elimination of "backward production capacity".(i.e. production capacity below 6,300KVA). CBSA, however, was able to access a Yunnan Provincial Government document titled "Document of the Office of the

People's Republic of Yunnan Province (Yun Zheng Ban Fa [2012] No 236) – Opinions concerning Promoting Industrial Restructuring of Industrial Silicon". The CBSA indicates the document refers to the restructuring of overcapacity in industries including silicon metal. CBSA states that the document refers to "... a number of statistics relating to the production and sales of silicon metal by producers in Yunnan [province] during 2011 as well as a number of problems concerning silicon metal production such as redundant production capacity, high resource and energy consumption, pressure on the environment, low industry concentration, and low equipment levels. The document also specifies a number of measures to be used to address the problems identified".

The Yunnan Province document referred to by CBSA is consistent with the matters addressed in the NCDC's "National Industrial Policy of the Chinese Ferroalloy Industry".

CBSA also confirmed the GOC's efforts (via the Yunnan Province notification) to eliminate backward production (as evidenced also in the NCDC document).

CBSA also identified limitations on silicon production capacities for certain producers so that Yunnan province's production is "capped" at 1.4 million tons.

The CBSA was therefore satisfied that the GOC had implemented a number of controls to reduce production capacity for silicon metal in China during the period of investigation and that the controls were planned to continue to 2015[1]. CBSA also considered that the GOC was "restricting access to the silicon metal industry" for new entrants. This was evidenced in the Yunnan Province' plans for control of the industry[2].

The independent industry analyst [*company*] has also reported on the restrictive policies of the GOC that impact the size of the furnaces, elimination of the small-scale production units, and limiting the future "structure" of the Chinese silicon industry[3].

(iv) Restrictions on the Use and Supply of inputs

As indicated in its application, Simcoa referred to the CBSA's findings concerning restriction on inputs as identified in the Yunnan Government's "Opinions Concerning Promoting Industrial restructuring of Industrial Silicon". These include:

- the government will restrict the energy consumption per unit of silicon product as 12,000 kwh or less;
- restrict comprehensive energy consumption per unit of product at 3,500 kg of standard coal or less;
- restrict carbonaceous reducing agents consumption per unit of product at 1,300 kg or less (including restrict unit consumption of actual charcoal at 99 kg or less);
- achieve silicon recycle rate at 85% or above;
- achieve waste heat utilisation rate for industrial silicon electric furnaces at 70% or above;
- realise waste water recycling internally; and
- achieve complete recycling of micro-silica dust.

It is reported that to achieve these designated objectives, annual reporting will be implemented. The Yunnan government also indicated that measures would be introduced to limit the use of charcoal to promote the production of high-grade silicon and restrictions will be placed on the use of carbon based

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[1] Refer CBSA Statement of Reasons, Certain Silicon Metal originating in or exported from the People's Republic of China, 5 November 2013, P. 21.
[2] Ibid, P.22.
[3] [*company*] Silicon Data Service, P.101.

reducing agents for certain manufacturers that produce low grade silicon.

(v) Chinese domestic selling prices for silicon

As detailed in Simcoa's application, the CBSA examined domestic prices in the US market for silicon as reported by Metal Bulletin, Platts Metals Week, Ryan's Notes and CRU and contrasted these with published Chinese domestic prices. On average, CRU prices indicated that Chinese domestic prices were 37 per cent below US domestic prices during the period of investigation (i.e. 2012).

Simcoa's application based dumping margins on constructed normal values for silicon in China. The *prima facie* normal values did not reflect electricity prices free-of-influence from GOC intervention. Hence, the normal values included in Simcoa's application reflect suppressed selling prices.

Simcoa contends that a constructed normal value for silicon in China throughout the investigation period would reflect electricity prices that are 20 to 30 per cent higher than the electricity prices included in the prima facie normal values. Additionally, coal prices would also reflect a market price based upon levels determined in a market unencumbered from government influence.

Conclusion

The foregoing establishes that in the absence of cooperation from the GOC, there is information available in the public domain that demonstrates the GOC influences raw material prices used in the manufacture of silicon metal in China. Additionally, the available information supports a finding that the GOC intervenes in the Chinese silicon market by enforcing the elimination of backward production capacities, limiting entrants in the silicon industry, and enforcing a range of export controls to discourage exports and increase domestic supply of silicon metal in China.

The information supports a finding that a market situation exists in China for silicon metal and that constructed normal values are required that include non-influenced electricity and coal prices as key raw material inputs.

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

Yours sincerely

David Miles
Vice President
Site Services and Marketing