

withdrawn from warehouse, for consumption on or after the publication date as provided by section 751(a)(2)(C) of the Act: (1) For subject merchandise exported by the companies listed above, the cash deposit rate will be the rate established in the final results of the administrative review for each exporter as listed above, except if the rate is zero or *de minimis*, then no cash deposit will be required for that exporter; (2) for previously investigated companies not listed above that have separate rates, the cash deposit rate will continue to be the company-specific rate published for the investigation; (3) for all other PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 223.01 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC entity that supplied that non-PRC exporter.

These deposit requirements, when imposed, shall remain in effect until further notice.

#### Disclosure

We intend to disclose the calculations performed to parties in this proceeding within five days after public announcement of the final results in accordance with 19 CFR 351.224(b).

#### Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

#### Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

We are issuing and publishing these final results of administrative and new

shipper reviews in accordance with sections 751(a)(1), 751(a)(2)(B)(iii), 751(a)(3), 777(i) of the Act and 19 CFR 351.213(h) and 351.214.

Dated: October 5, 2017.

#### Gary Taverman,

*Deputy Assistant Secretary, for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.*

#### Appendix

List of Topics Discussed in the Issues and Decision Memorandum:

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Surrogate Country
- V. Separate Rates
- VI. Discussion of the Issues
  - Comment 1: Calculation of Surrogate Value for Non-Refrigerated Inland Freight Expenses
  - Comment 2: Selection of Financial Information to Value Factory Overhead, Selling, General & Administrative Expenses, and Profit
- VII. Recommendation

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-602-810]

#### **Silicon Metal From Australia: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (the Department) preliminarily determines that silicon metal from Australia is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is January 1, 2016, through December 31, 2016.

**DATES:** Applicable October 12, 2017.

**FOR FURTHER INFORMATION CONTACT:** Brian Smith or Denisa Ursu, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-1766 or (202) 482-2285, respectively.

**SUPPLEMENTARY INFORMATION:**

#### Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). The Department published the notice of initiation of this investigation on April 4, 2017.<sup>1</sup> On August 1, 2017, the Department postponed the preliminary determination of this investigation and the revised deadline is now October 4, 2017.<sup>2</sup> For a complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum.<sup>3</sup> A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

#### Scope of the Investigation

The product covered by this investigation is silicon metal from Australia. For a complete description of the scope of this investigation, see Appendix I.

#### Scope Comments

In accordance with the preamble to the Department's regulations,<sup>4</sup> the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).<sup>5</sup> Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. After evaluating these comments, the Department

<sup>1</sup> See *Silicon Metal from Australia, Brazil, and Norway: Initiation of Less-Than-Fair-Value Investigations*, 82 FR 16352 (April 4, 2017) (*Initiation Notice*).

<sup>2</sup> See *Silicon Metal from Australia, Brazil, and Norway: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 82 FR 35753 (August 1, 2017).

<sup>3</sup> See Memorandum, "Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Silicon Metal from Australia" dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

<sup>4</sup> See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

<sup>5</sup> See *Initiation Notice*.

preliminarily determines that modifying the scope language as it appeared in the *Initiation Notice* is not warranted. See the scope in Appendix I to this notice. However, the Department is inviting comment on one of the issues raised: The appropriate calculation methodology for determining the silicon content of out-of-scope products (*i.e.*, silicon metal with a silicon content in excess of 99.99 percent), and, specifically, which impurities should be taken into account in that calculation. These comments are due no later than November 6, 2017. Rebuttal comments will be due no later than November 13, 2017. For a summary of the product coverage comments submitted on the record of this proceeding, see the Preliminary Decision Memorandum.

**Methodology**

The Department is conducting this investigation in accordance with section 731 of the Act. The Department has calculated constructed export prices in accordance with section 772(b) of the Act. Normal value (NV) is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying the preliminary determination, see the Preliminary Decision Memorandum.

**Preliminary Affirmative Determination of Critical Circumstances**

In accordance with section 733(e) of the Act and 19 CFR 351.206, the Department preliminarily finds that critical circumstances exist for Simcoa. For a full description of the methodology and results of the Department's critical circumstances analysis, see the Preliminary Decision Memorandum.

**All-Others Rate**

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination the Department shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act. The Department calculated an individual estimated weighted-average dumping margin for Simcoa Operations Pty Ltd. (Simcoa), the only individually examined exporter/producer in this investigation. Because the only individually calculated dumping margin is not zero, *de minimis*, or based

entirely on facts otherwise available, the estimated weighted-average dumping margin calculated for Simcoa is the margin assigned to all other producers and exporters, pursuant to section 735(c)(5)(A) of the Act.

**Preliminary Determination**

The Department preliminarily determines that the following estimated weighted-average dumping margins exist:

| Exporter/producer            | Estimated weighted-average dumping margin (percent) |
|------------------------------|---|
| Simcoa Operations Pty Ltd .. | 20.79   |
| All-Others .....             | 20.79   |

**Suspension of Liquidation**

In accordance with section 773(d)(2) of the Act, the Department will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**, as discussed below. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) The cash deposit rate for the respondent listed above will be equal to the company-specific estimated weighted-average dumping margin determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the later of (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or (b) the date on which notice of initiation of the investigation was

published. The Department preliminarily finds that critical circumstances exist for imports of subject merchandise produced or exported by Simcoa and all others. In accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to unliquidated entries of shipments of subject merchandise from the producer(s) or exporter(s) identified in this paragraph that were entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice.

The Department normally adjusts cash deposits for estimated antidumping duties by the amount of export subsidies countervailed in a companion countervailing duty (CVD) proceeding, when CVD provisional measures are in effect. In the concurrent CVD silicon metal investigation, however, the Department preliminarily did not make an affirmative determination for countervailable export subsidies. Therefore, the Department has not offset the estimated weighted-average dumping margins by countervailable export subsidies.

**Disclosure**

The Department intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

**Verification**

As provided in section 782(i)(1) of the Act, the Department intends to verify the information relied upon in making its final determination.

**Public Comment**

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.<sup>6</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

<sup>6</sup> See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements).

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

#### Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of the Department's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On September 13, 2017, pursuant to 19 CFR 351.210(e), Simcoa requested that the Department postpone the final determination and that provisional measures be extended to a period not to exceed six months.<sup>7</sup> In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) The preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, the Department is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, the Department

will make its final determination no later than 135 days after the date of publication of this preliminary determination.

#### International Trade Commission Notification

In accordance with section 733(f) of the Act, the Department will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

#### Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: October 4, 2017.

#### Gary Taverman,

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.*

#### Appendix I

##### Scope of the Investigation

The scope of this investigation covers all forms and sizes of silicon metal, including silicon metal powder. Silicon metal contains at least 85.00 percent but less than 99.99 percent silicon, and less than 4.00 percent iron, by actual weight. Semiconductor grade silicon (merchandise containing at least 99.99 percent silicon by actual weight and classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 2804.61.0000) is excluded from the scope of this investigation.

Silicon metal is currently classifiable under subheadings 2804.69.1000 and 2804.69.5000 of the HTSUS. While HTSUS numbers are provided for convenience and customs purposes, the written description of the scope remains dispositive.

#### Appendix II

##### List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Scope Comments
- V. Discussion of the Methodology
  - A. Determination of the Comparison Method
  - B. Results of the Differential Pricing Analysis
- VI. Date of Sale
- VII. Product Comparisons
- VIII. Constructed Export Price
- IX. Normal Value
  - A. Home Market Viability
  - B. Level of Trade

- C. Cost of Production Analysis
  1. Calculation of COP
  2. Test of Comparison Market Sales Prices
  3. Results of the COP Test
  - D. Calculation of NV Based on Comparison-Market Prices
- X. Currency Conversion
- XI. Critical Circumstances
- XII. Conclusion

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[Application No. 03-3A008]

#### Export Trade Certificate of Review

**ACTION:** Notice of Issuance of an amended Export Trade Certificate of Review to California Pistachio Export Council ("CPEC"), Application No. 03-3A008.

**SUMMARY:** The U.S. Department of Commerce issued an amended Export Trade Certificate of Review to CPEC on October 5, 2017.

**FOR FURTHER INFORMATION CONTACT:** Joseph E. Flynn, Director, Office of Trade and Economic Analysis ("OTEA"), International Trade Administration, by telephone at (202) 482-5131 (this is not a toll-free number) or email at [etca@trade.gov](mailto:etca@trade.gov).

**SUPPLEMENTARY INFORMATION:** Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (2016). OTEA is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Secretary of Commerce to publish a summary of the certification in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

#### Description of Amended Certificate

*CPEC's Export Trade Certificate of Review has been amended to:*

- Remove Horizon Marketing Agency in Common Cooperative Inc. as a Member
- Add the following new Members:
  - Arizona Nut Company, LLC (controlling entity A&P Ranch, L.P.)
  - Horizon Growers Cooperative, Inc.

<sup>7</sup> See Letter from Simcoa, "Silicon Metal from Australia: Request for Postponement of Final Determination," dated September 13, 2017.