

PUBLIC FILE VERSION

**CERTAIN
SILICON
EXPORTED FROM
CHINA**

**INITIATION OF
INVESTIGATION INTO
ALLEGED DUMPING**

14 MAY 2004

CONSIDERATION OF AN APPLICATION LODGED UNDER SUBSECTION 269TB(1) OF THE CUSTOMS ACT 1901

I, Geoffrey Maxwell Gleeson, have considered, in terms of subsection 269TC(1) of the *Customs Act 1901* (the Act), an application lodged under subsection 269TB(1) by Simcoa Operations Pty Ltd for the publication of a dumping duty notice in respect of certain silicon exported to Australia from China.

Having regard to the matters contained in the application and to other information considered relevant, I am satisfied that:

- the application complies with subsection 269TB(4) of the Act;
- there is an Australian industry in respect of like goods; and
- there appear to be reasonable grounds for the publication of a dumping duty notice in respect of the goods the subject of the application.

The attached report details the consideration of the application, and other relevant information, and provides the reasons relied upon in making the decision not to reject the application.

Geoffrey Maxwell Gleeson
Delegate of the Chief Executive Officer

14 May 2004



Australian Government
Australian Customs Service

MINUTE PAPER

Central Office
File No: C04/04136

Director
Trade Measures Operations 4

CONSIDERATION OF AN APPLICATION LODGED UNDER SUB-SECTION 269TB(1) OF *THE CUSTOMS ACT 1901* CERTAIN SILICON FROM CHINA

Summary

We have examined the application for publication of a dumping duty notice on certain silicon exported from China. The attached report concludes that:

- the application complies with subsection 269TB(4) of the Act;
- there is an Australian industry in respect of like goods; and
- there appear to be reasonable grounds for the publication of a dumping duty notice in respect of the goods the subject of the application.

Recommendations

That:

- you decide not to reject the application;
- the investigation period to determine whether dumping has occurred be from 1 January 2003 to 31 March 2004; and
- the Australian market and the economic condition of the industry be examined from 1 January 1999 to 31 March 2004 for the purposes of injury analysis.

If you decide not to reject the application, an instrument in accordance with subsection 269TC(4) is attached for your signature. The decision whether to reject the application must be made by 18 May 2004.

Kim McClatchey
Customs Manager
Operations 4
Trade Measures Branch
14 May 2004

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14 May 2004

PUBLIC FILE VERSION

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1 INTRODUCTION

The applicant is Simcoa Operations Pty Ltd (Simcoa). Simcoa's manufacturing site and administrative offices are located at Kemerton Industrial Park, Kemerton, about 160 kms south of Perth.

On 27 April 2004, Terry O'Neill, on behalf of Simcoa lodged an application under s. 269TB of the *Customs Act 1901* requesting that the Minister publish a dumping duty notice in respect of certain silicon exported to Australia from China.

Section 269TC(1) specifies three matters which the Chief Executive Officer (CEO) of the Australian Customs Service (Customs) must consider in making a decision whether to reject the application. These matters are:

- the application complies with s. 269TB(4);
- there is, or is likely to be established, an Australian industry producing like goods; and
- that there appear to be reasonable grounds for the publication of a dumping duty notice in respect of the goods the subject of the application.

This report addresses the above criteria. If the CEO is not satisfied in respect of any of the three matters set out in s. 269TC(1) the application must be rejected. The decision whether to reject the application must be made by 18 May 2004.

2 BACKGROUND

2.1 The Goods

Simcoa describe the goods the subject of the application as:

SILICON containing more than 97% by weight, but less than 99.99% by weight of silicon,
or
SILICON containing a combined silicon and aluminium content of greater than 97% by weight but less than 99.99% by weight.

Silicon is a chemical element that is silver-grey coloured, solid in mass, brittle, and metallic in appearance. Although not a metal it is commonly described as 'silicon metal'.

Both imported and domestic silicon is generally sold in lump form in the range 10mm – 100mm, but can be sold in other forms including grains, granules, and powder.

Whilst there is no uniformly accepted grade specification or international standard, Simcoa note that Chinese manufacturers have adopted an identification method based on impurity tolerances. These specifications establish the minimum amounts of silicon and the maximum amounts of impurities, such as iron, calcium, phosphorus, aluminium, or titanium that the silicon may contain.

Simcoa explained that the end use of silicon is generally determined by the type and level of impurities, rather than the precise silicon content (providing it is near 99%).

In Australia, silicon is used principally as an alloying element with aluminium to improve its mechanical and casting properties. Silicon is often referred to as a hardener in aluminium. Silicon, as an alloying element, finds its way into aluminium in two ways -

Primary aluminium:

Primary aluminium alloys are produced by combining aluminium with various elements, principally silicon. Primary aluminium alloys are mainly used in the transport industry to manufacture lightweight motor vehicle components; most significantly 'alloy wheels'. Silicon used in this application tends to be much more demanding in terms of higher purity and demonstrated process control during production.

This higher purity silicon is also used with aluminium to produce extrusion alloys or window and door framing profiles, and increasingly for zincalume/colourbond sheeting for domestic roof construction.

Secondary Aluminium

Secondary aluminium is produced from the recycling of scrap aluminium, which is remelted to liquid form and combined with silicon. The resulting alloy is used to manufacture a range of car parts, including manifolds, crank cases, and other engine components.

Simcoa note that, typically, the quality requirement for silicon supplied to this industry is much lower and higher impurity limits of iron and calcium are tolerated when compared with the requirements of the primary aluminium users.

Simcoa understand that imports from China are silicon, containing more than 97% by weight, but less than 99.99% by weight, of silicon; or containing a combined silicon and aluminium content of more than 97% by weight but less than 99.99% by weight, for use in both primary and secondary aluminium end-use applications.

Simcoa provided information to suggest that there is some overlap in end use between the market segments for primary aluminium use and secondary aluminium use.

2.2 Tariff Classification of Imported Goods

Simcoa identifies the goods as classified to tariff subheading 2804.69.00, statistical code 14 of the *Customs Tariff Act 1995*. The rate of duty is 'free' for exports from all countries.

Customs' Tariff Branch confirmed that this tariff classification is correct.

2.3 Exporters/Manufacturers in China

Simcoa notes in its application that there are around 200 silicon producers in China. It provided details of known Chinese silicon producers and export traders.

We examined Customs commercial database and identified 55 Chinese exporters in the period, of which eight exported more than 10 tonnes in the analysis period. Exporter details sourced from this database are at Confidential Attachment 1.

2.4 Importers

Simcoa did not identify any importers of the goods. We examined Customs commercial database and identified 12 importers in the analysis period. Importer details sourced from this database are at Confidential Attachment 2.

2.5 Australian Market

The Australian market for silicon is supplied by Simcoa (the only Australian producer) and importers. Globally, silicon is used extensively in metallurgy, chemical engineering, and the electronic and information industries.

Whilst the major end-use of silicon in Australia is in metallurgical applications, Simcoa notes that a small amount of the goods the subject of the application may be used to manufacture refractory products (materials which retain their shape and chemical identity when subjected to high pressures). Simcoa understands there to be no chemical grade use in Australia. We understand from available information that silicon used in the electronic and information industries is generally the purest grade, containing more than 99.99% silicon and classified to Customs tariff subheading 2806.61.00. These goods are not covered by this application.

Silicon for Metallurgical Use - Market Segmentation

Simcoa notes that within the Australian market for silicon used in aluminium applications, there is some segmentation between sales of silicon, which meets the specifications of primary aluminium producers, and silicon, which meets the specifications of secondary aluminium producers.

For brevity, we will further refer to silicon used in primary aluminium applications as '*primary use silicon*' and to silicon used in secondary aluminium applications as '*secondary use silicon*'.

Simcoa manufactures and sells high purity primary use silicon. Simcoa estimate that in 2002, sales of silicon from China are understood to have been approximately a 50/50 split between primary and secondary use silicon.

Simcoa noted in the application that:

- while each market segment has its own supply/demand influences, common price sensitivities exist for silicon supplied for both primary and secondary aluminium end-uses; and
- only prices for secondary use silicon are published and movements in this published price are indicators for customers negotiating prices for primary use silicon.

Silicon Market as a Whole

Information provided by Simcoa indicates that the volume of the total silicon market was around 9% higher in 2001 compared to 1998 and grew by an extra 30% in 2002. Market volume in 2003 is around 50% higher than it was in 1998.

3 COMPLIANCE WITH S. 269TB(4)

Section 269TC(1) requires that if the CEO is not satisfied that the application complies with section 269TB(4) he shall reject the application.

3.1 The Application

Section 269TB(4) of the Act requires that the application:

- be in writing;
- be in an approved form;
- contain such information as the form requires;
- be signed in the manner indicated in the form; and
- be supported by a sufficient part of the Australian industry.

Simcoa's application was provided both in writing and electronically, in an approved form and signed in the manner indicated in the form.

Section 269TB(6) sets out the requirements for the application to be supported by a sufficient part of the domestic industry. The CEO must be satisfied that persons (including the applicant) who produce like goods in Australia and who support the application account for more than 50% of the total production of those expressing support for, or opposition to, the application and not less than 25% of total production.

Simcoa states that it is the sole producer of silicon in Australia, and thus accounts for 100% of Australian production. We have not found evidence of any other Australian producers. Consideration of whether Simcoa is an Australian industry *producing like goods* is provided in section 4.

3.2 Conclusion

We are satisfied that the application complies with the requirements of s. 269TB(4).

4 AUSTRALIAN INDUSTRY PRODUCING LIKE GOODS

Section 269TC(1) provides that if the CEO is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods he shall reject the application.

4.1 The Applicant

Simcoa commenced production at their fully integrated silicon plant in Western Australia in 1989. Simcoa is a 100% owned subsidiary of a Japanese company, Shin-Etsu Chemical Co., Ltd.

4.2 Produced in Australia

Section 269T(4) provides that the Australian industry consists of a person, or persons, who produce like goods in Australia. Sections 269T(2) and (3) define 'produced in Australia' as goods that are wholly manufactured in Australia, or if partly manufactured, that at least one substantial process is carried out in Australia.

Information contained in the application indicates that Simcoa is the only fully integrated silicon production plant in the world. The industrial site consists of a sawmill, two charcoal retorts, two 27MVA submerged arc electric furnaces, as well as a bag house (for cleaning the furnace off gases), and product packaging and despatch facilities. On 15 April 2004 you visited the company's premises to clarify certain matters and observed the production process at Simcoa's silicon plant.

Simcoa's silicon is produced from quartzite delivered from its mine in Moora, Western Australia. The quartzite undergoes a crushing, washing and screening process before being combined with a carbon-containing reducing agent (charcoal) and a bulking agent (wood chips) in a submerged arc electric furnace to produce molten silica, which is reduced to silicon. The hot silicon is poured onto beds of silicon fines for cooling and is then shaped into ingots and later crushed to the desired size for customer delivery.

Silicon is not a 'close processed agricultural good'.

4.3 Like Goods

Simcoa *only* produces silicon to the higher purity specifications needed for the production of primary aluminium alloys. Simcoa's product and Chinese imported primary use silicon share the same customers, for the same end

use. Simcoa claim that its silicon is comparable and fully substitutable with the Chinese imported primary use silicon and therefore is considered to be a 'like good'.

Simcoa further claim that its silicon has characteristics closely resembling product imported from China which is *used to produce secondary aluminium alloys*. It was noted that both primary and secondary use silicon typically contain greater than 98.5% silicon and is classified to tariff sub-heading 2804.69.00.

We note particularly that the specifications for silicon provided by the applicant indicate some overlap in end use between silicon 'products' which could otherwise be categorised for either primary or secondary aluminium applications.

Given this element of substitutability, it is clear that there is no set of specifications which could define silicon according to its end-use. Both imported and locally produced silicon is sold on the basis of an individual customer's requirements, within the given definition of the goods the subject of the application.

On the information provided we believe that it is reasonable to conclude that the primary use silicon produced by Simcoa is 'like' to the silicon exported from China, regardless of its end-use. If you decide not to reject the application it will be necessary to further examine this issue in the course of the investigation.

4.4 Conclusion

Based on the information provided in the application we are satisfied that there is an Australian industry producing like goods to the goods the subject of the application.

5 REASONABLE GROUNDS

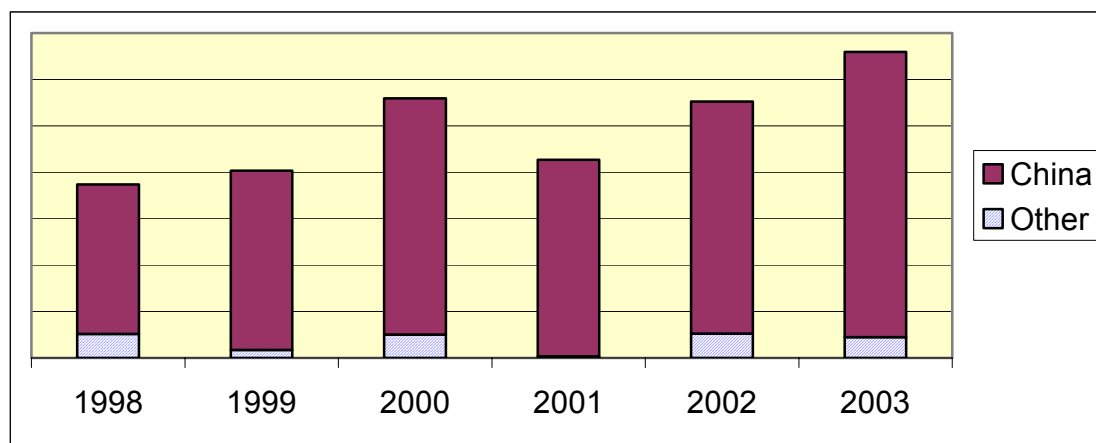
Section 269TC(1) provides that if the CEO is not satisfied that there appear to be reasonable grounds for the publication of a dumping duty notice he shall reject the application. A dumping duty notice may be published where, as to goods exported to Australia, the amount of the export price of the goods is less than their normal value and because of that, material injury is caused to the Australian industry producing like goods.

5.1 Goods Exported to Australia

In its assessment of the Australian market, Simcoa provided details of silicon imports per calendar year from 1998 to 2003. This information was sourced from the Australian Bureau of Statistics (ABS).

Simcoa notes in its application that the total import volume of silicon in 1999 was 8% higher than 1998, before increasing a further 40% by 2002. Figures for 2003 show total import volume is around 75% higher than the level in 1998. Simcoa claim that the increase in total import volume is accounted for predominately by imports from China.

The following chart summarises the breakdown of imports of silicon from China and from other countries.



(Source: Simcoa's application using ABS data)

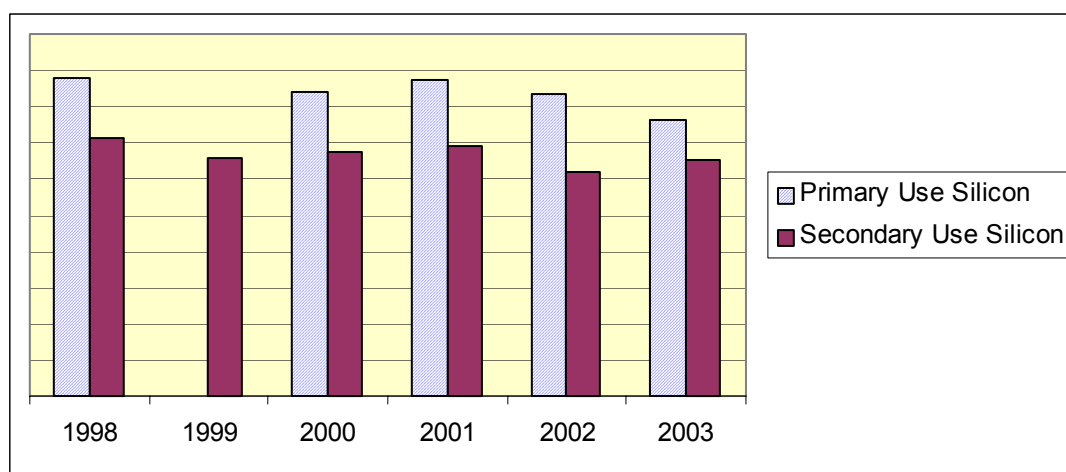
We examined Customs' commercial database and it supports Simcoa's claims in relation to import volumes. Further, volumes in the first quarter of 2004 suggest that import volumes of silicon are continuing to increase.

From the information presented in the application and from information contained on Customs commercial database it appears the goods the subject

of the application have been exported from China and those exports are not in negligible volumes.

5.2 Export Price

Simcoa estimated yearly weighted average (WAV) export prices for 1998 to 2001, quarterly WAV for the period 2002/03 and for January/February 2004 in Australian dollars per tonne for both primary and secondary use silicon using ABS data. The following chart shows yearly WAV export prices from 1998 to 2003.



Simcoa stated that the terms and conditions of export sales are unknown. Information provided by Simcoa on the Chinese silicon industry indicates that sales are made predominately through trading houses.

Simcoa's *prima facie* calculations of export price appear reasonable and are similar to those calculated using Customs' commercial database in respect of imports of the subject goods.

Details of individual export prices and estimates of imports of silicon for primary and secondary use silicon sourced from Customs' commercial database are at Confidential Attachment 3.

5.3 Normal Value

5.3.1 Selling Prices on the Domestic Market

Simcoa obtained Chinese domestic selling price information from two independent market research sources. The application provides a range of Chinese domestic prices per week (and in some cases per fortnight) from January 2002 to September 2003 for secondary use silicon. Simcoa note that these prices are understood to be delivered, on cash terms and inclusive of VAT. Simcoa explained that a premium exists for primary use silicon.

Simcoa also provided information on domestic price movements of like goods on the Chinese domestic market and anecdotal prices in late 2003 and early 2004. Simcoa understands that the prices represent trader prices delivered to end-users in China that are inclusive of VAT.

5.3.1.1 Adjustments to Domestic Selling Prices

VAT

Simcoa note in the application that the price ranges given for secondary use silicon are inclusive of VAT. Simcoa claims that given the uncertainty of a post export rebate of VAT that no adjustment to the normal value should be made.

Delivery Charges / Export costs

As discussed above, the domestic selling prices provided in the application are said to represent a delivered price. Simcoa notes that usually, adjustments to the normal value are made to account for cost differences between local delivery costs and inland freight costs incurred in getting product to the wharf for export. It was further noted that a positive adjustment to the normal value may also need to be made to account for other costs and charges associated with export. Simcoa were unable to quantify an adjustment amount.

Credit Adjustment

The domestic selling prices provided are said to represent 'cash' sales. Simcoa understands that a positive adjustment to the normal value calculations would need to be made to account for any credit terms extended on export sales, but were unable to quantify an adjustment amount.

Intermediary Adjustment

The domestic selling prices provided in the application are said to represent a delivered price. Simcoa understands that exporters to Australia are traders who buy product from the manufacturers and on-sell at a margin. Accordingly, Simcoa claim that normal value calculations require positive adjustment equating to the intermediaries margin included in the export price.

We consider that Simcoa's estimates of normal value are sufficient to base a decision of whether or not to reject the application.

For the purposes of initiation we have calculated normal values adjusted by the total VAT rate, and including a trader's uplift. By excluding the entire VAT amount we have calculated lower dumping margins than if a partial or no exclusion of VAT was assumed. Customs' normal value calculations based on domestic selling prices in China are at Attachment 4.

5.3.2 Normal Value Using an Alternate Method

In addition to domestic selling price information, Simcoa have constructed a normal value for China using available cost of production data for South Africa and substituting certain Simcoa costs for selling and administration expenses.

Consistent with our commentary on adjustments above, Simoa's constructed normal value calculations for China have been recalculated to exclude VAT:

Year	A\$ per tonne	Less VAT A\$ per tonne
2001	2,602	2,303
2002	2,318	2,051
2003	2,291	2,027

We consider that Simcoa's estimates of constructed normal value are reasonable for the purposes of initiation.

5.4 Dumping Margins

Simcoa provided dumping margin calculations using normal value information based on domestic selling price ranges for both primary and secondary use silicon.

Given the broad margin range, Customs calculated weighted dumping margins for the investigation period, using both the lowest normal value in the range and the highest normal value in the range. Margins were calculated in this way for primary use silicon, secondary use silicon and for total silicon imports. The calculated dumping margins for the investigation period were:

	WAV margin using lowest NV in range	WAV margin using highest NV in range
Primary use silicon	6.53%	11.11%
Secondary use silicon	6.37%	13.38%
All silicon	6.47%	12.08%

Simcoa also provided yearly dumping margins using a constructed normal value compared to an average of the quarterly WAV export prices of primary use silicon.

Customs dumping margin calculations are at Confidential Attachment 5.

Conclusion

On the information provided and other relevant information, it appears that silicon has been exported from China at dumped prices.

5.5 Exports from an Economy in Transition

Simcoa has provided extracts from several information sources in support of its view that costs/prices in the Chinese silicon industry are affected by a government in China. We have summarised the information provided in those reports below:

- a number of new silicon plants in China are owned by power companies;
- Chinese authorities are endeavouring to curb the expansion of the ferroalloy sector by closing small inefficient producers and gradually shifting towards larger-sized plants, leading to a stronger focus on profitability and responsiveness to market conditions;
- there are more than 200 silicon producers in China with Guizhou province (south-western China) being the largest production area for silicon due to sufficient hydro-electricity and preferential policies to attract investment from the other provinces;
- electricity consumption accounts for the major production cost (35-40% of total costs).

Information provided in the application gives a list of silicon producers in China and identifies a significant number of state owned enterprises and producers owned by the electricity power generation companies (which benefit from preferential electricity tariffs).

Information drawn from the US Energy Information Administration's Country Analysis Brief for China, June 2003 noted that China's stated intention is to eventually create a unified power grid with a modern power market in which plants sell power to the grid at market determined rates. *"In the short term, however, traditional arrangements hold sway, and state-owned power plants which have government connections tend to have a higher priority than independent private plants."*

Simcoa understands that Shanxi Jinneng Group is a company exporting silicon to Australia and that this company is a state-owned enterprise which also includes ownership of the power generation company. Simcoa explained that the company's web site says it *"enjoys preferential tax and land use policies in Datong City"* and *"the plus of the low cost of our thermoelectric branch company"*.

From the information provided, Simcoa concludes that electricity is a major production input cost and silicon producers in China benefit from preferential electricity input costs, taxes and land-use. A significant number of producers are state-owned enterprises which are, in turn, owned or related to state-owned power generation companies. As such, it is contended that the benefit of these lower costs exerts a significant impact on the domestic selling prices of silicon by some or all of the sellers on the market in China.

Simcoa believes that the Minister's assessment of matters contained in Regulation 183 (3)(a), (b) and (c) would lead him to conclude that the entities do not operate in a market without significant interference by a government in

China. Simcoa is of the view that China is unsuitable for the purposes of obtaining a normal value for that country.

Accordingly, Simcoa has determined a normal value for China on the basis of constructed costs using available cost of production data for South Africa and substituting certain Simcoa costs for selling and administration expenses.

Conclusion

From the information provided in the application there is information to suggest that market conditions do not prevail in the silicon industry in China.

5.6 Material Injury

Simcoa claims it has suffered material injury in the form of:

- lost market share;
- lost sales;
- price undercutting;
- price depression;
- price suppression;
- reduced profits and profitability; and
- adverse impact on return on investment.

Simcoa estimates that material injury caused by dumped imports from China commenced in 1999.

We have addressed our comments on each claimed injury factor below.

Volume Effects

5.6.1 Lost Market Share

The total silicon market in Australia has grown by approximately 50% since 1998. In the period 1998 to 2003, Simcoa's share of the total silicon market has decreased. Since 2000, Chinese imports of primary use silicon have increased and Simcoa's market share in the primary use silicon market has decreased.

Information contained in the application indicates Simcoa's sales have remained relatively constant over the analysis period which, in a growing market, has resulted in a loss of total market share.

Conclusion

On the available information, we are satisfied that Simcoa has suffered injury from lost market share.

5.6.2 Lost Sales

Simcoa claimed it had lost sales to key customers to Chinese imports of silicon. Simcoa listed a number of customers who had reduced or ceased

purchasing certain Simcoa products. Our examination of the sales data did not conclusively support these claims. It appeared on occasion that sales were substituted by alternative Simcoa products or new customers were introduced at the time that existing customers ceased purchasing.

Conclusion

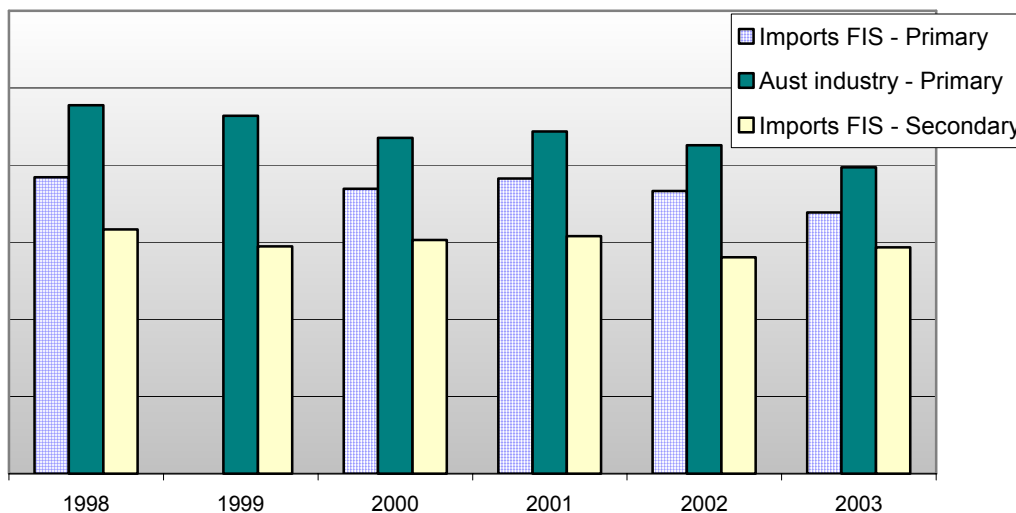
On the information contained in the application there is no evidence that Simcoa has suffered injury from lost sales.

Price effects

Price undercutting occurs when imported product is sold at a price below that of the Australian manufactured product. Price depression occurs when a company, for some reason, lowers its prices. Price suppression is an inability to raise prices as a consequence of price undercutting or price depression.

5.6.3 *Price Undercutting*

Simcoa provided information relating to FOB prices of imports gathered from Australian Bureau of Statistics data. It also provided domestic sales data over the same period. As there is a difference in delivery terms between the FOB data and Simcoa’s ‘delivered to customer’ sales, we have added an estimate of into store costs and importers costs and profits to the FOB price. This analysis reveals Simcoa’s prices of primary use silicon have been consistently undercut since 1998.



Conclusion

From the information provided in the application, it appears that Simcoa has suffered injury from price undercutting.

5.6.4 Price Depression

Simcoa provided domestic sales data in Appendices A4 and A6 of the application. Despite a slight increase in 2001, Simcoa's prices of primary use silicon have been decreasing since 1998.

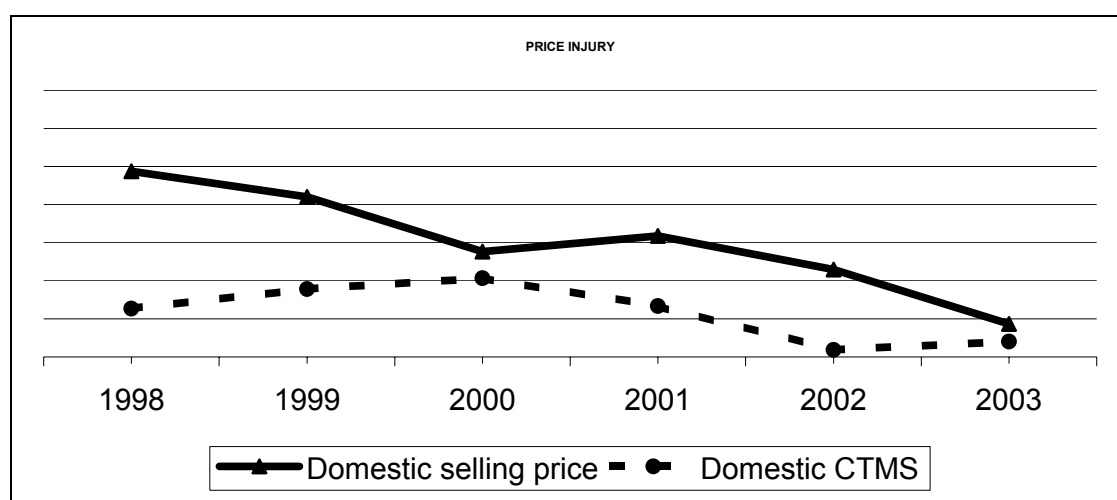
Conclusion

Based on the information provided in the application it appears that Simcoa has suffered price depression.

5.6.5 Price Suppression

From the data provided in Appendix A6, it appears that Simcoa have reduced the cost to make and sell the goods since 1998. However, selling prices have decreased at a greater rate, reducing the margin of profit. The margin was lowest in 2000 and at similar levels in 2003.

The following chart shows changes in Simcoa's selling prices and its domestic CTMS since 1998.



Conclusion

On the available information, there is evidence that Simcoa has suffered some price suppression.

Profit effect

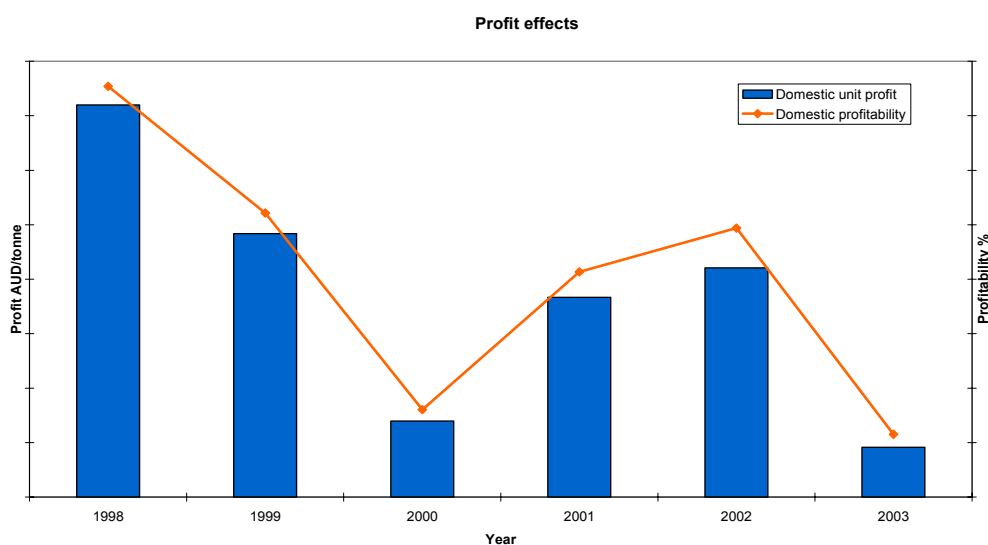
5.6.6 Reduced Profit

The information provided by Simcoa in Appendix A6 indicates that the amount of profit per tonne has decreased from 1999 to 2000, increased in 2001 and 2002, but fell in 2003. The rate of profit in 2003 was lower than in 1999 and 2000.

5.6.7 Reduced Profitability

Profitability is the ratio of profit to sales revenue. Movements in profitability follow similar trends to movements in the rate of profit.

The chart below illustrates movements in Simcoa's profits and profitability from 1998 to 2003.



Conclusion

It appears that Simcoa has suffered injury in the form of reduced profits and profitability on the domestic market in the period 1998 to 2003.

5.6.8 Other Injury Factors

Simcoa claimed return on investment has decreased significantly since 1998.

5.6.9 Factors Other than Dumping Causing Injury

In accordance with s. 269TAE(2A)(f), we have examined Simcoa's export performance to determine if a factor other than dumping may have caused injury to the Australian industry. An examination of export sales data indicated that Simcoa's export performance did not affect the domestic market.

5.6.10 Conclusion on Material Injury

On the available information, we are satisfied that Simcoa has suffered injury in the form of price undercutting, price depression and price suppression.

It further appears that Simcoa has not suffered injury in the form of lost sales, but was affected by injury in the form of a loss of market share in an increasing market.

Profit information provided indicates that Simcoa's profits and profitability have been reduced significantly since 1998, and that this reduction has not been as a result of decreased export performance.

On the evidence available, we consider it reasonable to conclude that Simcoa has suffered material injury.

5.7 Cause of injury to Australian Industry

Until 2000, almost 100% of silicon imports from China had been of secondary use silicon. In 2000, competition was introduced to the Australian primary use silicon market through the introduction of Chinese imports. Since that year import volumes of primary use silicon have increased over the previous year by 69% in 2001, 61% in 2002 and 31% in 2003. Since 2000, imports of secondary use silicon have decreased slightly. Over a similar period, the Australian silicon market has increased, though at a lesser rate than Chinese primary use silicon imports.

Simcoa has shown in the application a loss of market share in a growing market since the introduction of primary use silicon from China. Simcoa has demonstrated that prices and profits have reduced over the same period, and has claimed a loss of sales to key customers.

Our analysis of Simcoa's domestic sales does not present lost sales. Whilst some of Simcoa's claims of lost sales to certain customers are evident, the data provided does not support other claims of lost sales. Some customers have appeared to change their purchasing patterns, whilst new customers have replaced the previously existing customers.

We believe it is reasonable to conclude that the factors of increased import volumes and price undercutting impacted on market share and exerted pressure on Simcoa's prices, and consequently contributed to price depression, price suppression and reduced profits and profitability.

We are satisfied that Simcoa has sufficiently demonstrated, for the purposes of initiation, that exports at dumped prices from China have caused material injury to the Australian industry.

6 FURTHER CONSIDERATIONS

6.1 Non-injurious price

In their application, Simcoa submitted the USP calculation should be based on Simcoa's current cost to make and sell plus an amount for profit. Simcoa suggested using a profit margin for 1998. Simcoa suggest that 1998 is the year prior to the adverse impact from dumping.

6.2 Public Record

Section 269ZJ of the Act requires that the CEO maintain a public file for all investigation purposes. Accordingly, each application must be accompanied by a non-confidential version suitable as a public document.

Simcoa provided two copies of the non-confidential version of the application. We have examined the non-confidential summary and are satisfied that it contains sufficient detail to allow a reasonable understanding of the information contained in the application.

6.3 Investigation and Injury Analysis Period

Customs typically sets an investigation period of 12 months to examine dumping. In this case, we recommend that Customs use a 15 month period - 1 January 2003 to 31 March 2004. The period coincides with the most recently completed quarter and also covers a complete calendar year, consistent with the financial accounting period used by Simcoa and (as understood) Chinese manufacturers.

We note that Simcoa provided data for injury analysis dating from 1998. It is our view it is unreasonable to request information over a 6 year period from interested parties. We recommend that Customs examine the Australian market and the economic condition of the industry from 1 January 1999 to 31 March 2004 for the purposes of injury analysis.

7 RECOMMENDATION

That:

- you decide not to reject the application;
- the investigation period to determine whether dumping has occurred be from 1 January 2003 to 31 March 2004;
- Customs examine the Australian market and the economic condition of the industry from 1 January 1999 to 31 March 2004 for the purposes of injury analysis.