



DEPARTMENT OF COMMERCE

## International Trade Administration

[A-557-820]

### Silicon Metal from Malaysia: Final Affirmative Determination of Sales at Less Than Fair Value

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

**SUMMARY:** The Department of Commerce (Commerce) determines that silicon metal from Malaysia is being, or is likely to be, sold in the United States at less than fair value (LTFV). The final weighted-average dumping margins are listed below in the section entitled “Final Determination.”

**DATES:** Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**FOR FURTHER INFORMATION CONTACT:** Genevieve Coen, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3251.

#### SUPPLEMENTARY INFORMATION:

##### Background

On February 1, 2021, Commerce published the *Preliminary Determination* in this investigation, and invited interested parties to comment on our findings.<sup>1</sup> The petitioners in this investigation are Globe Specialty Metals, Inc. and Mississippi Silicon LLC (collectively, the petitioners). The mandatory respondent subject to this investigation is PMB Silicon Sdn. Bhd.

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<sup>1</sup> See *Silicon Metal from Malaysia: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 86 FR 7701 (February 1, 2021) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

(PMB Silicon). A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.<sup>2</sup>

The Issues and Decision Memorandum is a public document and is available 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>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>.

#### Period of Investigation

The period of investigation (POI) is April 1, 2019, through March 31, 2020.

#### Scope of the Investigation

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

#### Analysis of Comments Received

All issues raised in the case briefs and rebuttal briefs submitted by interested parties in this proceeding are discussed in the Issues and Decision Memorandum. A list of the issues raised by parties and responded to by Commerce in the Issues and Decision Memorandum is attached to this notice as Appendix II.

#### Verification

Commerce was unable to conduct an on-site verification of the information relied upon in making its final determination in this investigation as provided for in section 782(i) of the Tariff

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<sup>2</sup> See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Silicon Metal from Malaysia," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Act of 1930, as amended (the Act). Accordingly, we took additional steps in lieu of an on-site verification and requested additional documentation and information.<sup>3</sup>

#### Changes Since the Preliminary Determination

Based on our analysis of the comments received, we made certain changes to the margin calculation for PMB Silicon. For a discussion of the issues, *see* the Issues and Decision Memorandum.

#### All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all other producers and exporters not individually investigated shall be equal to the weighted average of the estimated weighted-average dumping margins established for individually investigated exporters and producers, excluding any margins that are zero, *de minimis*, or determined entirely under section 776 of the Act. Commerce calculated an individual estimated weighted-average dumping margin for PMB Silicon, 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 PMB Silicon is the margin assigned to all other producers and exporters, pursuant to section 735(c)(5)(A) of the Act.

#### Final Determination

The final estimated weighted-average dumping margins are as follows:

<b>Exporter/Producer</b>	<b>Weighted-Average Dumping Margin (percent)</b>
PMB Silicon Sdn. Bhd.	12.27
All Others	12.27

#### Disclosure

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<sup>3</sup> *See* Commerce's Letter, "In Lieu of Verification Questionnaire," dated March 29, 2021; *see also* PMB Silicon's Letter, "Silicon Metal from Malaysia," dated April 6, 2021.

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

#### Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of subject merchandise, as described in Appendix I of this notice, entered, or withdrawn from warehouse, for consumption on or after February 1, 2021, the date of publication of the *Preliminary Determination* in the *Federal Register*.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), upon publication of this notice, Commerce will instruct CBP to require a cash deposit for entries of subject merchandise equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for PMB Silicon listed in the table above will be equal to the respondent-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not a respondent identified in the table above but the producer is, then the cash deposit rate will be equal to the 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.

#### International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States

is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation of silicon metal no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated, and all cash deposits will be refunded. If the ITC determines that material injury or threat of material injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

#### Notification Regarding Administrative Protective Order

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely 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 the terms of an APO is a violation subject to sanction.

#### Notification to Interested Parties

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act and 19 CFR 351.210(c).

Dated: June 16, 2021.

**Christian Marsh,**

*Acting 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 the 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 Issues and Decision Memorandum**

- I. Summary
- II. Background
- III. Scope of the Investigation
- IV. Changes Since the *Preliminary Determination*
- V. Discussion of the Issues
  - Comment 1: Whether Commerce Should Apply Total Adverse Facts Available (AFA) to PMB Silicon's Reported Costs
  - Comment 2: Whether Commerce Should Apply Partial AFA to PMB Silicon's Reported Sales
  - Comment 3: Whether PMB Silicon's General and Administrative Expenses Should Be Adjusted
  - Comment 4: Whether Commerce Erred in Calculating PMB Silicon's Margin in the Preliminary Determination
  - Comment 5: Moot Arguments
- VI. Recommendation

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