

# FINANCIAL REVIEW

## US silicon tariff blocked on Australia's Simcoa

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A Trump administration attempt to slap a 51 per cent tariff on West Australian silicon metal producer Simcoa has been blocked, after an independent US trade tribunal rejected the need for protectionism.

The legal finding strikes against President Donald Trump's lurch towards taxing US imports and demonstrates that some legal checks and balances still exist in the US trade system.

The US International Trade Commission (USITC) found Simcoa and other foreign exporters of silicon metal had not materially injured American competitors as claimed by the US Commerce Department. The commission's vote was 4-nil in Simcoa's favour.

"As a result of the USITC's negative determinations, no anti-dumping or countervailing duty orders will be issued," the USITC said in a statement.

Simcoa vice-president of sales and marketing David Miles said the firm, based south of Perth near Bunbury, was grateful that US consumers of silicon metal had strongly supported Simcoa's case.

"Now Simcoa will return to the US market as soon as practicable," he said on the weekend.

"Our future is looking very bright."

Simcoa sold \$US34 million of metal to the US in 2016.

Mr Trump's Commerce Department last October found that silicon metal from Australia, Brazil, Kazakhstan and Norway had been "dumped" at less than fair value and it alleged subsidies by foreign governments were to blame.

### **Under-the-radar decision**

The US cited Australian government research and development grants, differing mining royalty rates between states and some relief from the Renewable Energy Target program for Simcoa as an emissions-intensive, trade-exposed company.

With the backing of American producer Globe Specialty Metals, US Commerce Secretary Wilbur Ross in early March affirmed anti-dumping duties and countervailing duties ranging from 41 to 135 per cent.

The USITC scrapped a 51.3 per cent tax on Simcoa, in an under-the-radar decision posted on its website on on March 23.

US companies and the Trump administration have ramped up hundreds of anti-dumping and countervailing duty actions since Mr Trump took power in 2017, emboldened by the President's protectionist rhetoric.

Daniel Pearson, a former chairman of the US ITC and now a Washington trade consultant, said the Commerce Department often inflated anti-dumping duties in a "relatively irresponsible" way to help American producers. The USITC was more independent, he said.

"The ITC is the most independent of the government agencies in the US," said Mr Pearson, now principal of Pearson International Trade Services.

"The President can't tell the ITC commissioners what to do."

The USITC is often called on to adjudicate on anti-dumping and countervailing duty cases brought by US companies or the government.

### **WTO appeal threats**

In about 90 per cent of cases the Commerce Department finds dumping or subsidisation, whereas the ITC finds injury to local industry about 65 per cent of the time, according to Dan Ikenson, director of the Cato Institute's trade policy studies centre.

Canadian aircraft maker Bombardier's new C-series jets in January won a reprieve from an almost 300 per cent US tariff after the ITC rejected Boeing's argument supported by the Commerce Department that Bombardier had caused injury to the US airline manufacturing industry.

The USITC does not have power to unwind Mr Trump's tariffs on foreign steel and aluminium, which the President asserts are needed for national security to protect American manufacturers of defence equipment.

Some affected countries have threatened to appeal to the World Trade Organisation.

The President's proposed tariffs on \$US60 billion of Chinese goods and investment restrictions in retaliation for China's violation of intellectual property rights of American business may also be considered by the WTO if a case is brought by Beijing.

Cato's Mr Ikenson said President Trump's protectionism was most "dangerous" in areas where the Congress had delegated him unfettered authority, such as the national security grounds under Section 232 of the Trade Expansion Act of 1962 used to impose steel and aluminium tariffs.

"There's a lot of debate in trade circles what power the WTO has over this," Mr Ikenson said.