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Investigation  
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February 22, 2021

**MEMORANDUM TO:** James Maeder  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**FROM:** Shawn Thompson  
Director, Office V  
Antidumping and Countervailing Duty Operations

**SUBJECT:** Issues and Decision Memorandum for the Final Affirmative  
Determination in the Less-Than-Fair-Value Investigation of  
Silicon Metal from Iceland

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## I. SUMMARY

The Department of Commerce (Commerce) finds that imports of silicon metal from Iceland are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is April 1, 2019, through March 31, 2020. There is one mandatory respondent subject to this investigation, PCC Bakki Silicon hf (PCC Bakki). The dumping margins for the company and all other exporters are shown in the “Final Determination” section of the accompanying *Federal Register* notice.

After analyzing the comments submitted by interested parties, we have made no changes to the *Preliminary Determination*.<sup>1</sup> We recommend that you approve the position described in the “Discussion of the Issue” section of this memorandum. We received comments from the interested parties related to the following issue:

Comment: Whether Commerce Should Assign the Highest Petition Margin as Adverse Facts Available (AFA)

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<sup>1</sup> See *Silicon Metal from Bosnia and Herzegovina and Iceland: Preliminary Affirmative Determination of Sales at Less Than Fair Value*, 85 FR 80009 (December 11, 2020) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).



## II. BACKGROUND

On December 11, 2020, Commerce published the *Preliminary Determination* in this LTFV investigation and we invited parties to comment on the *Preliminary Determination*.<sup>2</sup> On January 11, 2020, we received a case brief from the petitioners.<sup>3</sup> On February 4, 2021, we held a meeting with counsel for the petitioners.<sup>4</sup>

Based on our analysis of the comments received, we have made no changes to the margin assigned in our *Preliminary Determination*.

## III. FINAL AFFIRMATIVE DETERMINATION OF CRITICAL CIRCUMSTANCES

In accordance with section 733(e) of the Act and 19 CFR 351.206, Commerce preliminarily found that critical circumstances exist for PCC Bakki, and for all other producers and exporters from Iceland.<sup>5</sup> No parties submitted comments regarding our preliminary critical circumstances determination.

Therefore, for this final determination, we continue to find that, in accordance with section 735(a)(3) of the Act, and 19 CFR 351.206, critical circumstances exist with respect to subject merchandise exported by PCC Bakki and for all other producers and exporters from Iceland.

## IV. DISCUSSION OF THE ISSUE

### **Comment: Whether Commerce Should Assign the Highest Petition Margin as AFA**

The petitioners based normal value in the Iceland Petition on constructed value (CV),<sup>6</sup> which they computed, in part, using financial ratios derived from the financial statements of a company named Elkem ASA (Elkem), a Norwegian silicon metal producer. As a result, the petitioners alleged that exporters/producers in Iceland were dumping silicon metal in the United States at a rate of 77.30 percent.

Consistent with our practice of using in-country data where available, we required the petitioners to recalculate the alleged margins using the 2018 financial statements of PCC Group, the parent company of PCC Bakki. The petitioners complied with the instruction. Because the revised costs were lower than the third country prices in the petition/petition amendments, we relied only

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<sup>2</sup> *Id.*

<sup>3</sup> See Petitioners' Case Brief, "Silicon Metal from Iceland: Petitioners' Case Brief" dated January 11, 2021 (Petitioners Case Brief). The petitioners are Globe Specialty Metals, Inc. and Mississippi Silicon LLC (collectively, the petitioners).

<sup>4</sup> See Memorandum, "Antidumping Investigations of Silicon Metal from Bosnia and Herzegovina and Iceland: Meeting with Petitioners' Counsel," dated February 5, 2021.

<sup>5</sup> For a full description of the methodology and results of Commerce's critical circumstances analysis, see the *Preliminary Determination* PDM at 10-14.

<sup>6</sup> See Petitioners' Letter, "Silicon Metal from Bosnia and Herzegovina, Iceland, The Republic of Kazakhstan, and Malaysia – Petition for the Imposition of Antidumping and Countervailing Duties," dated June 30, 2020 (Petition) at Volume III.

on the price-to-price margins alleged by the petitioners. These margins ranged from 28.14 to 47.54 percent.<sup>7</sup>

#### *Petitioners' Comments*<sup>8</sup>

- Commerce should rely on the Petition margin of 77.30 percent, reflecting Elkem's financial data, when determining the total AFA rate for PCC Bakki.
- When assigning an AFA rate, Commerce's practice is to select the highest dumping margin alleged in the petition or the highest calculated dumping margin for any respondent in the investigation, and this practice has been affirmed by the U.S. Court of International Trade (CIT).<sup>9</sup> The highest dumping margin alleged in the petition is 77.30 percent, and ignoring the margin from the Petition in favor of the margin calculated in the Initiation Checklist is unlawful. Accordingly, Commerce should use the Petition rate of 77.30 percent as the AFA rate for the final determination.
- The PCC Group's 2018 consolidated financial statements indicate that PCC Bakki was expected to experience losses in 2019 and 2020. Commerce has a long-standing practice of not using financial data from companies that have experienced losses as the basis for financial ratios.<sup>10</sup>
- PCC Bakki is the only subsidiary of the PCC Group engaged in the production of silicon metal and, as a startup, did not officially start producing silicon metal until May 11, 2018.
- The PCC Group's 2018 consolidated financial statements are not contemporaneous with the POI and reflect the experience of the parent company, which includes no fewer than 51 fully-consolidated subsidiaries in 18 countries. The financial statements also show that 98 percent of the companies included are not producers of either identical or comparable merchandise.
- Elkem's audited stand-alone financial statements are contemporaneous with the POI and Elkem's main activity is the production and sale of silicon materials, reflecting business activities related to the production of silicon metal.
- Commerce has a preference of not relying on third-country financial statements as a basis for CV profit and selling expenses. However, it has relied on third-country sources in

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<sup>7</sup> See *Silicon Metal from Bosnia and Herzegovina, Iceland, and Malaysia: Initiation of Less-Than-Fair-Value Investigations*, 85 FR 45177, 45179 (July 27, 2020) (*Initiation Notice*).

<sup>8</sup> See Petitioners Case Brief at 3-10.

<sup>9</sup> *Id.* at 3 (citing *Certain Vertical Shaft Engines Between 99cc and Up to 225cc, and Parts Thereof, from the People's Republic of China: Preliminary Affirmative Determination of Critical Circumstances, in Part*, 85 FR 66932 (October 21, 2020) (*Vertical Shaft Engines from China*), and accompanying PDM at 19-20; *Forged Steel Fittings from India: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 85 FR 32007 (May 28, 2020) (*Forged Steel Fittings from India*), and accompanying PDM at 13; and *Certain Uncoated Paper from Indonesia: Final Determination of Sales at Less Than Fair Value*, 81 FR 3101 (January 20, 2016) (*Uncoated Paper from Indonesia*); and *Universal Polybag Co. v. United States*, 577 F. Supp. 2d 1284, 1298-1301 (CIT 2008) (*Universal Polybag Co.*)).

<sup>10</sup> See Petitioners Case Brief at 5 (citing *Notice of Final Determination of Sales at Less Than Fair Value and Termination of Critical Circumstances Investigation: Electrolytic Manganese Dioxide from Australia*, 73 FR 47586 (August 14, 2008) (*EMD from Australia*), and accompanying Issues and Decision Memorandum (IDM) at 6 ("it is {Commerce}'s practice not to rely on companies with zero-profit rates when calculating CV profit") (citing *Notice of Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from the Republic of Korea*, 68 FR 47540 (August 11, 2003) (*PVA from Korea*), and accompanying IDM at Comment 1)).

multiple cases in recent years when home market sources are deficient<sup>11</sup> and the courts have upheld this practice.<sup>12</sup> Additionally, the legislative history recognizes the need for flexibility.<sup>13</sup>

*No other interested party commented on this issue.*

**Commerce's Position:** We have not changed the rate assigned to PCC Bakki for the final determination. Section 776(b) of the Act states that Commerce, when employing an adverse inference, may rely upon information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record.<sup>14</sup> In selecting a rate based on AFA, Commerce selects a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.<sup>15</sup> Commerce's practice is to select, as an AFA rate, the higher of: (1) the highest dumping margin alleged in the petition; or (2) the highest calculated rate of any respondent in the investigation.<sup>16</sup>

In the *Preliminary Determination*, we explained that, because PCC Bakki, the only mandatory respondent, did not respond to our requests for information, there were no rates calculated for any individually-examined respondents available for consideration as the AFA rate. Thus, consistent with our practice, we selected the highest alleged dumping margin relied upon for initiation as the AFA rate applicable to PCC Bakki.<sup>17</sup> The petitioners disagree that this rate is the most appropriate AFA rate, instead requesting that Commerce use the highest alleged margin contained in the original Petition. The original Petition margin was computed, in part, by relying on information in Elkem's financial statements.

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<sup>11</sup> *Id.* at 8-9 (citing *Certain Oil Country Tubular Goods from the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances*, 79 FR 41983 (July 18, 2014), and accompanying IDM at Comment 1; *Certain Oil Country Tubular Goods from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances, in Part*, 79 FR 41973 (July 18, 2014), and accompanying IDM at Comment 3; *Certain Steel Nails from the Sultanate of Oman: Final Determination of Sales at Less Than Fair Value*, 80 FR 28972 (May 20, 2015), and accompanying IDM at 13-14; *Certain Steel Nails from the Sultanate of Oman: Final Determination of Sales at Less Than Fair Value*, 80 FR 28972 (May 20, 2015), and accompanying IDM at 13-14; *Certain Steel Nails from the Sultanate of Oman: Final Results of Antidumping Duty Administrative Review; 2014-2016*, 83 FR 4030 (January 29, 2018), and accompanying IDM at Comment 2; *Certain Steel Nails from the Sultanate of Oman: Final Results of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 58231 (November 19, 2018), and accompanying IDM at Comment 6; and *Certain Steel Nails from the Sultanate of Oman: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 84 FR 71372 (December 27, 2019), and accompanying IDM at Comment 1).

<sup>12</sup> *Id.* at 9 (citing *Mid Continent Steel & Wire, Inc. v. United States*, 273 F. Supp. 3d 1348, 1351-1353 (CIT 2017), affirmed in part, 941 F.3d 530, 542-543 (Fed. Cir. 2019); and *Husteel Co., Ltd. v. United States*, 180 F. Supp. 3d 1330, 1343-1346 (CIT 2016), affirmed by, 710 Fed. Appx. 890 (Fed. Cir. 2018)).

<sup>13</sup> See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103-316 vol. 1 (1994) (SAA) at 840-841 (noting that "the selection of an alternative will be made on a case-by-case basis, and will depend, to an extent, on available data").

<sup>14</sup> See 19 CFR 351.308(c).

<sup>15</sup> See SAA at 870.

<sup>16</sup> See *Welded Stainless Pressure Pipe from Thailand: Final Determination of Sales at Less Than Fair Value*, 79 FR 31093 (May 30, 2014), and accompanying IDM at Comment 3.

<sup>17</sup> See *Preliminary Determination* PDM at 6.

At the time of initiation, the record contained two sets of financial statements: (1) the 2018 financial statements from PCC Group, the parent company of PCC Bakki; and (2) the 2019 financial statements of Elkem, a Norwegian producer of silicon metal. In evaluating the alleged margins of dumping in the Petition, we found it most appropriate to rely on the PCC Group's financial statements, as they included the financial experience of a company in Iceland that produced subject merchandise.<sup>18</sup> The petitioners raised concerns with using PCC Group's financial statements in comments submitted prior to the *Preliminary Determination*.<sup>19</sup> However, after considering the petitioners' arguments, we continued to find that the highest alleged margin stated in the *Initiation Notice*, based on information in PCC Group's financial statements, was the appropriate AFA rate.<sup>20</sup>

In its case brief, the petitioners raised no new arguments. Thus, while we agree that PCC Bakki's financial statements are not perfect in all respects, we continue to find that they provide the most accurate information on the record of this investigation related to the production of subject merchandise in Iceland, and, thus, they are the best source for the financial ratios used in the petitioners' calculations.

We disagree with the petitioners' assertion that Commerce is *required* to rely on the highest dumping margin alleged in a petition when selecting an AFA rate, simply because a petitioner includes it there. The margins upon which Commerce relies when initiating an LTFV investigation must be accurate to the extent practicable and consistent with Commerce's established policies and regulations. Commerce regularly instructs petitioners to revise their margin calculations<sup>21</sup> or, when necessary, Commerce itself revises petition margins at the time of initiation for methodological reasons or to correct mathematical errors.<sup>22</sup> We do not accept the contention that Commerce is required by law to use a mathematically erroneous, or otherwise flawed, margin simply because it was the number which appeared in the petition. Commerce has corrected such errors, including in recent investigations.<sup>23</sup> Similarly, Commerce must be able to correct any discrepancies between Commerce's policy, practice, and/or regulations and the approach to a proposed margin calculation appearing in a petition. When a margin has been corrected or adjusted for initiation purposes, it would be illogical to conclude that Commerce is

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<sup>18</sup> See AD Investigation Initiation Checklist: Silicon Metal from Iceland, dated July 20, 2020.

<sup>19</sup> See Petitioners' Letter, "Silicon Metal from Iceland: Request for Application of Total Facts Available with Adverse Inferences to PCC BakkiSilicon hf," dated October 23, 2020.

<sup>20</sup> See *Preliminary Determination* PDM at 6.

<sup>21</sup> See, e.g., *Polyester Textured Yarn from Indonesia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations*, 85 FR 74680 (November 23, 2020); *Utility Scale Wind Towers from India, Malaysia, and Spain: Initiation of Less-Than-Fair-Value Investigations*, 85 FR 73023 (November 16, 2020); and *Thermal Paper from Germany, Japan, the Republic of Korea, and Spain: Initiation of Less-Than-Fair-Value Investigations*, 85 FR 69580 (November 3, 2020).

<sup>22</sup> See, e.g., *Certain Carbon and Alloy Steel Cut-To-Length Plate from Austria, Belgium, Brazil, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, the People's Republic of China, South Africa, Taiwan, and the Republic of Turkey: Initiation of Less-Than-Fair-Value Investigations*, 81 FR 27089 (May 5, 2016), and accompanying Brazil Initiation Checklist at 11, 13, and Attachment V (recalculating the financial expense ratio used in the CV value calculation); *Fine Denier Polyester Staple Fiber from the People's Republic of China, India, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations*, 82 FR 29023 (June 27, 2018) (*Fine Denier PSF*), and accompanying Korea Initiation Checklist at 12 (recalculating the petition margin due to an incorrect conversion between units of measure).

<sup>23</sup> See, e.g., *Fine Denier PSF* Korean Initiation Checklist (showing Commerce's recalculation of a margin of 45.23 percent after correcting an error in units of measure in the original petition which led to a margin of 75.86 percent).

required to assign the uncorrected/unadjusted margin as an AFA rate subsequently during the proceeding.

Section 776(b)(2)(A) of the Act and 19 CFR 351.308(c)(1)(i) only state that Commerce may rely on information derived from the petition, not that Commerce must use the highest dumping margin alleged in the petition. In fact, while the petitioners cite several cases as support for its assertion that Commerce's practice is to use "the highest dumping margin alleged in the petition,"<sup>24</sup> we disagree that these cases stand for the proposition for which they were cited. Significantly, we note that, in some of these cases, Commerce instructed the petitioner to revise the margins originally alleged in the Petition, and Commerce then relied on the revised margins for purposes of initiation.<sup>25</sup> Therefore, these cases do not support the argument that Commerce's practice is to use the highest alleged dumping margin where, as here, Commerce officially rejected that dumping margin for purposes of initiation.

Continued reliance on the initiation margin is warranted here. We corroborated this margin within the meaning of section 776(c) of the Act, and, thus, we find that it is reliable. Further, the use of the initiation margin is in accordance with our current practice of not revising an initiation margin during the course of a proceeding.<sup>26</sup> For example, in *Aluminum Wire and Cable from China*, Commerce declined to recalculate the initiation margin prior to the final determination in that investigation, stating:

In the current investigation, interested parties have not argued, nor has Commerce found, information from the Petition to be uncorroborated or otherwise proven inaccurate and unreliable in the course of the investigation. Moreover, Commerce's practice is not to update dumping margins alleged in a petition based on later-discovered surrogate value information within the context of a proceeding; rather, Commerce's practice is to evaluate and, consequently, confirm the reliability of the information presented in a Petition at the time of the initiation of an investigation. Therefore, Commerce has not used the information presented by Huatong to reconsider the dumping margins alleged in the Petition.<sup>27</sup>

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<sup>24</sup> See Petitioners' Case Brief at 3 (citing *Vertical Shaft Engines from China* PDM at 19-20; *Forged Steel Fittings from India* PDM at 13; *Uncoated Paper from Indonesia*; and *Universal Polybag Co.*).

<sup>25</sup> See *Forged Steel Fittings from India* PDM at 13-14 (citing *Forged Steel Fittings from India and the Republic of Korea: Initiation of Less-Than-Fair-Value Investigations*, 84 FR 64265 (November 21, 2019), and accompanying India Initiation Checklist). We also note that while the petitioners cite *Uncoated Paper from Indonesia* in support of this premise, this case in fact used the highest transaction-specific margin, which was lower than the petition margin, because Commerce was unable to corroborate the petition margin. See *Uncoated Paper from Indonesia* IDM at Comment 1. Additionally, although the petitioners cite *Universal Polybag Co.*, which upheld the use of a petition rate as AFA, we note that the petition rate used in the initiation of this case was revised through supplemental questionnaires issued prior to initiation. See *Initiation of Antidumping Duty Investigations: Polyethylene Retail Carrier Bags from The People's Republic of China, Malaysia, and Thailand*, 68 FR 42002 (July 16, 2003), and accompanying Initiation Checklist.

<sup>26</sup> See, e.g., *Aluminum Wire and Cable from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 84 FR 58134 (October 30, 2019) (*Aluminum Wire and Cable from China*), and accompanying IDM at Comment 1.

<sup>27</sup> *Id.*; see also *Certain Steel Grating from the People's Republic of China: Final Determination of Sales at Less than Fair Value*, 75 FR 32366 (June 8, 2010), and accompanying IDM at Comment 2 (stating, "{Commerce} sees no reason to vary from its standard practice of using initiation rates (i.e., the revised rates from the petition as specifically revised at the Department's request) as the rates for applying {AFA}").

The above methodology is consistent with our corroboration practice generally, whereby, if Commerce is unable to corroborate a petition margin, we do not use that margin, nor do we adjust it. Instead, we rely on an alternative source of AFA.<sup>28</sup> Therefore, we determined that use of the dumping margin in the *Initiation Notice* of 47.54 percent is consistent with the Act and our practice, and this margin is reliable for purposes of this investigation.

We acknowledge that, in two prior cases, Commerce has revised initiation margins to include the element of profit in CV.<sup>29</sup> As noted above, Commerce has since changed its practice in this regard, and we no longer recalculate margins determined at the initiation stage subsequent to initiation. In any event, the petitioners' reliance on these cases is misplaced, because the margins upon which we initiated this investigation are price-to-price margins, and the recalculated cost of production in the Petition (used to determine whether the third country prices used as normal value were above cost) were based on financial statements reflecting an amount for profit.

With respect to the remaining cases cited by the petitioners,<sup>30</sup> we find that they are similarly inapposite. The petitioners argue that, when selecting data for financial ratios, Commerce evaluates potential sources with respect to four criteria, and PCC Bakki's financial statements do not meet at least two of these criteria: (1) PCC Bakki's financial statements reflect the parent company and no fewer than 51 fully consolidated subsidiaries in 18 different countries; and (2) the financial statements are not contemporaneous with the POI.<sup>31</sup> However, significantly, in each of the cited cases, Commerce, like here, stated a preference for in-country financial statements which most closely approximated the experience of the producer under investigation.<sup>32</sup>

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<sup>28</sup> See, e.g., *Forged Steel Fluid End Blocks from the Federal Republic of Germany: Final Determination of Sales at Less Than Fair Value*, 85 FR 80018 (December 11, 2020), and accompanying IDM at Comment 8; and *Uncoated Paper from Indonesia* IDM at Comment 1.

<sup>29</sup> See *EMD from Australia* IDM at 6 and *PVA from Korea* IDM at Comment 1.

<sup>30</sup> See Petitioners Case Brief at 6 (citing *Notice of Final Determination of Sales at Less Than Fair Value: Pure Magnesium from Israel*, 66 FR 49349 (September 27, 2001) (*Pure Magnesium from Israel*), and accompanying IDM at Comment 8; *Notice of Final Determination of Sales at Less Than Fair Value: Certain Color Television Receivers from Malaysia*, 69 FR 20592 (April 16, 2004) (*CTVs from Malaysia*), and accompanying IDM at Comment 26; *Utility Scale Wind Towers from the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 85 FR 40243 (July 6, 2020) (*Wind Towers from Korea*), and accompanying IDM at Comment 8; *Utility Scale Wind Towers from Indonesia: Final Affirmative Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances*, 85 FR 40241 (July 6, 2020) (*Wind Towers from Indonesia*), and accompanying IDM at Comment 7).

<sup>31</sup> See Petitioners Case Brief at 6-7.

<sup>32</sup> See *Pure Magnesium from Israel* IDM at Comment 8 (stating "in accordance with section 773(e)(2)(B) generally, we seek to the extent possible home market profit experience"); *CTVs from Malaysia* IDM at Comment 26 (selecting FPI's financial statements because "90 percent of FPI's sales are in the Malaysian market" and "the FPI company-level financial data more closely represents activity in Malaysia"); *Wind Towers from Korea* IDM at Comment 8 (selecting SeAH Steel Holdings Corporation's consolidated financial statements because, "{w}hile the consolidated financial results include activities from business operations other than comparable merchandise, we find that the data represents the best option from among the sources on the record. Specifically, it is the only option on the record that includes 12 months of financial data, and reflects profits on the production and sale of comparable merchandise that is produced and sold in the Korean market"); and *Wind Towers from Indonesia* IDM at Comment 7 (relying on "SPII's financial statements, which were used for the purpose of initiation of this investigation {because they} represent an Indonesia company that produces and sells steel pipe, which is comparable to wind towers," and

Because Elkem's 2019 financial statements do not include the financial results of any company in Iceland, we disagree that these statements better reflect the production of silicon metal in Iceland. Elkem's financial statements describe Elkem's main activities as the production and sale of silicon materials, ferrosilicon, specialty alloys for the foundry industry and microsilica. Therefore, Elkem itself is not limited to only silicon metal production in Norway.<sup>33</sup> Moreover, the 2019 Elkem financial statements include majority holdings in 47 subsidiaries in 25 different countries<sup>34</sup> with only approximately 10 percent of its income from the Nordic countries, none of which is from Iceland.<sup>35</sup> While PCC Group's financial statements indicate they cover a wide variety of production and sales of numerous products, we find that Elkem's financial statements are similar to the PCC Group's statements in terms of diversity of production and sales. Moreover, while we agree with the petitioners that PCC Group's financial statements are not contemporaneous with the POI, we find this flaw to be outweighed by the fact that PCC Group's 2018 consolidated financial statements include the production of an actual Icelandic producer of subject merchandise. After reviewing the totality of the record, we continue to find that PCC Group's 2018 financial statements best reflect the production of silicon metal producers in Iceland.

Finally, we disagree with the petitioners that PCC Bakki's anticipated losses render any financial ratios derived from PCC Group's consolidated financial statements inappropriate.<sup>36</sup> While we recognize that the PCC Group's 2018 consolidated financial statements indicate that the production of silicon metal was in the start-up phase, and that PCC Bakki expected losses in 2019 and 2020, these statements do, in fact, show a profit in 2018.<sup>37</sup> Further, as noted above, these statements contain the only information on the record related to silicon metal production in Iceland, the country under consideration and, thus, any ratios derived using them are more closely tied to the case at hand than statements from an unrelated producer in a different country, whose financial results are consolidated with those of numerous subsidiaries around the world.

In summary, Commerce has considerable discretion in selecting the source for the financial ratios used in the calculation of initiation margins.<sup>38</sup> We exercised our discretion in this case and selected the financial ratios source that best fulfilled our preference to use in-country financial statements, especially where those financial statements included a producer of subject merchandise. For these reasons, we continue to assign the initiation rate of 47.54 percent to PCC Bakki.

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selecting these financial statements over third country financial statements from producers of identical merchandise).

<sup>33</sup> See Petition at Volume III, Exhibit 26, at 191, Note 1.

<sup>34</sup> *Id.* at Exhibit 26, at 205, Note 15.

<sup>35</sup> *Id.* at Exhibit 26, at 196, Note 4.

<sup>36</sup> See, e.g., Petitioners' Letter, "Silicon Metal from Iceland: Second Petition Supplement," dated July 15, 2020; Petitioners Case Brief at 5.

<sup>37</sup> See Petition at Volume III, Exhibit 10, at 94 and 104.

<sup>38</sup> See SAA at 840; see also *KYD, Inc. v. United States*, 607 F. 3d 760, 765 (Fed. Cir. 2010) at 765; and *PAM, S.p.A. v. United States*, 582 F. 3d 1336, 1340 (Fed. Cir. 2009) at 1340.



## V. RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting the above position. If this recommendation is accepted, we will publish the final determination in the investigation and the final dumping margins in the *Federal Register* and will notify the International Trade Commission of our determination.



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Agree

\_\_\_\_\_  
Disagree

2/22/2021

X

*James Maeder*

Signed by: JAMES MAEDER

James Maeder  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations