

*Globe Metallurgical, Inc. and SIMCALA, Inc. v. United States and
Bratsk Aluminum Smelter and Rual Trade Limited*
Slip Op. 05-90 (CIT July 27, 2005)

FINAL RESULTS OF REDETERMINATION PURSUANT TO COURT REMAND

SUMMARY

The Department of Commerce (“the Department”) prepared these results of redetermination pursuant to the remand order of the Court of International Trade (“the Court”) in Globe Metallurgical, Inc. v. United States, Slip Op. 05-90 (CIT July 27, 2005). In accordance with the Court’s instructions, the Department has re-examined the remanded issue of the Final Results of Redetermination Pursuant to Court Remand. See Final Results of Redetermination Pursuant to Court Remand, Globe Metallurgical, Inc. v. United States, Consol. Ct. No. 03-00202 (January 5, 2005) (available at www.ia.ita.doc.gov/remands/04-123.pdf) (“Final Remand Results”). See also Notice of Final Determination of Sales at Less Than Fair Value: Silicon Metal From the Russian Federation, 68 FR 6885 (February 11, 2003) (“Final Determination”), as amended by Notice of Amended Final Determination of Sales at Less Than Fair Value: Silicon Metal From the Russian Federation, 68 FR 12037 (March 13, 2003) (“Amended Final Determination”). Specifically, the Department has recalculated ZAO Kremny/ SUAL-Kremny-Ural Ltd.’s (“Kremny”) antidumping duty margin using as partial adverse facts available (“AFA”) the antidumping duty margin for Bratsk Aluminum Smelter and Rual Trade Limited (collectively “Bratsk”) that was calculated in the Final Remand Results.

BACKGROUND

On February 11, 2003, the Department published its Final Determination, covering the period of investigation (“POI”) from July 1, 2001, through December 31, 2001. The investigation involved Globe Metallurgical, Inc. and SIMCALA, Inc (collectively “Petitioners”), Bratsk, Kremny, and Pultwen Limited. The Department calculated individual antidumping margins for the exporting entities, Bratsk and Kremny. Petitioners and Bratsk contested various aspects of the Final Determination.

The Court remanded to the Department two aspects of its Final Determination for reconsideration: (1) with respect to the Department’s decision not to use Russian values to value the factors of production and other expenses, the Court ordered the Department to either use Russian post-non-market economy (“NME”) values or explain why the market economy Russian values are not the best available information; and (2) with respect to the Department’s treatment of silicon metal fines, the Court granted the Department’s request to explain its exclusion of recycled silicon metal fines from the factor of production cost analysis. See Globe Metallurgical, Inc. v. United States, 350 F.Supp. 2d 1148 (September 24, 2004). Subsequent to the Court’s remand, Bratsk voluntarily dismissed its challenge of the Department’s rejection of Russian post-NME values. Therefore this issue became moot.

In the Department’s Final Remand Results it recalculated Bratsk’s and Kremny’s margins to value the usage of recycled silicon metal sized zero to five millimeters. In its second remand, the Court affirmed the Department’s determination to include recycled silicon metal fines sized zero to five millimeters in each producer’s factors of production cost analysis and affirmed the calculation of Bratsk’s antidumping duty margin. However, the Court further remanded the case

back to the Department and ordered the Department to either recalculate the AFA portion of Kremny's antidumping duty margin using the revised antidumping duty margin for Bratsk calculated in the Final Remand Results or explain the use of the Bratsk margin from the Amended Final Determination.

In both the Final Determination and Amended Final Determination, the Department used AFA to determine the antidumping duty margin for Kremny's U.S. sales made through its affiliated company in the United States. In the first remand redetermination, as partial AFA the Department used Bratsk's calculated margin from the Amended Final Determination. As instructed by the Court, we have now recalculated Kremny's antidumping duty margin using the antidumping duty margin for Bratsk calculated in the Final Remand Results.

On September 29, 2005, the Department issued its draft remand results to interested parties. See Draft Results of Redetermination Pursuant to Court Remand ("Draft Results"). The Department gave interested parties an opportunity to comment on the Draft Results, but no comments were received. Therefore, the Department has not made any changes to its Draft Results.

I. Recalculation of Kremny's Antidumping Duty Margin

The Department agrees that it should have used the recalculated Bratsk margin from the Final Remand Results as a partial adverse facts available in Kremny's margin calculation given that the rate from the Amended Final Determination had been invalidated. Therefore, the Department has now recalculated Kremny's antidumping duty margin using the antidumping duty margin for Bratsk calculated in the Final Remand Results.

WEIGHTED-AVERAGE DUMPING MARGIN

As a result of this redetermination, the Department has recalculated the dumping margin for Kremny. The weighted-average dumping margin is as follows:

Manufacturer/exporter	Weighted-average margin (percent)	
	First Remand	Second Remand
ZAO Kremny/Sual-Kremny-Ural.Ltd.	56.20.....	61.61

Upon a final and conclusive court decision affirming this remand redetermination, the Department will publish notice of its amended final determination in the Federal Register and instruct U.S. Customs and Border Protection to collect duties in accordance with the determination.

Joseph A. Spetrini
Acting Assistant Secretary
for Import Administration

Date