

Dated: February 10, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

(A-570-803)

#### Heavy Forged Hand Tools (*i.e.*, Axes & Adzes, Bars & Wedges, Hammers & Sledges, and Picks & Mattocks) from the People's Republic of China: Continuation of Antidumping Duty Order

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** As a result of the determinations by the Department of Commerce ("the Department") and the International Trade Commission ("ITC") that revocation of the antidumping duty order on Heavy Forged Hand Tools (*i.e.*, Axes & Adzes, Bars & Wedges, Hammers & Sledges, and Picks & Mattocks) ("HFHTs") from the People's Republic of China ("PRC") would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing this notice of continuation of these antidumping duty orders.

**EFFECTIVE DATE:** February 16, 2006.

**FOR FURTHER INFORMATION CONTACT:** Jim Nunno, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0783.

#### SUPPLEMENTARY INFORMATION:

##### Background

On July 1, 2005, the Department initiated and the ITC instituted a sunset review of the antidumping duty orders on HFHTs from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). See *Initiation of Five-year (Sunset) Reviews*, 70 FR 38101 (July 1, 2005), and *ITC Investigation Nos. 731-TA-457-A-D (Second Review), Heavy Forged Hand Tools from China*, 70 FR 38197 (July 1, 2005). As a result of its review, the Department found that revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping and notified the ITC of the magnitude of the margins likely to prevail were the orders to be revoked. See *Heavy Forged Hand Tools (i.e., Axes*

*& Adzes, Bars & Wedges, Hammers & Sledges, and Picks & Mattocks) from the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Orders*, 70 FR 67451 (November 7, 2005). On January 18, 2006, the ITC determined, pursuant to sections 751(c) and 752 of the Act, that revocation of the antidumping duty orders on HFHTs from the PRC would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. See *ITC Investigation Nos. 731-TA-457-A-D (Second Review), Heavy Forged Hand Tools from China*, 71 FR 6290 (February 7, 2006).

##### Scope of the Orders

The products covered by these orders are HFHTs comprising the following classes or kinds of merchandise: (1) Hammers and sledges with heads over 1.5 kg (3.33 pounds) (hammers/sledges); (2) bars over 18 inches in length, track tools and wedges (bars/wedges); (3) picks and mattocks (picks/mattocks); and (4) axes, adzes and similar hewing tools (axes/adzes).

HFHTs include heads for drilling hammers, sledges, axes, mauls, picks and mattocks, which may or may not be painted, which may or may not be finished, or which may or may not be imported with handles; assorted bar products and track tools including wrecking bars, digging bars, and tampers; and steel woodsplitting wedges. HFHTs are manufactured through a hot forge operation in which steel is sheared to required length, heated to forging temperature, and formed to final shape on forging equipment using dies specific to the desired product shape and size. Depending on the product, finishing operations may include shot blasting, grinding, polishing and painting, and the insertion of handles for handled products. HFHTs are currently provided for under the following Harmonized Tariff Schedule of the United States ("HTSUS") subheadings: 8205.20.60, 8205.59.30, 8201.30.00, and 8201.40.60. Specifically excluded from these investigations are hammers and sledges with heads 1.5 kg. (3.33 pounds) in weight and under, hoes and rakes, and bars 18 inches in length and under.

The Department has issued seven conclusive scope rulings regarding the merchandise covered by these orders: (1) On August 16, 1993, the Department found the "Max Multi-Purpose Axe," imported by the Forrest Tool Company, to be within the scope of the axes/adzes order; (2) on March 8, 2001, the Department found "18-inch" and "24-inch" pry bars, produced without dies,

imported by Olympia Industrial, Inc. and SMC Pacific Tools, Inc., to be within the scope of the bars/wedges order; (3) on March 8, 2001, the Department found the "Pulaski" tool, produced without dies by TMC, to be within the scope of the axes/adzes order; (4) on March 8, 2001, the Department found the "skinning axe," imported by Import Traders, Inc., to be within the scope of the axes/adzes order; (5) on December 9, 2004, the Department found the "Scrapek MUTT," imported by Olympia Industrial, Inc., under HTSUS 8205.59.5510, to be within the scope of the axes/adzes order; (6) on May 23, 2005, the Department found 8 inch by 8 inch and 10 inch by 10 inch cast tampers, imported by Olympia Industrial, Inc. to be outside the scope of the orders; and (7) on October 14, 2005, the Department found the "Mean Green Splitting Machine" imported by Avalanche Industries to be within the scope of the bars/wedges order.<sup>1</sup>

In addition, on September 22, 2005, the Court of International Trade sustained the Department's finding that cast picks are outside the scope of the picks/mattocks order. See *Tianjin Machinery Import & Export Corporation v. United States and Ames True Temper*, Slip Op. 05-127, Court No. 03-00732 (September 22, 2005).

The HTSUS subheadings are provided for convenience and Customs purposes. The written description remains dispositive.

##### Determination

As a result of the determinations by the Department and the ITC that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty order on heavy forged hand tools from the PRC. U.S. Customs and Border Protection ("CBP") will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of continuation of this order will be the date of publication in the **Federal Register** of this Notice of Continuation. Pursuant to sections 751(c)(2) and 751(c)(6) of the Act, the Department intends to initiate the next

<sup>1</sup> See "Final Scope Ruling: Antidumping Duty Order on Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China," from James C. Doyle, Office Director, Office 9, Import Administration, to Gary Taverman, Acting Deputy Assistant Secretary for Import Administration, dated October 14, 2005.

five-year review of this order not later than January 2011.

This five-year (sunset) review and notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act.

Dated: February 10, 2006.

**David Spooner,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

A-821-817

#### Silicon Metal From the Russian Federation; Notice of Amended Final Determination Pursuant to Court Decision

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** (February 16, 2006

**SUMMARY:** On November 28, 2005, the United States Court of International Trade ("CIT") issued an order affirming the Department of Commerce's ("the Department") *Second Remand Results*. See *Final Results of Redetermination Pursuant to Court Remand, Globe Metallurgical, Inc. v. United States*, Consol. Ct. No. 03-00202 (October 21, 2005) (available at <http://ia.ita.doc.gov>) ("*Second Remand Results*"); see also *Globe Metallurgical, Inc. v. United States*, Slip Op. 05-150, 2005 Ct. Intl. Trade LEXIS 160 (CIT November 28, 2005) (affirming the *Second Remand Results* in their entirety) ("*Globe Metallurgical III*"). In the *First Remand Results*, the Department recalculated the antidumping margins for Bratsk Aluminum Smelter and Rual Trade Limited (collectively, "Bratsk") and ZAO Kremny and SUAL-Kremny-Ural Ltd. ("SKU") (collectively, "Kremny") to value the respondents' usage of recycled silicon metal sized zero to five millimeters. 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 <http://ia.ita.doc.gov>) ("*First Remand Results*"). In the *Second Remand Results*, the Department recalculated the adverse facts available ("AFA") portion of Kremny's antidumping duty margin using the revised antidumping duty margin for Bratsk calculated in the *First Remand Results*. Because all litigation in this matter has now concluded, the Department is issuing its amended final

determination in accordance with the CIT's decision.

**FOR FURTHER INFORMATION CONTACT:**

Carrie Blozy, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-5403.

**SUPPLEMENTARY INFORMATION:**

**Background**

On February 11, 2003, the Department published its *Amended Final Determination*, covering the period of investigation ("POI") from July 1, 2001, through December 31, 2001. See *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*"). Petitioners and Bratsk contested various aspects of the *Amended Final Determination*.

The Court remanded to the Department two aspects of its *Amended 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 (CIT September 24, 2004) ("*Globe Metallurgical I*"). 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 *First Remand Results*, the Department recalculated Bratsk's and Kremny's margins to value the usage of recycled silicon metal sized zero to five millimeters.

On July 27, 2005, the CIT issued its opinion on the Department's *First Remand Results*. See *Globe Metallurgical, Inc. v. United States*, Slip Op. 05-90, 2005 Ct. Intl. Trade LEXIS 98 (CIT July 27, 2005) ("*Globe Metallurgical II*"). The CIT 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*.

The Department recalculated Kremny's antidumping duty margin using the antidumping duty margin for Bratsk calculated in the *First Remand Results*. On October 21, 2005, the Department signed its *Second Remand Results*. On November 28, 2005, the CIT affirmed the Department's *Second Remand Results* in its entirety. See *Globe Metallurgical III*. On December 14, 2005, consistent with the decision of the United States Court of Appeals for the Federal Circuit in *Timken Co. v. United States*, 893 F. 2d 337 (Fed. Cir. 1990), the Department notified the public that the CIT's decision was "not in harmony" with the *Final Determination*. See *Notice of Decision of the Court of International Trade; Silicon Metal from the Russian Federation*, 70 FR 73989 (December 14, 2005) ("*Timken Notice*"). No party has appealed the CIT's decision. Because there is now a final and conclusive decision in the court proceeding, we are issuing an amended final determination to reflect the results of the second remand determination. The recalculated margins are as follows:

Manufacturer/Exporter	Weighted-average margin (percent)
ZAO Kremny or SKU ....	61.61
Bratsk .....	87.08

#### Cash Deposit Requirements

The Department will direct the United States Customs and Border Protection to require the cash deposit rates listed above for the subject merchandise, effective as of December 14, 2005, the publication date of the *Timken Notice*. Because the Russia-wide rate was not challenged in this case, it has not changed and remains at 79.42 percent. These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of an administrative review of this order.

This notice is issued and published in accordance with sections 735(d) and 777(i) of the Tariff Act of 1930, as amended.