

the issues which parties have raised and to which we have responded, and other issues addressed, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in the Decision Memo, a public memorandum which is on file at the U.S. Department of Commerce, in the Central Records Unit, in room B-099. In addition, a complete version of the *Decision Memo* can be accessed directly on the Web at <http://ia.ita.doc.gov>. The paper copy and electronic version of the *Decision Memo* are identical in content.

### Changes Since the Preliminary Determination

Based on our findings at verification, and analysis of comments received, we have made adjustments to the calculation methodology in calculating the final dumping margin in this proceeding. See *Analysis Memorandum of Bratsk Aluminum Smelter and Rual Trade Limited: Final Determination in the Less Than Fair Value Investigation of Silicon Metal from the Russian Federation* (February 3, 2003) ("BAS and RTL Final Analysis Memo"). Also, see *Analysis Memorandum of ZAO Kremny/Sual-Kremny-Ural Ltd. and Pultwen Ltd.: Final Determination in the Less Than Fair Value Investigation of Silicon Metal from the Russian Federation* (February 3, 2003) ("Kremny/SKU and Pultwen Final Analysis Memo").

### Verification

As provided in section 782(i) of the Act, we verified the information submitted by BAS and RTL and Kremny/SKU and Pultwen for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by BAS and RTL and Kremny/SKU and Pultwen. For changes from the *Preliminary Determination* as a result of verification, see *BAS and RTL Final Analysis Memo* or *Kremny/SKU and Pultwen Final Analysis Memo*.

### Nonmarket Economy Country

On June 6, 2002, the Department revoked Russia's status as a non-market economy ("NME"), effective April 1, 2002. See *Memorandum from Albert Hsu, Barbara Mayer, and Christopher Smith through Jeffrey May, Director, Office of Policy, to Faryar Shirzad, Assistant Secretary, Import Administration: Inquiry into the Status of the Russian Federation as a Non-Market Economy Country under the U.S.*

*Antidumping Law*, dated June 6, 2002. Because the period of investigation pre-dates the effective date of the Department's determination, we are continuing to utilize the NME methodology in this investigation. Should an antidumping order be issued in this case, the NME antidumping duty rates will remain in effect until they are changed as a result of a review, pursuant to section 751 of the Act, of a sufficient period of time after April 1, 2002.

### Separate Rates

In our *Preliminary Determination*, we found that the respondents had met the criteria for the application of separate antidumping duty rates. We have not received any other information since the *Preliminary Determination* which would warrant reconsideration of our separate rates determination with respect to the respondents. Therefore, we continue to find that the respondents should be assigned individual dumping margins. For a complete discussion of the Department's determination that the respondents are entitled to separate rates, see the *Preliminary Determination*.

### Russia-Wide Rate

For the reasons set forth in the *Preliminary Determination*, we continue to believe that use of adverse facts available for the Russia-wide rate is appropriate. See *Preliminary Determination*.

### Use of Facts Otherwise Available

Section 776(a)(2) of the Act provides that, if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form or manner requested, significantly impedes a proceeding under the antidumping statute, or provides information which cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination. Thus, pursuant to section 776(a) of the Act, the Department is required to apply, subject to section 782(d), facts otherwise available. Pursuant to section 782(e), the Department shall not decline to consider such information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5)

the information can be used without undue difficulties. In addition, section 776(b) of the Act provides that, if the Department finds that an interested party "has failed to cooperate by not acting to the best of its ability to comply with a request for information," the Department may use information that is adverse to the interests of the party as the facts otherwise available. The statute also provides that such an adverse inference may be based on secondary information, including information drawn from the petition, a final determination in an investigation, any previous administrative review, or any other information placed on the record.

In the *Preliminary Determination*, the Department applied total facts available for the Russia-wide rate using BAS's calculated margin, as it was the highest margin. For the final determination, BAS's calculated margin is less than the margin in the petition. Section 776(b) of the Act also provides that an adverse inference may include reliance on information from the petition. See also Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103-316 at 870 (1994) ("SAA"). Section 776(c) of the Act provides that where the Department selects from among the facts otherwise available and relies on "secondary information," such as the petition, the Department shall to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The SAA states that "corroborate" means to determine that the information used has probative value. See SAA, at 870. The petitioners' methodology for calculating the EP and NV, in the petition, is discussed in the initiation notice. To corroborate the petitioners' EP calculations, we compared the prices in the petition to the prices submitted by respondents for silicon metal. Based on a comparison of the U.S. Census Bureau's official IM-145 import statistics with the average unit values in the petition, we find the export price suggested in the petition to be consistent with those statistics. To corroborate the petitioners' NV calculation, we compared the petitioners' factor consumption data to the data reported by respondents and found them to be similar. Finally, we valued the factors in the petition using the surrogate values we selected for the final determination. However, by using the surrogate values we selected for the final determination, the petition margin is lower than BAS's calculated margin. Therefore, for the final determination, we have continued to apply total facts