DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

[A–122–601]

Brass Sheet and Strip from Canada: Preliminary Results of Antidumping Duty Administrative Review, Intent Not To Revoke Order in Part, and Extension of Time Limit

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

ACTION: Notice of preliminary results of antidumping duty administrative review, intent not to revoke order in part, and extension of time limit.

SUMMARY: In response to separate requests by Wolverine Tube (Canada), Inc. (Wolverine), the respondent, and by Hussey Copper, Ltd,; The Miller Company; Olin Corporation; Revere Copper Products, Inc,; International Association of Machinists and Aerospace Workers; International Union, Allied Industrial Workers of America (AFL–CIO); Mechanics Educational Society of America, and United Steelworkers of America (AFL–CIO), collectively, the petitioner, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on brass sheet and strip from Canada. The review covers one manufacturer/exporter of this merchandise to the United States, Wolverine. The period covered is January 1, 1997 through December 31, 1997. As a result of the review, the Department has preliminarily determined that no dumping margins exist for his respondent for the covered period. However, we do not intend to revoke the order with respect to brass sheet and strip from Canada manufactured by Wolverine, since we found in our final results covering the 1996 period of review that sales made during that period were made below normal value.

We invite interested parties to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of issue and (2) a brief summary of the argument.

EFFECTIVE DATE: February 8, 1999.

FOR FURTHER INFORMATION CONTACT: Paul Stolz or James Terpstra, Office of Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4474 or 482–3965, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations refer to the regulations codified at 19 CFR Part 351 (1998).

Background

The Department published an antidumping duty order on brass sheet and strip from Canada on January 12, 1987 (52 FR 1217). On January 12, 1998, the Department published a notice of ''Opportunity to Request an Administrative Review'' of the antidumping duty order on brass sheet and strip from Canada (63 FR 1820). On January 30, 1998, a manufacturer/exporter, Wolverine, requested an administrative review of its exports of the subject merchandise to the United States for the period of review (POR), January 1, 1997, through December 31, 1997. In accordance with 19 CFR 351.213 we published a notice of initiation of administrative review on February 27, 1998 (63 FR 10002). The Department is now conducting this administrative review in accordance with section 751 of the Act.

Scope of Review

Imports covered by this review are shipments of brass sheet and strip (BSS), other than leaded and tinned BSS. The chemical composition of the covered products is currently defined in the Copper Development Association (C.D.A.) 200 Series or the Unified Numbering System (U.N.S.) C2000. This review does not cover products the chemical compositions of which are defined by other C.D.A. or U.N.S. series. In physical dimensions, the products covered by this review have a solid rectangular cross section over 0.006 inches (0.15 millimeters) through 0.188 inches (4.8 millimeters) in finished thickness or gauge, regardless of width. Coiled, wound-on-reels (traverse would), and cut-to-length products are included. The merchandise is currently classified under Harmonized Tariff Schedule (HTS) item numbers 7409.21.00 and 7409.29.00. Although the HTS item numbers are provided for convenience and customs purposes, the Department's written description of the scope of this order remains dispositive. Pursuant to the final affirmative determination of circumvention of the antidumping duty order, covering the period September 1, 1990, through September 30, 1991, we determined that brass plate used in the production of BSS falls within the scope of the antidumping duty order on BSS from Canada. *See Brass Sheet and Strip from Canada: Final Affirmative Determination of Circumvention of Antidumping Duty Order*, 58 FR 33610 (June 18, 1993).

The POR is January 1, 1997 through December 31, 1997. The review involves one manufacturer/exporter, Wolverine.

Export Price

We used export price (EP), as defined in section 772 of the Act, because the merchandise was sold to unaffiliated U.S. purchasers prior to the date of importation and because no other circumstances indicated that constructed export price was appropriate. We calculated EP based on delivered prices. In accordance with section 772(c)(1) of the Act, we adjusted EP for brokerage and handling, foreign and U.S. inland freight, and customs duty. We also recalculated imputed credit expenses for U.S. sales based on the U.S. prime interest rate. *See* ''Further Developments'' as described below. No other adjustments to EP were claimed or allowed.

Normal Value (NV)

A. Viability

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared Wolverine's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Because of Wolverine's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market provides a viable basis for calculating NV for Wolverine.

B. Below Cost of Production Test

Because we disregarded sales below the cost of production in the 1996 POR, the most-recently completed segment of this proceeding, we have reasonable grounds to believe or suspect that sales of the foreign like product under consideration for determining NV in this review may have been at prices below the cost of production (COP), within the meaning of section

773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by Wolverine (*see* Memorandum to the File, dated March 31, 1998, available in Room B–099 of the Main Commerce Building). In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of materials and fabrication employed in producing the foreign like product, plus selling, general, and administrative expenses (SG&A) and the cost of all expenses incidental to placing the foreign like product in condition packed ready for shipment. We relied on the home market sales and COP information Wolverine provided in its questionnaire responses. After calculating COP, we tested whether home market sales of subject BSS were made at prices below COP within an extended period of time in substantial quantities, and whether such prices permitted the recovery of all costs within a reasonable period to time. We compared model-specific COPs to the reported home market prices less any applicable movement charges, direct selling expenses, and packing expenses.

Pursuant to section 773(b)(2)(C) of the Act, where less than twenty percent of Wolverine's home market sales for a model were at prices less than the COP, we did not disregard any below-cost sales of that model because we determined that the below-cost sales were not made within an extended period of time in ''substantial quantities.'' Where twenty percent or more of Wolverine's home market sales were at prices less than the COP, we determined that such sales were made within an extended period of time in substantial quantities in accordance with section 773(b)(2) (B) and (C) of the Act. To determine whether such sales were at prices which would not permit the full recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act, we compared home market prices to the weighted-average COPs for the POR. The results of our cost test for Wolverine indicated that for certain home market models less than twenty percent of the sales of the model were at prices below COP. We therefore retained all sales of these models in our analysis and used them as the basis for determining NV. Our cost test for Wolverine also indicated that for certain other home market models more than twenty percent of the home market sales within an extended period of time were at prices below COP and would not permit the full recovery of all costs within a reasonable period of time. In accordance with section 773(b)(1) of the Act, we therefore excluded the below-cost sales of these models from our analysis and used the remaining above-cost sales as the basis for determining NV.

C. Model-Matching

We calculated NV using prices of BSS products having the same characteristics as to form, gauge, width, and alloy. We used the same gauge and width groupings and the same model-match methodology in this review as in the last completed administrative review (1996). As in the 1995 and 1996 reviews, we did not rely on ''source'' designations in the product codes for model matching purposes since the ''source'' (*i.e.*, whether reroll or nonreroll brass is used to make the product) does not appear to describe physical characteristics of the resulting subject merchandise itself; nor has Wolverine demonstrated that this is an appropriate matching criterion. Wolverine claimed in its response that the grain density of the reroll material obtained from outside suppliers was higher than that of its own cast material. Although this may be the case, respondent's claim has not been substantiated on the record of this review.

In addition, we noted in this review that the coding Wolverine reported for the ''temper'' matching characteristic included a secondary characteristic for ''finish.'' This characteristic had not previously been identified by the Department, nor has Wolverine adequately demonstrated that it is appropriate to use in model matching. Moreover, it is no longer clear whether Wolverine's reported temper codes are correct. Therefore, for the preliminary results of this review we are not considering ''finish'' or reported temper codes as matching characteristics and have adjusted our computer program accordingly. We will seek additional information on these issues following the preliminary results of this administrative review and will incorporate our findings into our analysis for the final results of this review. *See* ''Further Developments'' as described below.

We calculated NV using monthly weighted-average prices of BSS having the same characteristics as to form, gauge, width, and alloy. We based NV on the price at which the foreign like product is first sold for consumption in the exporting country, in the usual commercial quantities and in the ordinary course of trade, and at the same level of trade as the export price, in accordance with section 773(a)(1)(B)(i) of the Act.

We reduced NV for home market credit and warranty expenses, and increased NV for U.S. credit expenses and U.S. warranty expenses in accordance with section 773(a)(6)(C)(iii), due to differences in circumstances of sale. We reduced NV for home market movement expenses, in accordance with section 773(a)(6)(B)(ii); and for packing costs incurred in the home market, in accordance with section 773(a)(6)(B)(i); and increased NV to account for U.S. packing expenses. Wolverine reported ''quantity adders'' as a circumstance of sale adjustment. However, we have not made corresponding adjustments in this review. Wolverine failed to provide sufficient information to determine whether this adjustment should be made. Moreover, in the event that the Department determines that an adjustment is appropriate, it is not clear that Wolverine has properly quantified sales in both the home and U.S. markets. Accordingly, we have determined that the administrative record is incomplete with respect to this item and have made no corresponding adjustments. *See* ''Further Developments'' as described below.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general and administrative (SG&A) expenses and profit. For EP, the U.S. LOT is also the level of the starting-price sale, which is usually from the exporter to an unaffiliated U.S. customer. For CEP, it is the level of the constructed sale from the exporter to an affiliated importer, after the deductions required under section 772(d) of the Act. To determine whether NV sales are at a different LOT than EP or CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and

there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

In this review, Wolverine stated in its questionnaire response that it was not requesting a LOT adjustment and therefore did not include the corresponding field ''LOTADJH'' in its reported home market sales list. Although Wolverine claimed that one of its two customer categories required a higher level of support than the other, it did not place information on the record in order to detail or quantify any possible resulting differences in selling functions which could potentially constitute different LOTs. Nor did we request additional information with respect to this issue.

Because the record does not show that Wolverine performed different selling functions with respect to different channels of distribution, we have preliminarily determined that there is only one LOT in the home market. Furthermore, since the record does not indicate differences in selling functions between the home market and the U.S. market, we have preliminarily determined that no level of trade adjustments under section 773(a)(7)(A) of the Act are warranted. However, we will reexamine this issue for the final results.

Further Developments

Both petitioner and respondent have submitted comments regarding the calculation of the preliminary results of this review. Submissions by both parties included untimely submitted new factual information. Therefore, the Department has required deletion of this information. However, in reaching its preliminary results, the Department has taken note of the portions of these submissions which contained relevant argument not based on new factual information. As a result, the Department has decided not to make adjustments in these preliminary results to the submitted prices for ''adders'' (surcharges on certain small quantity orders) and to disregard ''temper'' and ''finish'' as a matching characteristics, as described above. In addition, the Department has recalculated imputed credit expenses reported for U.S. sales. This recalculation was done since Wolverine reported imputed credit expenses for U.S. sales based on its home market interest rate. Sales to the U.S. market had been made in U.S. dollars, and therefore, in accordance with Department policy, imputed credit expenses for these sales should have been reported based on the company's U.S. interest rate or other applicable U.S. interest rate.

Moreover, petitioner has requested that we resort to facts available with respect to certain portions of the submitted data. However, there is insufficient basis on which to make such a determination at this time. In order to resolve these issues and certain other issues raised by petitioner's and respondent's comments, and to determine whether the application of facts available is appropriate, the Department has decided that additional information and further analysis is necessary. Therefore, following publication of these preliminary results, the Department will request additional information on ''interest'', ''general and administrative expenses'', ''finish'', ''temper'', ''packing'', and ''adders'' for use in its analysis for the final results of this review. Moreover, since the Department will collect and analyze additional information, the Department has determined that it is not practicable to complete the final results of this administrative review within the original time limit, and is therefore extending the due date for the final results of this review, pursuant to section 351.213(h)(2) of the Department's regulations, until 180 days from publication of these preliminary results.

Revocation

On January 30, 1998, Wolverine submitted its request for an administrative review covering the 1997 POR and, pursuant to 19 CFR 351.222(b), requested revocation of the antidumping duty order with respect to Wolverine. In its request, Wolverine stated that it expected to receive a *de minimis* margin in the final results of the 1996 and 1997 POR reviews. Wolverine noted that these would be the third and fourth consecutive *de minimis* margins received, and thus Wolverine would be eligible for revocation in accordance with 19 CFR 351.222(b)(2), which among other requirements stipulates that the respondent requesting revocation has sold the subject merchandise at not less than NV for at least three consecutive administrative reviews and is not likely to do so in the future. This request was accompanied by certifications from the firm that it had not sold the relevant class or kind of merchandise at less than NV for a two-year period and anticipated receiving a *de minimis* dumping margin in the 1996 POR and in the 1997 POR, and would not sell the relevant class or kind of merchandise at less than NV in the future. Wolverine also agreed to its immediate reinstatement in the relevant antidumping duty order, as long as any firm is subject to this order, if the Department concludes under 19 CFR 351.222(b)(2)(iii) that, subsequent to revocation, it sold the subject merchandise at less than NV.

However, with respect to the 1996 POR, we found in our final results of that review that sales had been made below NV and, therefore, the Department's requirements for revocation had not been met. *See Final Results of Administrative Review and Notice of Intent Not To Revoke Order in Part, Brass Sheet and Strip from Canada*, 63 FR 33037 (June 17, 1998). Previously, the Department had found that Wolverine's sales reviewed during the eighth (1994) and ninth (1995) reviews and under this order were made at not less than NV. The Department has also preliminarily determined in this administrative review, as described below, that sales under this order were not made at less than NV. Nonetheless, in light of the final results of the tenth (1996) administrative review, Wolverine is not entitled to revocation pursuant to 19 CFR 351.222(b).

Preliminary Results of the Review

As a result of our comparison of EP to NV, we preliminarily determine that a *de minimis* of (0.39 percent) exists for Wolverine for the period January 1, 1997 through December 31, 1997, and we determine, preliminarily, not to revoke the antidumping duty order with respect to imports of subject merchandise from Wolverine.

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 30 days of publication of this notice. Any hearing will be held 44 days after the date of publication or the first workday thereafter. Interested parties may submit case briefs within 30 days of the publication date of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any such case briefs or at a hearing, within 180 days from publication of these preliminary results.

The following deposit requirements will be effective for all shipments of the subject merchandise that are entered, or

withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for Wolverine will be the rate established in the final results of this review (except that no deposit rate will be required for zero or *de minimis* margins, i.e., margins less than 0.5 percent); (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LFTV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and, (4) if neither the manufacturer nor the exporter is a firm covered in this or any previous review, the cash deposit rate will be 8.10 percent, the ''all others'' rate established in the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Furthermore, the Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the determination and for future deposits of estimated duties. For Wolverine, for duty assessment purposes, we calculated importer-specific assessment rates by aggregating the dumping margins calculated for all U.S. sales to each importer and dividing this amount by the total entered value of those same sales. This specific rate calculated for each importer will be used for the assessment of antidumping duties on the relevant entries of subject merchandise during the POR. If for the final results of this review we calculate an assessment rate for Wolverine of less than 0.5 percent *ad valorem,* we will instruct Customs to liquidate Wolverine's entries of subject merchandise during the relevant POR without regard to antidumping duties.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and this notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 351.213, 351.221.

Dated: February 1, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–2999 Filed 2–5–99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–824]

Polyvinyl Alcohol From Taiwan: Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests by the petitioner, Air Products and Chemicals, Inc., and by two manufacturers/exporters of subject merchandise, the Department of Commerce (''the Department'') is conducting an administrative review of the antidumping duty order on polyvinyl alcohol (''PVA'') from Taiwan. The period of review is May 1, 1997, through April 30, 1998.

We have preliminarily found that no sales of subject merchandise have been made below normal value. If these preliminary results are adopted in our final results of administrative review, we will instruct the Customs Service not to assess antidumping duties on entries subject to this review. Interested parties are invited to comment on these preliminary results. Parties who submit case briefs in this proceeding should provide a summary of the arguments not to exceed five pages and a table of statues, regulations, and case cited.

EFFECTIVE DATE: February 8, 1999.

FOR FURTHER INFORMATION CONTACT: Everett Kelly, at (202) 482–4194; or Brian Smith, at (202) 482–1766, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, as amended (''the Act''), by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all references are made to the Department's final regulations at 19 CFR Part 351 (1998).

Case History

On May 14, 1996, the Department published in the **Federal Register** an antidumping duty order on polyvinyl alcohol from Taiwan. *See* 61 FR 24286. On May 12, 1997, the Department published a notice providing an opportunity to request an administrative review of this order for the period May 1, 1997, through April 30, 1998 (63 FR 26143). On May 27, 1998, we received a request for an administrative review from E.I. du Pont de Nemours & Co. (''DuPont''). On May 29, 1998, we received a request for a review from Chang Chun Petrochemical (''Chang Chun''). On May 29, 1998, the petitioner also requested reviews of Chang Chun and DuPont, and an additional review of Perry Chemical Corporation (''Perry''). On June 29, 1998, we published a notice of initiation of this review for Chang Chun and Dupont (63 FR 35188). We did not initiate a review of the importer Perry because we do not consider Perry to be a manufacturer or exporter of the subject merchandise based on the factors set forth in section 351.401(h) of the Department's regulations (*see Final Results of Antidumping Duty Administrative Review: Polyvinyl Alcohol from Taiwan,* 63 FR 32810, 32813 (June 16, 1998)).

On June 17, 1998, we issued an antidumping questionnaire to Chang Chun and Dupont. The Department received responses from the two companies in September and December 1998. We issued supplemental questionnaires to these companies in October 1998 and January 1999. Responses to these questionnaires were received in November 1998 and January 1999.

On July 24, 1998, Chang Chun requested that the Department clarify and confirm that the scope of the merchandise includes PVA ''hydrolyzed in excess of 85 percent whether or not mixed or diluted with defoamer or boric acid.'' In addition, Chang Chun requested that the Department confirm that the language in the scope of the order is still effective. Chang Chun contended that the language describing