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 20220; 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


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 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
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 POR reviews. Because the record does not show that Wolverine’s sales during the 1996 POR reviews were below NV, the Department has decided that additional information 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

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 working day thereafter. Interested parties may submit 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
Failure to comply with this requirement prior to liquidation of the relevant reimbursement of antidumping duties to file a certificate regarding the merchandise during the relevant POR Wolverine’s entries of subject in instruct Customs to liquidate will be required for zero or this review (except that no deposit rate rate established in the final results of deposit rate for Wolverine will be the section 751(a)(1) of the Act: (1) the cash consumption on or after the publication withdrawn from warehouse, for

The Applicable Statute and Regulations

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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