

Dated: January 17, 1996.

Sue E. Eckert,

Assistant Secretary for Export  
Administration.

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## International Trade Administration

[A-122-601]

### Brass Sheet and Strip from Canada; 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:** The Department of Commerce (the Department) has conducted an administrative review of the antidumping duty order on brass sheet and strip (BSS) from Canada. The review covers one manufacturer/exporter of this merchandise to the United States, and the period January 1, 1993 through December 31, 1993. The review indicates the existence of dumping margins for this period.

We have preliminarily determined that sales have been made below the foreign market value (FMV). If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs to assess antidumping duties equal to the difference between the United States price (USP) and FMV.

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

**EFFECTIVE DATE:** January 22, 1996.

**FOR FURTHER INFORMATION CONTACT:**  
Arthur N. DuBois, Karen Park, or  
Thomas F. Futtner, Office of  
Antidumping Compliance, Import  
Administration, International Trade  
Administration, U.S. Department of  
Commerce, 14th Street and Constitution  
Avenue NW., Washington, D.C. 20230,  
telephone: (202) 482-5253.

#### SUPPLEMENTARY INFORMATION:

##### Background

On January 12, 1987, the Department published in the Federal Register (52 FR 1217) the antidumping order on BSS from Canada. Based on timely requests for review, on February 17, 1994, in accordance with 19 CFR 353.22(c), we

initiated an administrative review of Wolverine Tube (Canada) Inc. (Wolverine), for the period January 1, 1993 through December 31, 1993 (59 FR 7979).

#### Applicable Statute and Regulations

The Department has conducted this administrative review in accordance with section 751 of the Tariff Action 1930, as amended (the Tariff Act). Unless otherwise indicated, all citations to the statute and to the Department's regulations refer to the provisions as they existed on December 31, 1994.

#### Scope of the Review

Imports covered by the review are shipments of brass sheet and strip, other than leaded and tin brass sheet and strip. 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. Products whose chemical composition is defined by other C.D.A. or U.N.S. series are not covered by this order.

The physical dimensions of the products covered by this review are brass sheet and strip of 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. Coil, wound-on-reels (traverse wound), and cut-to-length products are included. During the review such merchandise was classifiable under Harmonized Tariff Schedule (HTS) subheadings 7409.21.00 and 7409.29.00. Although the HTS subheading is provided for convenience and for Customs purposes, the written description of the scope of this order remains dispositive.

The review covers one Canadian manufacturer/exporter, Wolverine, and the period January 1, 1993 through December 31, 1993.

#### Verification

As provided in section 776(b) of the Tariff Act, we verified information provided by the respondent by using standard verification procedures, including on-site inspection of the manufacturer's facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public versions of the verification report.

#### United States Price

We based USP on purchase price, in accordance with section 772 of the Act.

We calculated purchase price based on packed, delivered, duty-paid prices.

In accordance with section 772(d)(2) of the Act, we made deductions for movement expenses and customs duties. Movement expenses included fees for brokerage and handling, and U.S. and foreign inland freight.

In addition, we adjusted USP for taxes in accordance with our practice outlined in the following section on *Value-Added Taxes*.

No other adjustments were claimed or allowed.

#### Value-Added Taxes

In light of the Federal Circuit's decision in *Federal Mogul v. United States*, CAFC No. 94-1097, the Department has changed its treatment of home market consumption taxes. Where merchandise exported to the United States is exempt from the consumption tax, the Department will add to the U.S. price the absolute amount of such taxes charged on the comparison sales in the home market. This is the same methodology that the Department adopted following the decision of the Federal Circuit in *Zenith v. United States*, 988 F.2d 1573, 1582 (1993), and which was suggested by that court in footnote 4 of its decision. The Court of International Trade (CIT) overturned this methodology in *Federal Mogul v. United States*, 834 F. Supp. 1391 (1993), and the Department acquiesced in the CIT's decision. The Department then followed the CIT's preferred methodology, which was to calculate the tax to be added to U.S. price by multiplying the adjusted U.S. price by the foreign market tax rate; the Department made adjustments to this amount so that the tax adjustment would not alter a "zero" pre-tax dumping assessment.

The foreign exporters in the *Federal Mogul* case, however, appealed that decision to the Federal Circuit, which reversed the CIT and held that the statute did not preclude Commerce from using the "*Zenith* footnote 4" methodology to calculate tax-neutral dumping assessments (i.e., assessments that are unaffected by the existence or amount of home market consumption taxes). Moreover, the Federal Circuit recognized that certain international agreements of the United States, in particular the General Agreement on Tariffs and Trade (GATT) and the Tokyo Round Antidumping Code, required the calculation of tax-neutral dumping assessments. The Federal Circuit remanded the case to the CIT with instructions to direct Commerce to determine which tax methodology it will employ.

The Department has determined that the "*Zenith* footnote 4" methodology

should be used. First, as the Department has explained in numerous administrative determinations and court filings over the past decade, and as the *Federal Circuit* has now recognized, Article VI of the GATT and Article 2 of the Tokyo Round Antidumping Code required that dumping assessments be tax-neutral. This requirement continues under the new Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade. Second, the URAA explicitly amended the antidumping law to remove consumption taxes from the home market price and to eliminate the addition of taxes to U.S. price, so that no consumption tax is included in the price in either market. The Statement of Administrative Action (p. 159) explicitly states that this change was intended to result in tax neutrality.

While the "Zenith footnote 4" methodology is slightly different from the URAA methodology, in that section 772(d)(1)(C) of the pre-URAA law required that the tax be added to United States price rather than subtracted from home market price, it does result in tax-neutral duty assessments. In sum, the Department has elected to treat consumption taxes in a manner consistent with its longstanding policy of tax-neutrality and with the GATT.

#### Cost of Production Analysis

Due to the existence of sales below the cost of production (COP) in the last completed review of Wolverine, the Department has reasonable grounds to believe or suspect that sales below the COP may have occurred during this review. See *Carbon Steel Butt Weld Pipe Fittings from Taiwan; Preliminary Results of Administrative Review*, 59 FR 66001 (December 22, 1994). Therefore, pursuant to section 773(b) of the Act, in this review we initiated a cost of production (COP) investigation of Wolverine.

In accordance with 19 CFR 353.51(c) we calculated COP based on the cost of materials, fabrication, and general expense, but excluding profit, incurred in producing such or similar merchandise. The Department relied on submitted COP and constructed value (CV) information except in the following instances where the costs were not appropriately quantified or valued:

1. We added the cost of subcontracted labor to the total direct labor pool to reflect the total labor costs associated with the production of the subject merchandise.

2. We reclassified certain general and administrative (G&A) expenses to fixed overhead cost to allocate the appropriate

G&A expenses incurred for the production of subject merchandise.

After computing COP, we compared it to the reported home market prices net of movement charges and discounts. In accordance with section 773(b) of the Tariff Act and 19 CFR 353.51(a), in determining whether to disregard home market sales made at prices below the COP, we examined whether such sales were made in substantial quantities over an extended period of time, and whether such sales were made at prices which permitted recovery of all costs within a reasonable period of time in the normal course of trade.

In accordance with Section 773(b)(1) of the Tariff Act, to determine whether sales below cost had been made in substantial quantities, we applied the following methodology. For each model for which less than 10 percent, by quantity, of the home market sales during the POR that were made at prices below COP, we included all sales of that model in the computation of FMV. For each model for which 10 percent or more, but less than 90 percent, of the home market sales during the POR were priced below the merchandise's COP, we excluded from the calculation of FMV those home market sales priced below the merchandise's COP, provided that they were made over an extended period of time. For each model for which 90 percent or more of the home market sales during the POR were priced below COP and made over an extended period of time, we disregarded all sales of that model in our calculation and, in accordance with 773(b) of the Tariff Act, we used the constructed value (CV) of those models, as described below. See *Final Results of Antidumping Duty Administrative Review; Tapered Roller Bearings Four Inches or Less in Outside Diameter, and Certain Components Thereof*, 56 FR 26054, 26060 (June 6, 1991).

In accordance with section 773(b)(1) of the Tariff Act, to determine whether sales below cost had been made over an extended period of time, we compared the number of months in which sales below cost occurred for a particular model to the number of months during the POR in which that model was sold. If a model was sold in fewer than three months during the POR, we did not exclude the below cost sale unless there were below cost sales in each month of sale. If a model was sold in three or more months during the POR, we did not exclude below-cost sales unless there were sales below cost in at least three of the months in which the model was sold. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt*

*Weld Pipe Fitting from Thailand*, 60 FR 10552, 10554 (February 27, 1995).

The Department determined that Wolverine provided no evidence that its below COP prices would permit recovery of all costs within a reasonable period time in the normal course of trade. Therefore, in accordance with Section 773(b) we disregarded these below cost sales in our FMV calculations.

#### Foreign Market Value

The Department used home market price to calculate FMV, as defined in section 773 of the Act. Because the home market was viable as defined by 19 CFR 353.48(a), we compared U.S. sales with sales of such or similar merchandise sold in the home market.

FMV was based on packed, delivered prices to unrelated home market purchasers. In accordance with 19 CFR 353.56 we made adjustments for bona fide difference in the circumstances of the sales compared, where applicable, for home market credit, post-sale inland freight, and U.S. credit cost. We made no adjustment for differences in packing costs.

We calculated FMV using monthly weighted-average prices of brass sheet and strip having the same characteristics with respect to alloy, gauge, width, temper and form.

We adjusted for Canadian consumption tax as mentioned above.

No other adjustments were claimed or allowed.

#### Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following margin exists for the period January 1, 1993, through December 31, 1993:

Manufacturer/producer/exporter	Margin percent
Wolverine .....	1.39

Interested parties may request disclosure within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held as early as convenient for the parties but not later than 44 days after the date of publication or the first business day thereafter. Case briefs and/or written comments from interested parties may be submitted no later than 30 days after the date of publication of this notice. Rebuttal briefs and rebuttal comments, limited to issues raised in the case briefs, may be filed not later

than 37 days after the date of publication of this notice. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any such written comments or at a hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentages stated above. Upon completion of the final results in this review the Department will issue appropriate appraisement instructions directly to the U.S. Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of our final results of review for all shipments of the subject merchandise 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 the reviewed company will be the rate established in the final results of this review;

(2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published in 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 (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established in the most recent period for the manufacturer of the merchandise; and

(4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 8.10 percent, the all others rate established in the LTFV investigation (51 FR 44319).

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 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 notice are in accordance with section 751(a)(1)

of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: December 14, 1995.  
Susan G. Esserman,  
*Assistant Secretary for Import Administration.*  
[FR Doc. 96-750 Filed 1-19-96; 8:45 am]  
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### Initiation of New Shipper Antidumping Duty Administrative Review

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

**ACTION:** Notice of initiation of New Shipper Antidumping Duty Administrative Review.

**SUMMARY:** The Department of Commerce (the Department) has received a request to conduct a new shipper administrative review of an antidumping duty order with a May anniversary date. In accordance with the Department's Interim Regulations, we are initiating this administrative review.

**EFFECTIVE DATE:** January 22, 1996.

**FOR FURTHER INFORMATION CONTACT:** Holly A. Kuga, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482-4737.

### SUPPLEMENTARY INFORMATION:

#### Background

The Department has received a request, pursuant to section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act), and Section 353.22(h) of the Department's Interim Regulations (60 FR 25130, 25134 (May 11, 1996)) Interim Regulations), for a new shipper review of the antidumping duty order on certain welded carbon steel standard pipes and tubes from India, which has a May anniversary date.

#### Initiation of Review

The request for review satisfies the requirements of Section 353.22(h) of the Department's Interim Regulations. Therefore, in accordance with section 751(a)(2)(B)(ii) of the Act, we are initiating a new shipper review of the antidumping duty order on certain welded carbon steel standard pipes and tubes from India. We intend to issue the final results of review not later than 270 days from the date of publication of this notice.

Antidumping duty proceeding	Period to be reviewed
India: Certain Welded Carbon Steel Standard Pipes and Tubes from India A-533-502. Rajinder Pipes Limited of India.	5/01/95-10/31/95

We will instruct the U.S. Customs Service to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for each entry of the merchandise exported by the above listed companies, in accordance with Section 353.22(h)(4) of the Interim Regulations.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with Section 353.34(b) of the Department's regulations (19 CFR 353.34(b) 1995)).

This initiation and this notice are in accordance with section 751(a)(2)(B) of the Act (19 U.S.C. 1675(a)(2)(B) and Section 353.22(h) of the Interim Regulations.

Dated: December 13, 1995.  
Joseph A. Spetrini,  
*Deputy Assistant Secretary for Compliance.*  
[FR Doc. 96-749 Filed 1-19-96; 8:45 am]  
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[Docket No. 951107262-5262-01]

### Customized Market Analysis (CMA): Name Change and Price List for FY96

**AGENCY:** International Trade Administration, Commerce.

**ACTION:** Notice of program name change and price list for FY96.

**SUMMARY:** The United States and Foreign Commercial Service ("Commercial Service"), an organization of the International Trade Administration, announces a program name change to Customized Market Analysis (CMA) from Customized Sales Survey (CSS). The name change is necessary to better describe the scope and purpose of the program. Potential clients can better determine its applicability in their export strategy. In addition, we are including a current price list for ordering a CMA in numerous countries worldwide. The price list is modified annually.

We hereby inform the public of the new name of the program as Customized Market Analysis (CMA) and the cost of placing a CMA order for research in various countries worldwide.