

*Agency Approval Number:* 0607-0810.

*Type of Request:* Revision of a currently approved collection.

*Burden:* 603,550 hours.

*Number of Respondents:* 2,945,400.

*Avg Hours Per Response:* 37 minutes.

*Needs and Uses:* The Census Bureau is developing a methodology to collect and update every year demographic, social, economic, and housing data that is essentially the same as the "long-form" data that the Census Bureau traditionally has collected once a decade as part of the decennial census. This methodology is called continuous measurement (CM). Since the Census Bureau collects the long-form data only once every ten years, the data become out of date over the course of the decade. Also, there is an increasing need for data describing lower geographic detail. CM will provide current data throughout the decade for small areas and small subpopulations.

The American Community Survey (ACS) is the data collection vehicle for CM. The Census Bureau began a test and demonstration of the capabilities of the survey collection and processing system in 1995. Presently, the ACS is conducted in 36 counties. In November of 1999, as part of the decennial program to make a transition from the Census 2000 long form to collecting long-form data throughout the decade, we will begin ACS data collection in 1,203 counties. This data collection will allow for comparison of estimates from Census 2000 with estimates from the ACS for all states, large cities, and population subgroups, and will help data users and the Census Bureau understand the differences between estimates from the ACS and the Census 2000 long form. Current plans are to put the ACS fully in place in 2003.

*Affected Public:* Individuals or households.

*Frequency:* One-time.

*Respondent's Obligation:* Mandatory.

*Legal Authority:* Title 13 USC, Section 182.

*OMB Desk Officer:* Linda Hutton, (202) 395-7858.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482-3272, Department of Commerce, room 5033, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Linda Hutton, OMB Desk

Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: September 1, 1999.

**Linda Engelmeier,**

*Departmental Forms Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 99-23295 Filed 9-7-99; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-421-701]

#### Notice of Preliminary Results of Antidumping Duty Administrative Review and Intent To Revoke Order: Brass Sheet and Strip From the Netherlands

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

**SUMMARY:** The Department of Commerce is conducting an administrative review of the antidumping duty order on brass sheet and strip from the Netherlands. This review covers imports of brass sheet and strip from one producer/exporter during the period of review (POR), August 1, 1997 through July 31, 1998.

We preliminarily determine that sales of the subject merchandise have not been made below normal value. If these preliminary results are adopted in the final results, we will instruct the Customs Service not to assess antidumping duties on the subject merchandise exported by this company. If these preliminary results are adopted in our final results of this administrative review, we will revoke the antidumping duty order, based on three consecutive review periods of sales at not less than normal value by Outokumpu Copper Strip B.V., the sole producer and exporter of subject merchandise from the Netherlands (see 19 CFR 351.222(b)(i)). See *Intent to Revoke* section of this notice.

**EFFECTIVE DATE:** September 8, 1999.

**FOR FURTHER INFORMATION CONTACT:** John Brinkmann or Jarrod Goldfeder, Office of AD/CVD Enforcement, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-4126r (202) 482-2305, 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 of Commerce's (the Department's) regulations refer to the regulations codified at 19 CFR Part 351 (1999).

#### Background

On August 12, 1988, the Department published in the **Federal Register** the antidumping duty order on brass sheet and strip from the Netherlands (53 FR 30455). On August 11, 1998, we published in the **Federal Register** the notice of "Opportunity to Request an Administrative Review" of this order, for the period August 1, 1997 through July 31, 1998 (63 FR 42821). On August 31, 1998, in accordance with 19 CFR 351.213(b), Outokumpu Copper Strip B.V. (OBV), the sole producer/exporter requested an administrative review of its exports of the subject merchandise to the United States for the POR August 1, 1997 through July 31, 1998. In addition, OBV requested that the Department revoke the antidumping duty order against brass sheet and strip from the Netherlands, pursuant to 19 CFR 351.222(b), based on the absence of dumping and the fact that OBV is not likely to sell the subject merchandise at less than normal value in the future. On September 23, 1998, in accordance with 19 CFR 351.221, the Department initiated this administrative review (see *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 63 FR 51893 (September 29, 1998)).

On October 2, 1998, the Department issued an antidumping questionnaire<sup>1</sup> to OBV. After several extensions, OBV submitted its response to sections A, B, and C in October and November 1998. The Section D questionnaire response was received in December 1998. The Department issued and received responses to Sections A, B, and C supplemental questionnaires in January 1999. On February 5, 1999, the Department extended the time limit for completion of the preliminary results of this administrative review by 120 days, or until August 31, 1999. See Brass

<sup>1</sup> Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under review that it sells, and the sales of the merchandise in all of its markets. Sections B and C of the questionnaire request comparison market sales listings and U.S. sales listings, respectively. Section D requests additional information about the cost of production of the foreign like product and constructed value of the merchandise under review.

Sheet and Strip from the Netherlands: Notice of Extension of Time Limits for the Sixth Antidumping Duty Administrative Review, 64 FR 5766. In April 1999, the Department issued a Section D supplemental questionnaire. The response to the supplemental cost questionnaire was received by the Department in May 1999.

#### Scope of Review

Imports covered by this review are brass sheet and strip, other than leaded and tin brass sheet and strip, from the Netherlands. The chemical composition of the products under review is currently defined in the Copper Development Association (CDA) 200 Series or the Unified Numbering System (UNS) C2000 series. This review does not cover products the chemical compositions of which are defined by other CDA or UNS series. The physical dimensions of the products covered by this review are brass sheet and strip of solid rectangular cross section over 0.006 inch (0.15 millimeter) through 0.188 inch (4.8 millimeters) in gauge, regardless of width. Included in the scope are coiled, wound-on-reels (traverse wound), and cut-to-length products. The merchandise under investigation is currently classifiable under item 7409.21.00 and 7409.29.20 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

#### Verification

As provided in section 782(i) of the Act, the Department verified sales and cost information provided by OBV. The cost verification was conducted from May 31 to June 6, 1999 and the sales verification was conducted from July 12 to July 16, 1999. The Department used standard verification procedures, including on-site inspection of the manufacturer's facilities and examination of relevant sales and financial records. Verification results are outlined in the verification reports placed in the case file.

#### Product Comparisons

In accordance with section 771(16) of the Act, the Department first attempted to match contemporaneous sales of products sold in the U.S. and home markets that were identical with respect to the following characteristics: (1) type (alloy); (2) gauge (thickness); (3) width; (4) temper; (5) coating; and (6) packed form. Where there were no sales of identical merchandise in the home market to compare with U.S. sales, we

compared U.S. sales with the most similar product based on the characteristics listed above, in descending order of priority.

For purposes of the preliminary results, we have used differences in merchandise adjustments based on the difference in the variable cost of manufacturing between each U.S. model and its most similar home market model.

#### Date of Sale

During the POR, OBV reported making sales in the home market pursuant to frame agreements, which are non-binding arrangements with customers containing estimates of the types and quantities of merchandise the customer expects to order over a certain period of time. See Response to Section A of the Department's Questionnaire, dated October 23, 1998, at A-16. In addition, although the frame agreements contain a fabrication price, which is the price charged by companies such as OBV to transform raw materials into finished brass sheet and strip, such agreements do not contain the price OBV charges for the necessary raw materials (i.e., the "metal price"). As such, the quantity to be purchased and the total price to be paid by the customer are not established in the frame agreements.

In the immediately preceding review, the Department used the invoice date as the date of sale rather than the frame agreement date because we found in that review that the invoice date was the first date on which all material terms of sale (i.e., quantity, metal price, and fabrication price) were established. See *Brass Sheet and Strip from the Netherlands: Notice of Preliminary Results of Antidumping Duty Administrative Review*, 63 FR 25821, 25822 (May 11, 1998); see also *Brass Sheet and Strip from the Netherlands: Final Results of Antidumping Duty Administrative Review*, 63 FR 49544 (September 16, 1998) (*Final Results 96/97*). The record in this review, including our findings at the sales verification of OBV's submitted data, supports the same conclusion. Therefore, in accordance with 19 CFR 351.401(i) and Department practice, we have preliminarily determined that the invoice date is the appropriate date of sale for OBV.

#### Comparisons to Normal Value

To determine whether OBV's sales of brass sheet and strip were made to the United States at less than normal value, the Department compared the export price (EP) to the normal value (NV), as described in the "Export Price" and

"Normal Value" sections of this notice. In accordance with section 771A(d)(2) of the Act, the Department calculated monthly weighted-average prices for NV and compared these to individual U.S. transactions.

#### Export Price

For the price to the United States, we used EP in accordance with section 772(a) of the Act, because the subject merchandise was sold to an unaffiliated U.S. purchaser prior to the date of importation and CEP methodology was not otherwise warranted.

We calculated EP based on the packed, delivered prices to unaffiliated purchasers in the United States. In accordance with section 772(c)(2) of the Act, where appropriate, we deducted from the starting price international freight expense, marine insurance, U.S. brokerage and handling expenses, and U.S. Customs duties.

We made corrections to the U.S. packing costs and recalculated U.S. credit expenses based on our verification findings. See Sales Verification Report, dated August 31, 1999 (Sales Verification Report). In addition, per the Department's instructions, OBV reported a transaction to the United States which the company characterized as a sample sale to a non-U.S. customer. Based on the evidence on the record of this review, including our findings at verification, we preliminarily determine that this transaction constitutes a sample sale to a non-U.S. customer and, therefore, have removed this sale from our calculations. See Sales Verification Report.

#### Normal Value

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 OBV's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise. Pursuant to sections 773(a)(1)(B) and (C) of the Act, since OBV'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 was viable pursuant to section 773(a) of the Act. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the price at which the foreign like products were first sold in the home market, in the usual commercial quantities and in the ordinary course of trade.

Where appropriate, the Department deducted early-payment discounts and

rebates. We also deducted inland freight expense (plant-to-customer), inland insurance, and packing expense from the home market price in accordance with section 773(a)(6)(B) of the Act. We used the revised packing expenses provided to us at verification. We made adjustments, where appropriate, for differences in credit expenses between the U.S. and home market sales in accordance with section 773(a)(6)(C)(iii) of the Act.

We increased normal value by U.S. packing expenses in accordance with section 773(a)(6)(A) of the Act. To the extent there were comparisons of U.S. merchandise to home market merchandise that was not identical but similar, the Department made adjustments to NV for differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act.

#### Cost of Production Analysis

Because we disregarded sales that failed the cost test in the most recently completed review, we had reasonable grounds to believe or suspect that sales of the foreign like product under consideration for determining NV in this review may have been made at prices below the cost of production (COP), as provided in section 773(b)(2)(A)(ii) of the Act. *See Final Results 96/97*. Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by OBV.

##### A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the respondent's cost of materials and fabrication employed in producing the foreign like product, plus the costs for selling, general, and administrative expenses (SG&A), including interest expense, and packing costs.

We relied on the home market sales and COP information that OBV provided in its questionnaire responses, except as follows:

##### 1. Use of Quarterly Cost Data

OBV calculated and reported quarterly per-unit manufacturing costs because of the significant and consistent decline in metal prices (*i.e.*, copper and zinc) throughout the POR. On August 11, 1999, however, OBV requested that the Department calculate weighted-average costs on a monthly basis for use in the sales-below-cost test. According to OBV, in this case the Department should deviate from its preferred method of calculating a single weighted-average POR cost in order to prevent distortions in the margin calculations

that would result from the metal price fluctuations, since these metal inputs account for approximately 70 percent of the cost of manufacturing brass sheet and strip.

Our normal practice for a respondent in a country that is not experiencing high inflation is to calculate a single weighted-average cost for the entire period of review except in unusual cases where this preferred method would not yield an appropriate comparison in the margin calculation. *See, e.g., Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from the Republic of Korea*; 64 FR 30664, 30676 (June 8, 1999) (concluding that weighted-average costs for two periods were permissible where major declines in currency valuations distorted the margin calculations); *Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8925 (February 23, 1998) (calculating quarterly weighted-average costs due to a significant and consistent price and cost decline in the market); *Final Determination of Sales at Less than Fair Value: Dynamic Random Access Memory Semiconductors of One Megabit and Above from the Republic of Korea*; 58 FR 15467, 15476 (March 23, 1993) (determining that the Department may use quarterly weighted-average costs where there exists a consistent downward trend in both U.S. and home market prices during the period); *Final Determination of Sales at Less than Fair Value: Erasable Programmable Read Only Memories from Japan*; 51 FR 39680, 39682 (October 30, 1986) (finding that significant changes in the COP during a short period of time due to technological advancements and changes in production process justified the use of quarterly weighted-average costs).

We have reviewed the information on the record of this case and note that both OBV's sales prices for the subject merchandise and the cost of metal used in the manufacture of this merchandise correspondingly and consistently declined on a quarterly basis throughout the POR. Since the metal costs represent a significant percentage of the total cost of producing brass sheet and strip and the cost of the metal dropped consistently throughout the POR, computing a single POR weighted average cost would distort the results of the cost test. In order to avoid this distortion, we have preliminarily relied upon the submitted quarterly weighted-average costs rather than calculating single weighted-average POR costs. We did not recalculate OBV's submitted

COP and constructed value (CV) data on a monthly weighted-average basis because the monthly changes in selling prices and input metal costs do not appear significant enough to require such a short averaging period. As such, we compared weighted-average quarterly COP figures for OBV, adjusted where appropriate (*see below*), to home market sales of the foreign like product in the same quarter, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP.

##### 2. Startup Adjustment

OBV claimed a startup adjustment to costs pursuant to section 773(f)(1)(C)(ii) of the Act, covering a nine-month startup period from January 1998 through September 1998 for its new continuous strip casting line, which replaced OBV's ring casting mill. We preliminarily determine that OBV's new continuous strip casting mill constitutes a new facility and that the new production facility required substantial additional investment, within the meaning of section 773(f)(1)(C)(ii)(I) of the Act. The new vertical continuous strip casting mill represents an investment in a new technology for the production of brass sheet and strip. Consequently, the continuous strip casting mill, which entirely replaced the former ring casting mill, required the construction of an addition to OBV's plant containing mostly new equipment that was custom made for OBV for installation in this new mill, thereby also requiring considerable investment. Secondly, we preliminarily determine that OBV's production levels at the new facility have been limited due to technical factors associated with the initial phase of commercial production, as required under section 773(f)(1)(C)(ii)(II) of the Act. OBV specifically identified these limiting technical factors in a proprietary memorandum to the Department in support of its startup cost adjustment dated February 2, 1999. We examined these factors at the verification of OBV's submitted cost data (*see Cost Verification Report*, dated August 2, 1999) and have preliminarily determined that OBV has satisfied the criteria for receiving a startup adjustment.

Regarding the startup period, we have accepted for the preliminary results the submitted startup period that ends on September 30, 1998. We based this preliminary finding, in large part, on a review of the quantity of material input (*i.e.*, production starts) at the new facility during the POR. Specifically, the production starts represent the best

measure of the facility's ability to produce at commercial production levels. Based upon our analysis of OBV's production starts, we preliminarily find that OBV attained commercial production levels in October 1998. Accordingly, we have accepted OBV's submitted startup cost adjustment.

### 3. General and Financial Expenses

We used the revised general and administrative (G&A) and financial expense rates that OBV provided on the first day of the cost verification, which the company revised to correct for clerical errors made in originally calculating these items. In addition, we included in G&A expenses the loss OBV recognized in the ordinary course of business from holding metals in inventory.

#### B. Test of Home Market Prices

After calculating COP, we tested to see whether home market sales of subject brass sheet and strip 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 of time. We compared model-specific COP to the reported home market prices less any applicable movement charges, discounts and rebates, where appropriate.

#### C. Results of COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of OBV's home market sales for a model were at prices less than the COP, we did not disregard below-cost sales of that model because the Department determined that the below cost sales were not made within an extended period of time in "substantial quantities." Where 20 percent or more of OBV's home market sales of a given product 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)(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 COP for the POR. When we found that below-cost sales had been made in "substantial quantities" and were not at prices which would permit recovery of all costs within a reasonable period of time, we disregarded the below-cost sales in accordance with section 773(b)(1) of the Act.

Since there were sufficient sales that passed the cost test, it was unnecessary to calculate CV in this case.

#### Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, the Department determines NV based on sales in the comparison market at the same level of trade (LOT) as the EP or, if applicable, 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 expenses (SG&A) and profit. For EP, the U.S. LOT is also the level of the starting-price sale, which is usually from the exporter to the importer.

To determine whether comparison market sales are at different LOT's than EP, the Department examines stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated (or arm's length) customers. If the comparison-market sales are at a different LOT, and the differences affect 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, the Department makes a LOT adjustment under section 773(a)(7)(A) of the Act.

OBV claims that the Department can match U.S. sales to identical sales at the same LOT in the home market and that a LOT adjustment is therefore not necessary. OBV manufactures to order and ships directly to original equipment manufacturers (OEMs) in the United States and home market, and also ships directly to a home market trading company. In order to determine whether U.S. sales were made at the same LOT as sales in the home market, we examined OBV's questionnaire responses with regard to its distribution system, including selling functions, class of customer and selling expenses. We examined the chain of distribution and the selling activities associated with sales reported by OBV to its two home market customer categories (*i.e.*, OEMs and trading company). We found that the two home market customer categories did not differ significantly from each other with respect to selling activities, although there were slight differences between them for sales process/marketing support and freight and delivery. Based on our overall analysis, we found that the two home market categories constituted one LOT.

OBV reported EP sales to its unaffiliated customers in one customer category, OEM's, and therefore only had

one level of trade for U.S. sales. We examined the channel of distribution and the selling activities associated with sales reported by OBV to the single LOT in the Netherlands and in the United States and found that the LOT in these two markets were similar. Therefore, all price comparisons are at the same LOT and a LOT adjustment pursuant to section 773(a)(7)(A) of the Act is unwarranted.

#### Currency Conversion

For purposes of these preliminary results, we made currency conversions in accordance with section 773A(a) of the Act, based on the official exchange rates published by the Federal Reserve. Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars, unless the daily rate involves a "fluctuation." In accordance with the Department's practice, we have determined as a general matter that a fluctuation exists when the daily exchange rate differs from a benchmark by 2.25 percent. The benchmark is defined as the rolling average of rates for the past 40 business days. When we determine that a fluctuation exists, we substitute the benchmark for the daily rate.

#### Intent To Revoke

On August 31, 1998, OBV submitted a letter stating that OBV was the sole producer of brass sheet and strip from the Netherlands, and requested that pursuant to 19 CFR 351.222(b), the Department revoke the antidumping duty order currently in place against certain brass sheet and strip from the Netherlands. OBV submitted, along with its revocation request, a certification stating that: (1) the company sold subject merchandise at not less than NV during the POR, and that in the future it would not sell such merchandise at less than NV (see 19 CFR 351.222(e)(1)(i)); and (2) the company has sold the subject merchandise to the United States in commercial quantities during each of the past three years. See 19 CFR 351.222(e)(1)(ii).<sup>2</sup>

The Department "may revoke, in whole or in part" an antidumping duty

<sup>2</sup> On September 1, 1999, OBV amended its request for revocation to include a certification that, if the Department finds that OBV is not the sole producer and exporter from the Netherlands, the company agrees to immediate reinstatement in the order if, subsequent to revocation, the Department concludes that the company sold the subject merchandise at less than normal value (see 19 CFR 351.222(b)(iii)). Since the Department has concluded that OBV is the sole producer and exporter from the Netherlands, the revocation decision is whether to revoke the order on brass sheet and strip from the Netherlands in whole.

order upon completion of a review under section 751 of the Act. While Congress has not specified the procedures that the Department must follow in revoking an order, the Department has developed a procedure for revocation that is described in 19 CFR 351.222. This regulation requires, *inter alia*, that each exporter and producer covered by the order submit the following: (1) a certification that the company has sold the subject merchandise at not less than NV in the current review period and that the company will not sell at less than NV in the future; and (2) a certification that the company sold the subject merchandise in each of the three years forming the basis of the request in commercial quantities (see 19 CFR 351.222(e)(1)). Upon receipt of such a request, the Department may revoke an order, if it concludes that each exporter and producer covered at the time of revocation: (1) sold subject merchandise at not less than NV for a period of at least three consecutive years; and (2) is not likely in the future to sell the subject merchandise at less than NV; see 19 CFR 351.222(b)(1).

On February 2, 1999, the Department established a time frame for parties to submit factual information relating to the Department's consideration of OBV's request for the revocation of the antidumping duty order on brass sheet and strip from the Netherlands. See *Brass Sheet and Strip From The Netherlands; Notice of Extension of Time Limits for Sixth Antidumping Duty Administrative Review*, 64 FR 5766 (Feb. 5, 1999). OBV and the petitioners submitted comments on April 1, 1999 and rebuttal comments on May 6, 1999.

**Petitioners' Comments:** The petitioners argue that the Department should not revoke the order from the Netherlands because the factual information presented by OBV does not support its position that (1) it has sold subject merchandise in the United States in commercial quantities during the last three annual review periods; and (2) it has demonstrated that it is not likely to resume dumping in the future if the antidumping order is revoked. The petitioners state that recent determinations issued by the Department indicate that the "commercial quantities" requirement applies with respect to both the volume of sales as well as the number of sales made by a party requesting revocation. See *Pure Magnesium From Canada; Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke Order in Part*, 64 FR 12977, 12978 (Mar. 16, 1999) (*Magnesium from Canada*). See

also *Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada; Final Results of Antidumping Duty Administrative Reviews and Determination To Revoke in Part*, 64 FR 2173, 2175 (Jan. 13, 1999) (*Certain Plate from Canada*). The petitioners argue that the number and quantity of sales of subject merchandise (radiator strip brass) reported by OBV in the last three administrative reviews is a small fraction of the volume and number of U.S. sales made prior to the original investigation. They suggest that the only reasonable inference that can be drawn from such a substantial decrease in sales is that OBV withdrew from the U.S. market for the products that it was selling during the original investigation (both radiator strip and electrical connector strip) because it could not sell these products without dumping. According to the petitioners, the fact that OBV has chosen to source a large part of its radiator strip sales in the United States from production by its American affiliate, Outokumpu American Brass (American Brass), despite the fact that such merchandise currently would be subject to a 0% *ad valorem* cash deposit rate, according to the petitioner is further proof of OBV's inability to sell subject merchandise in the United States without dumping. The petitioners argue that in a similar situation, the Department denied revocation to a German company who had shifted sourcing to its United States subsidiary (see *Brass Sheet and Strip From Germany; Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke in Part*, 61 FR 49727, 49730 (Sept. 23, 1996) (*Brass from Germany*)).

Finally, in order for the Department to make an objective determination of the likelihood of future dumping if the order were revoked, the petitioners requested that the Department undertake an analysis of OBV's past practices as well as future competitive conditions that would affect OBV's prices and costs in the United States and the home market. Specifically, for both OBV and American Brass, they requested that the Department obtain, for each product category of subject merchandise, historical shipment data in both the United States and the home market, production capacities, and fabrication prices. The petitioners claim that this necessary information was noticeably absent from OBV's otherwise voluminous submission supporting revocation and that it is otherwise not available to the petitioners.

**Respondent Comments:** OBV claims that it is a well-established past practice

of the Department to make revocation determinations on a case-by-case basis, taking into consideration the industry in question, relevant market conditions, and the record evidence. See *Dynamic Random Access Memory Semiconductors of One Megabyte or Above From the Republic of Korea; Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke Order in Part*, 62 FR 39809, 39812 (July 24, 1997) (*DRAMS from Korea*). In addition to three years of no dumping, when evidence is placed on the record relating to the likelihood of future dumping, the Department is required to consider the evidence. See *Steel Wire Rope From the Republic of Korea; Final Results of Antidumping Duty Administrative Review and Revocation in Part of Antidumping Duty Order*, 63 FR 17986, 17988 (April 13, 1998) (*Wire Rope from Korea*). In *Wire Rope from Korea*, the Department considered information placed on the record which included conditions and trends in the domestic and home market industries, currency movements, and the ability of the respondent to compete in the U.S. market without dumping. OBV argues that the information it has placed on the record, as supported by an economic report that it commissioned from LECG, Inc. (LECG Report), demonstrates that its sales have in fact been made in commercial quantities,<sup>3</sup> and that it is not likely to sell at below normal value in the future if the order were revoked.

OBV notes that in *Certain Plate from Canada* the Department stated that "the Department must be able to determine that the company has continued to participate meaningfully in the U.S. market during each of the three years at issue." OBV claims that in fact the company shipped at historical levels over the period covered by the first three administrative reviews, *i.e.*, February 8, 1988 through July 31, 1991, discontinued shipments from 1992 until 1995, but resumed shipments when it began servicing certain niche markets in the United States. Upon review and consideration of the "unusual occurrences which might affect the potential for production and exportation" in deciding commercial quantities (see *Notice of Proposed*

<sup>3</sup> OBV further argued that the "commercial quantities" factor cited in 19 C.F.R. 351.222 (d)(1) applies only to antidumping reviews in which the "middle" year does not involve a review. In that regard, it contends that the Department's reliance upon "commercial quantities" in *Magnesium From Canada* notwithstanding, it is OBV's position that the quantity of imports is only one of many factors the Department may consider in making a "likelihood" determination.

*Rulemaking and Request for Public Comment*, 61 FR 7308, 7320 (February 27, 1996) (*Proposed Regulations*)), OBV contends that the Department will find that the shipments made during this and the previous two administrative reviews were made in commercial quantities.

In evaluating the question of "commercial quantities" and "likelihood," OBV argues that it is essential to understand that OBV's decision to discontinue shipments of subject merchandise to the United States in 1991 was not because OBV was unable to sell in the United States at above normal value prices. Rather, it was due to the acquisition of American Brass, a major United States producer of brass sheet and strip products (and supporter of the revocation of this order), by OBV's parent company, Outokumpu Oyj (Outokumpu). OBV claims that this event caused a significant and permanent structural change in the U.S. industry, vis-a-vis OBV, which makes it unlikely that OBV would resume dumping in the United States.

OBV states that following the acquisition of American Brass, production of subject merchandise was shifted from the Netherlands to American Brass for a variety of management reasons unrelated to pricing. Due to its obvious proximity to OBV's customers in the United States, and the need to address the uncertainty brought about by the on-going antidumping order, American Brass was required by Outokumpu to produce in-scope brass radiator strip, while OBV continued to supply thinner gauge radiator strip not covered by the scope of the order. OBV resumed shipments of in-scope radiator strip in 1995 to service a niche market for certain United States customers who prefer brass strip with more exacting tolerances, which for a variety of reasons cannot be produced efficiently by American Brass. OBV claims that as a result of a significant investment made in innovating radiator strip production at its facilities, which has strengthened OBV's position as the world cost leader in the production of radiator strip, Outokumpu intends to shift production of in-scope radiator strip for its United States customers back to the Netherlands. This shift in production would also allow American Brass, in which Outokumpu has also made significant new investment in equipment, to focus on non-radiator strip production, where it has its best efficiency, and away from radiator strip which is not suited to its production process.

OBV claims that the LECG economic report clearly shows that it is unlikely

that OBV will resume pricing in-scope radiator strip, or any other subject brass, in the United States market at less than normal value even as it increases its shipments of radiator strip from the Netherlands, for the following reasons: (1) The recent investment in the vertical strip caster at OBV has made OBV the world cost leader in radiator strip; (2) there is no direct competition to drive-down prices from any integrated United States mill for in-scope radiator strip; (3) the parent company to both OBV and American Brass would never allow OBV to compete with American Brass in non-radiator strip where American Brass has a comparative advantage. Thus, OBV will not export any product to the United States except radiator strip; (4) OBV is already operating at full capacity servicing its worldwide customer base. Further, OBV could not significantly increase its production of non-radiator strip brass, or shift production to other types of subject merchandise, without significant additional investment; (5) many United States customers of radiator strip are multinational producers who would not tolerate price discrimination among their worldwide affiliated entities; (6) the Dutch guilder has been weaker against the U.S. dollar and is more likely to continue to fall rather than to appreciate; (7) any increase in radiator strip exports beyond servicing the current OBV/American Brass customer base would be moderated by the limited market for radiator brass, given the ongoing advance of aluminum as the preferred substitute for brass. OBV's conclusion based on the LECG report is that selling at prices below normal value in the future would be irrational and self-injurious.

*Department Position:* In determining whether to revoke an antidumping order, we must conclude, pursuant to 19 CFR 351.222(b)(1), that: (1) all producers and exporters have sold the subject merchandise at not less than normal value to the United States in commercial quantities for three consecutive reviews; and (2) it is not likely that those persons will in the future sell the subject merchandise at less than NV.

In the present case, the Department preliminarily finds that OBV is the only exporter or producer of subject merchandise shipped to the United States. This determination was based on an examination of 1997 and 1998 United States import statistics for the HTSUS item numbers (7409.21 and 7409.29) which cover the subject merchandise as well as information obtained during verification. See "memorandum of Shipments of Brass

Sheet & Strip from the Netherlands," dated August 31, 1999, from John Brinkmann to the file (*OBV Shipment Memorandum*); see also Verification Report, dated August 31, 1999. The Department also preliminarily finds that OBV had zero or *de minimis* dumping margins for three consecutive reviews. Further, in determining whether three years of no dumping establish a sufficient basis to make a revocation determination, the Department must be able to determine that the company continued to participate meaningfully in the U.S. market during each of the three years at issue. See *Certain Plate from Canada*, 64 FR at 2175; see also *Magnesium from Canada*, 64 FR at 12979. This practice has been codified in section 351.222(d)(1) of the Department's regulations, which states that, "before revoking an order or terminating a suspended investigation, the Secretary must be satisfied that, during each of the three (or five) years, there were exports to the United States in *commercial quantities* of the subject merchandise to which a revocation or termination will apply." 19 CFR 351.222(d)(1) (emphasis added); see also 19 CFR 351.222(e)(1)(ii). For purposes of revocation, the Department must be able to determine that past margins are reflective of a company's normal commercial activity. Sales during the POR which, in the aggregate, are an abnormally small quantity do not provide a reasonable basis for determining that the discipline of the order is no longer necessary to offset dumping.

With respect to the threshold matter of whether OBV made sales of subject merchandise to the United States in commercial quantities, we find that OBV's aggregate sales to the United States were made in commercial quantities during all segments of this proceeding. Although both the quantity and number of OBV's shipments to the United States of subject merchandise have decreased since the imposition of the antidumping duty order, we find that the Outokumpu acquisition of American Brass and the subsequent transfer of in-scope radiator strip production to the United States is reflective of the type of "unusual occurrence" contemplated by the Department, in promulgating its regulations, as an acceptable explanation of why exports of subject merchandise have declined. See *Proposed Regulations*, 61 FR 7307, 7320 (Feb. 27, 1996). Prior to this acquisition, in 1989 and 1990, OBV continued to ship in similar quantities to the pre-order period and the subsequent

cessation of shipments until 1995 was an immediate result of the 1991 acquisition. Based upon these circumstances, it is reasonable to conclude that the company's commercial practices were permanently changed in 1991, and that 1991, rather than the pre-order period, should be the benchmark for measuring whether the company's sales during the three years without dumping were made in commercial quantities. Examination of shipments of subject merchandise from OBV from 1991 to the present shows that shipments began again in 1995 and increased in quantity and number of sales each year through 1998 (see *OBV Shipment Memorandum*). Thus, we can reasonably conclude that the "zero" margins calculated for OBV in each of the last three administrative reviews are reflective of the company's normal commercial experience.

With respect to 19 CFR 351.222(b)(1)(ii), the likelihood issue, "when additional evidence is on the record concerning the likelihood of future dumping, the Department is, of course obligated to consider the evidence by the parties which relates to the likelihood of future dumping." In doing so, the Department may consider such "factors as conditions and trends in the domestic and home market industries, currency movements, and the ability of the foreign entity to compete in the U.S. marketplace without [sales at less than normal value]." *Wire Rope from Korea*, 63 FR at 17988 (citing *Brass from Germany*, 61 FR at 49730); see also *Proposed Regulation Concerning the Revocation of Antidumping Duty Orders*, 64 FR 29818, 29820 (June 3, 1999) (explaining that when additional evidence as to whether the continued application of an antidumping duty order is necessary to offset dumping is placed on the record, "the Department may consider trends in prices and costs, investment, currency movements, production capacity, as well as all other market and economic factors relevant to a particular case."); and *Brass Sheet and Strip from Canada: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Revoke Order in Part*, 63 FR 6519, 6523 (Feb. 9, 1998). Thus, based upon three consecutive reviews of zero or *de minimis* margins, the Department presumes that dumping is not likely to resume unless the Department has been presented with evidence to demonstrate that dumping is likely to resume if the order were revoked.

In this proceeding, the petitioners have not presented evidence that would demonstrate that dumping is likely to resume if the order were revoked.

However, since the respondent placed information on the record that addresses the types of factors considered by the Department, we have considered this information in our determination of whether dumping is likely to occur if the order on brass sheet and strip from the Netherlands is revoked.

Based upon the evidence presented in this proceeding, we have considered various factors in considering whether OBV is likely to sell merchandise in the future at less than NV. We have reviewed the LECG economic report and briefs presented by OBV and find no evidence that indicates the likelihood of future dumping. Although OBV has indicated that it intends to shift production of subject radiator strip from American Brass back to the Netherlands, we find that there is no evidence that this will lead to the reoccurrence of dumping in the future. Further, the record shows that with the recent investment in the new vertical strip caster, OBV has a considerable cost advantage over American Brass in the production of radiator strip. Also, we confirmed at verification that OBV is already producing to near capacity and has limited capabilities to shift production from radiator strip to other subject products, such as electrical connector strip, where American Brass has a considerable cost advantage. Based on this and other evidence presented by OBV as to the current structure of the American market for brass radiator strip, and the relative weakness of the Dutch guilder to the U.S. dollar, we find that it is not likely that OBV will sell at less than normal value in the future.

Because both requirements under the regulation have been satisfied, and the record establishes that OBV is the only known producer and exporter of the subject merchandise from the Netherlands, we intend to revoke the antidumping duty order on brass sheet and strip from the Netherlands. If these preliminary findings are affirmed in our final results, we will revoke the order with respect to brass sheet and strip from the Netherlands. In accordance with 19 CFR 351.222(f)(3), we will terminate the suspension of liquidation for any such merchandise entered, or withdrawn from warehouse, for consumption on or after the first day after the period under review, and will instruct Customs to refund any cash deposit.

#### Preliminary Results of Review

As a result of our review, we preliminarily determine that the following percentage weighted-average

margin exists for the period August 1, 1997 through July 31, 1998:

Manufacturer/exporter	Margin (percent)
OBV .....	Zero.

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice. See 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of the date of publication of this notice. See 19 CFR 351.310(c). Any hearing, if requested, 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 date of publication of this notice. Parties who submit case briefs in this proceeding should provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 7 days after the date of filing of case briefs. 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 written comments, within 120 days from the publication of these preliminary results.

#### Assessment Rate

Pursuant to 19 CFR 351.212(b), the Department calculated an assessment rate for the importer of the subject merchandise. Upon completion of this review, the Department will issue appraisement instructions to the U.S. Customs Service. If these preliminary results are adopted in our final results, we will instruct the U.S. Customs Service to liquidate all entries subject to this review without regard to antidumping duties.

If these preliminary results are not adopted in the final results, we will instruct the U.S. Customs Service to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rates calculated in the final results of this review are above *de minimis* (i.e., at or above 0.5 percent). For assessment purposes, we intend to calculate importer-specific assessment rates for the subject merchandise by aggregating the dumping margins for all U.S. sales to each importer and dividing the amount by the total entered value of the sales to that importer.

#### Cash Deposit Requirements

If the final results remain unchanged from these preliminary results, no future



cash deposits will be required for the subject merchandise.

#### Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402 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 determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 31, 1999.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 99-23327 Filed 9-7-99; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-580-815 & A-580-816]

#### Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea: Preliminary Results of Antidumping Duty Administrative Reviews

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

**ACTION:** Notice of preliminary results of antidumping duty administrative reviews.

**SUMMARY:** In response to requests from three respondents and from the petitioners in the original investigation, the Department of Commerce ("the Department") is conducting (the fifth) administrative reviews of the antidumping duty orders on certain cold-rolled and corrosion-resistant carbon steel flat products from Korea. These reviews cover three manufacturers and exporters of the subject merchandise. The period of review ("POR") is August 1, 1997, through July 31, 1998.

We preliminarily determine that sales have been made below normal value ("NV"). If these preliminary results are adopted in our final results of administrative reviews, we will instruct U.S. Customs to assess antidumping duties equal to the difference between export price ("EP") or constructed export price ("CEP") and NV.

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:** September 8, 1999.

#### FOR FURTHER INFORMATION CONTACT:

Juanita Chen (Dongbu), Becky Hagen (the POSCO Group), Marlene Hewitt (Union), or James Doyle, Enforcement Group III—Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Room 7866, Washington, D.C. 20230; telephone (202) 482-0409 (Chen), -0961 (Hagen), -1385 (Hewitt), or -0159 (Doyle).

#### SUPPLEMENTARY INFORMATION:

#### Applicable Statute

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 are references to the provisions codified at 19 CFR Part 351 (April 1998).

#### Background

The Department published antidumping duty orders on certain cold-rolled and corrosion-resistant carbon steel flat products from Korea on August 19, 1993 (58 FR 44159). The Department published a notice of "Opportunity to Request an Administrative Review" of the antidumping duty orders for the 1997/98 review period on August 19, 1998 (63 FR 42821). On August 31, 1998, respondent Union Steel Manufacturing Co., Ltd. ("Union") requested that the Department conduct an administrative review of the antidumping duty order on corrosion-resistant carbon steel flat products from Korea, and Dongbu Steel Co., Ltd. ("Dongbu") and Pohang Iron and Steel Co., Ltd. ("POSCO") requested that the Department conduct administrative reviews of the antidumping duty orders on cold-rolled and corrosion-resistant carbon steel flat products from Korea. On August 31, 1998, petitioners in the original less-than-fair-value ("LTFV") investigations (AK Steel Corporation; Bethlehem Steel Corporation; Inland Steel Industries, Inc.; LTV Steel Company; National Steel Corporation; and U.S. Steel Group A Unit of USX Corporation) requested that the Department conduct administrative

reviews of the antidumping duty orders on cold-rolled and corrosion-resistant carbon steel flat products from Korea with respect to all three of the aforementioned respondents. We initiated these reviews on September 23, 1998 (63 FR 51893—September 29, 1998).

Under the Act, the Department may extend the deadline for completion of administrative reviews if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. The Department extended the time limits for the preliminary results in these cases. See *Certain Cold-Rolled Carbon Steel Flat Products and Certain Corrosion-Resistant Carbon Steel Flat Products from Korea: Antidumping Duty Administrative Reviews: Extension of Time Limit*, 64 FR 10982 (March 8, 1999).

The Department is conducting these administrative reviews in accordance with section 751 of the Act.

#### Scope of the Reviews

The review of "certain cold-rolled carbon steel flat products" covers cold-rolled (cold-reduced) carbon steel flat-rolled products, of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished or coated with plastics or other nonmetallic substances, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule ("HTS") under item numbers 7209.15.0000, 7209.16.0030, 7209.16.0060, 7209.16.0090, 7209.17.0030, 7209.17.0060, 7209.17.0090, 7209.18.1530, 7209.18.1560, 7209.18.2550, 7209.18.6000, 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7210.70.3000, 7210.90.9000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500, 7211.23.6030, 7211.23.6060, 7211.23.6085, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7215.50.0015, 7215.50.0060, 7215.50.0090, 7215.90.5000, 7217.10.1000, 7217.10.2000, 7217.10.3000, 7217.10.7000,