U.S. Department of Commerce, Export Assistance Center, 250 Montgomery Street, 14th Floor, San Francisco, CA 94104–3406

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 4008, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW., Washington, DC 20230

Dated: May 1, 2000.

**Dennis Puccinelli,**

*Acting Executive Secretary.*

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## DEPARTMENT OF COMMERCE

## INTERNATIONAL TRADE ADMINISTRATION

**(A–421–701)**

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

**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) 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, 1998 through July 31, 1999.

We preliminarily determine that sales of the subject merchandise have not been made below normal value (NV). If these preliminary results are adopted in the final results, we will instruct the U.S. Customs Service not to assess antidumping duties on the subject merchandise exported by this company.

**EFFECTIVE DATE:** May 10, 2000.

**FOR FURTHER INFORMATION CONTACT:** John Brinkmann or Jarrod Goldfeder, AD/CVD Enforcement, Office 6, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4126 or (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. In addition, unless otherwise indicated, all citations to 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, 1999, we published in the **Federal Register** the notice of ''Opportunity to Request an Administrative Review'' of this order, for the period August 1, 1998 through July 31, 1999 (64 FR 43649). On August 31, 1999, in accordance with 19 CFR 351.213(b), Outokumpu Copper Strip B.V. (OBV), the sole producer/exporter, and the petitioners [1] requested an administrative review of OBV's exports of the subject merchandise to the United States during this POR. OBV also 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 NV in the future. OBV subsequently withdrew its revocation request on April 4, 2000. On September 24, 1999, in accordance with 19 CFR 351.221(b), the Department initiated this administrative review (*see Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 64 FR 53318 (October 1, 1999)).

On October 4, 1999, the Department issued an antidumping questionnaire [2] to OBV. OBV submitted its response to sections A, B, and C in November 1999. The Section D questionnaire response was received in December 1999. The Department issued Section A, B, and C supplemental questionnaires in February 2000 and received responses in March 2000. The Department issued and received a response to the Section D supplemental questionnaire in April 2000.

### 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 review 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 review is dispositive.

### 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 calculated the adjustment for differences in merchandise based on the difference in the variable cost of manufacturing between each U.S. model and the most similar home market model selected for comparison.

### Comparisons to Normal Value

To determine whether OBV's sales of brass sheet and strip were made to the United States at less than NV, the Department compared the export price (EP) to the NV, as described in the ''*Export Price*'' and ''*Normal Value*'' sections of this notice. In accordance with section 777A(d)(2) of the Act, the Department calculated monthly

[1] The petitioners in this proceeding are Heyco Metals, Inc., Olin Corporation, PMX Industries, Inc., Revere Copper Products, Inc., International Association of Machinists and Aerospace Workers, United Auto Workers (Local 2367), and the United Steelworkers of America (AFL–CIO/CLC).

[2] Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the subject merchandise under review, and the sales of the foreign like product 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.

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.

**Normal Value**

*A. Selection of Comparison Market*

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. 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.

*B. 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 Notice of Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke the Antidumping Duty Order: Brass Sheet and Strip from the Netherlands,* 65 FR 742, 743 (January 6, 2000) (*Brass 97/98 Final Results*). Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by OBV.

**1. 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. Furthermore, we have calculated weighted-average monthly metal costs based on ''metal fix prices.'' [3] For fabrication costs, we have used weighted-average annual costs. In addition, we computed SG&A on an annual basis as a ratio of the total SG&A expenses divided by the cost of sales.

*Use of Monthly Metal Cost Data.* OBV calculated and reported monthly per-unit manufacturing costs for metal because of the significant fluctuation in metal input prices (*i.e.,* copper and zinc) throughout the POR. [4] In the immediately preceding review, the Department calculated weighted-average monthly metal costs based on metal fix prices, and used weighted-average annual fabrication costs to calculate COP and constructed value (CV). *See Brass 97/98 Final Results,* 65 FR at 743. We explained in that review that OBV's reported metal costs make up a significant portion of the total cost of manufacturing brass sheet and strip, and that the market values of these inputs fluctuated sharply from the beginning to the end of the POR.

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 POR except in unusual cases where this preferred method would not yield an appropriate comparison. *See, e.g., Final Determination of Sales at Less than Fair Value: Brass Sheet and Strip From Netherlands,* 53 FR 23431, 23432 (June 22, 1988) (*Brass LTFV Final Determination*) (dividing the period of investigation into three periods because of the significant metal price fluctuations during that period); *Final Results of Antidumping Administrative Review: Brass Sheet and Strip from Italy,* 52 FR 9235, 9236 (March 17, 1992) (*Brass Sheet and Strip from Italy*) (using monthly costs to resolve the distortive effects the fluctuating metal prices had on 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) (the Department will utilize shorter cost periods if markets experience significant and consistent price declines); *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 weighted-average costs of shorter periods 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 Programable 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 weighted-average costs of less than a year); and *Final Results of Antidumping Duty Administrative Review of Brass Sheet and Strip from Canada and Revocation, in Part, of the Antidumping Duty Order,* 56 FR 57317, 57318 (November 8, 1991) (using monthly metal costs to calculate differences in merchandise adjustments).

We have reviewed the information on the record of this review and find that both OBV's sales prices for the subject merchandise and the cost of metal used in the manufacture of this merchandise displayed an overall pattern of significant and consistent decline during the first half of the POR and a pattern of overall significant and sharp incline during the second half of the POR. As in the immediately preceding review, we believe that computing a single annual weighted-average cost under these circumstances would distort the results of the cost test since (1) the metal costs represent a significant percentage of the total cost of producing brass sheet and strip; (2) the cost of the metal fluctuated significantly

[3] In the immediately preceding review, we found that in the ordinary course of business, OBV accounts for metal as a pass-through item. Specifically, OBV requires its customers to purchase the metal inputs prior to fabrication. As a service to its customers, OBV purchases the metals on the customer's behalf. OBV then bills the customer for the cost of metals, the terms of which are set forth on the finished brass sales invoice. The parties determine the price of the metals at a metal fix date, which occurs prior to the invoice dates for sales of finished brass. Since OBV purchases the metal and then passes on the cost of the metal to the customer, the company records and recognizes the cost of this purchased metal in its accounting system. *See Brass 97/98 Final Results,* 65 FR at 747.

[4] Originally, OBV reported costs on a quarterly basis. *See* OBV's Section D questionnaire response, dated December 1, 1999. Based on our request in a supplemental cost questionnaire, OBV provided cost data files that had costs reported on both a quarterly and a monthly basis.

throughout the POR; and (3) those metal costs are treated as pass-through items when brass is sold to customers. In order to avoid this distortion, we have preliminarily relied upon the submitted monthly weighted-average metal costs rather than calculating single weighted-average annual costs.

We find that using monthly weighted-average metal costs, rather than quarterly or annual weighted-average costs, is the most appropriate method in this proceeding for several reasons. First, the record indicates that the price of metal fluctuated sharply on a monthly basis. *See* the proprietary memorandum from Geoffrey Craig to John Brinkmann, ''Analysis of Metal Costs,'' dated May 2, 2000, on file in the Central Records Unit (CRU), Room B–099 of the Main Commerce Building. In this regard, by using the weighted-average monthly metal fix cost based on the company's metal fix date, we are able to make a contemporaneous comparison of metal values which results in a more accurate calculation of the margin of dumping in this case than using either quarterly or annual weighted-average costs. We also note that this method conforms with the manner in which OBV accounts for its metal transactions in its normal accounting records, which are kept in accordance with home market generally accepted accounting principles (GAAP). Specifically, the company records metal costs in its accounting system on the date on which the price of metal is fixed. This is consistent with section 773(f)(1)(A) of the Act, which provides that the Department normally calculates costs based on the exporter's or producer's records, as long as such records are kept in accordance with the GAAP of the exporting (or producing) country and reasonably reflect the costs associated with the production and sale of the merchandise.

Therefore, we compared monthly weighted-average COP figures for OBV, adjusted where appropriate, to home market sales of the foreign like product in the same month in which the metal price was fixed in order to determine whether these sales had been made at prices below the COP.

*Startup Adjustment.*—OBV claimed a startup adjustment to costs pursuant to section 773(f)(1)(C) 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. In the preceding review, we determined that the start-up period ended on May 31, 1998, based upon evidence that OBV reached commercial production levels as of that date. *See Brass 97/98 Final Results,* 65 FR at 744–45. During the course of this review we have not received any new evidence, nor has OBV made any new arguments, that would persuade us to change our prior determination on this issue. Accordingly, in the current review, we preliminarily determine that OBV is not entitled to a start-up adjustment because we continue to find that the start-up period ended on May 31, 1998, a date which is prior to the start of the current review period. *See* the proprietary Memorandum from Stan Bowen to the File, ''Analysis of Start-up Period,'' dated May 2, 2000, on file in the CRU. Consistent with the previous review, we have continued to amortize the capitalized startup costs and included a portion of the amortized costs in the calculation of COP. *See Brass 97/98 Final Results,* 65 FR at 743.

2. 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.

3. 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.

While we disregarded some below-cost sales, sufficient sales remained that passed the cost test in the current review. Therefore, it was unnecessary to calculate CV in this case.

*C. Level of Trade (LOT)*

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 LOT as the EP transaction 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 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 LOTs than EP or CEP sales, 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.

In this review, all of OBV's U.S. sales have been categorized as EP sales. OBV claims that the Department can match U.S. sales to identical sales at the same LOT in the home market and therefore a LOT adjustment is 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 (1) whether the two home market customer categories constituted one LOT or distinct LOTs, and (2) 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. To determine whether there was more than one LOT in the home market, 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 analysis, we found that the two home market categories constituted one LOT.

OBV reported EP sales to its unaffiliated U.S. customers in one customer category, OEMs, which we determined to constitute one LOT. To determine whether U.S. sales were made at the same LOT as sales in the home market, we compared the channel of distribution and the selling activities associated with sales reported by OBV to the single LOT in the Netherlands and that in the United States, and found that the LOT in these two markets were the same. 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.

*D. Calculation of Normal Value Based on Home-Market Prices*

Where appropriate, we deducted early-payment discounts, rebates, 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 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 NV 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 were 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.

**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.

**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, 1998 through July 31, 1999:

| 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 or at a hearing, if requested, within 120 days from the publication of these preliminary results.

**Assessment Rate**

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 minimins* (*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**

As a result of a Sunset Review of brass sheet and strip from the Netherlands, the Department has revoked the antidumping duty order for this case, effective January 1, 2000. *See Revocation of Antidumping Duty Orders: Brass Sheet and Strip From the Republic of Korea, the Netherlands, and Sweden,* 65 FR 25305 (May 1, 2000). Therefore, we have instructed the Customs Service to terminate suspension of liquidation for all entries of subject merchandise made on or after January 1, 2000. We will issue additional instructions directing the Customs Service to liquidate all entries of brass sheet and strip made on or after January 1, 2000, without regard to antidumping duties.

Entries of subject merchandise made prior to January 1, 2000, will continue to be subject to suspension of liquidation and antidumping duty deposit requirements. The Department will complete any pending reviews of this order and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

**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: May 2, 2000.

**Troy H. Cribb,**

*Acting Assistant Secretary for Import Administration.*

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