

Manufacturer/exporter	Margin
Rogers (B.C. Sugar) .....	\$0.010105/lb.
All Others .....	0.023700/lb.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: August 27, 1999.

**Bernard T. Carreau,**  
Acting Assistant Secretary for Import Administration.

[FR Doc. 99-23039 Filed 9-2-99; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-351-604]

#### Final Results of Expedited Sunset Review: Brass Sheet and Strip From Brazil

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

**ACTION:** Notice of final results of expedited sunset review: brass sheet and strip from Brazil.

**SUMMARY:** On February 1, 1999, the Department of Commerce ("the Department") initiated a sunset review of the countervailing duty order on brass sheet and strip from Brazil (64 FR 4840) pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). On the basis of a notice of intent to participate and adequate substantive comments filed on behalf of the domestic interested parties, as well as inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited (120 day) review. As a result of this review, the Department finds that termination of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy.

**FOR FURTHER INFORMATION CONTACT:** Kathryn B. McCormick or Melissa G. Skinner, Office of Policy for Import

Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1698 or (202) 482-1560, respectively.

**EFFECTIVE DATE:** September 3, 1999.

#### Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) ("Sunset Regulations"). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*; *Policy Bulletin*, 63 FR 18871 (April 16, 1998) ("Sunset Policy Bulletin").

#### Scope

This order covers shipments of coiled, wound-on-reels (traverse wound), and cut-to-length brass sheet and strip (not leaded or tinned) from Brazil. The subject merchandise has, regardless of width, a solid rectangular cross section over 0.0006 inches (0.15 millimeters) through 0.1888 inches (4.8 millimeters) in finished thickness or gauge. The chemical composition of the covered products is defined in the Copper Development Association ("C.D.A.") 200 Series or the Unified Numbering System ("U.N.S.") C2000; this review does not cover products with chemical compositions that are defined by anything other than C.D.A. or U.N.S. series. The merchandise is currently classified under Harmonized Tariff Schedule ("HTS") item numbers 7409.21.00 and 7409.29.00. The HTS item numbers are provided for convenience and U.S. Customs purposes. The written description remains dispositive.

#### History of the Order

In the original investigation, the Department received information on two Brazilian producers and exporters that accounted for substantially all exports of brass sheet and strip to the United States during the period of investigation. In its final affirmative countervailing duty determination (52 FR 1218, January 12, 1987), the Department concluded that the Government of Brazil was providing countervailable subsidies to exporters of

the subject merchandise through four programs: (1) Preferential Working Capital Financing for Exports (CACEX); (2) Income Tax Exemption for Export Earnings; (3) Export Financing Under the CIC-CREGE 14-11 Circular; and (4) Import Duty Exemption Under Decree Law 1189 of 1979.<sup>1</sup> We estimated the net subsidy to be 6.13 percent *ad valorem*, and, on the basis of a program-wide change in the Preferential Working Capital Financing for exports program which occurred prior to the preliminary determination, we established a cash deposit rate of 3.47 percent *ad valorem* for all manufacturers, producers, or exporters of brass sheet and strip from Brazil.

The Department has since conducted one administrative review (56 FR 56631 (November 6, 1991)) of this countervailing duty order, covering the period January 1, 1990, through December 31, 1990. In the Department's preliminary results of the administrative review, and supported by the Department's final results of the administrative review, the Department determined that each of the four programs found to provide countervailable benefits in the investigation had been terminated. Preferential Working Capital Financing for Exports was terminated, effective August 30, 1990, by Central Bank Resolution 1744. Loans under this program were officially suspended on February 22, 1989, until the program was terminated. The program of Income Tax Exemption for Export Earnings, which eliminated the tax exemption and established a prevailing tax rate of 30 percent for domestic and export earnings for 1991, was effectively terminated by Decree Law 8034, April 12, 1990. Export Financing Under the CIC-CREGE 14-11 Circular (which became CIC-OPCRE 6-2-6) was deemed to be terminated as it had set interest rates equal to those of market rate loans as of September 20, 1988, and there is no evidence of current or future changes. Finally, the Import Duty Exemption Under Decree Law 1189 was officially terminated by the Government of Brazil by Decree Law 7988, Article 7, on December 28, 1989. In its final results of review, the Department noted that substantial documentation, including verification reports, confirmed the termination without replacement of these four

<sup>1</sup> See *Final Affirmative Countervailing Duty Determination: Brass Sheet and Strip From Brazil*, November 10, 1986 (51 FR 40837).

countervailable subsidy programs.<sup>2</sup> As a result of the review, the Department set the duty deposit at zero. No additional reviews have been conducted.

### Background

On February 1, 1999, the Department initiated a sunset review of the countervailing duty order on brass sheet and strip from Brazil (64 FR 4840), pursuant to section 751(c) of the Act. On February 16, 1999, the Department received a Notice of Intent to Participate on behalf of Heyco Metals, Inc. ("Heyco"), Hussey Copper Ltd. ("Hussey"), Olin Corporation-Brass Group ("Olin"), Outokumpu American Brass ("Outokumpu") (formerly American Brass Company), PMX Industries, Inc. ("PMX"), Revere Copper Products, Inc. ("Revere"), the International Association of Machinists and Aerospace Workers, the United Auto Workers (Local 2367), and the United Steelworkers of America (AFL/CIO-CLC) (hereinafter, collectively "domestic interested parties"), within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. The domestic interested parties claimed interested party status under sections 771(9)(C) and (D) of the Act as domestic brass mills, rollers, and unions engaged in the production of brass sheet and strip. With the exception of Heyco, all of the aforementioned parties were original petitioners in this case.

We received a complete substantive response from the domestic interested parties on March 3, 1999, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i); we did not receive a substantive response from any government or respondent interested party to this proceeding. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C), the Department determined to conduct an expedited, 120-day, review of this order.

The Department determined that the sunset review of the countervailing duty order on brass sheet and strip from Brazil is extraordinarily complicated. In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (i.e., an order in effect on January 1, 1995). (See section 751(c)(6)(C) of the Act.) Therefore, on June 7, 1999, the Department extended the time limit for completion of the final results of this review until not later than August 30,

1999, in accordance with section 751(c)(5)(B) of the Act.<sup>3</sup>

### Determination

In accordance with section 751(c)(1) of the Act, the Department is conducting this review to determine whether termination of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy. Section 752(b) of the Act provides that, in making this determination, the Department shall consider the net countervailable subsidy determined in the investigation and subsequent reviews, and whether any change in the program which gave rise to the net countervailable subsidy is likely to affect that net countervailable subsidy. Pursuant to section 752(b)(3) of the Act, the Department shall provide to the International Trade Commission ("the Commission") the net countervailable subsidy likely to prevail if the order is revoked. In addition, consistent with section 752(a)(6), the Department shall provide to the Commission information concerning the nature of the subsidy and whether it is a subsidy described in Article 3 or Article 6.1 of the 1994 WTO Agreement on Subsidies and Countervailing Measures ("Subsidies Agreement").

The Department's determinations concerning continuation or recurrence of a countervailable subsidy are discussed below. In addition, the domestic interested parties' comments with respect to these issues are addressed within the respective sections.

### Continuation or Recurrence of a Countervailable Subsidy

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), specifically, the Statement of Administrative Action ("SAA"), H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H.R. Rep. No. 103-826, pt.1 (1994), and the Senate Report, S. Rep. No. 103-412 (1994), the Department issued its *Sunset Policy*

*Bulletin* providing guidance on methodological and analytical issues, including the basis for likelihood determinations. The Department clarified that determinations of likelihood will be made on an order-wide basis (see section III.A.2 of the *Sunset Policy Bulletin*). Additionally, the Department normally will determine that revocation of a countervailing duty order is likely to lead to continuation or recurrence of a countervailable subsidy where (a) a subsidy program continues, (b) a subsidy program has been only temporarily suspended, or (c) a subsidy program has been only partially terminated (see section III.A.3.a of the *Sunset Policy Bulletin*). Exceptions to this policy are provided where a company has a long record of not using a program (see section III.A.3.b of the *Sunset Policy Bulletin*).

In addition to considering the guidance cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. Moreover, pursuant to the SAA, at 881, in a review of a countervailing duty order, when the foreign government has waived participation, the Department shall conclude that revocation of the order would be likely to lead to a continuation or recurrence of a countervailable subsidy for all respondent interested parties.<sup>4</sup> In the instant review, the Department did not receive a response from the foreign government or from any other respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the *Sunset Regulations*, this constitutes a waiver of participation.

In their substantive response, the domestic interested parties assert that, consistent with the Act and SAA, and absent significant evidence to the contrary, continuation, temporary suspension or partial termination of a subsidy program will be highly probative of the likelihood of continuation or recurrence of countervailable subsidies (see March 3, 1999 Substantive Response of domestic interested parties at 33).

In their March 12, 1999 comments, the domestic interested parties assert that the Department should find that revocation of the countervailing duty order on brass sheet and strip from Brazil will result in the continuation or recurrence of a countervailable subsidy on the basis of the failure of respondent interested parties to file a complete

<sup>2</sup> See *Brass Sheet and Strip From Brazil; Final Results of Countervailing Duty Administrative Review*, 56 FR 56631 (November 6, 1991).

<sup>3</sup> See *Porcelain-on-Steel Cooking Ware From the People's Republic of China, Porcelain-on-Steel Cooking Ware From Taiwan, Top-of-the-Stove Stainless Steel Cooking Ware From Korea (South) (AD & CVD), Top-of-the-Stove Stainless Steel Cooking Ware From Taiwan (AD & CVD), Standard Carnations From Chile (AD & CVD), Fresh Cut Flowers From Mexico, Fresh Cut Flowers From Ecuador, Brass Sheet and Strip From Brazil (AD & CVD), Brass Sheet and Strip From Korea (South), Brass Sheet and Strip From France (AD & CVD), Brass Sheet and Strip From Germany, Brass Sheet and Strip From Italy, Brass Sheet and Strip From Sweden, Brass Sheet and Strip From Japan, Pompon Chrysanthemums From Peru: Extension of Time Limit for Final Results of Five-Year Reviews*, 64 FR 30305 (June 7, 1999).

<sup>4</sup> See 19 CFR 351.218(d)(2)(iv).

substantive response to the Department's notice of initiation.

The domestic interested parties argue that this is consistent with 19 U.S.C. 1675(c)(4)(B) and the SAA, which provide that, where the government waives participation, the Department will conclude that revocation or termination would be likely to lead to continuation of countervailable subsidies (see March 12, 1999 comments of domestic interested parties at 3).

In this sunset review, as argued by the domestic interested parties, the Department is required by section 751(c)(4)(B) of the Act to find likelihood on the basis that the government of Brazil and the respondents waived their right to participate in this review. The participation of the government that has provided subsidies is necessary to determine that the producers/exporters of subject merchandise no longer receive subsidies and, without such participation, we must conclude that the producers/exporters continue to be subsidized. Therefore, consistent with the statute and SAA, the Department determines that revocation of the order is likely to result in continuation or recurrence of a countervailable subsidy.

#### Net Countervailable Subsidy

In the *Sunset Policy Bulletin*, the Department states that, consistent with the SAA and House Report, the Department normally will select a rate from the investigation because that is the only calculated rate that reflects the behavior of exporters and foreign governments without the discipline of an order or suspension agreement in place. However, the *Sunset Policy Bulletin* also allows for adjustments to be made to the net subsidy rate likely to prevail where programs have either been terminated, with no residual benefits, and where the Department has found new countervailable programs to exist.<sup>5</sup> Additionally, where the Department determined company-specific countervailable subsidy rates in the original investigation, the *Sunset Policy Bulletin* states that the Department will report to the Commission company-specific rates for those companies from the original investigation as well as an "all others" rate (see *Sunset Policy Bulletin* at section III.A.4).

The domestic interested parties cite the SAA statement that the Administration intends that Commerce normally will select the rate from the investigation because that is the only

calculated rate that reflects the behavior of exporters and foreign governments without the discipline of an order in place (see March 3, 1999 Substantive Response of domestic interested parties at 45). Therefore, the domestic interested parties argue that the Department should determine that the net countervailable subsidy likely to prevail should be the country-wide rate of 3.47 percent, the rate set forth in the original investigation.

The Department disagrees with the domestic interested parties' position with respect to the appropriate subsidy rate to be reported to the Commission. As acknowledged by the domestic interested parties, in this case, the Department found that all of the countervailable subsidy programs have been terminated, without likelihood of reinstatement. Absent information on usage of other countervailable subsidy programs, the Department has no basis on which to determine the net countervailable subsidy likely to prevail.

#### Nature of the Subsidy

In the *Sunset Policy Bulletin*, the Department states that, consistent with section 752(a)(6) of the Act, the Department will provide information to the Commission concerning the nature of the subsidy and whether the subsidy is a subsidy described in Article 3 or Article 6.1 of the Subsidies Agreement. In their March 3, 1999 substantive response, the domestic interested parties, did not address this issue. However, since all of the known countervailable programs have been terminated, there is no nature of the subsidy to report to the Commission.

#### Final Results of Review

As a result of this review, the Department finds that revocation of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy. However, as a result of termination of all known countervailable programs, the Department is unable to determine the net countervailable subsidy likely to prevail.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations

and the terms of an APO is a sanctionable violation.

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: August 30, 1999.

**Robert S. LaRussa,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-427-603]

#### Final Results of Expedited Sunset Review: Brass Sheet and Strip from France

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

**ACTION:** Notice of Final Results of Expedited Sunset Review: Brass Sheet and Strip from France.

**SUMMARY:** On February 1, 1999, the Department of Commerce ("the Department") initiated a sunset review of the countervailing duty order on brass sheet and strip from France (64 FR 4840) pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). On the basis of a notice of intent to participate and adequate substantive comments filed on behalf of domestic interested parties, as well as inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited (120 day) review. As a result of this review, the Department finds that termination of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy. The net countervailable subsidy and the nature of the subsidy are identified in the "Final Results of Review" section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Kathryn B. McCormick or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, US Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482-1698 or (202) 482-1560, respectively.

**EFFECTIVE DATE:** September 3, 1999.

#### Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the

<sup>5</sup> See sections III.B.1, III.B.3.A, and III.B.3.C of the *Sunset Policy Bulletin*.