



A-891-001
Administrative Review
POR: 10/15/2020 – 03/31/2022
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June 29, 2023

MEMORANDUM TO: Lisa W. Wang
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Results in the
2020-2022 Antidumping Duty Administrative Review of Common
Alloy Aluminum Sheet from Croatia

I. SUMMARY

On March 2, 2023, the U.S. Department of Commerce (Commerce) published the preliminary results of the 2020-2022 administrative review of the antidumping duty (AD) order on common alloy aluminum sheet from Croatia.¹ The period of review (POR) is October 15, 2020, through March 31, 2022. This administrative review covers one mandatory respondent, Impol d.o.o. and Impol TLM d.o.o. (Impol TLM) (collectively, Impol). We analyzed the case briefs that Impol and the petitioner² submitted on the record. Based on our analysis of the comments received, we made certain changes to the *Preliminary Results*. We recommend that you approve the positions described in the “Discussion of the Issues” section of this memorandum. Below is the complete list of issues in this administrative review for which we received comments from interested parties.

- Comment 1: Whether Commerce Appropriately Limited Its Comparison Market Analysis
- Comment 2: Whether Commerce Should Weight Average and Match Home Market Sales to U.S. Sales by Month Instead of Quarter

¹ See *Common Alloy Aluminum Sheet from Croatia: Preliminary Results of Antidumping Duty Administrative Review; 2020– 2022*, 88 FR 13095 (March 2, 2023) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM); see also *Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, India, Indonesia, Italy, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan and the Republic of Turkey: Antidumping Duty Orders*, 86 FR 22139 (April 27, 2021) (*Order*).

² The petitioner is the Aluminum Association Common Alloy Aluminum Sheet Trade Enforcement Working Group and its Individual Members, Aleris Rolled Products, Inc., Arconic Corporation, Commonwealth Rolled Products, Constellium Rolled Products Ravenswood, LLC, JW Aluminum Company, Novelis Corporation, and Texarkana Aluminum, Inc.



II. BACKGROUND

On March 2, 2023, Commerce published the *Preliminary Results*.³ We invited parties to comment on the *Preliminary Results*. On April 3, 2023, Impol and the petitioner filed case briefs.⁴ No party filed a rebuttal brief. The final results of this review are due no later than June 30, 2023.

III. SCOPE OF THE ORDER

The products covered by this *Order* are common alloy aluminum sheet, which is a flat rolled aluminum product having a thickness of 6.3 mm or less, but greater than 0.2 mm, in coils or cut-to-length, regardless of width. Common alloy sheet within the scope of the *Order* includes both not clad aluminum sheet, as well as multi-alloy, clad aluminum sheet. With respect to not clad aluminum sheet, common alloy sheet is manufactured from a 1XXX-, 3XXX-, or 5XXX-series alloy as designated by the Aluminum Association. With respect to multi-alloy, clad aluminum sheet, common alloy sheet is produced from a 3XXX-series core, to which cladding layers are applied to either one or both sides of the core. The use of a proprietary alloy or non-proprietary alloy that is not specifically registered by the Aluminum Association as a discrete 1XXX-, 3XXX-, or 5XXX-series alloy, but that otherwise has a chemistry that is consistent with these designations, does not remove an otherwise in-scope product from the scope.

Common alloy sheet may be made to ASTM specification B209-14 but can also be made to other specifications. Regardless of specification, however, all common alloy sheet meeting the scope description is included in the scope. Subject merchandise includes common alloy sheet that has been further processed in a third country, including but not limited to annealing, tempering, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of this *Order* if performed in the country of manufacture of the common alloy sheet.

Excluded from the scope of this *Order* is aluminum can stock, which is suitable for use in the manufacture of aluminum beverage cans, lids of such cans, or tabs used to open such cans. Aluminum can stock is produced to gauges that range from 0.200 mm to 0.292 mm, and has an H-19, H-41, H-48, H-39, or H-391 temper. In addition, aluminum can stock has a lubricant applied to the flat surfaces of the can stock to facilitate its movement through machines used in the manufacture of beverage cans. Aluminum can stock is properly classified under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7606.12.3045 and 7606.12.3055.

Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set for the above.

Common alloy sheet is currently classifiable under HTSUS subheadings 7606.11.3060, 7606.11.6000, 7606.12.3096, 7606.12.6000, 7606.91.3095, 7606.91.6095, 7606.92.3035, and

³ See *Preliminary Results*.

⁴ See Impol's Letter, "Case Brief," dated April 3, 2023 (Impol's Case Brief); see also Petitioner's Letter, "Case Brief," dated April 3, 2023 (Petitioner's Case Brief).

7606.92.6095. Further, merchandise that falls within the scope of the *Order* may also be entered into the United States under HTSUS subheadings 7606.11.3030, 7606.12.3015, 7606.12.3025, 7606.12.3035, 7606.12.3091, 7606.91.3055, 7606.91.6055, 7606.92.3025, 7606.92.6055, 7607.11.9090. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this *Order* is dispositive.

IV. CHANGES SINCE THE *PRELIMINARY RESULTS*

For the final results of this review, Commerce made the changes addressed below. As explained in our position to Comment 2, below, we identified programming errors relating to the averaging and matching of home market sales prices to U.S. sales prices. We made the necessary changes in our final margin calculation.

V. DISCUSSION OF THE ISSUES

Comment 1: Whether Commerce Appropriately Limited Its Comparison Market Analysis

*Impol's Case Brief:*⁵

- In the final results, Commerce should rely on Impol's reported cost of production and comparison market sales for all six reported quarters of the POR, as requested by Commerce, because Commerce analyzed the significance of cost changes and determined to use an alternative quarterly cost methodology by examining the 18-month POR.⁶
- In the *Preliminary Results*, Commerce improperly excluded home market sales in quarters five and six from Impol's home market sales database in its analysis.
- Commerce's practice is to analyze the data throughout the entire POR when determining whether to use quarterly costs or whether to use sales to an affiliate in the home market.⁷
- For the final results, Commerce should make corrections to the SAS programming language to include all home market sales data from the entire POR.⁸

No other interested party commented on this issue.

Commerce's Position: We disagree with Impol's argument that Commerce inappropriately limited Impol's home market sales to quarters one through four in the *Preliminary Results* AD margin calculation. In this review, we determined that it was appropriate to use the quarterly cost methodology in calculating Impol's dumping margin.⁹ When the quarterly cost methodology is applied in an administrative review, as in this case, Commerce limits its price-

⁵ See Impol's Case Brief at 1-3.

⁶ *Id.* at 2 (citing Memorandum, "Preliminary Results Margin Calculation for Impol d.o.o./Impol-TLM d.o.o. for the 2020-2022 Period of Review," dated February 23, 2023).

⁷ *Id.* (citing *Stainless-Steel Plate in Coils from Belgium: Final Results of Antidumping Duty Administrative Review*, 73 FR 75398 (December 11, 2008) (*SSP Coils from Belgium*), and accompanying Issues and Decisions Memorandum (IDM) at Comment 4; and *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69188 (November, 15, 2002) (*Affiliated Party Sales Comments*)).

⁸ *Id.* at 2-3 for suggested programming changes.

⁹ See *Preliminary Results* PDM at 15-16.

to-price comparisons to monthly sales within the quarter.¹⁰ Moreover, Impol reported that it made U.S. sales only during quarters one through four of the 18-month POR.¹¹ Therefore, it was unnecessary for Impol to report all of its home market sales during the POR, because Impol's U.S. sales could only be matched to contemporaneous monthly home market sales during quarters one through four of the 18-month POR.¹² Accordingly, we did not include sales from quarters five and six in the AD margin calculation or the cost test.

Additionally, concerning Impol's reference to *SSP Coils from Belgium* in its case brief, Commerce normally includes home market sales in its cost test over an extended period of time.¹³ Specifically, the application of the term "extended period of time" pertains to the substantial quantities test which is part of the cost test. Furthermore, the statute addresses the term "extended period of time" as a period that is "normally 1 year, but not less than 6 months."¹⁴ In this review, Commerce did include home market sales over an extended period of time of one year (*i.e.*, four quarters) in the substantial quantities test as done in the *SSP Coils from Belgium* quarterly cost case, pursuant to section 773(b)(2)(B) of the Tariff Act of 1930, as amended (the Act).

Regarding Impol's reference to the *Affiliated Party Sales Comments*, the reference does not relate to whether all home market sales made during the entire POR should be included in the affiliated party test. Instead, the reference relates to whether non-identical merchandise should be included in the affiliated party test which is irrelevant to the issue at hand.¹⁵ Therefore, based on the foregoing, we do not find it necessary to make any changes to the SAS programming concerning this issue, as suggested by Impol.

Comment 2: Whether Commerce Should Weight Average and Match Home Market Sales to U.S. Sales by Month Instead of Quarter

*Petitioner's Case Brief:*¹⁶

- In the *Preliminary Results*, errors in the SAS margin calculation programs treat an administrative review involving quarterly costs in the same manner as an investigation that involves quarterly costs.
- In an administrative review, home market prices must be averaged by month and comparisons to U.S. sales must be made on a monthly basis.¹⁷

¹⁰ See *Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman: Final Results of Antidumping Duty Administrative Reviews; Deferred 2019-2020 Period and Concurrent 2020-2021 Period*, 88 FR 39227 (June 15, 2023) (*CWP from Oman*), and accompanying IDM at Comment 1.

¹¹ See Impol's Letter, "Sections B, C, and D Response," dated August 24, 2022, at C-2.

¹² See Commerce's Letter, "Request for Information," dated June 27, 2022, at B-1 (wherein Commerce only required Impol to report home market sales within the contemporaneity window period. We note that Impol only reported its home market sales through the first month of quarter 5.).

¹³ See *SSP Coils* IDM at Comment 4.

¹⁴ See section 773(b)(2)(B) of the Act.

¹⁵ See *Affiliated Party Sales Comments*, 67 FR at 69188.

¹⁶ See Petitioner's Case Brief at 1-5.

¹⁷ *Id.* at 1 (citing section 777A(d)(2) of the Act).

- *Union Steel* sustained this methodology. In *Union Steel* the U.S. Court for International Trade (the Court) states,

Commerce stated that “its comparison window period method under the quarterly-cost methodology still follows the hierarchy {reflected in 19 CFR 351.414(e)(2)} of *first trying to find a match in the month of the U.S. sale*, then going back one month, then two (as long as doing so remains with the given quarter), then forward one month, then two (again as long as doing so remains within the given quarter).”¹⁸

- Corrections should be made to the SAS programming language that prevents the comparison market prices from being restricted to the same month.¹⁹
- Further corrections to the SAS programming language must be made because the statute does not limit or qualify that requirement in any way, and thus, regardless of which cost-averaging period is used (quarterly or annual), the price-averaging must be done on a monthly basis in an administrative review.²⁰
- Commerce must update the SAS programming language as discussed in the case brief so that the dumping margin calculated for the final results is calculated in accordance with the statute.

No other interested party commented on this issue.

Commerce’s Position: We agree with the petitioner that we incorrectly weight averaged and matched Impol’s home market sales prices to U.S. sales prices by quarter, instead of by month, in the *Preliminary Results*. As noted above, in this review, we determined that it was appropriate to use the quarterly cost methodology in calculating Impol’s dumping margin.²¹ When quarterly cost methodology is applied in an administrative review, as in this case, Commerce limits its price-to-price comparisons to monthly sales within the quarter.²² Furthermore, based on the results of the differential pricing test, we relied on the average-to-transaction (A-to-T) comparison method in the *Preliminary Results*.²³

Section 777A(d)(2) of the Act provides:

In a review under section 751 {of the Act}, when comparing export prices (or constructed export prices) of individual transactions to the weighted average price of sales of the foreign like product, the administering authority shall limit its averaging of prices to a period not exceeding the calendar month that corresponds most closely to the calendar month of the individual export sale.

¹⁸ *Id.* at 2 (citing *Union Steel Manufacturing Co. v. United States*, 190 F. Supp. 3d 1326, 1339 (CIT 2016) (*Union Steel*)).

¹⁹ *Id.* at 2-3 with suggested SAS programming changes.

²⁰ *Id.* at 3-4 with suggested SAS programming changes.

²¹ See *Preliminary Results* PDM at 14-15.

²² See, e.g., *CWP from Oman* IDM at Comment 1.

²³ See *Preliminary Results* PDM at 6.

Accordingly, in this review, we are making comparisons of U.S. prices to weighted-average home market prices by month. Further, 19 CFR 351.414(e) provides that Commerce “will limit the averaging of such prices to sales incurred during the contemporaneous month,” when applying the A-to-T methodology in a review. Additionally, 19 CFR 351.414(f) of Commerce’s regulations explains Commerce’s methodology for selecting this contemporaneous month.²⁴ The language in the statute and Commerce’s regulations does not differentiate between annualized cost reporting or quarterly cost reporting and applies to both methodologies.

Furthermore, we have followed the practice of weight averaging and matching home market sales to U.S. sales by month in previous quarterly cost cases. For example, in *Stainless Steel Flanges from India*, which involved quarterly costs, Commerce compared U.S. sales of flanges made by the respondents to comparison market sales of flanges in the month during which the particular U.S. sales under consideration were made.²⁵ Furthermore, as noted by the petitioner, the Court affirmed Commerce’s price averaging and matching methodology for quarterly cost cases in *Union Steel*.²⁶ Therefore, consistent with our prior practice, we determine it appropriate in this review to limit the averaging of home market prices to sales incurred during the contemporaneous month within the quarter of the U.S. sales.

In summary, we agree with the petitioner that Commerce’s long-standing approach under the statute, regulations, and prior administrative case precedent has been to weight average and match home market sales to U.S. sales on a monthly basis within the quarter when applying the A-to-T method in a review involving quarterly cost methodology.²⁷ Therefore, we revised our calculations for the final results of the 2020-2022 review accordingly.²⁸

²⁴ “Normally, the Secretary will select as the contemporaneous month the first of the following months which applies: (1) the month during which the particular U.S. sales under consideration were made; (2) if there are no sales of the foreign like product during this month, the most recent of the three months prior to the month of the U.S. sales in which there was a sale of the foreign like product; (3) if there are no sales of the foreign like product during any of these months, the earlier of the two months following the month of the U.S. sales in which there was a sale of the foreign like product.”

²⁵ See *Stainless Steel Flanges from India: Preliminary Results of Antidumping Duty Administrative Review, Preliminary No Shipment Determination, and Partial Rescission; 2020-2021*, 87 FR 66645 (November 4, 2022) (*Stainless Steel Flanges from India*), and accompanying PDM at 10

²⁶ See *Union Steel*, 190 F. Supp. 3d at 1339.

²⁷ See *CWP from Oman* IDM at Comment 1.

²⁸ See Memorandum, “Final Results Margin Calculation for Impol d.o.o. and Impol TLM d.o.o. for the 2020-2022 Period of Review,” dated concurrently with this memorandum.

VI. RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting the above positions. If this recommendation is accepted, we will publish the final results of the review and the final weighted-average dumping margin for Impol in the *Federal Register*.



Agree

Disagree

X



Signed by: LISA WANG

Lisa W. Wang
Assistant Secretary
for Enforcement and Compliance