on this proposed project, or its impacts, should be received by no later than October 23, 1996. A Draft Supplement is scheduled for release in November, 1996. A Final Supplement to the EIS is scheduled for release in February, 1997.

ADDRESSES: Submit written comments and suggestions to Forest Supervisor, Helena National Forest, 2880 Skyway Drive, Helena, Mt. 59601.

FOR FURTHER INFORMATION CONTACT: Tom Andersen, Helena National Forest, 2880 Skyway Drive, Helena, Mt. 59601; phone (406) 449–5201 ext 277.

The Forest Supervisor for the Helena National Forest has been assigned the task of completing the Supplement. The responsible officials who will make the leasing decisions are: Thomas J. Clifford, Forest Supervisor, Helena National Forest, 2880 Skyway Drive, Helena, Mt 59601; and Larry E. Hamilton, State Director, USDI-Bureau of Land Management, Montana State Office, 222 North 32nd Street, PO Box 36800, Billings, MT 59107–6800.

They will decide on this proposal after considering comments, responses, and environmental consequences discussed in the FEIS (released March 4, 1996), information contained in this Supplement, (scheduled for release January, 1997) and applicable laws, regulations, and policies. The decision, rationale for the decision, and responses to comments received, will be documented in the FEIS supplement, and in a Record of Decision (ROD).

The comment period on the draft supplement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the Federal Register.

The Forest Service and Bureau of Land Management believe, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft supplements must structure their participation on the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Power Corp.* v. *NRDC, 435 U.S. 519,553 (1978).* Also, environmental objections that could be raised at the draft supplement stage but that are not raised until after completion of the final supplement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wilson Heritages, Inc.* v. *Harris,* 490, F. Suppl 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objectives are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final supplement.

To assist the Forest Service and Bureau of Land Management in identifying and considering concerns on the proposed action, comments on the draft supplement should be as specific as possible. It is also helpful if comments refer to specific pages of the draft supplement. Comments may also address the adequacy of the draft supplement. Reviewers may wish to refer to the Council of Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: August 21, 1996.

James E. Guest,

Acting Forest Supervisor, Helena National Forest.

[FR Doc. 96–24263 Filed 9–20–96; 8:45 am]

BILLING CODE 3410–11–M

Grain Inspection, Packers and Stockyards Administration

Proposed Posting of Stockyard

The Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in Section 302 of the Packers and Stockyards Act (7 U.S.C. 202), and should be made subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*).

AL–190—Natural Bridge Stockyard, Natural Bridge, Alabama
AZ-115—Tucson Livestock Auction, Inc., Marana, Arizona
GA–217—Rocking Horse Ranch Livestock Auction, Poulan, Georgia
GA–218—R & R Goat and Livestock Auction, Swainsboro, Georgia
MN–191—Iron Range Livestock Exchange, Inc., Aitkin, Minnesota
MS–169—McDermott Sale Company, Byhalia, Mississippi
WI–145—Richland Cattle Center L.L.C., Richland Center, Wisconsin

Pursuant to the authority under Section 302 of the Packers and Stockyards Act, notice is hereby given that it is proposed to designate the stockyards named above as posted stockyards subject to the provisions of said Act.

Any person who wishes to submit written data, views or arguments concerning the proposed designation may do so by filing them with the Director, Livestock Marketing Division, Grain Inspection, Packers and Stockyards Administration, Room 3408—South Building, U.S. Department of Agriculture, Washington, D.C. 20250 by October 2, 1996. All written submissions made pursuant to this notice will be made available for public inspection in the office of the Director of the Livestock Marketing Division during normal business hours.

Done at Washington, D.C. this 17th day of September 1996.

Daniel L. Van Ackeren,

Director, Livestock Marketing Division, Packers and Stockyards Programs.

[FR Doc. 96–24264 Filed 9–20–96; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–602]

Brass Sheet and Strip From Germany; Final Results of Antidumping Duty Administrative Review and Determination Not To Revoke in Part

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

ACTION: Notice of Final Results of Antidumping Duty Administrative Review and Determination Not To Revoke in Part.

SUMMARY: On May 6, 1996, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on brass sheet and strip (BSS) from Germany, and its intent to revoke in part (61 FR 20214). The review covers exports of this merchandise to the United States by one manufacturer/exporter, Wieland-Werke AG (Wieland), during the period March 1, 1994 through February 28, 1995.

We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, we adjusted our calculations of Wieland's margin for these final results. The review indicates the existence of no dumping margins for this period. We have also determined not to revoke the antidumping duty order in part.

EFFECTIVE DATE: September 23, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas Killiam or John Kugelman, Office of AD/CVD Enforcement, Group III, Import Administration, International

Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2704 or 482–0649, 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 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 to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

Background

On May 6, 1996, the Department (the Department) published in the Federal Register the preliminary results of its administrative review of the antidumping duty order on BSS from Germany, and its intent to revoke in part (61 FR 20214). The antidumping duty order on BSS from Germany was published March 6, 1987 (52 FR 6997).

Scope of the Review

Imports covered by this review are shipments of BSS, other than leaded and tinned BSS. The chemical composition of the covered products is currently defined in the Copper Development Association (C.D.A.) 200 Series or the Unified Numbering System (U.N.S.) C2000. This review does not cover products the chemical compositions of which are defined by other C.D.A. or U.N.S. series. In physical dimensions, the products covered by this review have a solid rectangular cross section over 0.006 inch (0.15 millimeter) through 0.188 inch (4.8 millimeters) in finished thickness or gauge, regardless of width. Coiled, wound-on-reels (traverse wound), and cut-to-length products are included. The merchandise is currently classified under Harmonized Tariff Schedule (HTS) item numbers 7409.21.00 and 7409.29.00. Although the HTS item numbers are provided for convenience and Customs purposes, the written description of the scope of this order remains dispositive.

The period of review (POR) is March 1, 1994 through February 28, 1995. The review involves one manufacturer/exporter, Wieland.

Analysis of Comments Received

We received a case brief from the petitioners, Hussey Copper, Ltd., The Miller Company, Outokumpu American Brass, Revere Copper Products, Inc., International Association of Machinists and Aerospace Workers, International Union, Allied Industrial Workers of America (AFL–CIO), Mechanics Educational Society of America (Local 56), and the United Steelworkers of America. We received a rebuttal brief from Wieland. At the request of the petitioners, we held a hearing on June 19, 1996.

Comment 1: The petitioners argue that ''the Department must require Wieland to submit complete home market sales data and other relevant information in order to be able to conduct a thorough level of trade analysis''. Citing 19 U.S.C. § 1677b(a)(1)(B)(i), and the Department's October 23, 1995, supplemental questionnaire in *Certain Pasta from Italy and Turkey*, petitioners claim that ''the Department now affirmatively collects narrative information and sales data from a respondent, then analyzes the information to establish whether different levels of trade do or do not exist.'' The petitioners argue further that ''a respondent is responsible for reporting complete sales that include *all* of its sales of subject merchandise in both the home market and the comparison market during the period of review,'' adding that our questionnaire required just such information (emphasis in the original).

The petitioners claim that by excluding sales by two affiliates, Wieland unilaterally decided not to report all of its home market sales of the subject merchandise in both its original and supplemental questionnaire responses. The petitioners characterize Wieland's election not to report complete home market sales data as a refusal to comply with the Department's questionnaires.

The petitioners take issue also with the Department's actions at verification; in particular, our review of sales by Wieland's affiliates Roessler GmbH (Roessler) and Schwarzwalder Metallhandel GmbH (SMH). The petitioners claim that the Department undertook this verification step as an alternative to requiring Wieland to report complete home market sales data. The petitioners assert that in examining these affiliate sales at verification, the Department was improperly gathering new information, rather than merely verifying the accuracy of questionnaire responses already submitted. The petitioners argue that such a procedure is contrary to statutory intent and bars other parties from participating meaningfully in the administrative process.

Wieland argues that the information on the record establishes that the Department made the appropriate comparisons at the correct level of trade (LOT), and that no further sales information is necessary. Wieland points out that it reported home market sales of the most similar merchandise at the same LOT, and that no sales by SMH and Roessler are of merchandise as physically similar to the U.S. merchandise as those which it reported.

Wieland further argues that, in the absence of a challenge to the Department's model-matching methodology, the petitioners'' LOT argument is moot, and states that there is no valid reason to collect additional sales data from SMH and Roessler because none of their sales would be used in a fair value comparison. The respondent also points to record evidence from the verification confirming that sales by SMH and Roessler were sold at a different LOT from Wieland's U.S. sales.

Department's Position: We disagree with the petitioners. From the record evidence we were able to determine that the sales in question were of physically less similar merchandise than the reported home market sales. As a result, we determined that the information which the petitioners would have us collect was not needed for our analysis. We further determined that to require a full reporting of these data would have occasioned an unwarranted delay in the conduct of the review.

Furthermore, sheet sales by SMH and Roessler were downstream sales which did not represent a significant portion of home market sales. Accordingly, we determined that the respondent need not report these home market downstream sales. *See Certain Corrosion Resistant Carbon Steel Flat Products from Korea*, (60 FR 44008, 44009, August 24, 1995, and 61 FR 18547, April 26, 1996), and *Certain Cold-Rolled Carbon Steel Flat Products from Korea* (60 FR 65284, 65286, December 19, 1995).

We note that contrary to the petitioners' assertion, Wieland did not unilaterally limit its response; in its February 14, 1996, letter Wieland requested that it be allowed to exclude sales by SMH and Roessler, explaining, among other points, that these sales were of merchandise less physically similar to the U.S. merchandise than the sales which Wieland reported, and that in volume they represented an insignificant portion of home market sales.

We included in our verification outline specific instructions to make available the data on sales of subject merchandise by SMH and Roessler. We verified that all such sales were of merchandise which was physically less similar to the U.S. merchandise than the reported sales, and that their combined volume was a very small percentage (less than one percent) of home market sales of sheet. We further verified that the home market sales by Roessler and SMH were at a different LOT. We did not gather new information, as the petitioners allege, or conduct any form of analysis, but conducted a standard verification of the response in accordance with law.

Because we determined that the merchandise sold by SMH and Roessler was physically less similar to the U.S. merchandise than the reported home market sales, we determined that we would not use this information for comparison purposes and that it was not necessary to require Wieland to report it.

We note that our decision to allow the exclusion of sales information for SMH and Roessler was not predicated on the reasons cited, for example, in Wieland's June 12, 1996, rebuttal brief and in its February 5, 1996 letter responding to the petitioners' February 2, 1996 deficiency comments. We do not agree with Wieland's assertion that language in 19 U.S.C. § 1677(16) (A) and (B) and in the glossary of the Department's questionnaire authorized Wieland to selectively report only identical or most similar merchandise. Respondents must report all sales of identical and similar merchandise, and it is the Department's, not the respondent's, responsibility to determine whether certain sales need to be reported or not.

Comment 2: Concerning revocation, 19 CFR § 353.25(a)(2) states that the Secretary may revoke an order in part if the Secretary concludes that

(i) One or more producers or resellers covered by the order have sold the merchandise at not less then foreign market value for a period of at least three consecutive years;

(ii) It is not likely that those persons will in the future sell the merchandise at less than foreign market value; and

(iii) For producers or resellers that the Secretary previously has determined to have sold the merchandise at less than foreign market value, the producers or resellers agree in writing to their immediate reinstatement in the order, if the Secretary concludes under § 353.22(f) that the producer or reseller, subsequent to the revocation, sold the merchandise at less than foreign market value.

The petitioners challenged Wieland's claim to have met the first criteria, three years of shipments with no margins, arguing that the low volume of Wieland's shipments in the eighth POR ''is tantamount to no volume at all,'' and thus does not fulfill the requirement for shipments with no dumping margin. The petitioners also note that the Department's discussion of revocation criteria in the proposed regulations (61 FR 7308, February 27, 1996) contains references to ''commercially significant quantities.'' The petitioners caution that reliance upon small volumes can enable a respondent to ''control a handful of transactions in its home market and the United States so as to convey the misleading impression of no dumping.'' The petitioners urge a comparison of the eighth review volume with the volume in prior years.

Wieland maintains that it has satisfied every statutory and regulatory requirement necessary to obtain revocation of the order. Citing *PQ Corp.* v. *United States*, 652 F. Supp. 724 (CIT 1987) (*PQ Corp.*) and *Antifriction Bearings (Other than Tapered Roller Bearings) from Italy*, (60 FR 10959, 10966–67, February 28, 1995) (AFBs/Italy), Wieland argues that even a single sale is sufficient and that no minimum quantity is required.

Wieland argues that the petitioners'' efforts to rely on language in the Department's proposed regulations are premature.

Wieland further argues that its U.S. sales were of quantities consistent with the quantities of Wieland's other sales and were, in fact, greater in quantity than most of its home market sales. Wieland states that nothing in the statute or even the proposed regulations supports the petitioners'' suggestion that the eighth POR sales were not of a commercially significant volume. Wieland argues as well that it would be inappropriate to compare the eighth POR U.S. sales volume to total home market and third country sales in earlier periods.

Department's Position: We agree with Wieland that it made sales in the eighth period and we disagree with the petitioners'' equation of a decreased sales volume with no volume at all. We examined the U.S. and the home market sales and did not find evidence that either were not *bona fide* transactions.

PQ Corp. did not involve revocation and does not limit the Department's discretion in making determinations as to likelihood of resumption of sales at LTFV.

We agree with Wieland that the proposed regulations cited by the petitioners are not applicable because they are not final.

Comment 3: The petitioners argue that administrative and judicial precedents make clear that the burden is on the respondent to demonstrate that there is no likelihood of a resumption of sales at less than fair value (LTFV). The petitioners note that in *Television Receivers from Japan* (55 FR 11420, 11422, March 28, 1990) (*TVs/Japan*) the Department concluded that Toshiba had not presented ''sufficient additional information to support its contention that LTFV sales would not resume if the finding were to be revoked.'' The petitioners further note that in upholding this determination, in *Toshiba Corp.* v. *United States*, 15 CIT 597, 599 (1991) (*Toshiba*), the Court of International Trade (the Court) confirmed that it was for Toshiba, having requested the review, to come forward with ''real evidence'' to persuade Commerce to revoke the finding.

Similarly, the petitioners argue, the Court, in *Sanyo Electric Co., Ltd. et al.* v. *United States*, 15 CIT 597, 603 (1991) (Sanyo), stated that the investigation was conducted at Sanyo's request and it was for Sanyo to come forward with real evidence to persuade Commerce to revoke the finding. The petitioners also cite *Matsushita Electric Industrial Co.* v. *United States*, 750 F.2d 927, 937 (Fed. Cir. 1994) (*Matsushita*), where the appellate court similarly held that it was for respondents to come forward with real evidence justifying revocation of a countervailing duty order.

The petitioners note that in *Toshiba, Sanyo,* and *Frozen Concentrated Orange Juice from Brazil* (56 FR 52511, October 21, 1991) (*FCOJB*), the respondents did offer some evidence that they hoped would persuade the Department that there was no likelihood of a resumption of sales at LTFV and that, by contrast, Wieland has submitted no such evidence, notwithstanding that Wieland itself should be in the best position to identify and provide any such information. Rather, the petitioners note, Wieland has suggested that by making sales for three years with no dumping margins and providing the required certifications, it has satisfied all the requirements for revocation.

The petitioners also argue that the dramatic reduction in volume and the change in the product mix of Wieland's U.S. sales are evidence that Wieland would be likely to resume sales at LTFV if the antidumping duty order were revoked for Wieland. In particular, the petitioners highlight the elimination of Wieland's U.S. sales of strip in the eighth review period and argue that

strip, which Wieland had previously sold in the U.S. market, is typically a more important product in the BSS market (June 19, 1996 hearing transcript at 33–34).

Finally, the petitioners argue that the Department must verify any evidence or proof relied upon to determine whether a resumption of sales at LTFV is likely, and note that this was not done in the Department's verification of Wieland's sales data.

Wieland argues that there is no likelihood of the resumption of dumping and that the petitioners have failed to provide any evidence to the contrary. Wieland notes that the three-year period of the sixth through eighth reviews was marked by changing exchange rates and competitive market conditions, and argues that the absence of dumping margins in this environment proves that Wieland is able to adapt to changing market conditions and economic conditions and to price its sales above foreign market value. Wieland cites the Department's partial revocation in *Color Television Receivers, Except for Video Monitors, from Taiwan; Final Results* (55 FR 47093, 47097, November 9, 1990) (*TVs/Taiwan*) and the upholding of this revocation in *Tatung Company* v. *United States,* 1994 WL 704952, 704956 (CIT) (*Tatung*), where the Court ruled that ''ordinarily past behavior would constitute substantial evidence of expected future behavior.''

Wieland claims that its ''absence of dumping over the last three review periods is in and of itself substantial and dispositive evidence that there is no likelihood of the resumption of dumped sales.''

Wieland notes that the Court in *Tatung* and the Department in *FCOJB* rejected mere speculation by petitioners that dumping could resume. Wieland maintains that in every case of which it is aware under the 1989 and subsequent regulations, the Department rejected speculation about likelihood and relied on the respondent's past pricing behavior. Wieland argues that the final results and related court decisions involving televisions from Japan, which the petitioners cite, are distinguished from the present case by the fact that in those cases the absence of shipments by the respondents deprived the Department of evidence as to likelihood of resumption of sales at LTFV.

Wieland argues that the Department has repeatedly analyzed and relied on past sales behavior as the best evidence of future behavior. Wieland cites *TVs/Taiwan,* where the Department rejected a petitioner's speculation that deteriorating exchange rates alone would make sales at LTFV likely, and chose instead to rely on the respondent's ''proven track record of no dumping during an appreciating Taiwanese dollar.'' Similarly, Wieland argues, in *FCOJB* the petitioners'' arguments concerning market factors, which included fluctuating and falling world prices for orange juice and increases in foreign capacity, failed to persuade the Department of a likelihood of resumption of dumping, in the face of no dumping by the respondent over the three previous years.

Concerning the decrease in its shipments and their changed character, Wieland acknowledges that ''one way of adapting to an order is to move into higher value-added products * * *'' and further explains that ''Wieland has complied with the order by eliminating sales of product which it could not sell at fair value, and pricing all other products above fair value'' (rebuttal brief, pp. 24–25). Wieland also attributes its decrease in U.S. shipments to its approximately 23 percent antidumping cash deposit rate.

Regarding the decrease in shipments of brass sheet and strip from Germany in general, which the petitioners cite as evidence of Wieland's being likely to resume sales at LTFV if the order were revoked, Wieland notes that the category in question encompasses non-subject merchandise, and that, in any case, it is normal for an appreciating home market currency to cause decreases in exports. Wieland further notes that it exported subject merchandise to the United States without dumping, despite the appreciation of its home market currency.

Wieland maintains that the petitioners'' arguments on likelihood are attempts to confuse the issue. Wieland argues that these factors merely prove that in the face of various changes in market and competitive conditions, ''Wieland has maintained the necessary price discipline to eliminate sales at less than fair value.''

Wieland further argues that it has met the final requirement for revocation by agreeing to the immediate reinstatement of the antidumping duty order if the Department subsequently finds that Wieland has resumed dumping.

Department's Position: In addition to the absence of sales at LTFV for three consecutive years, the Department must also be satisfied that there is no likelihood of resumption of dumping of the subject product before revoking an order in whole or in part (19 CFR § 353.25(a)(2)(ii)).

In this case, as discussed below, Wieland has shipped progressively less BSS to the United States since the imposition of the order, until in the most recent period it made but one sale, and that of sheet rather than the lower-cost strip. But Wieland has built a plant in the United States that uses strip as a feed product. We expect that if there were no order in place Wieland would naturally prefer to use its own strip from Germany to supply its U.S. plant, rather than buy from a competitor. In view of this prospect and Wieland's apparent difficulty in selling strip at fair value in the United States, we believe it difficult to hold that Wieland will be able to ship BSS, particularly strip, to the United States at prices at or above fair value. We therefore cannot conclude that there is no likelihood of a resumption of sales at LTFV.

We discuss the reasons mentioned in the above summary, as well as additional considerations and the parties' arguments, in greater detail below.

In prior cases where revocation was under consideration and the likelihood of resumption of dumped sales was at issue, the Department has considered, in addition to the respondent's prices and margins in the preceding periods, such other 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 LTFV sales. *See, e.g., FCOJB, Titanium Sponge From Japan,* (53 FR 21099, July 1988) (*Titanium*) and *TVs/Japan*. Based on our analysis of such market and industry factors, as well as the facts specific to this case, we cannot conclude that there is no likelihood of a resumption of dumping.

Competitive conditions for copper and brass mill products are characterized by oversupply. According to a trade journal, the market for copper and copper-alloy semi-finished products, a category which includes brass sheet and strip,

> * * * looks to be in decline this year * * * The drop in demand is endemic throughout Europe, with France and Germany looking particularly depressed at the moment, and producers are generally pessimistic about the market in 1996. Increased levels of stocks from the end of 1995 are also aggravating this lower demand.'' (*Metal Bulletin,* N. 8054, February 15, 1996, p. 13).

This decrease in demand in the European market comes only two years after a ''glut in the global marketplace'' resulted in a downward trend in product prices, in the North American market as well as elsewhere (*Purchasing,* March 3, 1994 v. 116, n. 3, p. 69).

At the same time, the U.S. market continues to remain desirable for foreign exporters, and Wieland in particular, as explained below, by virtue of its large size relative to other markets (*Metal Statistics,* Chilton Publications, New York, N.Y., 1996, p. 169). Germany has historically been the largest source of BSS imports into the U.S. market and is the largest producer of semi-finished copper and copper-alloy products, including BSS, in the world (*American Metal Market,* February 16, 1995; also, *Metal Statistics,* pp. 16, 169).

German shipments to the United States of those categories of brass products which include covered merchandise show dramatic, sustained declines following the antidumping duty order. *See IM145 Data Bank U.S. General Imports and Imports for Consumption,* December 1992–1995, Foreign Trade Division of the Bureau of the Census, (IM145 Data); *see* also *1985 U.S. Foreign Trade Highlights,* U.S. Department of Commerce, International Trade Administration, 1986 (*1985 Foreign Trade*).

Wieland's own shipments of covered merchandise have declined even more sharply. (*See* August 29, 1996 *Analysis Memorandum for Final Results* (*Analysis Memorandum*).) In fact, Wieland's shipments during the last three administrative review periods have declined each year, culminating in Wieland's single U.S. shipment in the eighth POR of less than 70,000 pounds of subject merchandise, less than one-thousandth of the volume before the order went into effect (*See Analysis Memorandum*.) Furthermore, Wieland's last shipment was of relatively high-valued sheet, whereas in previous periods Wieland also sold lower-valued strip, which accounts for a much larger share of the market than sheet. The sharp decrease in volume and the change in the makeup of Wieland's U.S. sales both suggest that Wieland has difficulty selling strip covered by the order above fair value.

Wieland is the largest BSS producer in Germany and also maintains substantial commercial and re-rolling operations in the United States. Wieland's U.S. plant, which does not cast brass, is a processor of subject merchandise, including lower-valued strip, which Wieland has sold in the past. Strip is a more important part of the BSS market than sheet (hearing transcript at 34) and, as a lower-valued commodity, is more likely than sheet to be sold at LTFV (rebuttal brief at 24). Wieland recently acknowledged that it faced continuing pressure from imports in the home market as a result of the strength of the Deutsche mark, and expressed scepticism about future capacity utilization, because its level of new orders had been unsatisfactory (*Boerson Zeitung,* March 5, 1996, *Handelsblatt,* March 7, 1996). With capacity utilization in the home market under threat, and a re-rolling facility in the United States which both processes and re-sells subject merchandise, including lower-valued strip, Wieland would have incentives to resume sales in the United States of strip, a product which it was unable to sell at fair value in the most recent period, as shown by the company's recent U.S. shipments data and as confirmed by Wieland's own statements (rebuttal brief, pp. 24–25).

Concerning Wieland's argument that high antidumping duties prevented it from selling strip at fair value, there is no evidence on the record of a significant increase in Wieland's U.S. sales of strip since the 0% antidumping duty cash deposit rate went into effect in July 1995.

In addition to the above considerations, the continued strengthening of the Deutsche mark provides a further impetus for Wieland to resume sales at LTFV in the absence of an order. In previous cases the Department has recognized exchange-rate relationships as significant elements in its determinations about the likelihood of resumption of sales at LTFV. *See Titanium, Tatung,* and *TVS/Japan.* In this case we note that the strengthening of the Deutsche mark vis-a-vis the U.S. dollar continues to date; this tends to offset the benefits to Wieland resulting from the removal of the previous cash deposit rate following the seventh review. Wieland acknowledges that the strengthening Deutsche mark did require it to adjust its prices to ensure fair value sales (rebuttal brief, p. 24). Public data on brass shipments from Germany, as well as case-specific facts, such as Wieland's history of declining U.S. imports and the changing composition of its U.S. sales, support the view that continued strengthening of Wieland's home market currency increases the likelihood that its future sales would be made at LTFV, because the strengthening home market currency will tend to make home market prices higher relative to U.S. prices.

Wieland thus has several incentives to resume shipments of covered merchandise, including lower-valued strip, both to supply its U.S. re-rolling facility directly and to maximize capacity utilization at home, and would be doing so against a backdrop of an ever-strengthening home market currency, in a mature industry historically known for its price competitiveness. It is therefore reasonable to expect that Wieland would supply its U.S. plant with its own strip and that this strip would be likely to be sold at LTFV. For these reasons, we cannot conclude that there is no likelihood of sales at LTFV.

We disagree with Wieland that the Department's approaches to the revocation issue in *TVs/Japan* and *FCOJB,* and the court decisions in *Toshiba, Matsushita,* and *Sanyo* are irrelevant merely because the criteria for revocation changed subsequently or because the cases involved no shipments. The principle remains unchanged that the Department must be satisfied that there is no likelihood of resumption of dumping, and this determination is still not solely dependent on three years of no margins. If, as Wieland suggests, three years of no margins were sufficient evidence on the likelihood of resumption of dumping, then the second regulatory criterion would be superfluous. We agree with the petitioners that our practice and the court decisions cited above confirm that the second regulatory criterion, that there be no likelihood of resumption of dumped sales, is separate and distinct from the first criterion.

Furthermore, the facts in *TVs/Taiwan, FCOJB,* and *AFBs/Italy,* where we did revoke orders in whole or in part, differ in several respects from the facts in this case.

In *TVs/Taiwan* the respondent, unlike Wieland, had never been found to have sold at LTFV either before or since the order was issued (*TVs/Taiwan*, 47097, Comment 16). Also unlike Wieland, which sold a single model in a single transaction in the eighth POR, in *TVs/Taiwan* the respondent had sold a multitude of different models in substantial quantities in the United States (*see Response of Tatung Company to the Antidumping Questionnaire Involving Color Television Receivers from Taiwan,* November 15, 1985, public version, and *Memorandum from Analyst to File, Tatung Preliminary Analysis,* public version, April 7, 1987, p. 1). Finally, *TVs/Taiwan* was different from this case because, other than the petitioner's one argument on currencies, there was no additional evidence indicating the likelihood of a resumption of dumping.

Similarly, there was little evidence bearing on the likelihood issue in *AFBs/Italy*. In that case the petitioners claimed the respondent's U.S. sales were ''minuscule''; they were, in fact, greater than the quantities relied upon in the Department's initial LTFV determination. This fact alone distinguishes *AFBs/Italy* from the

present case, where there is a contrary trend. Finally, unlike this case, where the petitioners have made several arguments concerning the likelihood of resumption of dumping, in *AFBs/Italy* the petitioner's only other argument on likelihood was the fact that SKF-Italy was part of a multinational corporation.

In *FCOJB*, the Department examined the evolution of product prices, current and projected production trends, potential increases in demand by third country markets, and present U.S. market conditions, but determined that each of these factors either represented evidence against the likelihood of a resumption of dumping, or did not correlate with a trend of dumping by Brazilian producers. These facts differentiate *FCOJB* from the present case. As discussed above, market and currency pressures have made it harder, and are continuing to make it harder, for Wieland to sell at or above fair value.

Wieland is correct that it and the respondent in *TVs/Taiwan* sold merchandise in the United States at fair value despite a strengthening home market currency; but, again, other facts in that case, as described above, provided more convincing evidence of no likelihood of resumption of dumping. Wieland does concede that the strengthening of the Deutsche mark, which continues to date, has affected its ability to sell at fair value (rebuttal brief, p. 24).

Thus, the determinations to revoke in *TVs/Taiwan* and *AFBs/Italy* were reached in light of different factors, and there was less evidence of likelihood of resumption of LTFV sales. *TVs/Taiwan*, *Tatung* and *AFBs/Italy* do not stand for a reliance on three years of no dumping as conclusive evidence of no likelihood of a resumption of dumping. Accordingly, we disagree with Wieland's suggestion that these cases show that the Department should rely solely on Wieland's history of three years with no margins as a sufficient indicator of its future behavior.

To recapitulate, the available evidence concerning market and economic factors does not support a conclusion that there is no likelihood of Wieland's resuming sales at LTFV. Indeed, multiple factors argue against such a conclusion: the drop in demand for these products in Europe, especially in Germany, which gives Wieland an incentive to export these products in order to prevent a diminishing capacity utilization rate; Wieland's severe decreases in shipments of BSS to the United States since the imposition of the order, and its recent complete withdrawal from the strip segment of the market; Wieland's ownership in the United States of a re-rolling facility, built since the order, which requires subject merchandise as feedstock, notably for lower-valued strip; and the difficulties of competing for sales of strip in light of a strengthened Deutsche mark, both in the home market and the U.S. market, all argue against a conclusion that there is no likelihood of a resumption of LTFV sales by Wieland.

Having considered the industry conditions and the case facts, the Department is not satisfied that there is no likelihood of a resumption of dumping of covered merchandise by Wieland; therefore, we are not granting revocation in part.

Comment 4: The petitioners argue that the Department failed to take into account the revisions made by Wieland with respect to its home market packing expenses in its January 11, 1996, submission. The respondent did not contest this point.

Department's Position: We agree with the petitioners and have amended our analysis to reflect the revised expense amount for these final results.

Final Results of Review

As a result of our analysis of the comments received, we determine that the following margin exists for Wieland:

Manufacturer/exporter	Period	Percent margin
Wieland-Werke AG	3/1/94–2/28/95	0

Individual differences between the US price and normal value may vary from the above percentage. The Department shall instruct the U.S. Customs Service to assess antidumping duties on all appropriate entries.

Furthermore, the following deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided for by section 751(a)(1) of the Act.

(1) Because the rate for Wieland is zero, the Department shall not require cash deposits on shipments from Wieland;

(2) For previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period;

(3) If the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and

(4) If neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 8.87 percent, the ''all others'' rate established in the LTFV investigation.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR § 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the 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 notice also serves as a reminder to parties subject to administrative protective order (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR § 353.34(d). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested.

Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction. This administrative review and this notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR § 353.22.

Dated: September 17, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–24352 Filed 9–20–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–122–814]

Pure Magnesium From Canada: Final Results of Antidumping Duty Administrative Review

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

EFFECTIVE DATE: September 23, 1996.

FOR FURTHER INFORMATION CONTACT: Jennifer Yeske or Carole Showers, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–0189 or 482–3217, respectively.