

Commerce, Room 5327, 14th & Constitution Avenue, NW, Washington, DC 20230. Phone number: (202) 482-3272.

FOR FURTHER INFORMATION CONTACT:

Request for additional information or copies of the information collection instrument and instructions should be directed to: Andrew Stephens, Import Administration, Office of Policy, Room 3713, 14th & Constitution Avenue, NW, Washington, DC 20230; Phone number: (202) 482-3693, and fax number: (202) 482-2308.

SUPPLEMENTARY INFORMATION:

I. Abstract

The International Trade Administration, Import Administration, Antidumping/Countervailing Enforcement, implements the U.S. antidumping and countervailing duty law. Import Administration investigates allegations of unfair trade practices by foreign governments and producers and, in conjunction with the U.S. International Trade Commission, can impose duties on the product in question to offset the unfair practices. Form ITA-357P—Format for Petition Requesting Relief Under the U.S. Antidumping Duty Law—is designed for U.S. companies or industries that are unfamiliar with the antidumping law and the petition process. The Form is designed for potential petitioners that believe that an industry in the United States is being injured because a foreign competitor is selling a product in the United States at less than fair value. Since a variety of detailed information is required under the law before initiation of an antidumping duty investigation, the Form is designed to extract such information in the least burdensome manner possible.

II. Method of Collection

Form ITA-357P is sent by request to potential U.S. petitioners and completed in written form.

III. Data

OMB Number: 0625-0105.

Form Number: ITA-357P.

Type of Review: Revision-Regular Submission.

Affected Public: U.S. companies or industries that suspect the presence of unfair competition from foreign firms selling merchandise in the United States below fair value.

Estimated Number of Respondents: 38.

Estimated Time Per Response: 40 hours.

Estimated Total Annual Burden Hours: 1,520 hours.

Estimated Total Annual Costs: The estimated annual cost for this collection is \$376,200 (\$273,600 for respondents and \$102,600 for federal government).

IV. Request for Comments

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and costs) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 1, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98-9010 Filed 4-6-98; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-428-602]

Brass Sheet and Strip from Germany: Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request from the petitioners, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on brass sheet and strip from Germany. This review covers one manufacturer and exporter of the subject merchandise, Wieland-Werke AG (Wieland). The period of review (POR) is March 1, 1996, through February 28, 1997.

We preliminarily determine that sales have been made below normal value (NV). If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs to assess antidumping

duties based on to the difference between export price (EP) and NV.

Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument: (1) a statement of the issue; and (2) a brief summary of the argument.

EFFECTIVE DATE: April 7, 1998.

FOR FURTHER INFORMATION CONTACT:

Thomas Killiam, Alain Letort, or John Kugelman, Enforcement Group III Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Room 7866, Washington, D.C. 20230; telephone (202) 482-2704 (Killiam), 4243 (Letort), or 0649 (Kugelman).

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR Part 353 (April 1997). Although the Department's new regulations, codified at 19 CFR Part 351 (62 FR 27296, May 19, 1997), do not govern these proceedings, citations to those regulations are provided, where appropriate, to explain current departmental practice.

Background

The Department published the antidumping duty order on brass sheet and strip from Germany on March 6, 1987 (52 FR 6997). The Department published a notice of Opportunity to Request an Administrative Review of the antidumping duty order for the 1996/97 review period on March 7, 1997 (62 FR 10521). On March 31, 1997, 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 (AFL-CIO/CLC), requested that the Department conduct an administrative review of the antidumping duty order on brass sheet and strip from Germany for Wieland. We published a notice of initiation of

this review on April 24, 1997 (62 FR 19988).

On May 1, 1997, the petitioners requested, pursuant to section 751(a)(4) of the Act, that the Department determine whether antidumping duties had been absorbed by the respondent during the POR. Section 751(a)(4) provides for the Department, if requested, to determine, during an administrative review initiated two years or four years after publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter subject to the order if the subject merchandise is sold in the United States through an importer who is affiliated with such foreign producer or exporter. Section 751(a)(4) was added to the Act by the URAA.

The regulations governing this review do not address this provision of the Act. However, for transition orders as defined in section 751(c)(6)(C) of the Act, *i.e.*, orders in effect as of January 1, 1995, section 351.213(j)(2) of the Department's new antidumping regulations provides that the Department will make a duty-absorption determination, if requested, in any administrative review initiated in 1996 or 1998. See 19 CFR § 351.213(j)(2), 62 FR at 27394. As noted above, while the new regulations do not govern the instant review, they nevertheless serve as a statement of departmental policy. Because the order on brass sheet and strip from Germany has been in effect since 1987, it is a transition order in accordance with section 751(c)(6)(C) of the Act. However, since this review was initiated in 1997, the Department will not undertake a duty-absorption inquiry as part of this administrative review.

Under the Act, the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. On November 10, 1997, the Department extended the time limits for these preliminary results to March 31, 1998. See *Brass Sheet and Strip from Germany; Extension of Time Limits for Antidumping Duty Administrative Review* (62 FR 60469, November 10, 1997).

The Department is conducting this administrative review in accordance with section 751 of the Act.

Scope of the Review

This review covers shipments of brass sheet and strip, other than leaded and tinned, from Germany. 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 inches (0.15 millimeters) through 0.188 inches (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. The HTS item numbers are provided for convenience and Customs purposes; the written description of the scope of this order remains dispositive.

The POR is March 1, 1996 through February 28, 1997. This review covers sales of brass sheet and strip from Germany by Wieland.

Transactions Reviewed

In accordance with section 751 of the Act, the Department is required to determine the EP (or CEP) and NV of each entry of subject merchandise.

As in past reviews, we are treating Wieland, Metallwerke Schwarzwald GmbH (MSV), and Langenberg Kupfer- und Messingwerke GmbH (LKM) as affiliated parties, identified in the questionnaire response of June 16, 1997, and have collapsed them as a single producer of brass sheet and strip in order to analyze the universe of home market affiliated sales.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all brass sheet and strip, covered by the descriptions in the Scope of the Review section of this notice, *supra*, and sold in the home market during the POR, to be foreign like products for the purpose of determining appropriate product comparisons to U.S. sales of brass sheet and strip. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed in Appendix V of the Department's September 19, 1996 antidumping questionnaire. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondent.

Fair Value Comparisons

To determine whether sales of brass sheet and strip by the respondent to the United States were made at less than

fair value, we compared EP to NV, as described in the Export Price and Normal Value sections of this notice. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted-average prices for NV and compared these to individual U.S. transactions.

Export Price

We calculated the price of United States sales based on EP, in accordance with section 772(a) of the Act, because the subject merchandise was sold by the producer or exporter outside the United States to unaffiliated purchasers in the United States prior to the date of importation.

We calculated EP based on packed prices to unaffiliated customers in the United States. Where appropriate, we made deductions from the starting price for discounts, foreign inland freight, foreign brokerage and handling, international freight, marine insurance, U.S. inland freight, U.S. brokerage and handling, and U.S. Customs duties.

Normal Value

Based on a comparison of the aggregate quantity of home-market and U.S. sales, we determined that the quantity of the foreign like product sold in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, 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 product was first sold for consumption in the home market, in the usual commercial quantities and in the ordinary course of trade.

Where appropriate, we deducted rebates, discounts, post-sale warehousing, inland freight, inland insurance, and packing. We made adjustments to NV, where appropriate, for differences in credit expenses.

We increased NV by U.S. packing costs in accordance with section 773(a)(6)(A) of the Act. For comparison of U.S. merchandise to home-market merchandise which was not identical but similar, we made adjustments to NV for differences in cost attributable to differences in physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act.

Differences in Levels of Trade

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade ("LOT") as the EP or

CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or when NV is based on constructed value ("CV"), that of the sales from which we derive selling, general and administrative ("SG&A") expenses and profit. For EP, the U.S. LOT is also the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT, and the difference affects 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, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

In its questionnaire responses Wieland stated that there were no differences in its selling activities by customer categories within each market. In order independently to confirm the absence of separate levels of trade within or between the U.S. and home markets, we examined Wieland's questionnaire responses for indications that its functions as a seller differed qualitatively and quantitatively among customer categories. See commentary to section 351.412 of the Department's new regulations (62 FR at 27371).

Wieland sold to original equipment manufacturers in both the U.S. and home markets. Wieland performed the same selling and marketing functions for its home-market and U.S. customers. Pursuant to section 773(a)(1)(B)(i) of the Act, we consider the selling functions reflected in the starting price of home-market sales before any adjustments. Our analysis of the questionnaire response leads us to conclude that sales within or between each market are not made at different levels of trade. Accordingly, we preliminarily find that all sales in the home market and the U.S. market were made at the same level

of trade. Therefore, all price comparisons are at the same level of trade and an adjustment pursuant to section 773(a)(7)(A) of the Act is unwarranted.

Cost-of-Production Analysis

Petitioners alleged on July 16, 1997, that Wieland sold brass sheet and strip in the home market at prices below cost of production (COP). Based on these allegations, the Department determined, on August 4, 1997, that it had reasonable grounds to believe or suspect that Wieland had sold the subject merchandise in the home market at prices below the COP. We therefore initiated a cost investigation in order to determine whether the respondent made home-market sales during the POR at prices below their COP within the meaning of section 773(b) of the Act.

Before making any fair value comparisons, we conducted the COP analysis described below.

A. Calculation of COP

We used the COP based on the sum of the respondent's cost of materials and fabrication for the foreign like product, plus amounts for home-market selling, general, and administrative expenses (SG&A), and packing costs in accordance with section 773(b)(3) of the Act.

B. Test Home-Market Prices

We used the respondent's weighted-average COP for the period July 1995 to June 1996. We compared the weighted-average COP figures to home-market sales of the foreign like product as required under section 773(b) of the Act. In determining whether to disregard home-market sales made at prices below the COP, we examined whether (1) within an extended period of time, such sales were made in substantial quantities, and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the home-market prices (not including VAT), less any applicable movement charges, discounts, and rebates.

C. Results of COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in substantial quantities. Where 20 percent or more of respondent's sales of a given product during the POR were at prices less than the COP, we found that

sales of that model were made in substantial quantities within an extended period of time, in accordance with sections 773(b)(2) (B) and (C) of the Act, and were not at prices which would permit recovery of all costs within an extended period of time, in accordance with section 773(b)(2)(D) of the Act. 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.

On January 8, 1998 the U.S. Court of Appeals for the Federal Circuit issued a decision in *Cemex v. United States*, WL 3626 (Fed. Cir). In that case, based on the pre-URAA version of the Act, the Court discussed the appropriateness of using constructed value (CV) as the basis for foreign market value when the Department finds foreign market sales to be outside the ordinary course of trade. This issue was not raised by any party in this proceeding. However, the URAA amended the definition of sales outside the ordinary course of trade to include sales below cost. See Section 771(15) of the Act. Consequently, the Department has reconsidered its practice in accordance with this court decision and has determined that it would be inappropriate to resort directly to CV, in lieu of foreign market sales, as the basis for NV if the Department finds foreign market sales of merchandise identical or most similar to that sold in the United States to be outside the ordinary course of trade. Instead, the Department will use sales of similar merchandise, if such sales exist. The Department will use CV as the basis for NV only when there are no above-cost sales that are otherwise suitable for comparison. Therefore, in this proceeding, when making comparisons in accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the Scope of Investigation section of this notice, above, that were in the ordinary course of trade for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade, based on the information provided by SKC in response to our antidumping questionnaire. We have implemented the Court's decision in this case to the extent that the data on the record

permitted. Since there were sufficient sales above cost, it was not necessary to calculate constructed value in this case.

Currency Conversion

For purposes of the preliminary results, we made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York. Section 773A(a) 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.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following weighted-average dumping margin exists:

BRASS SHEET AND STRIP FROM GERMANY

Producer/manufacturer/exporter	Weighted-average margin (percent)
Wieland	0.85

Parties to this proceeding may request disclosure within five days of publication of this notice and any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication of this notice. The Department will publish a notice of the final results of the administrative review, including its analysis of issues raised in any written comments or at a hearing, not later than 120 days after the date of publication of this notice.

Cash Deposit

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) the cash deposit rate for Wieland will be the rate established in the final results of this administrative review (no deposit will be required for a zero or *de minimis* margin, i.e., margin lower than 0.5 percent); (2) for merchandise exported

by manufacturers or exporters not covered in these reviews but covered in a previous segment of these proceedings, the cash deposit rate will be the company specific rate published for the most recent segment; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (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 these or any prior review, the cash deposit rate will be 8.87 percent, the all others rate established in the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary 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 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. These preliminary results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 353.22.

Dated: March 31, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98-9095 Filed 4-6-98; 8:45 am]

BILLING CODE 3510-DS-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-427-812]

Calcium Aluminate Flux From France; Final Results of Changed Circumstances Antidumping Duty Administration Review, Revocation of Order, and Rescission of Antidumping Duty Administrative Review.

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

ACTION: Notice of final results of changed-circumstances antidumping duty administrative review, revocation of order, and rescission of antidumping duty administration review.

SUMMARY: On February 9, 1998, the Department of Commerce (the Department) initiated a changed circumstances antidumping duty administrative review of the antidumping duty order on calcium aluminate flux (CA flux) from France, and issued the preliminary results of review with intent to revoke the order (63 FR 6524). We received one comment from the sole respondent, Lafarge Aluminates and Lafarge Calcium Aluminates, Inc. (Lafarge), regarding the preliminary results. We are now revoking the order on CA flux, based on fact that the domestic party, Lehigh Portland Cement (Lehigh), has expressed its lack of interest in the order on CA flux from France.

On June 30, 1997, Lafarge requested an administrative review of the antidumping duty order on calcium aluminate flux from France. On August 1, 1997, the Department published in the **Federal Register** (62 FR 41339) a notice of initiation of this administrative review for the period June 1, 1996 through May 31, 1997. The Department is rescinding this review as a result of the Department's revocation of the order due to petitioner's expression of no interest in the order.

EFFECTIVE DATE: April 7, 1998.

FOR FURTHER INFORMATION CONTACT: Maureen McPhillips or Linda Ludwig, Office of AD/CVD Enforcement Group III, Office 8, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482-0193 or (202) 482-3833.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351, 62 FR 27296 (May 19, 1997).

Background

On December 12, 1997, Lafarge, the respondent, requested that the Department conduct a changed circumstances administrative review to determine whether to revoke the antidumping duty order on CA flux from France. Subsequent to Lafarge's request for a changed circumstances administrative review, Lehigh, the petitioner and the sole U.S. producer of