

the United States International Trade Commission indicate that, since the imposition of the order, the import volumes of the subject merchandise have declined substantially. Namely, the import volumes of the subject merchandise declined substantially immediately following the imposition of the order—a drop of 93.5 percent. Moreover, for the entire period of 1989–1998, annual imports of the subject merchandise have never reached one-quarter of the 1986 volume. Therefore, the Department determines that the import volumes of the subject merchandise decreased significantly after the issuance of the order.

Given that dumping has continued over the life of the order; that the import volumes of the subject merchandise decreased significantly after the issuance of the order; that respondent interested parties have waived their right to participate in this review, and that there are no arguments and/or evidence to the contrary, the Department agrees with the domestic interested parties' contention that respondent interested parties are incapable of selling the subject merchandise in the United States at fair value. Consequently, the Department determines that dumping is likely to continue if the order is to be revoked.

Magnitude of the Margin

In the *Sunset Policy Bulletin*, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the "all others" rate from the investigation. (See section II.B.1 of the *Sunset Policy Bulletin*.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (See sections II.B.2 and 3 of the *Sunset Policy Bulletin*.)

The Department, in its final determination of sales at less than fair value, published weighted-average dumping margins for four Japanese producers/exporters of the subject merchandise: Nippon Mining—57.98, Sambo Copper Alloy—13.30, Mitsubishi Shindo—57.98, and Kobe Steel—57.98, all-others—45.72 percent (53 FR 23296, June 21, 1988). We note that, to date, the Department has not issued any duty absorption findings in this case.

In its substantive response, citing the SAA at 890 and the *Sunset Policy*

Bulletin, the domestic interested parties state that the Department normally will provide the Commission with the dumping margins from the investigation because those are the only calculated margins that reflect the behavior of exporters without the discipline of the order in place. (See the March 3, 1999 Substantive Response of the domestic interested parties at 45–46.) Therefore, the domestic interested parties urge that the Department should abide by its practice, as set forth in the regulations, and should provide to the Commission the margins set forth in the original investigation.

The Department agrees with the domestic interested parties' suggestion pertaining to the margins that are likely to prevail if the order were revoked. As correctly noted by the domestic interested parties, the Department normally will provide to the Commission the margins found in the original investigation. Moreover, since there has been no administrative review of this order, the margins from the original investigation are the only ones available to the Department. Absent argument and evidence to the contrary, the Department sees no reason to change its usual practice of selecting the rate from the original investigation. We will report to the Commission the company-specific and all others rates contained in the Final Results of Review section of this notice.

Final Results of Review

As a result of these reviews, the Department finds that revocation of the antidumping orders would likely lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/exporter	Margin (percent)
Nippon Mining Co	57.98
Sambo Copper Alloy Co., Ltd ..	13.30
Mitsubishi Shindoh Co., Ltd	57.98
Kobe Steel, Ltd	57.98
All Others	45.72

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

[A–428–602]

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

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

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

SUMMARY: On February 1, 1999, the Department of Commerce ("the Department") initiated a sunset review of the antidumping order on brass sheet and strip from Germany (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 response filed on behalf of domestic interested parties and inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the "Final Result of Review" section of this notice.

FOR FURTHER INFORMATION CONTACT: Eun W. Cho or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1698 or (202) 482–1560, respectively.

EFFECTIVE DATE: September 14, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752(c) 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 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 with chemical compositions that are defined by anything other than either the C.D.A. or U.N.S. series. In physical dimensions, the products covered by this review have a solid rectangular cross section over .0006 inches (.15 millimeters) through .1888 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 numbers are provided for convenience and U.S. Customs purposes. The written description remains dispositive.

History of the Order

The antidumping duty order on brass sheet and strip from Germany was published in the **Federal Register** on March 6, 1987 (52 FR 6997).¹ In that order, the Department indicated that the weighted-average dumping margins of brass sheet and strip from Germany were as follows:

Manufactures/producers/ exporters	Weighted- average Margins (percent)
Wieland-Werke AG (“Wieland-AG”)	3.81
Langenberg Kupfer-und Messingwerke GmbH KG	16.18
All-others	7.30

The Department has completed numerous administrative reviews since

¹ See *Antidumping Duty Order; Brass Sheet and Strip From the Federal Republic of Germany*, 52 FR 6997 (March 6, 1987), as amended, *Final Determination of Sales at Less Than Fair Value and Amendment to Antidumping Duty Order: Brass Sheet and Strip From Germany*, 52 FR 35750 (April 8, 1987).

that time.² Also, in one administrative review, the Department found that Wieland did not circumvent the antidumping duty order.³ The order remains in effect for all manufacturers and exporters of the subject merchandise.

Background:

On February 1, 1999, the Department initiated a sunset review of the antidumping order on brass sheet and strip from Germany (64 FR 4840), pursuant to section 751(c) of the Act. 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 (“OAB”), 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) (collectively “the domestic interested parties”) on February 16, 1999, 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 771(9)(D) of the Act as U.S. brass mills, rerollers, and unions whose workers are engaged in the production of subject brass sheet and strip in the United States.

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). In their substantive response, the domestic interested parties indicate that most of their members were parties to the original investigation with a few exceptions: Heyco did not participate in the original investigation but fully supports the instant review, and PMX was established after the original petitions were filed. The domestic parties also note that OAB was formerly known as American Brass Company.

We did not receive a substantive response from any 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.⁴

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—an order which was in effect on January 1, 1995. See section 751(c)(6)(C) of the Act. The Department determined that the sunset review of the antidumping duty order on brass sheet and strip from the Germany is extraordinarily complicated. Therefore, on June 7, 1999, the Department extended the time limit for completion of the preliminary results of this review until not later than August 30, 1999, in accordance with section 751(c)(5)(B) of the Act.⁵

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the

⁴ The domestic interested parties filed comments, pertaining to the Department’s decision to conduct an expedited (120-day) sunset review for the present review, in which they concurred with the Department’s decision. See May 12, 1999, domestic interested parties’ comments on the Adequacy of Responses and the Appropriateness of Expedited Sunset Review at 2.

⁵ 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).

² See *Brass Sheet and Strip From the Federal Republic of Germany; Final Results of Antidumping Duty Administrative Review*, November 27, 1991 (56 FR 60087); *Brass Sheet and Strip From the Federal Republic of Germany; Amendment to Final Results of Antidumping Duty Administrative Review*, January 3, 1992 (57 FR 276); *Brass Sheet and Strip From Germany; Final Results of Antidumping Duty Administrative Review*, July 25, 1995 (60 FR 38031); *Brass Sheet and Strip From Germany; Final Results of Antidumping Duty Administrative Reviews*, July 27, 1995 (60 FR 38542); *Brass Sheet and Strip From Germany; Amendment of Final Results of Antidumping Duty Administrative Reviews*, April 29, 1996 (61 FR 18720); *Brass Sheet and Strip From Germany; Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke in Part*, September 23, 1996 (61 FR 49727); *Brass Sheet and Strip From Germany; Amended Final Results of Antidumping Duty Administrative Review*, July 17, 1997 (62 FR 38256); *Brass Sheet and Strip From Germany; Final Results of Antidumping Duty Administrative Review*, August 11, 1998 (63 FR 42823); *Final Results of Antidumping Duty Administrative Review: Brass Sheet and Strip From Germany*, 64 FR 43342 (August 10, 1999).

³ See *Brass Sheet and Strip From Germany; Negative Final Determination of Circumvention of Antidumping Duty Order*, 56 FR 65884 (December 19, 1991). The Department determined that C.D.A. 667-series manganese brass was not a minor alteration of brass sheet and strip of the C.D.A. 200-series, and consequently, that Wieland did not circumvent the order.

Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping order, and shall provide to the International Trade Commission ("the Commission") the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margin are discussed below. In addition, the domestic interested parties' comments with respect to continuation or recurrence of dumping and the magnitude of the margin are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), specifically the Statement of Administrative Action ("the 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 bases for likelihood determinations. In its *Sunset Policy Bulletin*, the Department indicated that determinations of likelihood will be made on an order-wide basis (see section II.A.2). In addition, the Department indicated that normally it will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above de minimis after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (see section II.A.3).

In addition to considering the guidance on likelihood 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 participation in the sunset review. In the instant review, the Department did not receive a response from any 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 claim that revocation of the order will likely lead to continuation or recurrence of dumping of brass sheet and strip from Germany (see March 3, 1999 Substantive Response of the domestic interested parties at 38). To illustrate their contention, the domestic interested parties point out a drastic decline of import volumes of the subject merchandise since the issuance of the order. Also, the domestic interested parties submit an argument that, since the imposition of the order, dumping of the subject merchandise has continued and is presently persisting above the de minimis level. *Id.* at 39-40.⁶ As a result, the domestic interested parties conclude that dumping of the subject merchandise will continue were the order revoked.

With respect to import volumes of the subject merchandise, the domestic interested parties compare a three-year (1983-1985) average import volume prior to the issuance of the order with a three-year (1987-1989) average import volume subsequent to the order: 56.8 million pounds versus 25.4 million pounds—a 55.2 percent decline. *Id.* In addition, the domestic interested parties note that imports of the subject merchandise continued to fall: 7.4 million pounds in 1992, 4.9 million pounds in 1993, and 2.6 million pounds in 1994. *Id.* Finally, the domestic interested parties emphasize that, during 1995-1998, the import volumes of the subject merchandise have never exceeded 10 percent of the pre-order volumes. *Id.*

While acknowledging that the weighted-average dumping margin for

Wieland-AG had, at one point, been de minimis for three consecutive years, the domestic interested parties contend that this is not indicative of what will happen if the order is revoked. The domestic interested parties suggest that Wieland-AG had achieved zero or de minimis margin by further reducing its exports of the subject merchandise during the period. In addition, the domestic interested parties direct our attention to the Department's previous decision in which the Department, despite Wieland-AG's de minimis margins in three consecutive administrative reviews, refused to grant revocation on behalf of Wieland-AG because, the Department could not determine that Wieland-AG will be able to export the subject merchandise priced at or above fair value.⁷

In conclusion, the domestic interested parties urge that the Department should find dumping would be likely to continue if the order is revoked because dumping margins have existed significantly above the de minimis level over the life of the order for all producers/exporters of the subject merchandise, and because imports of the subject merchandise have declined dramatically since the imposition of the order. The aforementioned two circumstances, according to the domestic interested parties, provide a strong indication that the German producers/exporters are unable to sell in the United States without dumping.

As indicated in section II.A.3 of the *Sunset Policy Bulletin*, the SAA at 890, and House Report at 63-64, the Department considered whether dumping continued at any level above de minimis after the issuance of the order. If companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue were the discipline removed. After examining the published findings with respect to weighted-average dumping margins in previous administrative reviews, the Department agrees with the domestic interested parties that weighted-average dumping margins at a level above de minimis have persisted over the life of the order, at least for some German producers and exporters of brass sheet and strip and currently remain in place.⁸

⁷ See *Brass and Strip From Germany; Final Results of Antidumping Duty Administrative Review and Determination Not To Revoke in Part*, 61 FR 49727 (September 23, 1996).

⁸ See *supra* footnote 2, for the list of final determinations of administrative reviews in which the Department found above de minimis weighted-average margins for, at least, some German

⁶ The Department, in its first review, determined that Langenberg Kupfer und Messingwerke GmbH KG and Metallwerke Schwarzwald GmbH are wholly-owned subsidiaries of Wieland-AG. See *Brass Sheet and Strip From the Federal Republic of Germany; Final Results of Antidumping Duty Administrative Review*, November 27, 1991 (56 FR 60087). For the investigated period of 1986-1988, the Department found dumping margins for Wieland-AG of 14.65 percent (see *Brass Sheet and Strip From Germany; Amended Final Results of Antidumping Duty Administrative Review*, July 17, 1997 (62 FR 38256)) (this is a third and final amendment of the final results of the first review, 56 FR 60087), and for William Prym and Schwermetall Halbzeugwerke of 23.49 percent (see *Brass Sheet and Strip From the Federal Republic of Germany; Amendment to Final Results of Antidumping Duty Administrative Review*, January 3, 1992 (57 FR 276)) (this is the first amendment of the first review, 56 FR 60087). Since that time the Department has dealt exclusively with Wieland-AG as a lone respondent interested party in subsequent administrative reviews. For subsequent administrative reviews, Wieland-AG's dumping margins were 2.57 percent for 1990-1991, 2.37 percent for 1991-1992, 0.37 percent for 1992-1993, 0.495 percent for 1993-1994, 0 percent for 1994-1995, 16.18 percent for 1996-1997, and 16.18 percent for 1997-1998. See footnote 2, *supra*.

Consistent with section 752(c) of the Act, the Department also considered the volume of imports before and after issuance of the order. The data supplied by the domestic interested parties and those of the United States Census Bureau IM146s and the United States International Trade Commission indicate that, since the imposition of the order, import volumes of the subject merchandise have declined substantially. Namely, the import volumes of the subject merchandise declined substantially immediately following the imposition of the order. In addition, the Department's findings of either zero or de minimis margins coincide with further decline of import volumes of the subject merchandise. Moreover, for the period 1995–1998, annual import volumes never rose to even 10 percent of the pre-order volumes. Therefore, the Department determines that the import volumes of the subject merchandise have decreased significantly after the issuance of the order.

Given that dumping has continued over the life of the order, import volumes of the subject merchandise decreased significantly after the issuance of the order, respondent interested parties have waived their right to participate in this review, that there are no arguments and/or evidence to the contrary, the Department agrees with the domestic interested parties' contention that dumping is likely to continue if the order is revoked.

Magnitude of the Margin

In the *Sunset Policy Bulletin*, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the "all others" rate from the investigation. (See section II.B.1 of the *Sunset Policy Bulletin*.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (See sections II.B.2 and 3 of the *Sunset Policy Bulletin*.)

The Department, in its final determination of sales at less than fair value, published weighted-average dumping margins for Wieland-AG and

all others of 3.81 and 7.30 percent, respectively (52 FR 822, January 9, 1987), as amended, (52 FR 35750, September 23, 1987). We also note that the Department has found duty absorption in the most recently completed administrative review.⁹

In its substantive response, the domestic interested parties urge that the Department should choose more recently calculated margins rather than those determined in the original investigation. (See March 3, 1999 Substantive Response of the domestic interested parties at 47–48.) The domestic interested parties stress that when companies increase dumping in order to maintain or enhance their market share, increasing margins may be more representative of a company's behavior in the absence of an order. Since Wieland-AG was found dumping at higher margins (than original margins) in two most recent administrative reviews, and since Wieland-AG has been historically able to dump at even higher rates with the order in place, the domestic interested parties assert, the more recently calculated rate of 16.18 percent should be used for Wieland-AG.

The Department disagrees with the domestic interested parties' argument as to why the Department should select a more recently calculated margin for Wieland-AG from the most recent administrative review. The continuous and rather consistent decline of the import volumes of the subject merchandise since the issuance of the order evinces that Wieland-AG has not really attempted to enhance their market share in the United States by increasing dumping. Furthermore, the fluctuations that have occurred in import volumes since the imposition of the order simply manifest a downward trend rather than illustrate a concerted attempt by Wieland-AG to expand market share by increasing dumping. Therefore, but for the reason discussed below, the Department would not deviate from its normal policy of selecting the rate from the original investigation and, consequently, determines that the rate from the original investigation, as amended, is the proper one to report to the Commission as the rate that is likely to prevail if the order is revoked.

Specifically, section II.B.3.b of the *Sunset Policy Bulletin*, the SAA, at 885, and the House Report at 60, provide that

⁹In its latest review, noting that it determined a margin exists for Wieland-AG on adverse facts available and, lacking other information, the Department found that duty absorption exists on all sales. See *Final Results of Antidumping Duty Administrative Reviews: Brass Sheet and Strip From Germany*, 64 FR 43342 (August 10, 1999).

the Department normally will provide to the Commission the higher of the margin that the Department otherwise would have reported to the Commission or the most recent margin for that company adjusted to account for the Department's findings on duty absorption if the Department has found duty absorption. The Department explained that it normally will adjust a company's most recent margin to reflect its findings on duty absorption by incorporating the amount of duty absorption on those sales for which the Department found duty absorption. In the most instant review, the Department found duty absorption exists on "all" of Wieland-AG's exports to the United States. Consistent with the *Sunset Policy Bulletin*, we are adjusting the most recent margin to account for duty absorption. Because the adjusted margin for Wieland-AG is higher than rates from the original investigation, we will report to the Commission a recently calculated margin that takes into account the recent duty absorption finding as contained in the Final Results of Review section of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping order would likely lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/exporter	Margin (percent)
Wieland-AG	32.36
All others	7.30

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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producers/exporters in all periods of investigation. Also, see supra footnote 6 for a history of weighted-average dumping margins found for the subject merchandise.