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 cost) 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 other 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: December 16, 1999.

**Linda Engelmeier,**

*Departmental Forms Clearance Officer, Office of the Chief Information Officer.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–588–823]**

### Professional Electric Cutting Tools From Japan: Final Results of the Fifth Antidumping Duty Administrative Review and Revocation of the Antidumping Duty Order, in Part

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

**SUMMARY:** On August 10, 1999, the U.S. Department of Commerce published in the **Federal Register** the preliminary results of the fifth administrative review of the antidumping duty order on professional electric cutting tools from Japan (64 FR 43346). This review covers Makita Corporation Incorporated, a manufacturer and exporter of the subject merchandise to the United States. The period of review is July 1, 1997, through June 30, 1998.

We gave interested parties an opportunity to comment on our preliminary results. Our analysis of the comments received as well as our discussion of the issues related to revocation of the antidumping duty order are described below in the ''Revocation'' and ''Interested Party Comments'' sections of this notice. After review of the comments, we have not changed the preliminary results, including the determination to revoke the antidumping duty order, in part, with respect to professional electric cutting tools that are produced by Makita Corporation Incorporated and that are also exported by Makita Corporation Incorporated. The final results are listed below in the section ''Final Results of Review.''

**EFFECTIVE DATE:** December 21, 1999.

**FOR FURTHER INFORMATION CONTACT:** Brian Ledgerwood at (202) 482–3836 or Brian Smith at (202) 482–1766, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

**SUPPLEMENTARY INFORMATION:**

### Background

On August 10, 1999, the U.S. Department of Commerce (''the Department'') published in the **Federal Register** preliminary results of the 1997–1998 administrative review of the antidumping duty order on professional electric cutting tools (''PECTs'') from Japan (64 FR 43346) (''preliminary results'') and its preliminary intent to revoke the antidumping duty order, in part, with respect to PECTs that are produced by Makita Corporation Incorporated and that are also exported by Makita Corporation Incorporated (''Makita Japan''). The period of review (''POR'') for this administrative review is July 1, 1997, through June 30, 1998.

The petitioner, Black & Decker (U.S.) Inc. (''Black & Decker''), and respondent Makita Japan (along with Makita Japan's affiliated selling agent in the United States, Makita U.S.A. Inc. (''Makita USA'')), requested a hearing in this case on September 9, 1999. The petitioner and Makita Japan/Makita USA (hereafter collectively referenced as ''Makita'') submitted case briefs and rebuttal briefs on September 10, 1999 and September 17, 1999, respectively. On October 8, 1999, based on the petitioner's and Makita's timely requests, the Department conducted a public hearing. Also, based on the petitioner's timely request, the Department conducted a non-public hearing in which counsel for the interested parties discussed proprietary information protected under an administrative protective order (''APO'').

The Department has now completed this administrative review, in accordance with section 751(a) of the Act.

### 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 references to regulation are to the Department's regulations at 19 CFR Part 351 (1998).

### Scope of Review

Imports covered by this review are shipments of PECTs from Japan. PECTs may be assembled or unassembled, and corded or cordless.

The term ''electric'' encompasses electro-mechanical devices, including tools with electronic variable speed features. The term ''assembled'' includes unfinished or incomplete articles, which have the essential characteristics of the finished or complete tool. The term ''unassembled'' means components which, when taken as a whole, can be converted into the finished or unfinished or incomplete tool through simple assembly operations (*e.g.*, kits).

PECTs have blades or other cutting devices used for cutting wood, metal, and other materials. PECTs include chop saws, circular saws, jig saws, reciprocating saws, miter saws, portable bank saws, cut-off machines, shears, nibblers, planers, routers, joiners, jointers, metal cutting saws, and similar cutting tools.

The products subject to this order include all hand-held PECTs and certain bench-top, hand-operated PECTs. Hand-operated tools are designed so that only the functional or moving part is held and moved by hand while in use, the whole being designed to rest on a table top, bench, or other surface. Bench-top tools are small stationary tools that can be mounted or placed on a table or bench. These are generally distinguishable from other stationary tools by size and ease of movement.

The scope of the PECTs order includes only the following bench-top, hand-operated tools: cut-off saws; PVC saws; chop saws; cut-off machines, currently classifiable under subheading 8461 of the Harmonized Tariff Schedule of the United States (''HTSUS''); all types of miter saws, including slide compound miter saws and compound miter saws, currently classifiable under subheading 8465 of the HTSUS; and portable band saws with detachable bases, also currently classifiable under subheading 8465 of the HTSUS.

This order does not include: professional sanding/grinding tools; professional electric drilling/fastening tools; lawn and garden tools; heat guns; paint and wallpaper strippers; and chain saws, currently classifiable under subheading 8508 of the HTSUS.

Parts or components of PECTs when they are imported as kits, or as accessories imported together with covered tools, are included within the scope of this order.

''Corded'' and ''cordless'' PECTs are included within the scope of this order. ''Corded'' PECTs, which are driven by electric current passed through a power cord, are, for purposes of this order, defined as power tools which have at least five of the following seven characteristics:

1. The predominate use of ball, needle, or roller bearings (*i.e.*, a majority or greater number of the bearings in the tool are ball, needle, or roller bearings);
2. Helical, spiral bevel, or worm gearing;
3. Rubber (or some equivalent material which meets UL's specifications S or SJ) jacketed power supply cord with a length of 8 feet or more;
4. Power supply cord with a separate cord protector;
5. Externally accessible motor brushes;
6. The predominate use of heat treated transmission parts (*i.e.,* a majority or greater number of the transmission parts in the tool are heat treated); and
7. The presence of more than one coil per slot armature.

If only six of the above seven characteristics are applicable to a particular ''corded'' tool, then that tool must have at least four of the six characteristics to be considered a ''corded'' PECT.

''Cordless'' PECTs, for the purposes of this order, consist of those cordless electric power tools having a voltage greater than 7.2 volts and a battery recharge time of one hour or less.

PECTs are currently classifiable under the following subheadings of the HTSUS: 8508.20.00.20, 8508.20.00.70, 8508.20.00.90, 8461.50.00.20, 8465.91.00.35, 85.80.00.55, 8508.80.00.65 and 8508.80.00.90. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under review is dispositive.

**Duty Absorption**

On September 24, 1998, the petitioner requested that the Department determine whether antidumping duties had been absorbed during the POR. Section 751(a)(4) of the Act provides for the Department, if requested, to determine during an administrative review initiated two or four years after the publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter, if the subject merchandise is sold in the United States through an affiliated importer. In this case Makita Japan sold to the United States through an importer (*i.e.,* Makita USA) that is affiliated within the meaning of section 751(a)(4) of the Act.

Section 351.213(j)(2) of the Department's regulations provides that for transition orders (*i.e.*, orders in effect on January 1, 1995), the Department will conduct duty absorption reviews, if requested, for administrative reviews initiated in 1996 or 1998. Because the order underlying this review was issued prior to January 1, 1995, and this review was initiated in 1998, a duty absorption determination in this segment of the proceeding is appropriate. As we have found that there is no dumping margin for Makita with respect to its U.S. sales, we have also found that there is no duty absorption for purposes of the final results (*see Final Results of Antidumping Duty Administrative Review: Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from Germany,* 64 FR 43146 (August 9, 1999).).

**Normal Value Comparisons**

We made normal value (''NV'') comparisons to constructed export price based on the same methodology used in the preliminary results (*see* preliminary results at 43348–43350, and Preliminary Results Calculation Memorandum to the File dated August 3, 1999).

**Determination to Revoke Order in Part**

The Department ''may revoke, in whole or in part,'' an antidumping duty order upon completion of a review under section 751 of the Act. While Congress has not specified the procedures that the Department must follow in revoking an order, the Department has developed a procedure for revocation that is described in 19 CFR 351.222. This regulation requires, *inter alia,* that a company requesting revocation must submit the following: (1) A certification that the company has sold the subject merchandise at not less than NV in the current review period and that the company will not sell at less than NV in the future; (2) a certification that the company sold the subject merchandise in each of the three years forming the basis of the request in commercial quantities; and (3) an agreement to reinstatement of the order if the Department concludes that the company, subsequent to the revocation, sold subject merchandise at less than NV. (*See* 19 CFR 351.222(e)(1).) Upon receipt of such a request, the Department may revoke an order, in part, if it concludes that: (1) The company in question has sold subject merchandise at not less than NV for a period of at least three consecutive years; (2) it is not likely that the company will in the future sell the subject merchandise at less than NV; and (3) the company has agreed to immediate reinstatement of the order if the Department concludes that the company, subsequent to the revocation, sold subject merchandise at less than NV. See 19 CFR 351.222(b)(2); *see, e.g., Final Results of Antidumping Duty Administrative Review and Determination Not To Revoke Order in Part: Pure Magnesium from Canada,* 64 FR 12977, 12978 (March 16, 1999) (''*Pure Magnesium from Canada*'').

In our *preliminary results*, we found that Makita met the requirements for revocation (*see preliminary results,* 64 FR 43351, 43352).

The petitioner argues that revocation is not appropriate because it is likely that Makita will resume selling subject merchandise below NV if the order is revoked. In general, the petitioner argues that Makita has avoided dumping margins in the past by drastically reducing its import volumes, and that Makita's pricing practices and loss in market share indicate that Makita is not able to compete effectively in the U.S. market without lowering prices. Additionally, the petitioner argues that Makita could easily expand its production capacity in Japan in order to begin selling at below NV in the future. Furthermore, the petitioner argues that market demand in Japan is declining, thereby increasing Makita's dependance on the U.S. market.

In response, Makita argues that its sales have in fact been in commercial quantities, and that the record clearly indicates that it is not likely that Makita will sell at below NV in the future if the order is revoked. Makita argues that it has experienced a drastic change in circumstance as a result of the building of its U.S. manufacturing facility, where a majority of Makita's electric cutting tools for the U.S. market are now produced. Thus, Makita stresses, most of its production of ''subject merchandise'' occurs in the United States, and consequently such products are no longer subject to the antidumping duty order. Makita notes that it has made and continues to make substantial investment in the U.S. facility, and that maintaining the U.S. facility is consistent with the company's objective of producing in close proximity to its customers. Furthermore, Makita states that, while it has additional capacity in its U.S. production facility, it has limited remaining production capacity in its facilities in Japan. As such, Makita

claims that it is not likely that Makita would ever shift production of its power tools back to Japan.

With regard to the market conditions and pricing levels, Makita argues that it has no need to sell at below NV, because the U.S. electric power tool market in general and electric cutting tool market in particular are healthy, stable, and growing, and the Japanese electric power tool market is also relatively stable. Makita further argues that it is able to charge premium prices because of its reputation for quality. Thus, Makita contends, it can make sales in the U.S. market, even when its prices are higher than its competitors' prices.

Upon review of the three criteria outlined at section 351.222(b) of the Department's regulations, the comments of the parties, and all of the evidence in the record, we have determined that the Department's requirements for revocation have been met. Based on the final results in this review and the final results of the two preceding reviews, Makita has demonstrated three consecutive years of sales at not less than NV. Furthermore, we find that Makita's aggregate sales to the United States have been made in commercial quantities during each of those years. Finally, based on our review of the record and the comments of the parties, we continue to find that it is not likely that Makita will sell at below NV in the future for the reasons set forth in the August 2, 1999, Revocation Memorandum (*see Memorandum Regarding Revocation of the Antidumping Duty Order on Professional Electric Cutting Tools from Japan* dated August 2, 1999 (hereafter ''August 2 Revocation Memorandum'').

Although, Makita's sales to the United States have decreased substantially since the imposition of the antidumping order, its exports of subject merchandise to the United States, in particular specialty PECTs, remain significant and reflect Makita's normal commercial practice. Further, while Makita has maintained consistent export volumes of its ''specialty'' PECTs, Makita transferred production of the remaining subject merchandise (*i.e.*, non-specialty PECTs) to the United States. Makita made a substantial investment in a U.S. manufacturing facility, and subsequently shifted production of subject merchandise to that facility. Additionally, the record indicates that the U.S. production facility now manufactures comparable volumes of non-specialty merchandise to those previously manufactured by Makita Japan. This significant change in business practice explains the decrease in Makita's exports of subject merchandise to the United States. With respect to products produced in Japan (*i.e.*, specialty PECTs), Makita has maintained consistent, significant levels of export sales levels to hundreds of U.S. customers since 1995 (*see* August 2 Revocation Memorandum at Attachment 2, Makita's October 26, 1998, section C response at Appendix C–2, and ''*Commercial Quantities*'' section below). Based on these facts (confirmed at verification) and our review of Makita Japan's sales practices, we find that we can reasonably conclude that the de minimis margins calculated for Makita are reflective of the company's normal commercial experience and provide a reasonable basis for our decision on revocation. *See* August 2 Revocation Memorandum at 10–11; and *Pure Magnesium from Canada* 64 FR 12977, 12979 (March 16, 1999) (where the Department found that because sales and volume figures were so small, both in absolute terms and in comparison with the period of investigation (''POI''), it could not conclude that the reviews were reflective of what the company's normal commercial experience would be without the discipline of an antidumping duty order).

Additionally, after consideration of the various comments that were submitted in response to the *preliminary results*, the Department continues to find that because Makita is not likely to sell subject merchandise in the United States below NV in the future, the continued application of the antidumping duty order is no longer necessary to offset dumping. As we stated in *Brass Sheet and Strip from Germany, Final Results of Antidumping Administrative Review and Determination to Revoke in Part*, 61 FR 49727, 49730 (September 23, 1996), ''[i]n 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 also Brass Sheet and Strip from Canada: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Revoke Order in Part*, 63 FR 6519, 6523 (February 9, 1998).

Based upon the relevant factors in this case, we find that it is not likely that Makita will sell at less than NV if the order is revoked with respect to Makita and, therefore, the continued application of the antidumping duty order to Makita is no longer necessary to offset dumping. First, with regard to capacity utilization, the record establishes that Makita Japan has very limited remaining capacity in its Japanese facilities, while it has additional remaining capacity at Makita Corporation of America (''MCA''). Makita has made significant investments in its U.S. facility, and all evidence in the record indicates that MCA intends to produce PECTs in the United States for the long-term. The majority of the PECTs sold by Makita USA are now being produced in the United States. Moreover, as confirmed at verification, Makita has never shifted production of any tool from MCA back to Japan. Additionally, Makita Japan is currently producing only specialty PECTs for export to the U.S. market, and Makita Japan's existing production in Japan is primarily geared toward production for the home market. Furthermore, the record indicates that Makita Japan produces specialty PECTs to order and thus maintains low inventories of subject merchandise, another fact suggesting that Makita would be less likely to dump subject merchandise.

Second, with respect to specialty tools (imports from Makita Japan), Makita has consistently priced its products higher than its competition in the United States. Thus, the record indicates that Makita has not needed to lower prices of its Japan-produced tools in order to remain competitive or to maintain a consistent level of sales (*i.e.,* quantity). Although Makita has lost U.S. market share in recent years, it has maintained consistent annual sales in significant quantities.

Third, the record indicates that the electric power tool industry, including PECTs, in the United States and around the world is stable and/or growing (see August 2 Revocation Memorandum at 14–15). Based on our review of the record data, we found that this price stability characteristic of the electric power tool industry mitigates against the possibility of future dumping, as compared to other industries where market prices are volatile (*see* the Department's July 9, 1999, verification report at 34–39; the Department's July 13, 1999, verification report at 13–15; the August 2 Revocation Memorandum at 14–15).

Therefore, for the reasons discussed above and in our August 2 Revocation Memorandum at 11–15, we find that Makita Japan qualifies for revocation of the order on PECTs which it produces and exports to the United States under 19 CFR 351.222(e)(1)(ii).

We note that in response to the decision by a WTO Panel, the Department revised its revocation regulation. *See* United States—Anti-Dumping Duty on Dynamic Random Access Memory Semiconductors of One Megabit or Above From Korea, WTO Doc. WT/DS99/R (January 29, 1999). The new regulation replaces the ''not likely'' standard with a requirement that ''[t]he continued application of the antidumping duty order is no longer necessary to offset dumping'' now codified at 19 CFR 351.222(b). While this regulation was not yet in effect for purposes of this review, and thus does not apply to this case, we determine, as discussed above and in the comments outlined below, that continuation of the order with respect to Makita is no longer necessary to offset dumping.

**Interested Party Comments**

*General*

Comment 1: The Department's Grant of Constructed Export Price Offset

Makita argues that the Department's grant of a constructed export price (''CEP'') offset is in accordance with the law. Makita notes that because the petitioner stipulated to dismissal of its judicial challenge to the Department's grant of the CEP offset in the prior fourth antidumping duty administrative review, it may be assumed that the petitioner is no longer interested in pursuing the CEP offset issue for purposes of the current proceeding.

In response, the petitioner asserted that, although it stipulated to dismissal of prior litigation on this issue, it reserves its right to appeal the issue if and when it is finally resolved.

*Department's Position:* We agree with Makita that the Department's calculation of a *de minimis* margin, in particular the grant of a CEP offset as part of the level of trade (''LOT'') analysis, is in accordance with the U.S. antidumping law. As we explained in the final results for the previous fourth antidumping duty administrative review:

> The Department is continuing its practice, articulated in section 351.412(c) of its regulations, of making LOT comparisons for CEP sales on the basis of the CEP after adjustments provided for in section 772(d) of the statute. As stated in *Certain Stainless Steel Wire Rods from France: Final Results of Antidumping Duty Administrative Review,* 63 FR 30185 (June 3, 1998), we recognize that the Department's practice has been criticized by the CIT in *Borden, Inc.* v. *United States*. However, the decision in *Borden, Inc.* v. *United States*, is not final, and we believe our practice to be in full compliance with the statute and the regulations. Thus, we will continue to apply the methodology articulated in the regulations at section 351.412. *Professional Electric Cutting Tools from Japan Final Results of the Administrative Review*, 63 FR 54441 at 54444 (October 9, 1998) (Comment 2)

Accordingly, we have applied the methodology articulated in the regulations at section 351.412.

Comment 2: Criteria for Revocation Set Forth in the Department's Regulations

Makita argues that it has met the criteria for revocation set forth in the Department's regulations. Specifically, Makita states that: (1) It has made sales of subject merchandise for three consecutive years (*i.e.*, three PORs) at *de minimis* antidumping duty margins; (2) it agrees to reinstatement of the antidumping duty order (should dumping of subject merchandise resume) and has provided the requisite certifications set forth in the Department's regulations (*see preliminary results*, ''*Intent To Revoke*'' section, 63 FR at 43350 (August 10, 1999)); (3) it has made sales of subject merchandise in commercial quantities (*see* ''*Commercial Quantities*'' section below for further discussion); and (4) there is no likelihood that Makita will in the future sell the subject merchandise at less than NV (see *''Likelihood of Future Dumping''* section below for further discussion). Therefore, based on its fulfilment of the criteria outlined above, Makita argues that the Department should revoke the order with respect to PECTs that are produced by Makita Japan and that are also exported by Makita Japan.

The petitioner argues that Makita has not met the criteria for revocation set forth in the Department's regulations. Specifically, the petitioner states that: (1) Makita's sales of subject merchandise have not been in commercial quantities; and (2) Makita has not presented any compelling argument demonstrating that it is not likely to dump subject merchandise in the future.

*Department's Position:* We agree with Makita that it has met the Department's criteria for revocation set forth in its regulations. Specifically, Makita has met the following requirements: (1) Makita has made sales of subject merchandise for three consecutive years (*i.e.*, three PORs) at *de minimis* dumping margins; (2) Makita agrees to reinstatement of the antidumping duty order (should dumping of subject merchandise resume) and has provided the requisite certifications set forth in the Department's regulations (*see preliminary results*; ''*Intent To Revoke*'' section, 63 FR at 43350). In addition, we have determined that Makita has made sales of subject merchandise in commercial quantities (*see* ''*Commercial Quantities*'' section below for detailed discussion) in each of the three years of *de minimis* margins. Finally, we find that it is not likely that Makita will in the future sell the subject merchandise at less than NV (*see* ''*Likelihood of Future Dumping*'' section below for detailed discussion), and that the continued application of the antidumping duty order is no longer necessary to offset dumping. Therefore, the Department is revoking the order with respect to PECTs from Japan that are produced by Makita Japan and that are also exported by Makita Japan.

*Commercial Quantities*

Comment 1: Standard for Determining Whether Sales are Made in Commercial Quantities

The petitioner states that Makita has not met the threshold requirement of demonstrating that sales of subject merchandise were made in commercial quantities during the three PORs under review (*i.e.*, 3rd Administrative Review: 7/1/95–6/30/96, 4th Administrative Review: 7/1/96–6/30/97, and 5th Administrative Review: 7/1/97–6/30/98—hereafter ''3rd AR,'' ''4th AR,'' and ''5th AR''). The petitioner argues that Makita's sales during the three years under review are not representative of its normal commercial behavior, as is demonstrated by the disparity between pre-order and post-order subject merchandise sales volumes. The petitioner asserts that the Department is applying an incorrect standard by ignoring the disparity in pre-order and post-order sales volumes and is setting bad policy by finding sales in commercial quantities under the facts of this case. Specifically, the petitioner states that, consistent with prior determinations on revocation, the Department must consider both absolute and relative current sales volumes (i.e., post-order) in comparison to respondent's sales volumes prior to the order, because sales volumes subsequent to the order are meaningless without a pre-order benchmark. Thus, the petitioner claims that the Department erred in its preliminary results by considering sales volume only in absolute terms for determining whether sales were made in commercial quantities.

The petitioner argues that the Department's case history on commercial quantities determinations in the context of revocation has focused on absolute and relative sales volumes between the pre- and post-order periods. To support its argument, the petitioner

cites to cases where the respondent had zero or very few sales in absolute terms and the Department found that it did not meet the commercial quantities threshold (*see, e.g., Pure Magnesium from Canada,* 64 FR 12978 (March 16, 1999), and *Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Canada: Final Results of Antidumping Duty Administrative Review and Determination to Revoke in Part,* 64 FR 2173, 2175 (January 13, 1999) (hereafter ''*Corrosion-Resistant Steel from Canada*''). The petitioner also cites to a case where respondent had 35, 45, and 70 percent of its pre-order relative sales volumes during the three consecutive PORs without dumping and the Department concluded that these sales volumes met the commercial quantities threshold (*i.e., Silicon Metal from Brazil: Preliminary Results, Intent to Revoke in Part, Partial Rescission of Antidumping Duty Administrative Review, and Extension of Time Limits,* 64 FR 43161, 43162 (August 9, 1999) (hereafter ''*Silicon Metal from Brazil*'')). The petitioner states that although Makita had more than a few sales in absolute terms, Makita's sales history is not analogous to *Silicon Metal from Brazil* case cited above. Therefore, as a matter of policy, as a matter of consistency, and due to the importance of the comparative standard used in determining normal commercial activities, the petitioner maintains that Makita's sales volumes cannot be considered satisfactory.

The petitioner disagrees with the Department's finding in the preliminary results that, ''[a]lthough Makita's sales to the United States have decreased substantially since the imposition of the antidumping order, its exports to the United States remain significant. * * * Thus regardless of the decrease in shipments during the course of this proceeding, * * * Makita is currently selling in commercial quantities.'' (*See* August 2 Revocation Memorandum at 10.) Specifically, the petitioner claims that sales volume during the POI must be considered when ascertaining whether the company's current sales reflect normal commercial practice, because the POI provides the only time period for which there is evidence concerning the respondent's commercial behavior without the discipline of the antidumping duty order. *Citing Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Canada: Preliminary Results of Antidumping Duty Administrative Reviews, Intent to Revoke in Part, Intent to Not Revoke in Part, and Rescission of Review in Part,* 64 FR 45228, 45230 (August 19, 1999) (hereafter ''*Corrosion-Resistant Carbon Steel Flat Products from Canada*'') (where the Department found that sales were not in commercial quantities when the respondent's sales volumes for the current POR were only 0.173 percent of the POI sales volumes); and *Pure Magnesium from Canada,* 64 FR 12977, 12982 (March 16, 1999) (where the volume of subject merchandise sales sold in each year under review was less than 0.5 percent of the volume sold prior to the imposition of the order). Thus, the petitioner claims that because the volume of Makita's subject merchandise sales sold in each year under review was one percent or less than the volume sold prior to the imposition of the order, the Department cannot reasonably conclude that the consecutive *de minimis* margins are reflective of Makita's normal commercial experience in this case. Additionally, the petitioner argues that the Department cannot declare an amount to be ''significant'' (*i.e.,* current sales volume) without having some comparison or benchmark to provide context; in other words, ''significant'' must be relative to some defensible benchmark (*See Shakeproof Assembly Components* v. *United States,* Slip Op. 99–70 at 6 (CIT July 29, 1999) and *Taiwan Semiconductor Industry Ass'n* v. *United States,* Slip Op. 99–57 at 18 (CIT June 30, 1999).)

Additionally, the petitioner maintains that Makita's current sales activity (post-order) does not reflect the company's normal commercial activity (pre-order), because Makita's recent exports to the United States consist only of low-sales-volume, ''specialty'' PECT models (*i.e.,* not high-sales-volume, non-specialty PECT models), which are sold at relatively high prices. The petitioner argues that Makita's pre-order subject merchandise exports represented a full range of PECT models sold in significant quantities, rather than just ''specialty'' PECT models. Thus, the petitioner argues that Makita's post-order ''specialty'' PECT sales are not reflective of the company's normal pre-order commercial activity. The petitioner further contends that Makita's total number of PECT sales dropped considerably while Makita's sales of other non-subject power tools (*i.e.,* drills, sanders, and grinders) remained consistent, thus indicating that Makita's current sales of subject merchandise are not reflective of its normal commercial activity.

Makita states that its sales from the 3rd through the 5th ARs represent Makita's normal commercial behavior and reflect significant, consistent sales volumes. In addition, Makita argues that its current sales volumes continue to exhibit substantially the same range of specialty PECTs that were exported in 1992, prior to the imposition of the antidumping duty order, and that nothing has changed in regard to its specialty PECT exports.

Furthermore, Makita argues that it is not necessary to rely on pre-order sales volumes in this case in order to ascertain Makita's normal commercial practice, emphasizing that the Department cannot ignore the fact that Makita has established a permanent U.S. production facility that now manufactures the majority of Makita's PECT production for the U.S. market. Thus, Makita asserts, the subject merchandise that was previously produced in Makita's facility in Japan (pre-order) is now being manufactured in the United States. As a consequence of this substantial and permanent change in the company's business practice, which occurred in 1993, Makita stresses that pre-order export levels cannot properly represent current commercial activity.

Makita further notes that because it has permanently shifted the production of its high-sales-volume, ''non-specialty'' PECTs from Makita Japan to its U.S. production facility (i.e., MCA)), it is unlikely that Makita will ever again achieve 1992 pre-order sales quantities of PECTs that are produced in Japan. Thus, Makita argues that if the Department were to apply the petitioner's suggested requirement for commercial quantities, Makita could never obtain a revocation of the order. In effect, Makita argues, no company that shifts its production to the United States would ever be able to seek revocation. Makita further argues that the Department has considerable discretion in determining whether sales were made in commercial quantities and that the Department's preliminary finding in this case was in fact consistent with another recent decision issued by the Department. *Citing Notice of Preliminary Results of Antidumping Administrative Review and Intent to Revoke Order in Brass Sheet and Strip from the Netherlands,* 64 FR 48760, 48765, (September 8, 1999) (hereafter ''*Brass Strip from the Netherlands*''), Makita states that its change in commercial practice is similar to the circumstances in that case, where the respondent acquired a U.S. production facility and shifted significant production to the United States. Makita notes that, in *Brass Strip from the Netherlands,* the Department determined that the respondent's U.S.

sales were made in commercial quantities, despite a decline in exports, based on the Department's finding that the acquisition of the U.S. facility represented an ''unusual occurrence'' that significantly altered the company's commercial practice. Makita further argues that, *in Brass Strip from the Netherlands,* the Department stated that it is reasonable to conclude that the company's commercial practices were permanently changed when its subject merchandise production shifted to its U.S. facility, thereby making the date of the production shift, rather than the pre-order period, the appropriate benchmark for measuring whether respondent's sales during the three years without dumping were made in commercial quantities.

Makita stresses that it is not necessary to consider pre-order sales volumes, if the more current data provides the Department with appropriate information for determining Makita's normal commercial behavior. Makita argues that the Department's practice regarding the determination of commercial quantities must be applied on a case-by-case basis and that there are no set guidelines, commercial standards, or policies setting forth precise minimum sales quantities or permissible percentage changes in those quantities that are needed to determine a respondent's normal commercial behavior. Makita argues that this case is different from the cases cited by the petitioner (*i.e., Pure Magnesium from Canada, Corrosion-Resistant Steel from Canada, Corrosion-Resistant Carbon Steel Flat Products from Canada,* and *Silicon Metal from Brazil),* noting that none of the cases cited involved a major shift in production of subject merchandise. Additionally, Makita argues that the petitioner's citation to *Shakeproof Assembly Components* v. *United States* and *Taiwan Semiconductor Industry Ass'n* v. *United States* is not persuasive because those cases involved decisions by the International Trade Commission (''ITC''), rather than the Department of Commerce.

Makita also argues that there is a sound basis on which to evaluate what the Department means when it uses the term ''significant'' with respect to Makita's volume of export sales to the United States in this review. Specifically, Makita notes that by defining the relevant universe of subject merchandise imports as specialty PECTs only, then its sales of the 16 specialty PECTs in the post-order period have unquestionably been consistent and significant in relation to pre-order sales of the same 16 models.

Finally, in response to the petitioner's argument that the Department should decide this case in a manner consistent with other revocation cases, Makita states that this is precisely what the Department did, *i.e.,* the Department based its decision on Makita's normal commercial practices. Makita argues that if the Department could not consider a significant and long-term change in business practice (*i.e.,* shifting high-volume PECT production to a U.S. production facility (MCA)), Makita would forever be locked into the order. According to Makita, any changes in the way Makita did business that resulted in lower volumes of imports would result in an indefinite continuation of the order, thereby rendering the revocation provision meaningless for Makita.

*Department's Position:* We agree with the petitioner that in order to form the basis for a revocation determination, past margins must be reflective of the company's normal commercial activity. *See Corrosion-Resistant Steel from Canada.* Sales during a POR which, in the aggregate, are of an abnormally small quantity do not generally provide a reasonable basis for determining that the discipline of the order is no longer necessary to offset dumping. *Id.; see also Pure Magnesium from Canada* at 12979 (''These sales and volume figures are so small, both in absolute terms and in comparison with the period of investigation, that we cannot reasonably conclude that the zero margins [respondent] received are reflective of the company's normal commercial experience.''). However, the determination as to whether or not sales volumes are made in commercial quantities is made on a case-by-case basis, based on the unique facts of each proceeding. Neither the statute nor the regulations prescribes a specific standard for determining whether sales have been made in commercial quantities. For example, we have specifically found in prior cases that although one or two sales is not generally sufficient to meet the threshold, a sales drop-off after the imposition of an antidumping duty order does not necessarily prevent revocation (*see, e.g., Pure Magnesium From Canada; Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke Order in Part* 64 FR 50489, 50490–Comment 1, 50492–Comment 4 (September 17, 1999) (hereafter ''*Pure Magnesium from Canada 2*'') (where one or two sales was not consistent with normal commercial practice; also stating that a sales drop-off after imposition of the order does not necessarily prevent revocation). *See also Corrosion-Resistant Steel from Canada* (although one sale during the POR was insufficient, several thousand sales during another POR was distinguishable); and *Brass Strip from the Netherlands,* 64 FR 48760, 48765 (September 8, 1999) (respondent provided a commercially acceptable explanation of why exports of subject merchandise had declined).

In this case, we agree with Makita that its sales volumes during each of the three years under consideration were significant. Unlike in prior cases where the Department did not revoke because the respondent did not meet the basic threshold requirement of sales made in commercial quantities, in this case, Makita made thousands of sales during each POR to hundreds of different customers (*see* August 2 Revocation Memorandum at Attachment 2 and Makita's October 26, 1998 section C response at Appendix C–2). Compare Corrosion-Resistant Steel from Canada (sales were not in commercial quantities where respondent only had *one sale* during the POR); *Pure Magnesium from Canada* (sales were not in commercial quantities where respondent had *one sale* in two of the relevant years and *two sales* in the other). Thus, this case is distinguishable from other cases where the respondents only had one or two sales during the relevant PORs. Moreover, although Makita's aggregate subject merchandise PECT sales have decreased since the imposition of the antidumping order, that decrease relates to products that Makita now produces in the United States. Makita continues to export from Japan significant quantities of ''specialty'' PECTs, the only PECT models not produced in the United States, and these quantities are significant relative to pre-order (1992) sales of the same models.[1]

Furthermore, sales during the three years in question are reflective of the company's normal commercial experience since the establishment of its production facility in the United States. The record indicates that the U.S. production facility now manufactures volumes of merchandise comparable to

[1] Makita's history of specialty PECT sales is as follows: Makita's 1993 sales of specialty PECTs were 00.00% of its 1992 sales of specialty PECTs. Makita's 1994 sales of specialty PECTs were 38.39% of its 1992 sales of specialty PECTs. Makita's 1995 sales of specialty PECTs were 38.60% of its 1992 sales of specialty PECTs. Makita's 1996 sales of specialty PECTs were 47.18% of its 1992 sales of specialty PECTs. Makita's 1997 sales of specialty PECTs were 42.17% of its 1992 sales of specialty PECTs. Makita's 1998 sales of specialty PECTs were 50.86% of its 1992 sales of specialty PECTs. (See August 2 Revocation Memorandum at Attachment 2).

what was previously being manufactured by Makita Japan. This significant change in business practice provides a logical commercial explanation for Makita's relative drop in subject merchandise sales.

In the preliminary results of *Brass Strip from the Netherlands,* we evaluated whether the volume of sales prior to the order was the proper benchmark for measuring whether a respondent's sales volumes during the three years without dumping were made in commercial quantities, where the respondent acquired a U.S. manufacturing facility (subsequent to the imposition of the order) and had shifted a substantial portion of its production of subject merchandise to the United States. In *Brass Strip from the Netherlands* at 48765–48766, we found that this ''unusual occurrence'' provided sufficient reason to re-evaluate the benchmark. We stated:

> Although both the quantity and number of [respondent]'s shipments to the United States of subject merchandise have decreased since the imposition of the antidumping duty order, we find that the . . . acquisition of [the U.S. facility] and the subsequent transfer of in-scope radiator strip production to the United States is reflective of the type of ''unusual occurrence'' contemplated by the Department, in promulgating its regulations, as an acceptable explanation of why exports of subject merchandise have declined. Prior to this acquisition, . . . [respondent] continued to ship in similar quantities to the pre-order period and the subsequent cessation of shipments until 1995 was the immediate result of the 1991 acquisition. Based upon these circumstances, it is reasonable to conclude that the company's commercial practices were permanently changed in 1991, and that 1991, rather than the pre-order period, should be the benchmark for measuring whether the company's sales during the three years without dumping were made in commercial quantities.

Thus, as indicated in *Brass Strip from the Netherlands,* in order to ascertain a corporation's ''normal commercial practice'' with respect to shipment volumes, where necessary, we will evaluate the most appropriate benchmark. We recognize that in most cases, sales of subject merchandise sold prior to the imposition of the order will provide the most relevant benchmark. However, in unusual instances, such as those in this case, flexibility may be warranted in order to properly evaluate the company's normal commercial practice. In this instance the record indicates that Makita made the long term, if not permanent, decision to shift its production of non-specialty PECTs to the United States in 1993. Thus, while the sales levels prior to the imposition of the order provide an appropriate benchmark for analyzing sales volumes of specialty PECTs—this benchmark is no longer relevant to sales volumes of non-specialty PECTs. As such, we have compared Makita's sales volumes of specialty PECTs prior to the imposition of the order with those in the post-order period and, as stated above, after considering all relevant factors, found the latter to be significant.

Additionally, as we stated in *Pure Magnesium from Canada* 2 at 50492, a sales drop-off after imposition of the order does not necessarily prevent revocation. The Department explained:

> The Department's threshold requirement does not mean, as NHCI suggests, that the Department is effectively disqualifying companies from revocation if there is a sales drop off following the imposition of an antidumping order. The issue that is analyzed by the Department is the magnitude of the drop-off. In this regard, the Department has expressed its intent to revoke an antidumping duty order even where the sales drop-off has been substantial so long as the sales used to demonstrate a lack of price discrimination are reflective of the company's normal commercial experience.

Thus, the normal concern that accompanies decreased sales (i.e., that a low level of sales activity does not provide a reasonable basis for determining that the discipline of the order is no longer necessary to offset dumping) is not present here because there is an explanation as to why Makita has decreased sales of subject merchandise and current sales levels are significant. *Compare* with *Pure Magnesium from Canada* (where the Department could not reasonably conclude that the zero margins received by respondent were reflective of the company's normal commercial experience without the discipline of an order). For these reasons, we find that we can reasonably conclude that the *de minimis* margins calculated for Makita are reflective of the company's normal commercial experience and provide a reasonable basis for our decision to revoke. *See* August 2 Revocation Memorandum at 10–11.

*Comment 2:* Consideration of ''Changed Circumstances'' in the Context of Revocation

The petitioner states that the Department has improperly collapsed its revocation review pursuant to 751(a) of the Act with a changed circumstance review pursuant to 751(b) of the Act. The petitioner purports that the Department has done this without prior notice and therefore does not have the authority to do so. Citing the Department's August 2 Revocation Memorandum (at 4–5), the petitioner states that in its preliminary results of this AR the Department concluded that Makita's main argument supporting revocation is its ''changed circumstance'' in subject merchandise production (*i.e.,* Makita Japan's substantial investment in a U.S. production facility—MCA—and its PECT/power tool production shift from Makita Japan to MCA). The petitioner argues that the Department has been careful not to conduct a review under the guise of a changed circumstances review and that the Department has always given notice in the **Federal Register** when it does initiate a changed circumstance review (*citing Carbon Steel Plate from Korea: Final Results of Changed Circumstances Administrative Review and Revocation of Antidumping Duty Order* 51 FR 13042 (April 17, 1986); and *Certain Dried Heavy Salted Codfish from Canada; Initiation and Preliminary Results of Changed Circumstances Administrative Review; Consideration of Revocation; and Intent to Revoke Antidumping Duty Order* 54 FR 41479 (October 10, 1989)). Therefore, the petitioner argues that by considering MCA as a factor for revocation, the Department is effectively conducting a changed circumstances review without proper notice, and is thus violating its statutory and regulatory obligations.

Makita states that the Department did not convert the revocation proceeding to a changed circumstances proceeding. Makita stresses that the fact that some of the Department's preliminary findings could also have been used in a changed circumstances review does not turn the revocation proceeding into a changed circumstances review. Makita notes that at no point did the Department indicate that its decision to revoke was based simply on ''changed circumstances.'' Rather, according to Makita, the Department considered the establishment of MCA as a relevant factor regarding Makita's normal business practices and its applicability toward satisfying the commercial quantities threshold.

*Department's Position:* This administrative review has been conducted under section 751(a) of the Act; it is not a ''changed circumstances'' review under section 751(b). The difference between these two types of proceedings is primarily procedural. A section 751(a) review is conducted any time the Department receives a request for review in the anniversary month. Moreover, the regulations specifically provide that, if certain criteria are met, parties may request revocation at the time they request an administrative review under section 751(a) (*see* 19 CFR 351.222(e)). In contrast, a 751(b) review

is conducted any time the Department determines that there are changed circumstances sufficient to warrant review. Revocation can also be considered in the context of a 751(b) review (*see* 19 CFR 351.222(g)).

Although changed circumstances may warrant a review under section 751(b), nothing precludes the Department from considering facts relating to changed circumstances in the context of a section 751(a) review. In fact, the Department must consider all facts of record that are relevant to an issue under consideration in a section 751(a) review, whether it be an issue related to a margin calculation or to a request for revocation. However, the character of the review does not change simply because some of the facts considered relate to changes in the way a company conducts business.

Makita's establishment of MCA and its subsequent transfer of production to the United States is a relevant fact that cannot be ignored in the Department's revocation analysis. Indeed this fact could be characterized as a significant ''changed circumstance'' as was stated in the preliminary results. This characterization of the record facts, however, does not alter the nature of the proceeding. The petitioner, who has participated throughout this 751(a) review, has been afforded full notice and opportunity to provide evidence and comment regarding the issue of revocation generally and the impact of the shift in production specifically. The petitioner, in fact, has commented extensively on these issues.

Comment 3: Five Percent Market Viability Test and Commercial Quantities Determination

The petitioner argues that the Department's commercial quantities determinations in the context of revocation should be consistent with its policy in determining market viability under 19 CFR 351.404(b). The petitioner states that the Department's five percent viability standard is an appropriate benchmark to use because the requirement that NV be based on home market (or third country market) sales of a certain quantity and the commercial quantities standard are similar. The petitioner states, based on this comparison, that sales quantities in the U.S. market that are less than five percent of pre-order sales should not be considered representative to calculate margins for purposes of revocation.

Regarding the petitioner's argument that the Department's revocation determinations should be consistent with its home market viability determinations, Makita states that the five percent test for home market viability is designed for an entirely different purpose and has little applicability to the determination of commercial quantities in revocation. According to Makita, given the many years (six years at minimum) that typically intervene between the pre-order period and the revocation determination, any fixed, pre-determined percentage would not allow for significant changes in commercial practice. Additionally, Makita purports that by rejecting home markets where the quantity of sales is less than five percent of the U.S. export quantity, the Department is in no way suggesting that such sales are not made in commercial quantities.

*Department's Position:* We agree with Makita that the five percent test for home market viability is not relevant to the determination of commercial quantities in a revocation proceeding. The purpose of the viability test is to identify the most appropriate market in which to determine the NV of the subject merchandise, which is an issue that must be decided very early in the proceeding. That issue lends itself to a rule of general applicability and a general rule facilitates the requisite early decision. In contrast, for revocation, the issue is whether a company's sales during the three years in question provide a reasonable and reliable basis for determining that continuation of the order with respect to that company is no longer necessary to offset dumping. This is a more complex issue and a threshold matter in the context of the revocation decision. Thus, a general rule on the level of sales is inappropriate; it is an issue that can only reasonably be decided on a case-by-case basis.

*Likelihood of Future Dumping*

Comment 1: History of Dumping

The petitioner states that Makita's history of dumping, as evidenced by the imposition of the antidumping duty order, illustrates that Makita has to dump in order to compete effectively in the U.S. market, and that Makita will resume dumping if the Department revokes the order. The petitioner notes that Makita's drop in subject merchandise sales since the imposition of the antidumping duty order (*i.e.,* in terms of total number of models, total number of units, and loss of market share) has been substantial based on the Department's preliminary analysis. Thus, the petitioner states that revoking the order now would provide little commercial benefit to Makita unless Makita intends to resume selling higher volumes of subject merchandise in the United States at dumped prices.

The petitioner also argues that Makita will resume dumping subject merchandise in the future if the order is revoked because Makita has continued dumping non-subject tools (*i.e.,* professional electric sanding-grinding tools (''PESGTs'')). The petitioner purports that Makita's normal pattern of production and trade are presumptively reflected in its non-subject tool sales and therefore Makita's trade in PECTs will match its trade in PESGTs if the order is revoked. Based on its analysis of Makita's PESGTs sales, the petitioner maintains that Makita has not stopped dumping its PESGTs in the U.S. market since the time of the antidumping duty investigation (*see* pages 7–13 of the petitioner's September 10, 1999, case brief).[2] In addition, the petitioner states that, based on Makita's admission, PESGTs are not materially different from PECTs. According to the petitioner's analysis, Makita has continued dumping its PESGTs at a 46 percent margin during the PORs that are the subject of this revocation inquiry. Therefore, the petitioner states that continued dumping of non-subject tools provides a clear indication that Makita would likely resume dumping subject merchandise if the antidumping duty order were revoked.

Finally, the petitioner asserts that Makita has an incentive to resume dumping of its low-sales-volume, specialty PECTs that it has been importing into the United States during the pre- and post-order periods. The petitioner states that Makita's sales of specialty PECTs have decreased by 50 percent since 1992, as a result of increasing its prices on specialty PECTs in response to the antidumping duty order. Thus, the petitioner argues that there is incentive for Makita to resume dumping of subject merchandise (*i.e.,* specialty PECTs).

Makita disagrees, stating that the facts alleged by the petitioner do not show any history of dumping by Makita, but only show a history of accusations that Makita engages in dumping. Makita states that the petitioner's allegation is not supported by any evidence in the record because the Department has found that Makita has not dumped subject merchandise for three years. Makita maintains that its losses in market share are not compelling

[2] Note: PESGTs were investigated as subject merchandise during the original less-than-fair-value investigation of PECTs. However, the ITC determined that there was no material injury to the U.S. industry for these products. Consequently, no antidumping duty order was imposed on PESGTs from Japan.

evidence that it is likely to dump if the order is revoked, especially since, in Makita's opinion, increases in the petitioner's U.S. market share have resulted from predatory pricing techniques, which also explain Makita's decreased market share. Makita states that its subject merchandise sales business is not predicated on a particular market share in order to effectively compete in the United States. More importantly, Makita points out that most of its U.S. PECT sales are not subject merchandise, but are U.S.-MCA-produced PECTs. Therefore, Makita maintains that it does not need to dump its sales of subject merchandise (*i.e.,* low-sales-volume, specialty PECTs) in order to maintain its U.S. market share because most of its PECTs for the U.S. market are produced at MCA.

Further, Makita argues that the petitioner's assertion that revocation will only benefit Makita by facilitating its resumption of dumping is inaccurate. Makita states that revocation of the order will have the following benefits: (1) Removal of the stigma associated with being the subject of an antidumping duty order; (2) resumption of sales to U.S. customers who will not purchase tools that are subject to an antidumping duty order; and (3) elimination of expenses involved with participation in the Department's administrative reviews. Thus, Makita asserts the petitioner has presented no positive rebuttal evidence which can overcome the presumption that, if the order is revoked, there is no likelihood that Makita will resume dumping in the future.

Regarding the petitioner's argument that Makita's continued ''dumping'' of non-subject power tools is probative of future dumping of subject merchandise, Makita contends it is unpersuasive because Makita's sales of non-subject merchandise are irrelevant and outside the scope of this proceeding. Makita argues that a comparison of its subject merchandise sales with its non-subject merchandise sales is nowhere recognized as a relevant test of any likelihood of future dumping of subject merchandise. Makita purports that the petitioner misrepresents Makita's comments regarding the distinctions between PESGTs and PECTs. Makita states that it never claimed that there are no differences between PESGTs and PECTs, but that there is a substantial commonality in components, production machinery, manufacturing processes, and assembly of the two tool categories. Thus, Makita states, there are no relevant production-related distinctions between PESGTs and PECTs that would prompt Makita to keep production of either tool category in Japan or the United States. Makita contends that the petitioner's argument which seeks to compare Makita's pricing and production policies on PESGTs (non-subject merchandise) and PECTs (subject merchandise) in the context of analyzing the likelihood of future dumping of the latter, is not founded in Department precedent. Thus, Makita states that the petitioner's argument lacks relevant evidence rebutting the Department's presumption that Makita is not likely to dump in the future.

Regarding the petitioner's argument that Makita is likely to resume dumping of specialty PECTs to regain market share, Makita states the following: (1) Its current sales volumes of specialty PECTs are not inconsistent with its historical sales volumes; (2) it does not need to lower the price of specialty PECTs because of its premium pricing strategy; and (3) it has flexibility in the amounts by which it can lower prices on specialty PECTs (should Makita choose to) before dumping occurs. Specifically, Makita argues that its sales of specialty PECTs have always been limited and have fluctuated from year to year. Makita states that the record shows that it is engaged in premium pricing of its specialty PECTs, where it restricts the supply of a tool category in order to maintain its higher price quality image, but that there is no evidence on the record showing that Makita intends to regain market share through reduced prices. In addition, Makita states that it has significant room in which to lower its specialty PECT prices before dumping occurs and this shows that Makita has not increased prices on specialty PECTs simply to avoid dumping.

*Department's Position:* We disagree with the petitioner's contention that Makita's history of dumping PECTs, prior to the 3rd AR of this proceeding, illustrates that dumping is a necessary part of Makita's competitive position in the U.S. PECT market. As a threshold matter, the Department's revocation analysis focuses on the three most recent review periods. The Department generally finds that three consecutive years of non-dumped sales in commercial quantities indicates that a company will not dump in the future. *See Corrosion-Resistant Steel from Canada* at 2175 (''in evaluating the issue of likelihood, the Department has considered three years of sales in the United States with no dumping margins, plus an agreement to reinstatement [of] the order, to be indicative of expected future behavior.''). Thus, where there is no evidence to the contrary, the Department will normally determine that revocation is warranted. *See also Furfuryl Alcohol From the Republic of South Africa; Preliminary Results of Antidumping Duty Administrative Review and Revocation of Antidumping Duty Order,* 64 FR 10983, 10894 (March 8, 1999); *Titanium Sponge from the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review and Partial Revocation,* 63 FR 47474, 47475 (September 8, 1998); *and Steel Wire Rope From the Republic of Korea: Final Results of Antidumping Duty Administrative Review and Revocation in Part of Antidumping Duty Order,* 63 FR 17986, 17988 (April 13, 1998) (hereafter *Steel Rope from Korea*). Makita has satisfactorily established that it has sold subject merchandise in commercial quantities at fair value for three consecutive years. Absent evidence to the contrary, the Department presumes that three years of *de minimis* or zero margins is indicative of Makita's future behavior (*see* August 2 Revocation Memorandum at 11).

We also disagree with the petitioner's allegation that Makita's continued dumping of non-subject power tools (including both U.S.-made and Japanese-made non-subject merchandise) is probative of future dumping of subject merchandise in this case. Generally, information regarding non-subject merchandise is irrelevant to whether an existing order continues to be necessary to offset dumping of the subject merchandise. The information provided by the petitioner does not warrant an exception in this case and thus cannot provide a basis for rebutting the presumption established by three consecutive years of sales of the subject merchandise at not less than fair value. Although the petitioner did not submit its allegation regarding Makita's pricing of non-subject merchandise in time for the Department to consider it for purposes of the preliminary results, the Department preliminarily indicated that pricing of non-subject merchandise might be a relevant factor in its analysis and that it may consider the petitioner's information for purposes of the final results (*see* August 2 Revocation Memorandum at page 16). However, as discussed above, the Department finds that in this case, the information on sales of non-subject merchandise is irrelevant for purposes of this final revocation determination. Therefore, the Department's revocation decision in this case is based only on the facts related to the subject merchandise sales alone.

The Department further disagrees with the petitioner's allegation that Makita will resume dumping to regain lost share of the PECT market. Evidence

on the record indicates that Makita has suffered continued losses in its market share in the ''electric power tool market'' as a whole (*i.e.,* all electric power tools including subject PECTs—*see* Makita's February 9, 1999, submission at Appendix 15). Therefore, if the petitioner's rationale (*i.e.,* dumping maintains market share) is to be considered accurate, one would have expected Makita to have maintained its market share in other categories of electric power tools, which the petitioner contends Makita has continued to dump, while only losing market share in PECTs. This in fact is not the case, as Makita has lost market share in other electric power tool categories as well. Thus, it is clear there are other factors that impact a competitor's position in the market (*e.g.,* introduction of a new competitor, innovations, reputation). Therefore, we agree with Makita that its sales of subject merchandise are not predicated on a particular market share in order to effectively compete in the United States.

Comment 2: Home Market Demand

The petitioner states that declining home market sales and home market demand (*i.e.,* decline in the Japanese electric power tool market and Japanese housing starts from 1997–1998), coupled with rising demand in the United States, have increased the likelihood that Makita will dump PECTs in the U.S. market in the future. The petitioner submits that the evidence in the record contradicts the Department's finding of market stability in Japan. Therefore, the petitioner maintains that with Makita's declining sales in the home market, Makita has greater incentive to direct its PECT sales to the U.S. market.

Makita stresses that although there have been fluctuations in its home market electric power tool sales and Japanese housing starts, the petitioner is confusing short-term fluctuations in an otherwise relatively stable home market with a permanent decline in demand for electric power tools (*i.e.,* from 1992 to 1997). In addition, Makita states it has no incentive to increase exports from Japan because most of its tools sold in the U.S. market are produced in the United States (*i.e.,* MCA), and that its focus is to increase production at MCA rather than increase production in Japan. Moreover, Makita states that it has many other viable markets, other than the United States and Japan, where Makita Japan sells its cutting tools, thereby reducing its financial dependance on Japanese exports to the United States. Furthermore, Makita maintains that it would not be practical for Makita Japan to export subject merchandise that would, in effect, be competing with MCA's production of PECTs.

*Department's Position:* We agree with Makita that a stable home market does not require an absence of market fluctuations, and that the evidence on the record pertaining to the health of the Japanese home market does not suggest that Makita is likely to dump PECTs in the U.S. market in the future if the order were revoked. Although the petitioner claims that the Japanese power tool market is in decline, we find that the record data indicates that the market in Japan is relatively stable (*see* August 2 Revocation Memorandum at 14). We do not conclude that the drop in housing starts in Japan and home market demand for subject merchandise between fiscal year (''FY'') 1996 and FY 1997 indicates a declining or unhealthy market. Rather, we would expect even a healthy market, especially the electric power tool market, to experience both peaks and troughs in demand. Contrary to the petitioner's assertion, we have no evidence that suggests that the above mentioned one-year decline in the Japanese power tool market is a long-term occurrence. Therefore, based on the evidence as a whole, we find the Japanese power tool market to be relatively stable.

In addition, the record supports Makita's assertion that it is unlikely to increase its PECT exports from Japan to the United States to pre-order levels because most of its tools sold in the U.S. market are now produced in the United States by MCA. This conclusion is particularly evident when reviewing Makita's production capacities in both the U.S. and home markets, i.e., Makita has substantial excess capacity available in the United States and is producing at full capacity in Japan. (See Comment 3 of this section below for further discussion.) Furthermore, it is unlikely that Makita Japan will resume its pre-order export levels of subject merchandise because such exports would be competing with MCA's production of PECTs, or would require costly shifts in PECT production back to and restructuring of capacity utilization in Japan (see the Department's July 9, 1999 verification report at 22–23, 34–36; and July 13, 1999 verification report at 4–7). Finally, we verified that Makita has other viable markets, other than the United States and Japan, wherein Makita Japan can sell its cutting tools (see the Department's July 9, 1999, verification report at 36–40). Thus, Makita Japan is not dependant on Japanese exports to the United States for financial viability. As such, based upon the data on the record regarding the Japanese and U.S. PECT markets, the existence of Makita's U.S. production facility, the available or lack of available production capacity levels in MCA and Makita Japan (*i.e.,* Okazaki plant), respectively, and Makita's healthy sales history in other world markets, we find that the sales pattern in the Japanese home market does not suggest that Makita is likely to resume dumping of PECTs in the United States without the discipline of the order.

Comment 3: PECT Production in Japan Versus the United States

The petitioner purports that Makita Japan could increase its production output with relative ease and despite its reported capacity utilization figures and thereby increase production of PECTs for sale in the U.S. market at dumped prices if the order is revoked. The petitioner argues that plant capacity is unrelated to production output because the annual production output at Makita's Okazaki plant has increased nearly 100 percent from 1992 through 1997, while its capacity utilization has remained constant during the same time period. Furthermore, the petitioner suggests that the Department has ignored its claim regarding the ease with which an electric power tool manufacturer can expand production. (*See* Declaration of Ronald S. Taylor, Black & Decker February 24, 1999, submission.) Finally, the petitioner argues that a manufacturing plant (*i.e.,* Makita's Okazaki plant) with easily modifiable assembly lines does not face the same barriers to expansion and conversion as other complex, more capital-intensive facilities with fixed, dedicated, and expensive equipment. Thus, the petitioner asserts that Makita's capacity in Japan can be easily and relatively inexpensively altered, resulting in increased PECT production in Japan for sale in the U.S. market at dumped prices if the order is revoked.

The petitioner also states that Makita USA's consolidated financial statements show poor performance for FYs 1997 and 1998 [3] and Makita's U.S. production facility MCA has utilized less than two thirds of its total production capacity. The petitioner argues that Makita's U.S. operations are a drain on the Makita corporation and that continued poor financial performance of Makita's U.S.

[3] The financial statements for Makita USA (Makita Japan's affiliated selling agent in the United States) and MCA (Makita's U.S. production facility) are consolidated for financial reporting purposes in the United States. The Makita USA/MCA consolidated financial statement is consolidated into Makita's overall corporate financial statement as well.

operations will render Makita's capital investments in MCA moot.

In addition, the petitioner states that the downward trend in the yen against the U.S. dollar (*i.e.,* depreciation of the yen against the dollar) suggests that production in Japan is and will become more profitable than production in the United States based on its estimation of Makita's cost of manufacturing in the United States verses Makita's cost of manufacturing in Japan. The petitioner argues that Makita would have increased its profits if Makita would have shifted its production back to Japan (*see* the petitioner's September 17, 1999, case brief at 18–19 and at Exhibit 6). Finally, the petitioner asserts that Makita's loss in U.S. market share gives Makita a financial incentive to concentrate its production of cordless tools (*i.e.,* PECTs) in Japan. Specifically, the petitioner claims that Makita has not participated meaningfully in the U.S. market for cordless saws, which are currently produced by MCA. Because cordless tools are not affected by voltage differences, the petitioner argues that if the order is revoked Makita will consolidate its cordless saw production in Japan in order to take advantage of its economies of scale and production experience in Japan. The petitioner argues further that Makita will have to adopt measures to regain market share which will include a resumption of subject merchandise sales at dumped prices, particularly in the popular and growing cordless PECT market. Thus, the petitioner asserts that Makita USA's poor financial performance, favorable currency fluctuations, and losses in U.S. market share all give Makita an incentive to resume dumping in the United States should the order be revoked.

Makita asserts that the Department correctly concluded that Makita Japan operates at the upper limit of the maximum volume that can be produced by its Japanese facility. Makita states that because it closed down its Anjo, Japan production facility and moved a portion of Anjo's production capacity into the Okazaki plant in 1997, the Department must consider the distinctions between Makita's prior and current production capacities, namely, its past capacity when its Okazaki and Anjo plants were open and producing PECTs in comparison to its current capacity where only a single plant (i.e., the Okazaki plant) is producing PECTs. Makita argues that when recognizing such significant differences, it is clear that the closing of the Anjo plant significantly reduced its production capacity and Makita Japan's ability to expand its capacity.

Makita argues further that whether or not it can set up new assembly lines in its Okazaki plant is not relevant to this segment of the proceeding. Makita states that assembly of new lines involves the construction of new capacity and not the utilization of current capacity. Makita maintains that in this segment of the proceeding the Department's focus should be whether Makita has idle capacity currently available to increase the output of subject tools for export. Makita states that evidence on the record suggests that no such additional capacity is available in Japan.

Regarding the petitioner's allegation that the Department has not considered the affidavit of Ronald S. Taylor, regarding the ease with which assembly lines can be added to Makita's Okazaki production plant, Makita states that the statements made in the affidavit are not applicable to Makita's business practices for the following reasons: (1) Makita's Okazaki plant does not have the floor space to add production; (2) substantial increases in capacity in Japan would include re-opening the Anjo facility and a reduction in capacity at MCA; and (3) returning production to Japan would be costly and difficult to implement. Thus, Makita argues that transferring production from MCA back to Japan is neither easy nor inexpensive, and that the affidavit does not fully address Makita's commercial situation because Makita's long-range business strategy includes the shifting of production closer to its international markets.

Furthermore, Makita argues that Makita USA is on the road to profitability and that MCA's operations have been profitable in 1997 and 1998. Makita argues that Makita USA's poor financial performance in FYs 1997 and 1998 and MCA's low capacity utilization does not support a return of production to Japan, but rather a reinforcement of its efforts to increase production at MCA (noting that Makita has made a substantial investment in MCA). In addition, if Makita's only business concern was cost of production, then, Makita states, it would be far more sensible for it to shift its production to the People's Republic of China where it already has a production facility rather than Japan. Makita argues that Makita USA's poor financial performance is not unexpected in a situation where a still-expanding U.S. subsidiary (*i.e.,* MCA) is operating below its capacity. Makita asserts that MCA is still growing toward its role as the main provider of electric power tools in the U.S. market and that Makita's continued investment in the facility indicates Makita's continued commitment to expand MCA's role in the U.S. market. Thus, Makita contends that the establishment and strengthening of MCA is a long-term investment project on which it does not expect an immediate return.

In addition, Makita maintains that only when the value of the Japanese yen is decreasing against the U.S. dollar do currency fluctuations make its Japanese operations more profitable than its operations in the United States. Makita states that MCA was established, at least in part, in order to avoid dependancy on exchange rate fluctuations and the risks associated with them. Makita argues that the time frames (*i.e.,* June 1993 and June 1998) that the petitioner cites in its analysis were periods when the yen was weak against the dollar, but that in June 1995 and September 1999 when the yen was stronger, Makita's U.S. operations were more profitable. Notwithstanding these facts, Makita states that it has never conditioned its long-term strategy on short-term currency fluctuations, but on the premise that Makita is best served by eliminating the risks associated with the unpredictability of fluctuating exchange rates and by moving production from Japan to its local markets.

Finally, Makita states that the petitioner's argument that Makita has financial incentive to consolidate its production of electric power tools in Japan, particularly cordless PECTs, is based on the petitioner's incorrect assumption that Makita does not already produce cordless PECTs in the United States. Makita notes that it has been producing cordless PECTs at MCA for years, and has never found that production would be facilitated or improved if it was shifted back to Japan. Makita argues it has not forfeited its share of the U.S. cordless PECT market, but rather it has taken full advantage of the opportunity by establishing efficient operations that are close to its customer base in the U.S. market. Makita states that the petitioner has not presented any evidence supporting the argument that consolidation of cordless tool production in Japan would be more cost effective.

*Department's Position.* We agree with Makita that the record indicates an intent to maintain and/or increase production operations in the United States without increasing production in Japan. The record indicates that Makita has limited unutilized capacity in Japan, but available capacity in the United States. Makita's verified submissions demonstrate that Makita's facility in Okazaki, Japan (Makita's only remaining production facility for PECTs in Japan) is currently operating at full capacity,

and has been doing so since 1991. Two important facts that were considered in analyzing production capacity at the Okazaki plant are (1) the Okazaki plant (and the Anjo plant when it was open) has operated with two shifts only since 1996, and thus the Okazaki plant's capacity utilization figures were based on one production shift prior to 1996; and (2) Makita closed down its Anjo production facility and moved a portion of Anjo's production capacity (*i.e.,* production equipment including armature winding lines, assembly lines, armature shaft hardening machines) into the Okazaki plant in 1997, thereby bringing the Okazaki plant to its optimal production capacity. The addition of a production shift explains how Makita's Okazaki plant was able to increase its total annual production nearly 100 percent from 1992 through 1997, while its annual capacity utilization remained constant. Additionally, we verified that it would be difficult, if not impossible, for Makita to add a third shift in its Okazaki plant (*see* August 2 Revocation Memorandum at 14). In sum, comparing Makita's production capacity and total annual output when its Okazaki and Anjo plants were open and producing electric power tools with one shift each, with Makita's current production capacity and annual output at the Okazaki plant producing electric power tools with two shifts (*see* Appendix 4 of Makita's September 17, 1999, rebuttal brief and verification exhibit 13 of the Department's July 9, 1999 verification report), the Department finds that Makita Japan's total annual production output at the Okazaki plant using two production shifts since 1997 is comparable to Makita Japan's previous total annual production output at the Anjo and Okazaki plants using one production shift in each plant prior to 1997. In short, from 1992 through 1998, Makita Japan's annual production of electric power tools for each shift reflected Makita Japan's optimal capacity utilization. Thus, Makita Japan's production with two shifts at one plant (*i.e.,* Okazaki plant) is comparable to Makita Japan's production with one shift at each of the two plants (*i.e.,* Okazaki and Anjo plants).

We further note that although Makita USA's financial statement reports a poor performance for 1997 and 1998, the MCA plant operated profitably in 1998 (*see* the Department's July 13, 1999, verification report at 10 and 11, and verification exhibit 12). Moreover, there is nothing on the record to indicate that the entire financial loss is directly related to Makita's U.S. production of PECTs. Indeed, the Department recognizes there could be a number of explanations for Makita USA's poor financial performance in 1997 and 1998 (*e.g.,* accounting policies, long-term investment strategies, failed business ventures). There is nothing on the record indicating specifically what the losses are attributable to and, where the U.S. production operation has been profitable in 1998, the Department cannot make an assumption that the corporation would choose to cease such operations in order to increase profitability for a related entity. Additionally, Makita's statement regarding the expected growth of MCA provides a reasonable explanation for any losses incurred, *i.e.,* MCA is still growing toward its role as the main provider of electric power tools in the U.S. market and Makita continues to invest in the facility (*see* the Department's July 13, 1999, verification report at 9 and verification exhibit 12); thus it is reasonable to conclude that building up MCA is a long-term undertaking and Makita does not expect an immediate return on its investment.

Additionally, the record supports and we accept Makita's characterization as to the effect of currency fluctuations on Makita's decision to maintain production of PECTs at MCA (*see* Makita's September 17, 1999, rebuttal brief at 31–33). Given the many factors that can affect profitability during a time of currency depreciation, we cannot determine which operations (*i.e.,* Makita's Japanese operations or Makita's U.S. operations) will be more profitable as the petitioner suggests. However, a depreciation of the yen does not imply that dumping will occur. To the contrary, the Department notes that during a period of a depreciating home market currency, there is even less pressure to engage in pricing below NV. In this proceeding, there is no evidence on the record indicating the likelihood of a resumption of dumping due to the effect of a long-term depreciation of the yen against the dollar, which by itself does not indicate a likelihood of sales at less than fair value. *See Steel Rope from Korea* at 17988. Furthermore, Makita has demonstrated that there are a number of long-term business advantages in establishing a U.S. production facility including: (1) Makita's ability to avoid dependancy on exchange rate fluctuations and the risks associated with them; and (2) Makita's ability to respond to the needs of the U.S. market in a more timely fashion. Finally, evidence on the record supports Makita's long-term business practice of moving production from Japan to Makita's electric power tool markets abroad (*see* the Department's July 9, 1999, verification report at 22–23 and verification exhibit 6A).

Comment 4: Pricing Practices With Respect to Subject and Non-Subject Merchandise

The petitioner states that Makita's inability to undercut its U.S. competitors' prices with respect to PECTs it produces in Japan, coupled with its widespread undercutting of prices on U.S.-made PECTs and other non-subject tools, indicates the effectiveness of the order and the likelihood that Makita would resume dumping if the order were revoked. The petitioner states that if it were not for the order, Makita's prices for specialty PECTs imported from Japan would be lower than those of Makita's competitors. Therefore, the petitioner argues that by forcing Makita to maintain high prices, the order has resulted in Makita's devastating loss of U.S. market share in PECTs, and that Makita will have to lower its prices on PECTs as soon as the order is lifted in order to regain its lost market share.

Makita states that it has considerable room for dropping the price on its subject merchandise sales without incurring a dumping liability. Makita argues that it has not been forced to maintain higher prices on its Japan-made specialty PECTs due to the impact of the order, but has chosen not to lower its prices for marketing purposes (*i.e.,* Makita's marketing strategy entails producing a higher quality product that demands higher prices). Thus, Makita states that higher pricing is the result of its business strategy rather than the result of the impact to the antidumping duty order.

In addition, Makita argues that it has not undercut the petitioner's prices with respect to its U.S.-produced PECTs, and that Makita has in fact experienced drops in its market share of non-subject, U.S.-produced PECTs. Makita states that of the thousands of U.S.-produced PECT sales made every month, the petitioner has found only 10 PECT models on which to base its allegation of price undercutting. Makita argues that even if the petitioner's allegation were correct, the small number of tool models cited would amount to a *de minimis* margin. In response to the petitioner's allegation that market share is gained through undercutting competitors' prices, Makita reasons that if it had undercut its competitors' prices with its U.S.-produced PECTs, then it should have increased its share of the U.S. PECT market rather than lost it (as is the case since 1992). To the contrary, Makita

purports that petitioner undercuts Makita's prices in every case of which Makita is aware.

*Department's Position:* We disagree with petitioner. Regarding the petitioner's argument that Makita would undercut U.S. competitors' prices on PECTs if the order were revoked, the Department generally finds that three years of no dumping is predictive of future behavior. (*See Corrosion-Resistant Steel from Canada,* at 2175. Thus, where there is no evidence to the contrary, the Department will normally determine that continuation of the order is no longer necessary to offset dumping. Further, because Makita has agreed to reinstatement of the order in the event of future dumping, it is inappropriate to presume that the imposition of the order is the only factor preventing dumping. Rather, we considered other factors that might suggest a likelihood of future dumping as discussed in the ''*Determination to Revoke the Order in Part*'' and ''*Likelihood of Future Dumping*'' sections in this notice above.

Regarding the petitioner's argument that Makita's widespread undercutting of prices on U.S.-made PECTs and other tools is indicative of Makita's behavior in the absence of an order, the Department reiterates its position enumerated above in Comment 1 of the ''*Likelihood of Future Dumping*'' section of this notice. We disagree with the petitioner's allegation that the pricing of non-subject merchandise in this case is probative of whether the order continues to be necessary to offset dumping of subject merchandise.

**Final Results of the Review**

We determine that the following weighted-average margin for Makita exists for the period July 1, 1997, through June 30, 1998:

*Manufacturer/producer/exporter:* Makita Corporation Incorporated

*Margin (percent):* 0.07 percent (*de minimis*)

**Effective Date of Revocation**

This revocation applies to all entries of subject merchandise that are produced by Makita Japan and that are also exported by Makita Japan, entered, or withdrawn from warehouse, for consumption on or after July 1, 1998. The Department will order the suspension of liquidation ended for all such entries and will instruct the Customs Service to release any cash deposits or bonds. The Department will further instruct Customs Service to refund with interest any cash deposits on entries made after June 30, 1998.

**Assessment**

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service. For entries of subject merchandise that are produced by Makita Japan and that are also exported by Makita Japan, entered, or withdrawn from warehouse, for consumption during the POR (*i.e.,* July 1, 1997–June 30, 1998), the Department will instruct the Customs Service to liquidate entries without regard to antidumping duties. The Department will order the suspension of liquidation ended for all such entries and will instruct the Customs Service to release any cash deposits or bonds with interest if applicable.

**Cash Deposit Requirements**

The following deposit requirements shall be required for merchandise subject to the order entered, or withdrawn from warehouse, for consumption on or after the publication date of this final results of the administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for Makita Japan will be zero, except that for imports of PECTs that are produced by Makita Japan and that are also exported by Makita Japan, cash deposits will no longer be required and the suspension of liquidation will cease for entries made on or after July 1, 1998; (2) if the exporter is not a firm covered in this review or the less-than-fair-value (''LTFV'') investigation, but the manufacturer is, the cash deposit rate will be that established for the most recent period for the manufacturer of the merchandise; and (3) if neither the exporter nor the manufacturer is a firm covered in this review or the LTFV investigation, the cash deposit rate will be 54.5 percent, the ''all others'' rate made effective by the LTFV investigation. These requirements shall remain in effect until publication of the final results of the next administrative review.

**Notification to Importers and Interested Parties**

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) 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 final reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.105(a). Timely written notification or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of the APO is a sanctionable violation.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 8, 1999.

**Robert S. LaRussa,**

*Assistant Secretary for Import Administration.*

[FR Doc. 99–32673 Filed 12–20–99; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–580–810]**

### Certain Welded ASTM A–312 Stainless Steel Pipe From Korea: Extension of Time Limits for Preliminary Results of Antidumping Administrative Review

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

**ACTION:** Notice of Extension of Time Limits For Preliminary Results of Administrative Review.

**EFFECTIVE DATE:** December 21, 1999.

**FOR FURTHER INFORMATION CONTACT:** Thomas Gilgunn or Maureen Flannery, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482–0648 or (202) 482–3020, respectively.

**The 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. In addition, unless otherwise indicated, all citations to the Departments's regulations are to the current regulations, codified at 19 CFR part 351 (1999).

**Background**

On December 30, 1998, the Department of Commerce (the Department) received a request from