solid urea from the former G.D.R. Therefore, we are hereby notifying the public of our intent to revoke the antidumping duty order as it relates to imports of solid urea from the former G.D.R.

Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication. The Department will publish the final results of this changed circumstances review, which will include the results of its analysis raised in any such written comments.

If final revocation occurs, we intend to instruct the U.S. Customs Service (Customs) to end the suspension of liquidation of all unliquidated entries of solid urea from the former G.D.R. not subject to final results of review pursuant to section 751 of the Act and refund any estimated antidumping duties collected for such entries of solid urea in accordance with 19 CFR 351.222, with interest in accordance with section 778 of the Act. The current requirement for a cash deposit of estimated antidumping duties will continue until publication of the final results of this changed circumstances review.

This initiation of review and notice are in accordance with section 751(b) of the Act, (19 U.S.C. 1675(b)), and 19 CFR 351.216, 351.221, and 351.222.

Dated: January 26, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–3485 Filed 2–11–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–429–601]

Solid Urea From the Former German Democratic Republic; Final Results of Changed Circumstances Review

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

ACTION: Notice of final results of changed circumstances review.

SUMMARY: On May 1, 1995, the Department of Commerce published the preliminary results of its changed circumstances review to examine the effect, if any, that the reunification of Germany had on the antidumping duty order covering solid urea from the five German states (Brandenburg, Mecklenburg-Vorpommern, Saxony, Saxony-Anhalt, and Thuringia (plus any other territory; hereinafter the ''Five States'') that formerly constituted the German Democratic Republic (GDR) (60 FR 21067). We have now completed this review and have not changed our determination from the preliminary results.

EFFECTIVE DATE: February 12, 1998.

FOR FURTHER INFORMATION CONTACT: Steven D. Presing and Nithya Nagarajan at (202) 482–3793, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

Background

On May 1, 1995, the Department of Commerce published the preliminary results of this review.

On November 17, 1997, the Department of Commerce published the final results of an administrative review of the order on solid urea from the Five States pursuant to section 751(a) of the Tariff Act of 1930, as amended (the Act). The review covered one manufacturer/exporter, SKW Stickstoffwerke Piesteritz GmbH (SKWP), and the period July 1, 1995 through June 30, 1996. As a result of that review, the Department instructed Customs to establish a new cash deposit rate for SKWP of 0.00 percent. Also as a result of that review, the Department instructed Customs to terminate suspension of liquidation for shipments of solid urea produced by firms located outside the Five States.

We have now completed the instant changed circumstances review and have not changed our determination from the preliminary results.

Scope of the Review

Importers covered by this review are those of solid urea. At the time of the publication of the antidumping duty order, such merchandise was classifiable under item number 480.30 of the *Tariff Schedules of the United States Annotated* (TSUSA). This merchandise is currently classified under the *Harmonized Tariff Schedule of the United States* (HTS) item number 3102.10.00. These TSUSA and HTS item numbers are provided for convenience and Customs purposes only. The Department's written description remains dispositive.

Analysis of Comments Received

We received comments from the German Government, the Ad Hoc Committee of Domestic Nitrogen Producers (the ''Petitioner''), and SKW (on behalf of SKW Trostberg AG, SKWP, and SKW Chemicals, Inc.). We received rebuttal comments from the Petitioner, SKW, and Hydro Agri Brunsbuttel GmbH (''Hydro Agri''). We conducted a hearing attended by all parties on June 14, 1995.

Comment 1: The German Government believes that the Department should immediately revoke the antidumping duty order on urea, arguing that the Department's preliminary determination ignores the *de jure* and *de facto* integration of the Five States into the unified FRG and the integration of companies located in the Five States into the unified FRG's market economy. The German Government states that it is unacceptable that privatized German companies are still being judged by the behavior of their predecessors.

SKW agrees with the German Government and argues that the ''fundamental and irreversible'' changes which have taken place as a result of reunification constitute changed circumstances which justify revocation of the order pursuant to the Department's regulations and section 751(c) of Act (19 U.S.C. 1675(c)(1988)).

Petitioner objects to revocation of the order on this basis contending that 1) that there is no evidence on the record of this proceeding which establishes when, if ever, the Five States ceased to operate as a non-market economy within the meaning of section 771(18) of the Act (19 U.S.C. § 1677(18)(1988)); 2) a change in economic status does not provide a basis for revoking the order; 3) revocation of the order based upon the change in political borders would deprive if of the relief from unfairly traded imports that it sought and obtained, a principle, petitioner asserts, upheld by the Court of International Trade in *Techsnabexport, Ltd.* v. *United States,* 802 F. Supp. 469, 472 (CIT 1992) and 4) this changed circumstances review was initiated only to examine the applicability of the order to post-unification shipments of the subject merchandise from producers located outside the Five States—not whether the order should be revoked.

Department's Position: As in the **Federal Register** on May 1, 1995, the Department determined that ''as of October 3, 1990, producers located in

the five German states that formerly constituted the GDR have been operating in a market-oriented economy.'' *See Initiation of Changed Circumstances Antidumping Duty Administrative Review*, 83 Fed. Reg. 21067, 21068 (1995), *citing Final Affirmative Countervailing Duty Determinations; Certain Steel Products from Germany*, 58 FR 37315, 37324 (1993). However, it is settled Department practice that a change in economic structure does not, by itself, justify revocation of an antidumping order. *See, e.g., Antidumping Duty Order and Initiation of Changed Circumstances Antidumping Duty Administrative Review; Certain Cut-to-Length Carbon Steel Plate From Poland*, 58 Fed. Reg. 44166, 44166 (Aug. 19, 1993). As the court in the *Techsnabexport* case held, such matters are properly the subject of an administrative review under section 751 of the Act. 802F. Supp. at 472. This position renders moot Petitioner's argument that there is no evidence on the record of this proceeding which demonstrates the conversion from non-market to market economy.

Second, U.S. antidumping law does not require revocation of an order where the country covered by the order undergoes a change in geo-political boundaries. The focus of the law is on merchandise. *See Postponement of Preliminary Antidumping Duty Determination: Uranium from the Former Union of Soviet Socialist Republics (USSR)*, 57 Fed. Reg. 11064 (1992) (incorporating by reference, memorandum from F. Sailer to A. Dunn dated March 24, 1992). *See also Jia Farm Manufacturing Co., Ltd.* v. *United States*, 817 F. Supp. 969, 973 (CIT 1993). The governing principle in cases involving changes in the political borders of respondent countries is that such changes do not affect the geographic scope of an antidumping measure. This principle comports with the holding in *Techsnabexport*, where the Department determined that the breakup of the Soviet Union did not justify the termination of the then-pending investigation of uranium. In that case, the Department determined that the correct approach in situations where countries under an antidumping duty order or investigation undergo changes in geo-political boundaries is to preserve, notwithstanding the change, the original geographic scope of the order or investigation.

Comment 2: SKW argues that the order must be revoked pursuant to section 353.25(d)(4)9iii) of the Department's regulations because the Petitioner did not file a formal objection to revocation of the order after five years had passed without a request for an administrative review, citing *Kemira Fibres Oy* v. *United States*, 861 F. Supp. 144 (CIT 1994)

Petitioner disagrees, contending that the *Kemira Fibers* case, which involved an extremely inactive domestic industry, is at the very least distinguishable from this case because in this case petitioners have filed numerous submissions with the Department over the relevant five year period expressing either support for the order or opposition to its revocation. Petitioner also maintains that *Kemira Fibers* was wrongly decided arguing that an essential prerequisite to revocation under section 353.25(d)(4) is notice and comment. Petitioner asserts that no such notification was ever provided in this case and that as a result the Department lacks the authority to revoke. Petitioner concludes by noting that the Department has appealed the holding in *Kemira Fibers*, and it is the Department's usual practice not to follow adverse decisions that may be reversed on appeal.

Department's Position: The Court of Appeals for the Federal Circuit has overturned the decision in *Kemira Fibers. Kemira Fibres Oy* v. *United States*, 61 F.3d 866, 875 (Fed. Cir. 1995) (''Revocation must be predicated on a lack of domestic industry interest and such interest must be ascertained through notification of an intent to revoke.'') Therefore, the fact that the Department never indicated an intent to revoke pursuant to section 353.25(d)(4) of its regulations, precludes revocation on the grounds advanced by SKW.

Comment 3: SKW argues that under the Act and its legislative history the Department is without authority to maintain an order on any geo-political entity other than a country. SKW argues that the maintenance of a province- or region-specific order would be an unjustifiable departure from the Department's practice. It further argues that additional support for its position is found in Article VI of the 1947 GATT which defines dumping as the introduction of products from ''one country'' into the commerce of ''another country'' at less than their normal value. Finally, SKW argues that the *Techsnabexport* case does not support the Department's preliminary determination to maintain the antidumping duty order on imports from the Five States because *Techsnabexport* involved the dissolution of a country (the Soviet Union) and whether a pending antidumping investigation could proceed against the twelve countries that succeeded it. Here, SKW submits, the question is whether changed circumstances warrant the revocation of an antidumping order covering a non-market country that has ceased to exist due to its complete unification with and assimilation into a market economy country. Furthermore, SKW argues, *Techsnabexport* did not embrace province- or region-specific orders but rather expressly stated that antidumping orders must address merchandise from particular countries.

Citing section 771(3) of the Act, Petitioner argues that neither the 1947 GATT nor U.S. law preclude the maintenance of an antidumping duty order on less than a country-wide basis. Petitioner also cites *Certain Softwood Lumber from Canada* as an example of at least one proceeding under Title VII which did not apply to merchandise on a country-wide basis. 57 FR 22570, 22623 (1992). Petitioner further contends that a province- or region-specific order is supported by the holding and rationale of the *Techsnabexport* case. 802 F. Supp. 469. The principal issue in both cases, petitioner argues, is what effect, if any, political changes in a geographic region subject to an antidumping proceeding have upon that proceeding. The holding of the court in the *Techsnabexport* case is that antidumping proceedings need not be extinguished as a result of shifting geo-political borders or changes in governments. Petitioner also argues that SKW is mistaken when it claims that the *Techsnabexport* decision supports the proposition that an antidumping order must always apply to merchandise from a particular country. According to Petitioner, the definition of ''country'' under the statute was never at issue in the *Techsnabexport* case.

Hydro Agri agrees that the Department has the legal authority to maintain the subject order on the Five States.

Department's Position: The issue in this case is whether the Department, once having issued a country-wide order, must revoke that order if the country covered by the order undergoes a change in geo-political boundaries or whether the Department may maintain the order on the same merchandise from the same geographic region as before the change occurred.

As state above, in response to Comment No. 1, nothing in U.S. antidumping law requires revocation of an order where the country covered by the order undergoes a change in geo-political boundaries. Rather, the correct approach in such situations is to preserve, notwithstanding the change in

government and political borders, the geographic region (and by extension the producers) subject to the order. We believe this position in consistent with U.S. antidumping law and our international obligations and note again that this principle has been upheld by the Courts in *Techsnabexport,* 802 F. Supp. at 472.

Comment 4: Petitioner argues that the order should be applied to urea produced throughout Germany, contending that extension of the order is consistent with the 1947 GATT, which does not require an injury determination to be based upon an examination of *all* exports from an exporting country, and is consistent with U.S. law. Petitioner notes that the Department normally analyzes only 60 percent of all sales in a LTFV investigation. Petitioner further contends that in *Pure and Alloy Magnesium from Canada,* the Department made an affirmative LTFV determination with respect to exports from the province of Quebec, but applied the order to all of Canada. 57 FR 30939 (1992). Lastly, Petitioner claims that extending the order to all urea producers in Germany is necessary, as a practical matter, in order to preserve the integrity of the order and prevent the potential transshipment of urea.

SKW opposes extension of the order to all urea produced in Germany, arguing that under U.S. law such action would violate the due process rights of producers located outside the Five States since neither the Department nor the International Trade Commission (ITC) has investigated these producers. SKW also argues that this action would violate the 1947 GATT, which states that an investigation must be conducted before levying duties. SKW asserts that applying the results of an investigation covering part of an industry to an entire industry in a country, does not justify extending an order on one country to another country. Finally, SKW argues that Petitioner's discussion of circumvention is unfounded.

Hydro Agri also objects to extension of the order, arguing that extension would deprive Hydro Agri of its due process rights. According to Hydro Agri, Petitioner's concerns about circumvention are baseless.

Department Position: It would be contrary to the 1947 GATT and U.S. law for the Department to expand the geographic scope of the order on urea to include shipments from all of Germany. First, this result would be inconsistent with the principle, affirmed in the *Techsnabexport* case, that changes in the political borders of respondent countries do not affect the geographic scope of antidumping measures. 802 F. Supp. at 472. Second, both the 1947 GATT and U.S. law prohibit the assessment of antidumping duties in the absence of injury and LTFV determinations. Jackson, *World Trade And The Law of GATT,* 412–24 (1969); *see also* 19 U.S.C. 1673 (1988). Neither the Department nor the ITC has ever investigated imports of solid urea from the pre-unification territory of the FRG. *See SCM Corp.* v. *United States,* 473 F. Supp. 791, 793 (Cust. Ct. 1979) (antidumping duties may not be imposed or an order maintained without affirmative injury and LTFV determinations).

Third, since the original investigation was limited to urea from the Five States, producers outside the Five States did not satisfy the definition of ''interested parties'' eligible to participate in the investigations at the Department and the ITC. *See* 19 U.S.C. 1677(9) (1988); 19 CFR 353.2(k). Given that they were not (and could not have been) parties to the original investigation, they received no formal notice or opportunity to comment, either during the LTFV or injury investigation. They also lacked standing to appeal the final results of these proceedings. *See* 19 U.S.C. 1516a(d) (1988). These procedural safeguards are an essential aspect of every antidumping order. *See, e.g., Smith Corona Corp.* v. *United States,* 796 F. Supp. 1532, 1535 (CIT 1992) (''[v]arious procedural safeguards such as opportunity to respond and to be heard are built into the unfair trade laws'').

Comment 5: Petitioner argues that the administration of a bifurcated order will require additional measures (*i.e.,* monitoring and special Customs requirements) to ensure adequate consideration of administrative and enforcement issues.

SKW argues that the Department should disregard Petitioner's discussion of circumvention as irrelevant and unsupported.

Hydro Agri argues that special Customs requirements are unnecessary, unduly burdensome and arbitrary, and that until there is real evidence that circumvention is even being contemplated, additional administrative burdens are unreasonable.

Department's Position: The record of this proceeding lacks adequate grounds upon which to require special administrative procedures in connection with this order.

Comment 6: SKW argues that if the Department does not revoke this order, it should reduce the cash deposit rate to zero percent, citing as precedent *Color Televisions from Korea. See Color Television Receivers from Korea,* 49 FR 18336 (1984); *Gold Star Co., Ltd.* v. *United States,* 692 F. Supp. 1382, 1382 (CIT 1988).

Petitioner argues that reducing the cash deposit to zero would be contrary to law and claims that SKW's reliance on *Television from Korea* is misplaced.

Department's Position: This comment is moot. As noted in the ''Background'' section of this notice, as a result of the final results of a recent administrative review, SKWP's cash deposit rate was lowered to 0.00 percent.

Comment 7: Petitioner argues that before conducting a market-economy analysis the Department must first determine which post-unification shipments are eligible for such analysis.

SKW argues that the Department should use a market-economy analysis for all post-reunification shipments.

Department Position: These issues are not relevant to this proceeding. These final results concern the order's applicability to post-unification shipments of subject merchandise, not the appropriate economic analysis to be applied to such shipments.

Final Results

The Department determines to maintain the order on solid urea from the Five States and to allow entry of shipments from producers located outside the Five States without regard to antidumping duties.

Suspension of Liquidation

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of changed circumstances review, as provided for by section 751(b) of the Act. A cash deposit of estimated antidumping duties shall be required on shipments of the subject merchandise as follows: (1) The existing 0.00 percent cash deposit rate will remain in effect, pending further instructions, for shipments of solid urea produced by SKWP; (2) the existing 44.80 percent cash deposit rate will remain in effect, pending further instructions, for shipments of solid urea produced by all other firms located in the Five States; and (3) no cash deposit will be required for shipments of solid urea produced by firms located outside the Five States.

This changed circumstances review and notice are in accordance with section 752(b) of the Act (19 U.S.C. § 1675(b) (1988)) and 19 CFR 353.22(f).

Dated: January 23, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–3486 Filed 2–11–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[C–357–404]

Certain Textile Mill Products From Argentina; Initiation and Preliminary Results of Changed Circumstances Countervailing Duty Review, Consideration of Revocation of Order, and Intent to Revoke Order

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

ACTION: Notice of initiation and preliminary results of changed circumstances countervailing duty review, consideration of revocation of order, and intent to revoke order.

SUMMARY: On April 2, 1996, the Department of Commerce initiated changed circumstances reviews of the countervailing duty orders on *Leather from Argentina* (55 FR 40212), *Wool from Argentina* (48 FR 14423), *Oil Country Tubular Goods from Argentina* (49 FR 46564), and *Carbon Steel Cold-Rolled Flat Products from Argentina* (49 FR 18006). The Department of Commerce initiated these reviews in order to determine whether, in light of the decision in *Ceramica Regiomontana v.* United States, 64 F.3d 1579, 1582 (Fed. Cir. 1995), the agency had the authority to assess countervailing duties on entries of merchandise covered by these orders occurring after September 20, 1991—the date on which Argentina became a ''country under the Agreement'' within the meaning of former section 303(a)(1) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1303(a)(1) (1988; repealed 1994)). In the final results of these reviews, the Department of Commerce determined that, based upon the ruling in the *Ceramica* case, it lacked the authority to assess countervailing duties on unliquidated entries of merchandise covered by the four Argentine orders occurring on or after September 20, 1991. *Final Results of Changed Circumstances Countervailing Duty Reviews and Revocation and Amended Revocation of Countervailing Duty Orders,* (62 FR 41361).

As a result of the *Ceramica Regiomontana v. United States* decision and the changed circumstances reviews, the Department of Commerce is initiating a changed circumstances review of the countervailing duty order on *Certain Textile Mill Products from Argentina* (50 FR 9846) and preliminarily determining that it does not have the authority to assess countervailing duties on unliquidated entries of merchandise covered by the order occurring on or after September 20, 1991. Therefore, we intend to revoke this order with respect to all unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the period May 18, 1992 through December 31, 1994. (The order has been revoked on two previous occasions. For a further discussion of these revocations and the resulting period affected by this preliminary determination, see the **SUPPLEMENTARY INFORMATION** section below). We invite interested parties to comment on this notice of initiation and preliminary results.

EFFECTIVE DATE: February 12, 1998.

FOR FURTHER INFORMATION CONTACT: Anne D'Alauro or Kelly Parkhill, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the URAA. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations published in the **Federal Register** on May 19, 1997 (62 FR 27296).

History of the Countervailing Duty Order on Textile Mill Products From Argentina

The countervailing duty order on *Certain Textile Mill Products from Argentina* was issued on March 12, 1985 pursuant to former section 303(a)(1) of the Act. Under former section 303, the Department of Commerce (the Department) could assess (or ''levy'') countervailing duties without an injury determination on two types of imports: (i) Dutiable merchandise from countries that were not signatories of the 1979 Subsidies Code or ''substantially equivalent'' agreements (otherwise known as ''countries under the Agreement''), and (ii) duty-free merchandise from countries that were not signatories of the 1947 General Agreement on Tariffs and Trade. *See* S. Rep. 249, 96th Cong. 1st Sess. 103–06 (1979); H. Rep. No. 317, 96th Cong., 1st Sess. 43, 49–50 (1979). At the time this order was issued, textile mill products from Argentina were dutiable. Also at that time, Argentina was not a ''country under the Agreement.'' In short, U.S. law did not require an injury determination as a prerequisite to the issuance of the order, and none was provided.

On August 13, 1990, the Department revoked the countervailing duty order on *Certain Textile Mill Products from Argentina* pursuant to § 355.25(d)(4)(iii) of the Department's then-current regulations. *See Certain Textile Mill Products from Argentina* (55 FR 32940). The Department's decision to revoke the order was challenged before the U.S. Court of International Trade (CIT). On March 24, 1992, the CIT reversed the Department's decision, holding that a domestic interested party had properly objected to the Department's intent to revoke the countervailing duty order. *See Belton Industries Inc.* v. *United States,* CIT Slip Op. 92–39 (March 24, 1992). In accordance with that decision, on May 7, 1992, the CIT ordered the Department to rescind the revocation and reinstate the countervailing duty order on certain textile mill products from Argentina. Subsequently, two related appeals were filed with the U.S. Court of Appeals for the Federal Circuit, *Belton Industries, Inc.* v. *United States, et al.,* CAFC Nos. 92–1419, –1421, and –1451, and *Belton Industries, Inc. v. United States, et al.,* CAFC Nos. 92–1452, and –1483. Because the United States withdrew its appeal (No. 92–1421), and Argentina was not a party to the appeals, the CIT decision became final and binding with respect to the order on certain textile mill products from Argentina. Consequently, the Department rescinded its revocation of the countervailing duty order on certain textile mill products from Argentina and reinstated the order on November 18, 1992, effective May 18, 1992. *See Certain Textile Mill Products from Argentina; Notice of Final Court Decision and Rescission of Revocation of Countervailing Duty Order* (57 FR 54368).

On March 1, 1994, the Department again published in the **Federal Register** (59 FR 9727) its intent to revoke the countervailing duty order on certain textile mill products from Argentina pursuant to 19 CFR 355.25(d)(4)(i)(1994) because no interested party had requested an administrative review for at least four consecutive review periods. The Department received a timely objection to the intended revocation