Dated: January 31, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–3004 Filed 2–5–97; 8:45 am]

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International Trade Administration

A–475–703

Granular Polytetrafluoroethylene Resin From Italy; Final Results of Antidumping Duty Administrative Review

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

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

SUMMARY: On October 1, 1996, the Department of Commerce (the Department) published the preliminary results of its 1994–95 administrative review of the antidumping duty order on granular polytetrafluoroethylene (PTFE) resin from Italy. The review covers one manufacturer/exporter, Ausimont S.p.A. (Ausimont), for the period August 1, 1994, through July 31, 1995. We gave interested parties an opportunity to comment on our preliminary results. We received comments from E. I. DuPont de Nemours & Company (DuPont), the petitioner in this proceeding, and we received a rebuttal from Ausimont. We have changed our preliminary results as explained below. The final margin for Ausimont is listed below in the section ''Final Results of Review.''

EFFECTIVE DATE: February 6, 1997.

FOR FURTHER INFORMATION CONTACT: Chip Hayes or Richard Rimlinger, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–4733.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

Background

On October 1, 1996, the Department published in the Federal Register the preliminary results of its 1994–95 administrative review of the antidumping duty order on granular PTFE resin from Italy (61 FR 51266). We gave interested parties an opportunity to comment on the preliminary results. There was no request for a hearing. The Department has now conducted this review in accordance with section 751 of the Tariff Act.

Scope of the Review

The product covered by this review is granular PTFE resins, filled or unfilled. This order also covers PTFE wet raw polymer exported from Italy to the United States. See Granular Polytetrafluoroethylene Resin from Italy; Final Determination of Circumvention of Antidumping Duty Order, 58 FR 26100 (April 30, 1993). This order excludes PTFE dispersions in water and fine powders. During the period covered by this review, such merchandise was classified under item number 3904.61.00 of the Harmonized Tariff Schedule (HTS). We are providing this HTS number for convenience and Customs purposes only. The written description of the scope remains dispositive.

The review covers one Italian manufacturer/exporter of granular PTFE resin, Ausimont, and the period August 1, 1994 through July 31, 1995.

Use of Facts Available

In our initial questionnaire, we requested that Ausimont provide value-added data for all models which are further manufactured in the United States. Ausimont did not provide this information. In a supplemental questionnaire dated May 26, 1996, we again requested that Ausimont report the cost of further manufacturing performed in the United States. In responding, Ausimont still failed to provide this information for certain models.

Section 776(a) of the Tariff Act provides that, if necessary information is not available on the record, or an interested party or any other person fails to provide such information by the deadlines for submission of the information or in the form and manner requested, the Department shall use the facts otherwise available. In addition, section 776(b) of the Tariff Act provides that, if an interested party has failed to cooperate to the best of its ability, the Department may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available.

Ausimont's failure to provide further-manufacturing data for certain models renders it necessary that we rely upon the facts otherwise available. Ausimont offered no explanation for this failure on its part, despite the Department's repeated requests for this information. On this basis, we determined in our preliminary results that Ausimont failed to cooperate to the best of its ability. Therefore, we determined it was appropriate to use an inference that is adverse to Ausimont's interests, pursuant to section 776(b) of the Tariff Act. Section 776(b) authorizes the Department to use as facts otherwise available information derived from the petition, the final determination, a previous administrative review, or any other information placed on the record. For our final results, we have determined that the number of models for which Ausimont failed to provide further-manufacturing data are relatively few in number. Moreover, the absence of this information has no impact upon the remainder of Ausimont's database. For these reasons, we are not resorting to total facts available under section 776(a). As facts available, we have selected Ausimont's highest reported cost of further manufacturing and have used it in our analysis of sales of those models for which Ausimont failed to report the cost of further manufacturing.

Analysis of Comments Received

We invited interested parties to comment on our preliminary results. We received comments from DuPont and rebuttal comments from Ausimont.

Comment 1: DuPont contends that the Department erred in using a negative profit amount in the calculation of constructed export price (CEP) for further-manufactured transactions. Petitioner points out that section 772(d)(3) of the statute directs the Department to make an adjustment to CEP for profit allocable to the selling, distribution, and further-manufacturing expenses incurred in the United States. However, petitioner asserts that the Statement of Administrative Action (SAA) to the new law states, at 825, that ''if there is no profit to be allocated (because the affiliated entity is operating at a loss in the United States * * *) Commerce will make no adjustment under section 772(d)(3).'' DuPont therefore contends that, under the new law, the Department cannot use a profit amount of less than zero in adjusting CEP on sales of further-manufactured products. DuPont argues further that the

Department should revise its calculations to limit any allocated profit figure to an amount that is no less than zero.

Ausimont responds that DuPont has misinterpreted the SAA, in that the SAA clearly intends that the Department use total profit for an affiliated entity in the United States and foreign markets to adjust CEP, rather than test the profitability of each U.S. transaction. Furthermore, respondent asserts that the affiliated U.S. entity, Ausimont U.S.A., did not operate at a loss during the period of review (POR) and that petitioner's argument does not fit the facts of the present case and should be rejected.

Department's Position: We agree with DuPont that the allocated profit which we deduct in calculating CEP should not be a negative amount. In our calculations for the preliminary results we made two deductions from CEP for allocated profit. This was an error. Section 772(d)(3) of the Act directs us to allocate profit to the expenses and further-manufacturing costs identified in sections 772(d) (1) and (2). This is a change from the pre-URAA statute, which directed us to make a deduction for ''any increased value'' (see 772(e)(3) (1994)), which we interpreted as requiring allocations of selling, general, and administrative (SG&A) expenses and profit associated with further-manufacturing activities in the United States. The language in section 772(d)(3) of the 1995 Act in effect for this review requires us to allocate profit to the expenses associated with selling the subject merchandise in the United States and the cost of any further manufacture. The additional transaction-specific allocation of profit to reflect ''any increased value'' is not appropriate. Therefore, for these final results, we have changed our calculations such that we have not made two deductions from CEP for profit on further-manufactured sales.

We do not agree, however, that, when calculating the CEP-profit deduction, we should set the profit on each transaction we use to calculate total actual profit to be no less than zero. The determination of the amount of profit to deduct from CEP transactions is essentially a two-step process. We first calculate the total actual profit for all sales of the subject merchandise and the foreign like product. We then allocate the total profit to individual CEP transactions based on the applicable percentage. In the first step, *i.e.*, determining total actual profit, we use all sales of the subject merchandise in the United States and the foreign like product in the foreign market, including sales made at a loss. ''Total actual profit'' means that losses in one market may offset profits in another. In the second step, *i.e.*, allocation, if there is no total actual profit to allocate (*i.e.*, the losses in both markets outweigh profits), we will make no CEP-profit deduction. DuPont relies incorrectly on the section of the SAA which identifies this latter situation (SAA at 825 (''(i)f there is no profit to be allocated (because the affiliated entity is operating at a loss in the United States and foreign markets) Commerce will make no adjustment under section 772(d)(3)''); *see also Proposed Regulations* (61 FR 7308, February 27, 1996) (comments on section 351.402) at 7331).

Comment 2: DuPont asserts that the Department incorrectly transcribed the profit ratio for calculating the CEP profit adjustment from its preliminary analysis memorandum to the program it used to calculate the dumping margins. Ausimont agrees that the Department transcribed the ratio incorrectly.

Department's Position: We agree with the parties. We have corrected the profit ratio for the final results.

Comment 3: DuPont contends that, in assigning a value of zero for variable costs of manufacturing as facts otherwise available to categories of U.S. merchandise for which Ausimont did not submit variable costs of manufacturing, the Department rewarded respondent for failing to provide data required to calculate a difference-in-merchandise adjustment. Petitioner claims that setting the value to zero distorts the difference-in-merchandise adjustment and eliminates potential margins. Petitioner contends that a more appropriate choice for facts available is the highest variable cost of manufacturing for any U.S. product code.

Ausimont rejoins that the inadvertent omission of variable cost of manufacturing was for only one U.S. product code and affected a negligible number of U.S. transactions. Therefore, Ausimont states that the use of facts available is unnecessary and unwarranted.

Department's Position: We agree with DuPont that designating a value of zero for variable costs of manufacturing that Ausimont did not submit is not appropriate. However, we disagree that using the highest variable cost of manufacturing is appropriate in this case. In light of the nature and the extent of the deficiency, we have determined to use the average of Ausimont's submitted variable costs of manufacture in our calculation of the difference-in-merchandise adjustment for these transactions.

Comment 4: DuPont claims that, in calculating further-manufacturing costs, the Department relied upon the amount in Ausimont's computer tape for determining the cost of further manufacturing and omitted a component for total general expense Ausimont reported in its February 21, 1996 questionnaire response. Petitioner believes the Department should add the reported amount to the further-manufacturing costs.

Ausimont answers that the amount it reported in an exhibit of its response is simply the sum of three expense items that it reported in the same exhibit and that it included these expense items in its submission of total costs of further manufacturing.

Department's Position: We disagree with petitioner that we omitted an element of further-manufacturing costs in our calculation of total costs. Including the amount DuPont cites would cause us to double-count Ausimont's reported expenses because that amount is a sum of specific expenses submitted by Ausimont. Therefore, we have not changed our calculation for the final results.

Comment 5: DuPont avers that the Department must review Ausimont's reported data to identify all instances where it omitted required data from the questionnaire and supplemental responses and to apply facts otherwise available where any such omission occurs.

Ausimont counters that, other than the omission mentioned in Comment 3, no required data were unreported and that the use of facts otherwise available is unwarranted.

Department's Position: We agree with petitioner that it is proper to apply facts otherwise available in any instance where Ausimont did not submit required data. In our analysis, we conduct various checks of the transaction-specific data to determine where data are missing. Other than the missing data discussed in the Fact Available section and in Comment 3 above, we found no indication that Ausimont neglected to report requested data.

Final Results of the Review

We determine the following weighted-average dumping margin exists:

Manufacturer/exporter	Period	Margin (percent)
Ausimont S.p.A.	08/01/94–07/31/95	17.73

The Department shall determine, and the Customs Service shall assess,

antidumping duties on all appropriate entries. Individual differences between U.S. price and normal value (NV) may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, 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 administrative review, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for Ausimont will be 17.73 percent; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less than fair value (LTFV) investigation or a previous review, the cash deposit will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review, a previous review, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of this review or the LTFV investigation; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review, the cash deposit rate will be 46.46 percent, the ''all others'' rate established in the LTFV investigation (50 FR 26019, June 24, 1985).

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d)(1). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's regulations (19 CFR 353.22 (1996)).

Dated: January 27, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–2881 Filed 2–5–97; 8:45 am]

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[A–588–703]

Certain Internal-Combustion Industrial Forklift Trucks From Japan; Final Results of Antidumping Duty Administrative Review

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

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

SUMMARY: On August 2, 1996, the Department of Commerce published the preliminary results of administrative review of the antidumping duty order on certain internal-combustion industrial forklift trucks from Japan. The review covers three manufacturers/exporters. The period of review is June 1, 1994 through May 31, 1995.

Based on our analysis of the comments received, we have made changes, including corrections of certain inadvertent programming and clerical errors, in the margin calculation for Toyota Motor Corporation. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled ''*Final Results of the Review*.''

EFFECTIVE DATE: Febraury 6, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas O. Barlow, Davina Hashmi or Kris Campbell, at Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

Background

On August 2, 1996, the Department of Commerce (the Department) published the preliminary results of administrative review of the antidumping duty order on certain internal-combustion industrial forklift trucks from Japan (61 FR 40400)(Preliminary Results). The review covers three manufacturers/exporters. The period of review (the POR) is June 1, 1994, through May 31, 1995. We invited parties to comment on our Preliminary Results. We received briefs and rebuttal briefs on behalf of NACCO Materials Handling Group, Inc. (petitioners), and Toyota Motor Corporation and Toyota Motor Sales, U.S.A., Inc. (Toyota). At the request of Toyota, a hearing was scheduled but was subsequently canceled at Toyota's request. The Department has conducted this administrative review in accordance with section 751 of the Act.

Scope of Review

The products covered by this review are certain internal-combustion, industrial forklift trucks, with lifting capacity of 2,000 to 15,000 pounds. The products covered by this review are further described as follows: Assembled, not assembled, and less than complete, finished and not finished, operator-riding forklift trucks powered by gasoline, propane, or diesel fuel internal-combustion engines of off-the-highway types used in factories, warehouses, or transportation terminals for short-distance transport, towing, or handling of articles. Less-than-complete forklift trucks are defined as imports which include a frame by itself or a frame assembled with one or more component parts. Component parts of the subject forklift trucks which are not assembled with a frame are not covered by this order.

Imports of these products are classified under the following Harmonized Tariff Schedules (HTS) subheadings: 8427.20.00, 8427.90.00, and 8431.20.00. The HTS item numbers are provided for convenience and Customs purposes. The written descriptions remain dispositive.

This review covers the following firms: Toyota, Nissan Motor Company (Nissan), and Toyo Umpanki Company, Ltd. (Toyo).

Use of Facts Available

In accordance with section 776 of the Act, we have determined that the use of facts available is appropriate for certain portions of our analysis of Toyota's data. For a discussion of our application of facts available, see Comments 1 through 3, below.