

percent, the "all others" rate established in the LTFV investigation (50 FR 26019, June 24, 1985). These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

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

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 19 CFR 353.22.

Dated: October 2, 1995.

Paul L. Joffe,

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 95-25753 Filed 10-16-95; 8:45 am]

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[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 7, 1994, the Department of Commerce (the Department) issued the preliminary results of its 1992-93 administrative review of the antidumping duty order on granular polytetrafluoroethylene (PTFE) resin from Italy (59 FR 51166; October 7, 1994). The review covers one manufacturer/exporter for the period August 1, 1992, through July 31, 1993. We gave interested parties an opportunity to comment on our preliminary results. Based upon our analysis of the comments received, we have not changed the preliminary results. The final margin for Ausimont S.p.A. (Ausimont) is listed below in the section "Final Results of Review."

**EFFECTIVE DATE:** October 17, 1995.

**FOR FURTHER INFORMATION CONTACT:** Charles Riggle or Michael Rill, Office of Antidumping Compliance, Import Administration, International Trade

Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482-4733.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On October 7, 1994, the Department published in the Federal Register the preliminary results of its 1992-93 administrative review of the antidumping duty order on granular PTFE resin from Italy (59 FR 51166). There was no request for a hearing. The Department has now conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

##### **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.

##### **Scope of the Review**

Imports covered by this review are shipments of granular PTFE resins, filled or unfilled, and shipments of wet raw polymer. The order explicitly excludes PTFE dispersions in water and PTFE fine powders. During the period covered by this review, such merchandise was classified under item number 3904.61.90 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 manufacturer/exporter of granular PTFE resin, Ausimont. The review period is August 1, 1992, through July 31, 1993.

##### **Analysis of Comments Received**

We gave interested parties an opportunity to comment on the preliminary results. We received a case brief from petitioner, E.I. Du Pont de Nemours & Company (Du Pont), and a rebuttal brief from Ausimont.

*Comment 1:* Du Pont contends that the Department has artificially raised Ausimont's U.S. price by deducting losses attributable to the further manufacturing of wet raw polymer in the United States. According to Du Pont, Ausimont's losses relative to U.S. finishing costs are such that they create an unreliable measure of the "increased value" of the U.S. further manufacturing that is to be deducted from the U.S. price.

Du Pont argues that Ausimont's losses in this review present the same type of problem which the Department confronted in the circumvention inquiry

of the antidumping duty order, at which time Du Pont argued that an allocation of losses would lower artificially the value of the imported wet raw polymer. See Granular Polytetrafluoroethylene Resin from Italy; Final Affirmative Determination of Circumvention of Antidumping Order, 58 FR 26100 (April 30, 1993) (Determination of Circumvention).

Furthermore, citing the Statement of Administrative Action implementing the Uruguay Round of the General Agreements on Tariffs and Trade (GATT), Du Pont points out that the Department recognizes it is directed not to deduct losses attributable to further manufacturing as an adjustment made to the U.S. price. While acknowledging that the Department is not bound by the GATT agreements for the purposes of this review, Du Pont claims that under present law the Department has the discretion to make sure that its assessment of the "increased value" of U.S. further manufacturing and its calculation of the U.S. price are reliable, and that it should exercise that discretion in this case by not deducting from the U.S. price Ausimont's losses attributable to finishing wet raw polymer into granular PTFE resin in the United States.

In response, Ausimont cites Final Determination of Sales at Less Than Fair Value: New Minivans From Japan, 57 FR 21937, 21939 (May 26, 1992), to argue that the Department has consistently interpreted section 772(e)(3) of the Tariff Act as requiring the allocation of profits and losses to the additional materials and labor added in the United States. Ausimont notes further that the Court of International Trade (CIT) has held that it would be "patently unfair" to allocate profits, but not losses, to the U.S. price in connection with further manufacturing. See *Timken Co. v. United States* (Timken), 14 CIT 753 (1990).

In addition, Ausimont argues that in the Determination of Circumvention (at 26107), the Department allocated both profits and losses "in order to avoid making an inappropriate comparison (of value) to cost." Finally, Ausimont notes that by Du Pont's own admission, the Department is not bound by the Statement of Administrative Action implementing the Uruguay Round of the GATT in this review.

*Department's Position:* We disagree with Du Pont. Du Pont's claim that the Department's calculation of Ausimont's further manufacturing costs in the context of determining ESP creates an unreliable measure of the value added by Ausimont in the United States is unfounded. Du Pont incorrectly relies

upon the Department's circumvention determination earlier in this proceeding. In so doing, Du Pont fails to acknowledge that the purpose of the circumvention provision of the statute, section 781(a), is fundamentally different from that of the ESP provision, section 772(e)(3). Hence, as demonstrated below, what constitutes a reliable measure of the increased value in the ESP context differs from the determination of the difference in value between the finished product and the imported product in a circumvention inquiry.

In making adjustments to ESP for further manufacturing pursuant to section 772(e)(3), we deduct from the selling price manufacturing expenses incurred in the United States, as well as a portion of the profit or loss incurred on the U.S. sale of the finished product. The purpose of this analysis is to obtain a reliable calculation of the respondent's pricing behavior in the United States. Therefore, we have found it appropriate to use the respondent's actual expenses incurred in the United States. We also allocate actual profits or losses associated with each sale. See, e.g., Final Results of the Antidumping Duty Administrative Reviews; Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan, 58 FR 64720, 64729 (December 9, 1993); Final Results of Antidumping Administrative Review; Color Picture Tubes From Japan, 55 FR 37915 (1990); and Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan; Final Results of Antidumping Duty Administrative Review, 56 FR 41508, 41516 (August 21, 1991). As noted by Ausimont, the Department's approach has been upheld by the CIT. See *Timken*, 14 CIT at 756.

By contrast, in conducting inquiries pursuant to section 781(a) to determine whether circumvention is occurring, the Department's chief concern is with evaluating the further manufacturing necessary to transform the imported parts or components into the finished merchandise sold in the United States. Under the statute, the Department is required to determine whether the difference in value between the two is "small." The Department has determined that in order to better insure the reliability of this calculation, it is sometimes appropriate to disregard the actual costs associated with producing the product in the United States (as well as any profits or losses associated with those costs) in favor of costs incurred in the home market for a similar

manufacturing operation. Determination of Circumvention, 58 FR at 26107. The CIT has now upheld this interpretation of the statute, as well. See *Ausimont v. United States*, Slip Op. 95-15 (CIT February 1, 1995).

We also reject Du Pont's argument that a different result is warranted in this review because a different approach may be applied under the statute as amended by the Uruguay Round Agreements Act, which became effective January 1, 1995. The Department is conducting reviews initiated prior to January 1, 1995, as here, in accordance with the statute and regulations as they existed on December 31, 1994.

For these reasons, we have continued to allocate Ausimont's losses to the U.S. further manufacturing for purposes of calculating ESP in this administrative review.

*Comment 2:* Du Pont argues that the Department should follow its normal preference for price-to-price comparisons over constructed value (CV) in establishing foreign market value (FMV). In order to avoid using CV as the basis for FMV, Du Pont argues that the Department's hierarchy for establishing FMV in this case should be extended to include: (1) An expanded window for identical, similar or second-choice merchandise up to and including a period of review (POR)-based home market average price, and (2) the use of finished resin as similar merchandise, with difference-in-merchandise (difmer) adjustments, for calculating the FMV for purposes of comparison to the imported wet raw polymer.

With respect to its contention that wet raw polymer should be compared to finished resin, Du Pont contends that the ratio of the difmer to total cost of manufacturing (COM) of the U.S. merchandise would be very close to the Department's 20-percent limit and that in this instance a modest relaxation of the Department's 20-percent limit would allow the use of price-to-price comparisons, which Du Pont asserts is the Department's preferred basis for establishing FMV. Du Pont claims that, while Ausimont reported the variable cost of manufacturing (VCOM) for wet raw polymer in the home market sales listing, Ausimont did not report VCOM for imported wet raw polymer in its U.S. sales listing. Du Pont contends that if the U.S. VCOM is no greater than that for wet raw polymer sold in the home market, the difmer adjustment would be near the 20-percent limit, but that the Department cannot know whether the actual ratio is within 20 percent because neither the VCOM nor the total COM of the imported product was reported.

With respect to the first point, Ausimont argues, for reasons that it claims are business proprietary, that using POR-based average home market prices in place of monthly average prices would not be appropriate in this instance.

Ausimont contends that the Department properly used CV as the basis for FMV when the difmer between sales of PTFE reactor bead (wet raw polymer) and finished granular PTFE resin exceeded the Department's established limit. Ausimont notes that Du Pont acknowledges by its own calculation that the difmer in this instance exceeds the Department's established limit of 20 percent. Ausimont also argues that Du Pont's calculation is erroneous, because Du Pont compared the difmer adjustment to the total cost of production of PTFE reactor bead, rather than the total COM. When calculated using total COM, Ausimont claims that the ratio is not as close to the 20-percent limit as claimed by Du Pont.

*Department's Position:* We disagree with Du Pont on both points. With regard to the use of POR-based home market prices, section 773(a)(1) of the Tariff Act requires that FMV "shall be the price, at the time such merchandise is first sold in the United States." We normally fulfill this requirement by comparing U.S. prices to FMV based on home market or third country sales which occurred in the same month as the U.S. sale, or in a single month not more than three months before nor two months after the month of the U.S. sale. Only in rare cases, such as when there is a significant volume of home market sales, do we consider using POR weighted-average home market prices as a means of simplifying the analysis. In those instances we apply a test to determine whether using a POR weighted-average price would be representative of the transactions under consideration. See Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Review, 57 FR 4975, 4977 (February 11, 1992); Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France; Preliminary Results of Antidumping Duty Administrative Review, 58 FR 25606, 25608 (1993). In this instance, however, the volume of home market sales is not so large as to warrant using POR weighted-average home market prices. Therefore, we have continued to use monthly weighted-average prices for these final results.

Du Pont's argument that we should depart from the 20 percent rule is flawed in several respects. First, Du Pont calculated the ratio of the difmer adjustment to the total cost of production rather than to the total COM, thereby miscalculating the ratio. Second, we disagree with Du Pont's suggestion that we depart from our normal practice because the calculation is imprecise as a result of certain data allegedly missing from the U.S. sales listing. Ausimont provided the VCOM and COM of its wet raw polymer for the home market, and the market in which the product is sold does not change the VCOM or COM of the product. Therefore, although this information did not appear on Ausimont's U.S. sales listing, it was provided elsewhere in the questionnaire response.

Finally, when selecting similar merchandise sold in the home market we normally reject any comparisons in which the difference between the variable manufacturing costs of the U.S. and home market products exceeds 20 percent of the total manufacturing cost of the U.S. product. In such cases, as here, we normally use CV as the basis for FMV. We do not consider merchandise to be reasonably similar if the difmer adjustment is greater than 20 percent unless there is evidence indicating that it is appropriate to do so, and that there will not be unreasonable distortions if the comparisons are made. See *Certain Stainless Steel Cooking Ware From the Republic of Korea*; *Final Results of the Antidumping Duty Administrative Review*, 58 FR 9560, 9561 (February 22, 1993); *Porcelain-on-Steel Cooking Ware From Mexico*; *Final Results of Antidumping Administrative Review*, 58 FR 43327, 43328 (August 16, 1993); and *Tapered Roller Bearings Four Inches or Less in Outside Diameter and Certain Components Thereof From Japan*; *Final Results of Antidumping Duty Order Administrative Review*, 55 FR 38720, 38725 (September 20, 1990). In this case, petitioner has not provided evidence that would lead us to conclude that there would not be unreasonable distortions if we used price-based FMVs with difmer adjustments exceeding 20 percent. Accordingly, we did not make price to price comparisons where the difmer exceeded 20 percent.

While we found price-based FMVs for all U.S. sales of non-further manufactured resins, we compared U.S. sales of further manufactured resins to CV when there were no contemporaneous home market sales of PTFE reactor bead, the imported product from which granular PTFE resin is processed in the United States.

#### Final Results of the Review

We determine the following weighted-average dumping margin exists:

Manufacturer/exporter	Period	Margin (percent)
Ausimont S.p.A. ....	08/01/92–07/31/93	2.26

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between U.S. price and FMV may vary from the percentage stated above. The Department will issue appraisal instructions on each exporter 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 2.26 percent; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less than fair value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will be 46.46 percent for the reasons explained in *Granular Polytetrafluoroethylene Resin From Italy*; *Preliminary Results of Antidumping Duty Administrative Review*, 59 FR 51166 (October 7, 1994).

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

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 a 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 USC 1675(a)(1)) and 19 CFR 353.22.

Dated: September 29, 1995.

Paul L. Joffe,

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 95-25754 Filed 10-16-95; 8:45 am]

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#### [C-475-819]

#### **Preliminary Affirmative Countervailing Duty Determination: Certain Pasta ("Pasta") From Italy**

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

**EFFECTIVE DATE:** October 17, 1995.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Yeske, Vincent Kane, Todd Hansen, or Cynthia Thirumalai, Office of Countervailing Investigations, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482-0819, 482-2815, 482-1276, or 482-4087, respectively.

**PRELIMINARY DETERMINATION:** The Department preliminarily determines that countervailable subsidies are being provided to manufacturers, producers, or exporters of pasta in Italy. For information on the estimated countervailing duty rates, please see the *Suspension of Liquidation* section of this notice.

#### Case History

Since the publication of the notice of initiation in the Federal Register (60 FR 30280, June 8, 1995), the following events have occurred.

Because of the large number of pasta producers and exporters in Italy, we selected the five largest exporters to the United States as mandatory respondents. We identified those exporters using information provided to us by the Unione Industriali Pastai Italiani, an association of pasta producers in Italy, on June 9, 1995. One of the selected companies did not produce pasta but exported on behalf of several producers. We included those producers in the investigation and requested that they respond to our