

days after the publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. See section 353.38(d) of the Department's regulations. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument. The Department will publish a notice of final results of these administrative reviews, which will include the results of its analysis of issues raised in any such comments.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between U.S. price and NV may vary from the percentages stated above. The Department will issue appraisal instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of HFHTs from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed companies named above which have separate rates (FMEC and SMC) will be the rates for those firms established in the final results of this administrative review; (2) for all other PRC exporters, the cash deposit rates will be the PRC-wide rates established in the final results of this administrative review; and (3) the cash deposit rates for non-PRC exporters of subject merchandise from the PRC will be the rates applicable to the PRC supplier of that exporter. We preliminarily determine the PRC-wide rates to be: 21.92 percent for axes/adzes; 66.32 percent for bars/wedges; 44.41 percent for hammers/sledges; and 108.20 percent for picks/maddocks. These are the highest rates found for any respondent in the LTFV investigation or any review. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

The Department acknowledges a recent decision of the Court of International Trade, *UCF America Inc. v. United States*, Slip Op. 96-42 (CIT Feb. 27, 1996), in which the Court affirmed the Department's remand results for reinstatement of the relevant cash deposit rate, but expressed

disagreement with use of the "PRC-wide" rate as the underlying basis for reinstatement. The Court raised various concerns with the Department's application of a "PRC-wide" rate.

The Court suggested that the Department lacks authority for applying a "PRC-wide" rate in lieu of an "all others" rate. We note, however, that section 777A(c) requires the Department to determine individual dumping margins for each known exporter or producer. Pursuant to this authority, the Department implements a policy in NME cases whereby all exporters or producers are presumed to comprise a single entity, the "NME entity". The Court has upheld our NME policy in previous cases. See e.g., *UCF America, Inc. v. United States*, 870 F. Supp. 1120, 1126 (CIT 1994); *Sigma Corp. v. United States*, 841 F. Supp. 1255, 1266-67 (CIT 1993); *Tianjin Machinery Import & Export Corp. v. United States*, 806 F. Supp. 1008, 1013-15 (CIT 1992).

The "NME-wide" rate is consistent with section 735(c)(1)(B)(i)(I). This provision directs the agency to assign a dumping margin for each exporter or producer individually investigated. As discussed above, in NME cases, all producers and exporters comprise a single entity. Thus, we assign the NME rate to the NME entity just as we assign an individual rate to a single exporter or producer operating in a market economy. As a result, all exporters and producers that are part of the NME entity are assigned the "NME-wide" rate. Because the "NME-wide" rate is the equivalent of a company-specific rate, it changes only when we review the NME entity (i.e., all NME producers and exporters that have not qualified for a separate rate). To qualify for a separate rate, an NME exporter or producer must provide evidence showing both *de jure* and *de facto* absence of government control. See *Silicon Carbide*. Until such evidence is presented, a company is presumed to be part of the NME entity and receives the "NME-wide" rate. Consequently, whenever the NME enterprise has been investigated or reviewed, calculation of an "all others" rate under section 735(c)(1)(B)(i)(II) is unnecessary. All exporters or producers will either qualify for a separate company-specific rate, or be part of the NME enterprise, and receive the "NME-wide" rate. Thus, there can be no exporters or producers who have never been investigated or reviewed.

In this review, FMEC and SMC qualify for separate rates as discussed in the "Separate Rates" section of this notice. Because Henan and Tianjin do not qualify for separate rates, they remain representative of the NME

entity, which is subject to the new PRC-wide rate established in the final results of this administrative review.

Notification of Interested Parties

This notice serves as a preliminary reminder to importers of their responsibility under section 353.26 of the Department's regulations 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 Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's regulations.

Dated: March 27, 1996.

Susan G. Esserman,
Assistant Secretary for Import
Administration.

[FR Doc. 96-8364 Filed 4-4-96; 8:45 am]

BILLING CODE 3510-DS-P

[A-588-046]

Polychloroprene Rubber From Japan; Preliminary Results and Termination In-Part of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results and termination in-part of Antidumping Duty Administrative Review.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on polychloroprene rubber from Japan. Interested parties are invited to comment on these preliminary results and termination in-part. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument.

EFFECTIVE DATE: April 5, 1996.

FOR FURTHER INFORMATION CONTACT: Roy F. Unger, Jr. or Thomas Futtner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482-0651 or 482-3814.

SUPPLEMENTARY INFORMATION:

Background

On December 6, 1973, the Department of the Treasury published in the Federal Register (38 FR 35393) the antidumping finding on polychloroprene rubber (rubber) from Japan. On December 6, 1994, the Department of Commerce (the Department) published a notice of "Opportunity to Request Administrative Review" (59 FR 62710). On December 29, 1994, the petitioner, E. I. Du Pont de Nemours & Company, Inc. (Du Pont), requested that we conduct an administrative review for the period December 1, 1993, through November 30, 1994, covering eight producers and/or exporters: Denki Kagaku, K.K. (Denki), Denki/Hoei Sangyo Co., Ltd. (Denki/Hoei Sangyo), Mitsui Bussan K.K. (Mitsui Bussan), Showa Neoprene K.K. (Showa), Showa/Hoei Sangyo Co., Ltd. (Showa/Hoei Sangyo), Suzugo Corporation (Suzugo), Tosoh Corporation (Tosoh) (formerly Toyo Soda), and Tosoh/Hoei Sangyo Co., Ltd. (Tosoh/Hoei Sangyo).

We published a notice of initiation of the antidumping administrative review on these companies on January 13, 1995 (60 FR 3192). The Department has now conducted the administrative review in accordance with section 751 of the Tariff Act of 1930, as amended.

Applicable Statute and Regulations

The Department has conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act). Unless otherwise indicated, all citations to the statute and to the Department's regulations refer to the provisions as they existed on December 31, 1994.

Scope of the Review

Imports covered by the review are shipments of polychloroprene rubber, an oil resistance synthetic rubber also known as polymerized chlorobutadiene or neoprene, currently classifiable under items 4002.42.00, 4002.49.00, 4003.00.00, 4462.15.21 and 4462.00.00. HTS item numbers are provided for convenience and for Customs purposes. The written descriptions remain dispositive.

Preliminary Results and Termination In-Part of Review

Denki, Mitsui Bussan, and Tosoh responded that they had no shipments during the period of review (POR). The petitioner withdrew its review request for Showa. Therefore, we are terminating in-part this administrative review with respect to Showa.

We were unable to locate the remaining companies, Denki/Hoei Sangyo, Showa/Hoei Sangyo, Suzugo, and Tosoh/Hoei Sangyo, in spite of requests for assistance from various sources including the American Embassy in Tokyo, the Japanese Embassy in Washington, D.C., and the U.S. Customs Service. Therefore, we were unable to conduct administrative reviews for these firms, and upon issuance of the final results we will instruct the U.S. Customs Service to continue to assess any entries by these firms at the rate determined by the last completed administrative review on November 26, 1984 (49 FR 46454) (see *Certain Fresh Cut Flowers from Colombia*; Preliminary Results of Antidumping Duty Administrative Review, Partial Termination of Administrative Reviews, and Notice of Intent to Revoke Order (In Part) ("Flowers from Colombia"), 60 FR 30271 (June 8, 1995)).

The U.S. Customs Service verified that none of the respondents had entries of subject merchandise during the POR. Because Denki, Mitsui Bussan, and Tosoh, had no shipments of this merchandise to the United States during the POR, the Department has preliminarily assigned each of them the cash deposit rate determined for that company in the last completed administrative review (see *Flowers from Colombia*). We have preliminarily determined that the following margins exist for the POR:

Manufacturer/producer/exporter	Percent margin
Denki	10.00
Mitsui Bussan	10.00
Tosoh	10.00

¹ No shipments during the POR. Rate is from the last administrative review in which there were shipments.

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 the final results of this administrative review, as provided for by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed companies will be those rates established in the final results of this review; (2) The cash deposit rate for subject merchandise exported by manufacturers or exporters not covered in this review, but covered in previous reviews or in the original less-than-fair-value (LTFV) investigation, will be based upon the most recently published rate in a final result or determination for which the manufacturer or exporter

received a company-specific rate; (3) The cash deposit rate for subject merchandise exported by an exporter not covered in this review, a prior review, or the original investigation, but where the manufacturer of the merchandise has been covered by this or a prior final results or determination, will be based upon the most recently published company-specific rate for that manufacturer; and (4) The cash deposit rate for merchandise exported by all other manufacturers and exporters, who are not covered by these or any previous administrative review conducted by the Department, will be the "all others" rate established in the original LTFV investigation.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review. Interested parties may request disclosure within five days of the date of publication of this notice, and may request a hearing within 10 days of the date of publication. Any hearing, if requested, will be held as early as convenient for the parties but not later than 44 days after the date of publication or the first workday thereafter. Case briefs or other written comments from interested parties may be submitted not later than 30 days after the date of publication of this notice. Rebuttal briefs and rebuttal comments, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish the final results of this administrative review, including its results of its analysis of issues raised in any such written comments.

This notice 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: March 21, 1996.

Susan G. Esserman,
Assistant Secretary for Import Administration.

[FR Doc. 96-8365 Filed 4-4-96; 8:45 am]

BILLING CODE 3510-DS-P