following deposit requirements shall be effective, upon publication of this notice of amended final results of administrative review, for all shipments of the subject merchandise from Australia that are entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for BHP will be the rate established above; (2) for previously 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, or the original 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; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 24.96 percent, the all others rate established in the final results of the less than fair value investigation (58 FR 44161, August 19, 1993).

The 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 serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 353.34(d) of the Department's regulations. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulation and the terms of an APO is a sanctionable violation.

This notice is published in accordance with section 751 of the Tariff Act of 1930, as amended and 19 CFR 353.28(c).

Dated: July 29, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–19728 Filed 8–1–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–588–703]

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

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

ACTION: Notice of preliminary results of Antidumping Duty Administrative Review.

SUMMARY: In response to a request by an interested party, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain internal-combustion industrial forklift trucks from Japan. The review covers 3 manufacturers/exporters. The period of review (the POR) is June 1, 1994, through May 31, 1995.

We have preliminarily determined that sales have been made below normal value (NV) by one of the companies subject to this review. If these preliminary results are adopted in our final results of this administrative review, we will instruct U.S. Customs to assess antidumping duties equal to the difference between the constructed export price (CEP) and NV.

We invite interested parties to comment on these preliminary results. Parties who submit comments in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: August 2, 1996.

FOR FURTHER INFORMATION CONTACT: For further information, please 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 June 7, 1988, the Department published in the Federal Register (53 FR 20882) the antidumping duty order on certain internal-combustion, industrial forklift trucks from Japan. On August 16, 1995, we initiated an administrative review of this order for the period June 1, 1994 through May 31, 1995 (60 FR 42500). On March 14, 1996, we extended the time limits for preliminary and final results for this administrative review since we determined that it was not practicable to complete the review within the time limits mandated by the Act (61 FR 10562). The Department is conducting 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 Motor Corporation (TMC), Nissan Motor Company (Nissan), and Toyo Umpanki Company, Ltd (Toyo).

Verification

As provided in section 782(i) of the Act, we verified information provided by TMC using standard verification procedures, including on-site inspection of TMC's sales facility, the examination of relevant sales and financial records, and original documentation containing relevant information. Our verification results are outlined in the public version of the verification report.

No Shipments

Nissan and Toyo reported no shipments or sales subject to this review and the Department has preliminarily confirmed these facts with the U.S. Customs Service. Based on the information on the record, the Department has preliminarily determined that Nissan and Toyo had no shipments to the United States during the POR.

Constructed Export Price

The Department based its margin calculation on CEP as defined in section 772(b) of the Act because the subject merchandise was first sold in the United States to a person not affiliated with TMC after importation by a seller affiliated with TMC.

We calculated CEP based on the packed, f.o.b. or delivered price to unaffiliated purchasers in the United States (the starting price). We made deductions for any movement expenses in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act and the Uruguay Round Agreements Act Statement of Administrative Action (SAA) (at 823–824), we made additional adjustments to the starting price by deducting selling expenses associated with economic activities occurring in the United States, including commissions, direct selling expenses (including direct advertising incurred by TMC in Japan), expenses assumed on behalf of the buyer and U.S. indirect selling expenses. Where appropriate, in accordance with section 772(d)(2) of the Act, we also deducted the cost of any further manufacture or assembly. Finally, we made an adjustment for an amount of profit allocated to these expenses in accordance with section 772(d)(3) of the Act.

With respect to subject merchandise to which value was added in the United States prior to sale to unaffiliated U.S. customers, *e.g.*, ''swapping'' of forks, masts, etc., and installation of certain accessories by a U.S. affiliate of TMC, we determined that the special rule for merchandise with value added after importation under section 772(e) of the Act did not apply because the value added in the United States by the affiliated person did not exceed substantially the value of the subject merchandise. Therefore, for subject merchandise further manufacturered in the United States, we used the starting price of the subject merchandise and deducted the further manufacturing to determine the CEP for such merchandise.

Normal Value

Because the aggregate quantity of the foreign like product sold in the home market was more than 5% of the aggregate quantity of sales of the subject merchandise to the U.S., in accordance with sections 773(a)(1) (c) and (a)(1)(B)(i) of the Act, we based NV on the prices at which the foreign like products were first sold for consumption in the exporting country.

We treated sales to affiliates as made at arm's length and therefore used them in our NV calculations, as we determined that the prices to both affiliated and unaffiliated customers were based exclusively on a published price-list.

Based on an allegation of sales below the cost of production (COP), the Department had reasonable grounds to believe or suspect that sales of the foreign product under consideration for the determination of NV in this review may have been made at prices below the COP as provided by section 773(b)(2)(A)(i) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by TMC in the home market.

In accordance with section 773(b)(3) of the Act, we calculated the COP, on a model-specific basis, based on the sum of the costs of materials and fabrication employed in producing the foreign like product plus selling, general and administrative (SG&A) expenses and all costs and expenses incidental to placing the foreign like product in condition packed ready for shipment. In our COP analysis, we used the home market sales and COP information provided by TMC in its questionnaire and supplemental responses.

After calculating COP, we tested whether home market sales of the foreign like product were made at prices below COP within an extended period of time in substantial quantities and whether such prices permitted the recovery of all costs within a reasonable period of time. We compared model-specific COPs to the reported home market prices less any applicable adjustments.

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of the respondent's sales of a given model were at prices less than COP, we did not disregard any below-cost sales of that model because the below-cost sales were not made in substantial quantities. Where 20 percent or more of the respondent's sales of a given model were at prices less than the COP, we disregarded the below-cost sales if they (1) were made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act, and (2) based on comparisons of prices to weighted-average COPs for the POR, were at prices which would not permit recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act. Based on this test, we disregarded below-cost sales with respect to TMC.

We calculated NV using sales of the foreign like product in the home market. Where the Department could not match to identical merchandise in the home market, the Department matched to similar merchandise based on load capacity and six matching criteria, each assigned specific weight factors which reflected the criterion's relative importance. For a more detailed description of the product-matching criteria see Appendix III, Department's Sales Questionnaire, July 31, 1995.

Home market prices were based on ex-factory or delivered prices to purchasers in the home market. Where applicable, we made adjustments for packing and for movement expenses in accordance with sections 773(a)(6) (A) and (B) of the Act. We also made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act and for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Act and 19 C.F.R. 353.56. We made COS adjustments by deducting home market discounts and rebates and warranty expenses. Based on the results of verification, we are disallowing TMC's reported home market direct advertising expense and we are adjusting TMC's home market REBATE2H downward. We added to NV revenue earned on home market sales, including revenue from transportation insurance received by a TMC affiliate and for interest revenue. Based on the results of verification, we are using interest revenue earned on U.S. sales as facts otherwise available for home market interest revenue. We also made adjustments, where applicable, for certain home market indirect selling expenses to offset U.S. commissions and U.S. indirect selling expenses in CEP calculations. Because we preliminarily determined that TMC's sales to the home market which are used to establish normal value were at a level of trade which constitutes a more advanced stage of distribution than the level of trade of the CEP, and because the data available do not permit an appropriate basis to determine a level-of-trade adjustment pursuant to section 773(a)(7)(A)(ii) of the Act, we allowed a

CEP ''offset'' pursuant to section 773(a)(7)(B) of the Act (see *Level of Trade*, below). This offset was permitted only with respect to those claimed home market indirect selling expenses that we were able to verify. Based on the results of verification, we are disallowing reported home market indirect advertising and sales promotion expenses, TMC's wage and salary expense and TMC's general & administrative (G&A) expenses.

In accordance with section 773(a)(4) of the Act, we used CV as the basis for NV when there were no usable sales of comparable merchandise in the home market. We calculated CV in accordance with section 773(e) of the Act. We included the cost of materials and fabrication, SG&A expenses, and profit. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by TMC in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country. For selling expenses, we used the weighted-average home market selling expenses. We included U.S. packing pursuant to section 773(e)(3) of the Act. Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Act and 19 CFR 353.56 for COS differences and level-of-trade differences. We made COS adjustments by deducting home market direct selling expenses. We also made adjustments, where applicable, for certain home market indirect selling expenses to offset U.S. commissions. Since CV was calculated at a more advanced level of trade than the level of trade of the CEP, we made an adjusment in accordance with sections 773(a)(7) and (a)(8) of the Act, *i.e.*, the CEP offset. See *Level of Trade*, below.

Level of Trade

As set forth in section 773(a)(1)(B)(i) of the Act and in the SAA accompanying the URAA at 829–831, to the extent practicable, the Department will calculate NV based on sales at the same level of trade as the U.S. sales. When the Department is unable to find sales of the foreign like product in the comparison market at the same level of trade as the U.S. sale, the Department may compare the U.S. sale to sales at a different level of trade in the comparison market.

In accordance with section 773(a)(7)(A) of the Act, if sales at allegedly different levels of trade are compared, the Department will adjust the NV to account for the difference in level of trade if two conditions are met. First, there must be differences between the actual selling activities performed by the exporter at the level of trade of the U.S. sale and the level of trade of the comparison market sales used to determine NV. Second, the differences must affect price comparability as evidenced by a pattern of consistent price differences between sales at the different levels of trade in the market in which NV is determined.

When CEP is applicable, section 773(a)(7)(B) of the Act establishes that a CEP ''offset'' may be made when two conditions exist: (1) NV is established at a level of trade which constitutes a more advanced stage of distribution than the level of trade of the CEP; and (2) the data available do not provide an appropriate basis for a level-of-trade adjustment.

In implementing these principles in this review, we obtained information about the selling activities performed by TMC for each channel of distribution and asked TMC to establish claimed levels of trade based on these selling activities. TMC claimed that the level of trade of the CEP was different than the level of trade of its home market sales. TMC claimed one level of trade and one channel of distribution with regard to its sales to its U.S. affiliate, Toyota Motor Sales U.S.A., Inc. (TMS). For its home market, TMC claimed only one channel of distribution, from TMC to dealers, which it claimed to be at a more advanced stage of distribution than the level of trade of the CEP (*i.e.*, the sales from TMC to TMS) based on the selling functions performed for the particular markets.

In order to determine whether the CEP and the home market sales were at different levels of trade, we reviewed the selling activities associated with the CEP and those associated with home market sales. For CEP sales, we considered only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. Whenever sales were made by or through an affiliated company as agent, we considered all selling activities of both affiliated parties, except for those selling activities related to the expenses deducted under section 772(d) of the Act in CEP situations.

In this review, we determined that the selling functions performed by TMC for the home market were dissimilar to those performed by TMC for CEP sales, and that TMC's home market level of trade constituted a more advanced stage of distribution than the level of trade of the CEP. For further discussion see *Analysis Memorandum to File,* July 26, 1996.

Further, we examined whether a level-of-trade adjustment was appropriate. In this review, the same level of trade as that of the CEP did not exist in the home market as TMC's home market sales were made at a more advanced stage of distribution than its CEP sales. We could not determine whether there was a pattern of consistent price differences between the levels of trade, in accordance with section 773(a)(7)(A) of the Act, based on TMC's home market sales of merchandise under review because TMC had only one level of trade in the home market and such data did not exist. However, the SAA states that, ''if information on the same product and company is not available, the adjustment may also be based on sales of other products by the same company. In the absence of any sales, including those in recent time periods, to different levels of trade by the exporter or producer under investigation, Commerce may further consider the selling experience of other producers in the foreign market for the same product or other products.'' *SAA* at 830. Accordingly, we examined the alternative methods for calculating a level-of-trade adjustment. In this review, we did not have information that would allow us to apply these alternative methods. Therefore, for TMC, in accordance with section 773(a)(7)(B) of the Act, because we determined that TMC's home market sales upon which we established NV were at a level of trade which constituted a more advanced stage of distribution than the level of the CEP, but no data were available to adjust for differences in level of trade, we made a CEP offset to NV.

Fair Value Comparisons

To determine whether sales of forklift trucks to the United States were made at less than fair value, we compared the CEP to the NV, as described in the ''Constructed Export Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(2), we calculated monthly weighted-average prices for NV and compared these to individual U.S. transactions.

Preliminary Results of Review

As a result of our review, we preliminarily determine the weighted-average dumping margins (in percent) for the period June 1, 1994, through May 31, 1995 to be as follows:

Manufacturer/exporter	Margin (percent)
TMC	41.29

Manufacturer/exporter	Margin (percent)
Nissan	[1] 7.36
Toyo	[1] 4.48

[1] No shipments or sales subject to this review. Rate is from the last relevant segment of the proceeding in which the firm had shipments/sales.

Parties to this proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of the date of publication of this notice. A hearing, if requested, will be held 44 days from the date of publication of this notice at the main Commerce Department building.

Issues raised in hearings will be limited to those raised in the respective case briefs and rebuttal briefs. Case briefs from interested parties are due within 30 days of publication of this notice. Rebuttal briefs, limited to the issues raised in the respective case briefs, may be submitted not later than 37 days of publication of this notice. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.The Department will subsequently publish the final results of this administrative review, including the results of its analysis of issues raised in any such written briefs or hearing. The Department will issue final results of this review within 180 days of publication of these preliminary results.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Because the inability to link sales with specific entries prevents calculation of duties on an entry-by-entry basis, we have calculated an importer-specific *ad valorem* duty assessment rate for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of that particular importer made during the POR. (This is equivalent to dividing the total amount of antidumping duties, which are calculated by taking the difference between statutory NV and statutory CEP, by the total statutory CEP value of the sales compared, and adjusting the result by the average difference between CEP and customs value for all merchandise examined during the POR.) The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of this review.

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 by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies will be those rates established in the final results of this review; (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 (LTFV) 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; and (4) the cash deposit rate for all other manufacturers or exporters will be 39.45 percent, the ''All Others'' rate made effective by the final determination of sales at LTFV, as explained below.

On May 25, 1993, the Court of International Trade (CIT) in *Floral Trade Council* v. *United States,* 822 F.Supp. 766 (CIT 1993), *and Federal-Mogul Corporation and The Torrington Company* v. *United States,* 822 F.Supp. 782 (CIT 1993), decided that once an ''All Others'' rate is established for a company it can only be changed through an administrative review. The Department has determined that, in order to implement these decisions, it is appropriate to reinstate the ''All Others'' rate from the LTFV investigation (or that rate as amended for correction of clerical errors or as a result of litigation) in proceedings governed by antidumping duty orders. Therefore, the Department is reinstating the ''All Others'' rate made effective by the final determination of sales at LTFV (see Antidumping Duty Order and Amendment to Final Determination of Sales at Less Than Fair Value; Certain Internal-Combustion, Industrial Forklift Trucks From Japan (53 FR 20882 (June 7, 1988)).

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 Act and 19 CFR 353.22(c)(5).

Dated: July 26, 1996.

Robert S. LaRussa,

Acting Assistant Secretary, for Import Administration.

[FR Doc. 96–19725 Filed 8–01–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–427–030]

Large Power Transformers From France; Final Results of Antidumping Administrative Review

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

ACTION: Notice of final results of antidumping duty administrative review; Large power transformers from France.

SUMMARY: On April 8, 1996, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping finding on large power transformers (LPTs) from France. The review covers one manufacturer/exporter and the period June 1, 1994 through May 31, 1995.

We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, we have changed the results from those presented in the preliminary results of review.

EFFECTIVE DATE: August 2, 1996.

FOR FURTHER INFORMATION CONTACT: Elisabeth Urfer or Maureen Flannery, 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.

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 (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).