

**University of California, Los Alamos; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument**

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

*Docket Number:* 96-071. Applicant: University of California, Los Alamos, CA 87545. Instrument: ICP Mass Spectrometer, Model PlasmaQuad. Manufacturer: Fisons Instruments, United Kingdom. Intended Use: See notice at 61 FR 41773, August 12, 1996.

*Comments:* None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides: (1) a minimum limit of detection of 0.025 ng/L in the actinide region, (2) abundance sensitivity of  $< 1 \times 10^{-7}$  at M-1 and (3) quadrupole operation at 2.2 MHz or higher. These capabilities are pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

Frank W. Creel,

*Director, Statutory Import Programs Staff.*

[FR Doc. 96-24606 Filed 9-24-96; 8:45 am]

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**The University of Vermont; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument**

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

*Docket Number:* 96-068. Applicant: The University of Vermont, Burlington, VT 05405. Instrument: Multisample Inlet Manifold for Mass Spectrometer. Manufacturer: Pro-Vac Services, United Kingdom. Intended Use: See notice at 61 FR 39948, July 31, 1996.

*Comments:* None received. Decision: Approved. No instrument of equivalent

scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: This is a compatible accessory for an existing instrument purchased for the use of the applicant.

The National Institutes of Health advises in its memorandum dated July 24, 1996, that the accessory is pertinent to the intended uses and that it knows of no comparable domestic accessory.

We know of no domestic accessory which can be readily adapted to the existing instrument.

Frank W. Creel,

*Director, Statutory Import Programs Staff.*

[FR Doc. 96-24607 Filed 9-24-96; 8:45 am]

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**[C-535-001]**

**Cotton Shop Towels from Pakistan; Preliminary Results of Countervailing Duty Administrative Reviews**

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

**ACTION:** Notice of preliminary results of countervailing duty administrative reviews.

**SUMMARY:** The Department of Commerce (the Department) is conducting administrative reviews of the countervailing duty order on cotton shop towels from Pakistan. For administrative convenience, the Department is combining the reviews covering the periods January 1, 1992 through December 31, 1992 (1992) and January 1, 1993 through December 31, 1993 (1993). We preliminarily determine the net subsidy to be 7.81 percent *ad valorem* for all companies for 1992. For 1993, we preliminarily determine the net subsidy to be 11.50 percent *ad valorem* for Eastern Textiles (Eastern), 11.54 percent *ad valorem* for Creation (Pvt.), Ltd. (Creation), and 5.02 percent *ad valorem* for all other companies. If the final results remain the same as these preliminary results of administrative reviews, we will instruct the U.S. Customs Service to assess countervailing duties as indicated above. Interested parties are invited to comment on these preliminary results.

**EFFECTIVE DATE:** September 25, 1996.

**FOR FURTHER INFORMATION CONTACT:** Anne D'Alauro or Lorenza Olivas, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-2786.

**SUPPLEMENTARY INFORMATION:**

**Background**

On March 9, 1984, the Department published in the Federal Register (49 FR 8974) the countervailing duty order on cotton shop towels from Pakistan. On March 12, 1993, the Department published a notice of "Opportunity to Request Administrative Review" (58 FR 13583) of this countervailing duty order for 1992. We received a timely request for review from Milliken & Company (Milliken), a U.S. producer of the subject merchandise and the petitioner in the original investigation. For 1993, the notice of "Opportunity to Request Administrative Review" was published on March 4, 1994 (59 FR 10368). Milliken, as well as the Government of Pakistan, the Towel Manufacturers Association of Pakistan and exporters of shop towels from Pakistan requested a review for this period. We initiated the 1992 and 1993 reviews on May 6, 1993 (58 FR 26960) and April 15, 1994 (59 FR 18099), respectively. The 1992 review covers 17 manufacturers/exporters of the subject merchandise. The 1993 review covers 20 manufacturers/exporters. The reviewed exporters account for virtually all exports of the subject merchandise. Both reviews cover five programs.

**Applicable Statute and Regulations**

The Department is conducting these administrative reviews in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994. However, references to the Department's Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments (54 FR 23366; May 31, 1989) (Proposed Regulations), are provided solely for further explanation of the Department's countervailing duty practice. Although the Department has withdrawn the particular rulemaking proceeding pursuant to which the Proposed Regulations were issued, the subject matter of these regulations is being considered in connection with an ongoing rulemaking proceeding which, among other things, is intended to conform the Department's regulations to the Uruguay Round Agreements Act. See 60 FR 80 (Jan. 3, 1995).

**Scope of the Review**

The subject merchandise is cotton shop towels from Pakistan. During the review periods, this merchandise was classifiable under item number

6307.10.20 of the Harmonized Tariff Schedule (HTS). The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

#### Best Information Available (BIA) for Creation

Section 776(c) of the Act requires the Department to use BIA "whenever a party or any other person refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation." See also 19 CFR section 355.37.

In determining what rate to use as BIA, the Department follows a two-tiered methodology. The Department assigns lower BIA rates to those respondents who cooperated in an administrative review (tier two) and rates based on more adverse assumptions to respondents who did not cooperate, or significantly impeded the proceeding (tier one). See *Allied Signal Aerospace Co. v. United States*, 996 F. 2d 1185 (Fed. Cir. 1993), *aff'd*, 28 F. 3d 1188, *cert. denied*, 1995 U.S. Lexis 100 (1995). Creation, an exporter during 1993, did not respond to the Department's initial or two supplemental questionnaires. However, the Government of Pakistan provided information regarding Creation's volume and value of exports during the 1993 administrative review period and regarding Creation's non-use of certain programs during that review period. For these preliminary results, we have utilized the information provided by the Government of Pakistan to the extent that it permitted us to calculate a program-specific rate for Creation. See *Certain Steel Products from Italy*; Final Affirmative Countervailing Duty Determinations (58 FR 37327, 37329; July 9, 1993). In the case of two programs, this information was inadequate and, in accordance with section 776 of the Act, we assigned to Creation a tier-one BIA rate for those programs for 1993. This tier one BIA rate is the highest individual rate found, either in the investigation or in a subsequent administrative review, for these programs.

Most companies did not provide information regarding the benefits earned under the Income Tax Reduction Program. For these companies, we used tier one BIA for this program in both reviews. Eight others attempted to cooperate but provided inadequate information as to the benefit earned under this program during 1993. For these companies, we used tier two BIA.

#### Calculation Methodology for Assessment and Cash Deposit Purposes

In accordance with *Ceramica Regiomontana, S.A. v. United States*, 853 F. Supp. 431 (CIT 1994), we calculated the net subsidy on a country-wide basis by first calculating the total subsidy rate for each company subject to the administrative review. We then weighted the rate received by each company using as the weight its share of total Pakistani exports to the United States of subject merchandise, including all companies, even those with *de minimis* and zero rates. We then summed the individual companies' weighted rates to determine the country-wide, weighted-average subsidy rate from all programs benefitting exports of subject merchandise to the United States.

Since the country-wide rate calculated using this methodology was above *de minimis*, as defined by 19 CFR 355.7 (1994), for each review period, we examined the net subsidy rate calculated for each company to determine whether individual company rates differed significantly from the weighted-average country-wide rate, pursuant to 19 CFR 355.22(d)(3). None of the companies had net subsidy rates which were significantly different during the 1992 review period pursuant to 19 CFR 355.22(d)(3). Therefore, all companies are assigned the country-wide rate in 1992. In 1993, Eastern had a significantly different rate. Based on BIA, Creation also had a significantly different rate. These companies are treated separately for assessment and cash deposit purposes. All other companies are assigned the country-wide rate.

#### Analysis of Programs

##### I. Programs Previously Determined to Confer Bounties or Grants

##### A. Export Financing

The Export Finance Scheme (EFS), which is administered by the State Bank of Pakistan, grants short-term loans at below-market interest rates to exporters. The EFS has two parts. Under Part I, exporters may obtain financing on irrevocable letters of credit or firm export orders. Under Part II, exporters may obtain financing in the form of a credit line based upon the value of the previous year's eligible exports. The Department found this program countervailable in the investigation (see *Cotton Shop Towels from Pakistan*; Final Affirmative Countervailing Duty Determination (49 FR 1408; January 11, 1984)) (investigation) and in all subsequent reviews in accordance with

section 771(5) of the Act because receipt of this benefit was based solely on export performance and the interest rates were preferential. There has been no new information or evidence of changed circumstances in these reviews to warrant reconsideration of this program's countervailability.

During the review periods, shop towel exporters made interest payments on loans obtained under Part I of the EFS. The interest rates ranged between 7 percent and 11 percent. Loan terms require payment within a maximum of 150 days. As our benchmark, we used the national average commercial rates for short-term credit which was reported by the Government of Pakistan. These rates were 14.5 percent applicable in 1991, 14 percent in 1992, and 15.5 percent in 1993.

To calculate the benefit, we took the difference between the actual interest paid and the interest that would have been paid if the loans had been obtained at commercial rates. See Final Affirmative Countervailing Duty Determination: *Certain Carbon Steel Butt-Welded Pipe Fittings From India* (60 FR 10564; February 27, 1995). For loans obtained under Part I of the EFS, the financing reported was specific to shipments made to the United States. We received no information indicating that loans were received under Part II. For this reason, where we could not determine if loans were obtained under Part I or Part II, we assumed that they were obtained under Part I and were specifically benefitting subject merchandise exports to the United States. Therefore, we divided the benefit derived from Part I loans by total exports of subject merchandise to the United States. On this basis, we preliminarily determine the net subsidy from this program for 1992 to be 0.72 percent *ad valorem* for all manufacturers and exporters in Pakistan of shop towels. For 1993, we preliminarily determine the net subsidy from this program to be 0.49 percent *ad valorem* for all manufacturers and exporters in Pakistan of shop towels, except for Eastern, who has a significantly different subsidy rate. The rate for Eastern is 6.31 percent *ad valorem*. As BIA, we assigned to Creation the rate determined for Eastern in the 1993 review, because it is the highest rate calculated for any company that used this program in any administrative review.

##### B. Excise Tax, Sales Tax and Customs Duty Rebate Programs

The Central Bureau of Revenue administers the rebate of excise taxes, sales taxes and customs duties on both

domestic and imported inputs used in exported products. The excise tax rebate applicable to cotton shop towels during the review periods was 6.0 percent from January 1, 1992 through September 27, 1992, 4.72 percent from September 28, 1992 through July 13, 1993, and 1.79 percent from July 14, 1993 through December 31, 1993. This rebate is calculated on the basis of the f.o.b. value of exports. There was no rebate of sales taxes or customs duties in either review period.

In the investigation and subsequent reviews, we found the program countervailable because the Government of Pakistan failed to establish the requisite linkage and comparison between taxes paid and rebates provided. In this review, the Government of Pakistan did not provide new information to establish the required linkage. Therefore, we preliminarily determine that the Government of Pakistan pays these rebates without regard to specific taxes incurred in the production of shop towels and that the full amount of the rebate is countervailable because the rebate is contingent upon export performance. See Preliminary Results of Countervailing Duty Administrative Review: Cotton Shop Towels from Pakistan (58 FR 32104; June 8, 1993) and Final Results of Countervailing Duty Administrative Review: Cotton Shop Towels from Pakistan (58 FR 48038; September 14, 1993).

These cash rebates are earned on a sale-by-sale basis, and a firm can precisely calculate the amount of rebate it will receive for each export sale at the moment the sale is made. Because the amount of these rebates is known at the time of export, we calculate the benefit from this rebate program on an "as-earned" basis for all exporters, including Creation. To calculate the benefit, we separately weight-averaged the rates applicable to cotton shop towel exports during the 1992 and 1993 review periods. On this basis, we preliminarily determine the net subsidy from these programs to be 5.67 percent *ad valorem* for all manufacturers and exporters in Pakistan of shop towels during 1992. For 1993, we preliminarily determine the net subsidy from these programs to be 3.35 percent *ad valorem* for all manufacturers and exporters in Pakistan of shop towels, including Creation.

#### C. Income Tax Reductions

Before July 1992, the Government of Pakistan provided firms with a maximum 50-percent reduction of their income taxes on income generated from exports. The percentage of the reduction

depended on the size of the company and the form of business ownership. In case of a loss (*i.e.*, where there was no tax liability), the export income tax credit could be carried forward to the following year as an offset against income. In accordance with section 771(5) of the Act, the Department found this program countervailable in the investigation and all subsequent reviews because receipt of this benefit was contingent upon export performance. There has been no information provided in this review to warrant reconsideration of this program's countervailability.

This program was modified in 1992. Effective July 1, 1992, the Finance Act 1992, under section 80cc of the Income Tax Ordinance, required the commercial banks to withhold the income tax at source from all foreign exchange proceeds. The amount withheld becomes the company's final tax liability irrespective of whether or not the company is profitable. Eligible exporters continued to receive a tax reduction rate on export earnings. For shop towel exporters, the reduction was 0.50 percent of total export earnings.

To calculate the benefit to each company, we subtracted the total amount of income tax the company actually paid during the review period from the amount of tax the company would have paid during the review period had it not claimed any reductions under the Income Tax Reduction Program. We then divided this difference by the value of the company's total exports. See Preliminary Results of Countervailing Duty Administrative Review: Certain Iron Metal Castings From India (61 FR 25623; May 22, 1996). For those companies which did not provide information regarding the benefits earned from these claimed reductions in one or both reviews, we assumed that they received benefits from this program, and assigned, as BIA, a rate of 1.88 percent, the highest rate found, either in the investigation or in a subsequent administrative review, for this program. We are using the highest rate found under this program because respondents failed to provide needed information even after the Department's repeated requests for the information from the shop towel exporters. In those instances where an exporter cooperated by attempting to provide data, but failed to provide adequate information on which to calculate accurately the benefit during 1993, we relied on company-specific information provided in the 1992 review for tier two BIA.

On this basis, we preliminarily determine the net subsidy from this

program to be 1.42 percent *ad valorem* for all manufacturers and exporters in shop towels from Pakistan during 1992. For 1993, we preliminarily determine the net subsidy from this program to be 1.19 percent *ad valorem* for all manufacturers and exporters in Pakistan of shop towels, except for Eastern Textiles and Creation, who had significantly different overall subsidy rates. For Eastern, we calculated the benefit to be 1.84 *ad valorem*. For Creation, we assigned a tier one BIA rate of 1.88 percent *ad valorem* because it is the highest rate calculated for any company that used this program in any administrative review.

#### II. Other Programs

We examined the following programs and preliminarily determine that exporters of cotton shop towels did not apply for or receive benefits under them during the review periods:

- Import Duty Rebates
- Export Credit Insurance

#### Preliminary Results of Reviews

For 1992, we preliminarily determine the net subsidy to be 7.81 percent *ad valorem* for all companies. For 1993, we preliminarily determine the net subsidy to be 11.50 percent *ad valorem* for Eastern, 11.54 percent *ad valorem* for Creation and 5.02 percent *ad valorem* for all other companies.

If the final results of these reviews remain the same as these preliminary results, the Department intends to instruct the U.S. Customs Service to assess countervailing duties of 7.81 percent *ad valorem* for all shipments of the subject merchandise exported from Pakistan on or after January 1, 1992 and on or before December 31, 1992. For all shipments of the subject merchandise exported from Pakistan on or after January 1, 1993 and on or before December 31, 1993, the Department intends to instruct the U.S. Customs Service to assess countervailing duties of 11.50 percent *ad valorem* for all shipments of the subject merchandise from Eastern, 11.54 percent *ad valorem* for all shipments of the subject merchandise from Creation and 5.02 percent *ad valorem* from all others.

The Department also intends to instruct the U.S. Customs Service to collect a cash deposit of estimated countervailing duties of 11.50 percent of the f.o.b. invoice price on all shipments of this merchandise from Eastern, 11.54 percent of the f.o.b. invoice price on all shipments of this merchandise from Creation, and 5.02 percent of the f.o.b. invoice price from all others on all shipments of this merchandise entered, or withdrawn from warehouse, for

consumption on or after the date of publication of the final results of these reviews.

Parties to the proceeding may request disclosure of the calculation methodology and interested parties may request a hearing not later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. Parties who submit written arguments in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 355.38(e).

Representatives of parties to the proceedings may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceedings, but in no event later than the date the case briefs are due. The Department will publish the final results of these administrative reviews, including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: September 16, 1996.

Robert S. LaRussa,  
Acting Assistant Secretary for Import  
Administration.

[FR Doc. 96-24605 Filed 9-24-96; 8:45 am]

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## National Oceanic and Atmospheric Administration

[I.D. 091396A]

### Small Takes of Marine Mammals Incidental to Specified Activities; Taurus Space Launch Vehicles at Vandenberg Air Force Base, CA

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of receipt of application and proposed authorization for a small take exemption; request for comments.

**SUMMARY:** NMFS has received a request from the U.S. Air Force for an authorization to take small numbers of seals, sea lions and fur seals by harassment incidental to launches of Taurus space launch vehicles (Taurus SLV) at Launch Support Complex 576E (LSC- 576E), Vandenberg Air Force Base, CA (Vandenberg). Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to authorize the incidental take, by harassment, of small numbers of Pacific harbor seals, and other seal and sea lion species, in the vicinity of Vandenberg for a period of 1 year.

**DATES:** Comments and information must be received no later than October 25, 1996.

**ADDRESSES:** Comments on the application should be addressed to Chief, Marine Mammal Division (Attn: Small Take Program Manager), Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. A copy of the application and previous Federal Register notices on related actions may be obtained by writing to this address or by telephoning one of the contacts listed below.

**FOR FURTHER INFORMATION CONTACT:** Kenneth Hollingshead, Office of Protected Resources at 301-713-2055, or Irma Lagomarsino, Southwest Regional Office at 310-980-4016.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs NMFS to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued. Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and the permissible methods of taking and requirements pertaining to the monitoring and reporting of such taking are set forth.

Subsection 101(a)(5)(D) of the MMPA established an expedited process by which U.S. citizens can apply for an authorization to incidentally take small numbers of marine mammals by harassment for a period of up to 1 year. The MMPA defines "harassment" as:

\*\*\*any act of pursuit, torment, or annoyance which (a) has the potential to

injure a marine mammal or marine mammal stock in the wild; or (b) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

Subsection 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

#### Summary of Request

On August 14, 1996, NMFS received a revised application from the U.S. Air Force, Vandenberg, requesting an authorization for the harassment of small numbers of harbor seals and possibly California sea lions and northern elephant seals, incidental to launches of Taurus SLVs at LSC-576E, Vandenberg. These launches would place commercial payloads into earth orbit. Because LSC-576E is located north of most other launch complexes at Vandenberg and because there are oil production platforms located off the coast to the south of LSC-576E, missions flown from LSC-576E do not fly directly on their final southward course. The normal trajectory for a LSC-576E launch is in a general west-southwest direction away from the coastline. The flight paths for each 1997 launch will proceed on an initial azimuth of 205° until approximately 24 kilometers (km) (15 miles (mi)) west of the shoreline. The Taurus SLV will then perform a dogleg maneuver left to a final mission-specific azimuth of between 180° and 197°. No Taurus SLV launch from LSC-576E will proceed southeast, overflying San Miguel (SMI) or Santa Rosa islands. Orbital Sciences Corporation (OSC 1996) anticipates launching two Taurus SLVs during the 1-year period of validity for this proposed authorization.

As a result of the noise associated with the launch itself and the resultant sonic boom, there is the potential to cause a startle response to those harbor seals that haul out on the coastline south and southwest of Vandenberg and may be detectable to marine mammals in waters off Vandenberg and to the west of the Channel Islands. Launch noise would be expected to occur over the coastal habitats in the vicinity of LSC-576E while a low-level sonic boom may be heard west of the Channel Islands.