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Dated: November 7, 1996.

Elizabeth W. Stroud,

*Executive Secretary, DPRB.*

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## International Trade Administration

[A-583-810]

### Chrome-Plated Lug Nuts From Taiwan; Final Results of Antidumping Duty Administrative Review and Termination in Part

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

**ACTION:** Notice of final results of antidumping duty administrative review and termination in part.

**SUMMARY:** On July 8, 1996, the Department of Commerce (the

Department) published the preliminary results of administrative review of the antidumping duty order on chrome-plated lug nuts from Taiwan. The review covers 18 manufactures/exporters and the period September 1, 1994, through August 31, 1995. Based on our analysis of the comments received, the dumping margins have changed from those presented in the preliminary results.

**EFFECTIVE DATE:** November 14, 1996.

#### FOR FURTHER INFORMATION CONTACT:

Todd Peterson or Thomas Futtner, Office of AD/CVD Enforcement, Import Administration Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482-4195 or 482-3814, respectively.

#### Applicable Statute and Regulations

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 be current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

#### Background

On July 8, 1996, the Department published the preliminary results (61 FR 35724) of its administrative review of the antidumping duty order on chrome-plated lug nuts from Taiwan (September 20, 1991, 56 FR 47737). The Department has now completed this administrative review in accordance with section 751 of the Act.

#### Scope of the Review

The merchandise covered by this review is one-piece and two-piece chrome-plated lug nuts, finished or unfinished, which are more than  $1\frac{1}{16}$  inches (17.45 millimeters) in height and which have a hexagonal (hex) size of at least  $\frac{3}{4}$  inches (19.05 millimeters) but not over one inch (25.4 millimeters), plus or minus  $\frac{1}{16}$  of an inch (1.59 mm). The term "unfinished" refers to unplated and/or unassembled chrome-plated lug nuts. The subject merchandise is used for securing wheels to cars, vans, trucks, utility vehicles, and trailers. Zinc-plate lug nuts, finished or unfinished, and stainless-steel capped lug nuts are not in the scope of this review. Chrome-plated lock nuts are also not in the scope of this review.

During the period of review, chrome-plated lug nuts were provided for under subheading 7318.16.00.00 of the Harmonized Tariff Schedule (HTS).

Although the HTS subheading is provided for convenience and Customs purposes, our written description of the scope of this review is dispositive. This review covers the following firms: Gourmet Equipment (Taiwan) Corporation (Gourmet), Buxton International Corporation (Buxton), Chu Fong Metallic Electric Co., Transcend International, Kuang Hong Industries Inc., San Chien Industrial Works, Ltd., Everspring Plastic Corporation, Anmax Industrial Co., Ltd., Gingen Metal Corp., Golwinat Associates, Inc., Hwen Hsin Enterprises Co., Ltd., Kwan How Enterprises Co., Ltd., Kwan Ta Enterprises Co., Ltd., San Shing Hardware Works Co., Trade Union International Inc./Top Line, Uniauto, Inc., Wing Tang Electrical Manufacturing Company and Multigrand Industries Inc. and the period September 1, 1994, through August 31, 1995. Buxton and Uniauto are related firms and responded as one firm, Buxton/Uniauto.

#### Analysis of Comments Received

We invited interested parties to comment on the preliminary results. We received timely comments from the petitioner, Consolidated International Automotive, and rebuttal comments from Buxton and Gourmet.

#### Comment

Petitioner believes that the Department should apply the more adverse facts available (FA) rate of 10.67 percent to Buxton/Uniauto and Gourmet. Petitioner points out that these respondents have failed to provide questionnaire responses that can be reconciled with audited financial statements in prior reviews, and have also failed to do so in this review. Petitioner argues that respondents should not be rewarded for ongoing deficiencies with lower rate, particularly in light of the need for the Department to ensure accurate responses.

Petitioner states that the Department adheres to one of two guidelines when applying facts available to a respondent that substantially cooperates, but fails to provide all the information requested in a timely manner or in the form requested. The Department either applies the highest rate ever applicable to the firm or the highest calculated rate in the review for the same merchandise and country. *See Allied-Aerospace Co. v. United States*, 995 F.2d 1185, 1188 (Fed. Cir. 1993). Petitioner states that the

statute provides discretion for the Department to determine which guideline to use for FA and cites to *United States v. Zenith Radio Corp.*, 64 C.C.P.A. 130, 142–144, 562 F.2d 1209, 1219–22 (Fed. Cir. 1977). Further, the petitioner notes that the Department is entitled to great deference if there is substantial evidence in the record supporting the Department's choice. See *Industria Fundicao Tupy v. United States*, Slip Op. 96–113 (CIT, July 22, 1996).

Petitioner argues that the Department is not bound by prior practice and may depart from its practice as long as it provides a reasonable explanation for the change. See *Citrosuco Paulista, SA v. United States*, 12 CIT 1196, 1209–1210, 704 F. Supp. 1075, 1088 (CIT 1988). Petitioner argues that by applying an adverse margin, the Department would be achieving the goal of the statute which is to determine the current margins as accurately as possible. See *Rhone Poulenc v. United States*, 899 F.2d at 1191 (Fed Cir. 67–68).

Both respondents argue that they have cooperated and will continue to cooperate with the Department to the best of their abilities. They state that the petitioner has provided no new information or legal argument to cause the Department to change its long standing practice of refusing to apply adverse margins to cooperative respondents.

#### Department's Position

Buxton/Uniauto and Gourmet provided responses to our questionnaires; however, none of the information was usable. While planning for verification of these two firms, the Department received submissions from each firm stating that a verification would produce the same results as in previous reviews where the Department was unable to reconcile the data Gourmet and Buxton/Uniauto submitted in their responses to their audited financial statements (see Buxton/Uniauto and Gourmet submissions dated March 28, 1996, and May 1, 1996, respectively). Reliance on the accounting system used for the preparation of the audited financial statements is a key and vital part of the Department's determination that a company's sales and constructed value data are credible. Section 776(a)(2)(D) of the Act states that the Department "shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title" if an interested party or any other person provides information but the information cannot be verified. Because

Buxton/Uniauto and Gourmet admit their submissions are unreconcilable to their respective audited financial statements, they are perforce unverifiable. Therefore we have determined to apply facts available to Gourmet and Buxton/Uniauto.

Even though these firms submitted responses to our request for information, they submitted information that they knew could not be verified. Indeed, both firms acknowledged that the responses submitted for this POR were no more verifiable than similar responses submitted in previous reviews. While both firms have participated in several antidumping administrative reviews and are thoroughly familiar with the Department's requirements, they have failed to comply with the Department's standards. We believe these respondents have had sufficient notice of the Department's requirements for verifiable submissions and ample opportunity to provide information that is amenable to verification. Yet these respondents have continued to provide unusable data. Therefore, in accordance with 776(b), we determine that respondents have failed to cooperate by not acting to the best of their ability, and thus we are using an adverse inference in our application of facts available. In these final results, we have used the highest calculated margin for any firm in any segment of this proceeding, 10.67 percent, as the rate for Gourmet and Buxton/Uniauto.

Section 776(b) of the Act authorizes the Department to use as adverse facts available information derived from the petition, the final determination, a previous administrative review, or other information placed on the record. The statute also provides that the facts otherwise available may be based on secondary information. Because information from prior proceedings constitutes secondary information, section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate that secondary information from independent sources reasonably at its disposal. The Statement of Administrative Action (SAA) which accompanied the URAA, provides that corroborate means simply that the Department will satisfy itself that the secondary information to be used has probative value.

To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. The only source for

margins is administrative determinations. Thus, in an administrative review, if the Department chooses as total adverse facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin (see, e.g., *Fresh Cut Flowers from Mexico; Preliminary Results of Antidumping Duty Administrative Review* (61 FR 6812, February 22, 1996), where the Department disregarded the highest margin as adverse facts available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin). No such circumstances exist in this case which would cause the Department to disregard a prior margin. In this case, we have used the highest rate from any prior segment of the proceeding, 10.67 percent. This rate was calculated in the *Amendment to the Final Determination of Sales at Less Than Fair Value* (56 FR 47737, September 20, 1991), covering the period May 1, 1990 through October 31, 1990.

#### Final Results of Review

As a result of this review, we have determined that the following margins exist for the period September 1, 1994, through August 31, 1995.

Manufacturer exporter	Percent margin
Gourmet Equipment (Taiwan) Corporation .....	10.67
Buxton International/Uniauto .....	10.67
Chu Fong Metallic Electric Co .....	6.93
Transcend International .....	10.67
San Chien Industrial Works, Ltd .....	10.67
Anmax Industrial Co., Ltd .....	10.67
Everspring Plastic Corp .....	6.93
Gingen Metal Corp .....	6.93
Goldwin Associates, Inc .....	6.93
Hwen Hsin Enterprises Co., Ltd .....	10.67
Kwan How enterprises Co., Ltd .....	6.93
Kwan Ta Enterprises Co., Ltd .....	6.93
Kuang Hong Industries Ltd .....	6.93
Multigrand Industries Inc .....	6.93
San Shing Hardware Works Co., Ltd .....	10.67
Trade Union International Inc./Top Line .....	10.67
Uniauto, Inc .....	10.67

Manufacturer exporter	Percent margin
Wing Tang Electrical Manufacturing Company .....	10.67

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisal instructions concerning all respondents directly to the U.S. Customs Service.

Further, the following cash 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 for by section 751(a)(1) of the Act: (1) the cash deposit rate for the reviewed firms will be the rates initiated above; (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 in the original 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) if neither the exporter nor the manufacturer is a firm covered in this or any previous review or the original investigation, the cash deposit rate will be 6.93%, the all others rate established in the LTFV investigation.

These deposit requirements 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 order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of the 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 19 CFR 353.22.

Dated: November 4, 1996.

Robert S. LaRussa,

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 96-29090 Filed 11-13-96; 8:45 am]

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#### [A-580-807]

#### **Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea; Final Results of Antidumping Duty Administrative Review and Notice of Revocation in Part**

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

**ACTION:** Notice of final results of antidumping duty administrative review and notice of revocation in part.

**SUMMARY:** On July 9, 1996, the Department of Commerce (the Department) published the preliminary results of administrative review, intent to revoke in part, and termination in part of the antidumping duty order on polyethylene terephthalate (PET) film, sheet, and strip from the Republic of Korea. The review covers three manufacturers/exporters of the subject merchandise to the United States and the period June 1, 1994 through May 31, 1995.

As a result of comments we received, the dumping margins have changed from those we presented in our preliminary results.

**EFFECTIVE DATE:** November 14, 1996.

**FOR FURTHER INFORMATION CONTACT:** Michael J. Heaney or John Kugelman, AD/CVD Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482-4475 or 0649, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On July 9, 1996 (61 FR 36032), the Department published the preliminary results of administrative review, notice of intent to revoke in part, and termination in part of the antidumping duty order on PET film from the Republic of Korea (56 FR 25669, June 5, 1991).

Also, on July 9, 1996, we terminated the review with respect to Cheil Synthetics Inc. (Cheil) because we

revoked the order with respect to Cheil on June 25, 1996.

This review covers three manufacturers/exporters of the subject merchandise to the United States: Kolon Industries (Kolon), SKC Limited (SKC), and STC Corporation (STC), and the period June 1, 1994 through May 31, 1995.

We are revoking the order for Kolon because Kolon has sold the subject merchandise at not less than normal value (NV) in this review and for at least three consecutive periods.

On the basis of no sales at less than NV for a period of three consecutive years, and the lack of any indication that such sales are likely in the future, the Department concludes that Kolon is not likely to sell the merchandise at less than NV in the future. Kolon has also submitted a certification that it will not sell at less than NV in the future and an agreement for immediate reinstatement, in accordance with 19 CFR 353.25(b). Therefore, the Department is revoking the order with respect to Kolon.

The Department has concluded this review in accordance with section 751 of the Tariff Act of 1930, as amended.

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

Imports covered by this review are shipments of all gauges of raw, pretreated, or primed polyethylene terephthalate film, sheet, and strip, whether extruded or coextruded. The films excluded from this review are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer or more than 0.00001 inches (0.254 micrometers) thick. Roller transport cleaning film which has at least one of its surfaces modified by the application of 0.5 micrometers of SBR latex has also been ruled as not within the scope of the order.

PET film is currently classifiable under Harmonized Tariff Schedule (HTS) subheading 3920.62.00.00. The HTS subheading is provided for convenience and for U.S. Customs purposes. The written description remains dispositive as to the scope of the product coverage.

The review covers the period June 1, 1994 through May 31, 1995.

#### **Applicable Statute and Regulations**

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 Tariff Act) by the Uruguay Round Agreements Act (URAA). In addition, unless