

treating them as non-shippers for this review, and are rescinding this review with respect to these companies. See *Proposed Rule*, § 351.213(d)(3), (61 FR 7365). The cash deposit rates for these firms will continue to be the rates established in the most recently completed final determination, or the all-others rate if the respondent was never assigned its own rate in a previous segment of this proceeding.

Intent To Revoke

Daido and Enuma requested, pursuant to 19 CFR 353.25(b), revocation of the order with respect to their sales of the merchandise in question and submitted the certification required by 19 CFR 353.25(b)(1). In addition, in accordance with 19 CFR 353.25(a)(2)(iii), Daido and Enuma have agreed in writing to their immediate reinstatement in the order, as long as any producer or reseller is subject to the order, if the Department concludes under 19 CFR 353.22(f) that Daido and Enuma, subsequent to revocation, sold merchandise at less than NV. Based on the preliminary results in this review and the two preceding reviews, Daido and Enuma have demonstrated three consecutive years of sales at not less than NV. If the final results of this and the two preceding reviews demonstrate that Daido and Enuma sold the merchandise at not less than NV, and if the Department determines that it is not likely that Daido and Enuma will sell the subject merchandise at less than NV in the future, we intend to revoke the order with respect to merchandise produced and exported by Daido and Enuma.

Preliminary Results

As a result of this review, we preliminarily determine that the following weighted-average dumping margin exists:

| Manufacturer/exporter | Margin (percent) |
|-----------------------|------------------|
| Izumi | 3.97 |
| R.K. Excel | 0.09 |
| Daido | 0.14 |
| Enuma | 0.09 |
| All Others | 15.92 |

Parties to this proceeding may request disclosure within five days of publication of this notice and any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication. Rebuttal

briefs and rebuttals to written comments, limited issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication. The Department will publish a notice of the final results of the administrative review, which will include the results of its analysis of issues raised in any such written comments or at the hearing, within 180 days from the issuance of these preliminary results.

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. Individual differences between USP and NV may vary from the percentages stated above. The Department will issue appraisal instructions directly to Customs. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the determination and for future deposits of estimated duties.

Furthermore, the following deposit requirements will be effective upon completion of the final results of these administrative reviews for all shipments of roller chain, other than bicycle, from Japan entered, or withdrawn from warehouse, for consumption on or after publication date of the final results of these administrative reviews, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed companies will be those rates outlined above, except for Daido and Enuma, which, because their weighted-average margins were de minimis, will be zero percent; (2) for merchandise exported by manufacturers or exporters not covered in these reviews but covered in the original LTFV investigation or a previous review, the cash deposit will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in these reviews, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of these reviews, or the LTFV investigation; and (4) if neither the exporter nor the manufacturer is a firm covered in these or any previous reviews, the cash deposit rate will be 15.92 percent, the "all-others" rate based on the first review conducted by the Department in which a "new shipper" rate was established in the final results of antidumping finding administrative review (48 FR 51801, November 14, 1983).

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 the 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.

Dated: May 28, 1996.

Paul L. Joffe,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96-13963 Filed 6-3-96; 8:45 am]

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[A-588-028]

Roller Chain, Other Than Bicycle, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews

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

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Reviews.

SUMMARY: In response to a request from the American Chain Association (ACA), petitioner in this proceeding, the Department of Commerce (the Department) has conducted administrative reviews of the antidumping finding on roller chain, other than bicycle, from Japan. The reviews cover two manufacturers/exporters of the subject merchandise to the United States during the period April 1, 1992 through March 31, 1993, and six manufacturers/exporters of this merchandise to the United States during the period April 1, 1993 through March 31, 1994. The reviews indicate the existence of dumping margins for certain firms during the relevant periods.

If these preliminary results are adopted in our final results of administrative reviews, we will instruct the U.S. Customs Service (Customs) to assess antidumping duties equal to the difference between the United States price (USP) and the foreign market value (FMV).

We invite interested parties to comment on these preliminary results. 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: June 4, 1996.

FOR FURTHER INFORMATION CONTACT: Jack Dulberger, Matt Blaskovich, Ron Trentham or Joseph Hanley, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 482-5253.

SUPPLEMENTARY INFORMATION:

Background

On May 27, 1993, in response to a timely request from petitioner, the Department published a notice of initiation of review for the period April 1, 1992 through March 31, 1993, for Daido Kogyo, Ltd. (Daido), Enuma Chain Mfg. Co., Ltd. (Enuma), Hitachi Metals Techno Ltd. (Hitachi), Izumi Chain Manufacturing Co., Ltd. (Izumi), Pulton Chain Co., Ltd. (Pulton), and R.K. Excel. The reviews for Hitachi, Izumi, Pulton and R.K. Excel were conducted separately. On December 6, 1995, the Department published in the Federal Register (60 FR 62387), the final results of the 1992-93 administrative review of the antidumping finding on roller chain, other than bicycle, from Japan (38 FR 9226, April 12, 1973) for Hitachi, Izumi, Pulton and R.K. Excel. On May 15, 1994, in response to a timely request from petitioner, the Department published a notice of initiation of review for the period April 1, 1993 through March 31, 1994 for the following six companies: Daido, Enuma, Hitachi, Izumi, Pulton, and R.K. Excel. Hitachi and Pulton asserted that they had no sales during the period of review (POR).

Applicable Statute and Regulations

The Department is conducting these reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Act) and § 353.22 of the Department's regulations (19 CFR 353.22). 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.

Scope of the Review

Imports covered by the reviews are shipments of roller chain, other than bicycle, from Japan. The term "roller chain, other than bicycle," as used in these reviews includes chain, with or without attachments, whether or not plated or coated, and whether or not manufactured to American or British standards, which is used for power

transmission and/or conveyance. Such chain consists of a series of alternately-assembled roller links and pin links in which the pins articulate inside from the bushings and the rollers are free to turn on the bushings. Pins and bushings are press fit in their respective link plates. Chain may be single strand, having one row of roller links, or multiple strand, having more than one row of roller links. The center plates are located between the strands of roller links. Such chain may be either single or double pitch and may be used as power transmission or conveyer chain.

These reviews also cover leaf chain, which consists of a series of link plates alternately assembled with pins in such a way that the joint is free to articulate between adjoining pitches. These reviews further cover chain model numbers 25 and 35. Roller chain is currently classified under the *Harmonized Tariff Schedule of the United States* (HTSUS) subheadings 7315.11.00 through 7619.90.00. HTSUS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Best Information Available (BIA)

In accordance with section 776(c) of the Tariff Act, the Department has preliminarily determined that the use of best information available (BIA) is appropriate for Pulton for the 1993-94 POR and for Daido and Enuma for the 1992-1993 and 1993-1994 PORs. In determining what to use as BIA, 19 CFR 353.37(b) provides that the Department may take into account whether a party fails to provide requested information. When a company fails to provide the information requested in a timely manner, or otherwise significantly impedes the Department's review, the Department considers that company to be uncooperative, and, in accordance with its two-tier BIA methodology, generally assigns that company first-tier BIA, which is the higher of (1) the highest rate for any company for the same class or kind of merchandise from any previous review or the original investigation, or (2) the highest rate for a responding firm with shipments of the same class or kind of merchandise during the current review period.

When a company has substantially cooperated with our requests for information including, in some cases, verification, but fails to provide complete or accurate information, we assign that company second-tier BIA, which is the higher of: (1) the highest rate (including the "all others" rate) ever applicable to the firm for the same class or kind of merchandise from either

the LTFV investigation or a prior administrative review or, if the firm has never before been investigated or reviewed, the all others rate from the LTFV investigation; or (2) the highest calculated rate in this review for the same class or kind of merchandise for any firm. (*Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany, et al; Final Results of Antidumping Duty Administrative Review*, 56 FR 31692, 31704-05 (July 11, 1991); *Allied Signal Aerospace Co. v. United States*, 996 F. 2d 1185 (Fed. Cir. 1993)).

Results Based on Total BIA

In response to the Department's questionnaire, Pulton stated that it had no sales and no exports to U.S. customers during the 1993-94 period of review (POR). Subsequently, the Department received information from Customs indicating that there were entries of roller chain, other than bicycle, manufactured by Pulton during the POR.

When presented with this information, Pulton stated that it had inadvertently failed to report one shipment of subject merchandise during the POR. Because Pulton failed to report the shipment of subject merchandise in response to the Department's questionnaire, we have treated Pulton as uncooperative and used first-tier BIA (see above) to determine its dumping margin for this review. In this case the rate used was 43.29 percent which was from the first roller chain review completed by the Department (46 FR 44488, September 4, 1981).

Assignment of Partial BIA

Partial BIA was applied in cases where we were unable to use some portion of a response in calculating a dumping margin. The use of partial rather than total BIA reflects the fact that, in general, the respondent has been cooperative.

During the 1993-94 POR, a large portion of Izumi's home market (HM) sales were to an affiliated reseller. We have concluded that the extremely small percentage of Izumi's remaining HM sales to unaffiliated customers do not provide a sufficient factual basis to determine whether sales to the affiliated reseller were made at arm's-length prices. See *Television Receivers, Monochrome and Color, from Japan; Final, Results of Antidumping Duty Administrative Review*, 52 FR 8940, 8943 (March 20, 1987), and *Certain Stainless Steel Cooking Ware from the Republic of Korea; Preliminary Results of Antidumping Duty Administrative*

Review, 61 FR 8253 (March 4, 1996). Further, Izumi did not submit information concerning home market downstream sales (sales by the affiliated customer to unaffiliated customers).

During the 1992–93 and 1993–94 PORs, further processing costs were incurred by Daido and Enuma in sales of further-assembled, attachment-equipped roller chain, through their United States subsidiary, Daido Corporation. However, Daido and Enuma reported transfer prices rather than actual material costs, and used a cost allocation methodology which, upon analysis, we determined was in a form not providing a reliable indication of their actual further processing costs. Additionally, Daido and Enuma refused to provide the Department with the necessary model match and difference in merchandise adjustment information necessary to calculate a dumping margin for certain U.S. sales where there were no contemporaneous sales of identical merchandise in the home market.

However, because the overall integrity of Izumi, Daido and Enuma's questionnaire responses warrants a calculated rate, but certain U.S. sales lacked the proper further manufacturing, model match, or downstream sales information necessary to calculate a dumping margin, we applied the appropriate second-tier BIA rate (see above) to each respondent. For the 1992–93 POR we assigned the second-tier BIA rate of 1.19 percent to Daido and Enuma which is the highest rate previously assigned to Daido and Enuma in the final results of the April 1, 1979 through September 30, 1979 antidumping administrative review (46 FR 44488, 44490, September 4, 1981). For the 1993–94 POR we applied the second-tier BIA rate of 2.17 percent to Daido and Enuma which is the highest calculated rate in these preliminary results, and the second-tier BIA rate of 43.29 percent to Izumi, which is the highest rate previously assigned to Izumi in the final results of the April 1, 1983 through March 31, 1984 antidumping administrative review (57 FR 46535, October 9, 1992). We limited application of these rates to the particular transactions involved.

United States Price (USP)

In calculating USP for the 1992–93 and 1993–94 PORs for all companies subject to these reviews, the Department used purchase price (PP) as defined in section 772 (b) of the Act, when the sale to the first unrelated purchaser occurred prior to importation. The Department treated Daido and Enuma's sales as exporter's sale price (ESP) sales, as

defined in section 772(c) of the Act, when subject merchandise was sold to unrelated U.S. purchasers after importation. PP sales were based on the packed, FOB or ex-go-down Japanese port price, or CIF U.S. port prices to unrelated purchasers in the United States. For PP sales, we made adjustments, where applicable, for brokerage and handling charges, foreign inland freight, foreign inland insurance, ocean freight, marine insurance, commissions, discounts, credit expenses, and bank charges in accordance with 772(d)(2) of the Act.

ESP for the 1992–93 and 1993–94 PORs for Daido and Enuma was based on the packed, FOB warehouse or delivered price to unrelated purchasers. We made adjustments, where applicable, for brokerage and handling charges, movement expenses, marine insurance, inventory expenses, credit expenses, packing costs, indirect selling expenses, and commissions in accordance with 772(d)(2) of the Act. During the 1992–93 and 1993–94 PORs, further processing costs were incurred by Daido and Enuma's United States subsidiary, Daido Corporation. However, we determined that the reporting methodology of such expenses is unreliable and assigned a BIA margin to sales that incurred such expenses (see BIA above).

In light of the Federal Circuit's decision in *Federal Mogul versus United States*, 63 F.3d 1572 (Fed. Cir. 1995), the Department has changed its treatment of home market consumption taxes. Where merchandise exported to the United States is exempt from the consumption tax, the Department will add to the U.S. price the absolute amount of such taxes charged on the comparison sales in the home market. This is the same methodology that the Department adopted following the decision of the Federal Circuit in *Zenith versus United States*, 988 F. 2d 1573, 1582 (1993), and which was suggested by that court in footnote 4 of its decision. The Court of International Trade (CIT) overturned this methodology in *Federal Mogul versus United States*, 834 F. Supp. 1391 (1993), and the Department acquiesced in the CIT's decision. The Department then followed the CIT's preferred methodology, which was to calculate the tax to be added to U.S. price by multiplying the adjusted U.S. price by the foreign market tax rate; the Department made adjustments to this amount so that the tax adjustment would not alter a "zero" pre-tax dumping assessment.

The foreign exporters in the *Federal Mogul* case, however, appealed that decision to the Federal Circuit, which

reversed the CIT and held that the statute did not preclude Commerce from using the "Zenith footnote 4" methodology to calculate tax-neutral dumping assessments (i.e., assessments that are unaffected by the existence or amount of home market consumption taxes). Moreover, the Federal Circuit recognized that certain international agreements of the United States, in particular the General Agreement on Tariffs and Trade (GATT) and the Tokyo Round Antidumping Code, required the calculation of tax-neutral dumping assessments. The Federal Circuit remanded the case to the CIT with instructions to direct Commerce to determine which tax methodology it will employ.

The Department has determined that the "Zenith footnote 4" methodology should be used. First, as the Department has explained in numerous administrative determinations and court filings over the past decade, and as the Federal Circuit has now recognized, Article VI of the GATT and Article 2 of the Tokyo Round Antidumping Code required that dumping assessments be tax-neutral. This requirement continues under the new Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade. Second, the URAA explicitly amended the antidumping law to remove consumption taxes from the home market price and to eliminate the addition of taxes to U.S. price, so that no consumption tax is included in the price in either market. The Statement of Administrative action (p.159) explicitly states that this change was intended to result in tax neutrality.

While the "Zenith footnote 4" methodology is slightly different from the URAA methodology, in that section 772(d)(1)(C) of the pre-URAA law required that the tax be added to United States price rather than subtracted from home market price, it does result in tax-neutral duty assessments. In sum, the Department has elected to treat consumption taxes in a manner consistent with its longstanding policy of tax-neutrality and with the GATT.

Foreign Market Value (FMV)

In calculating FMV for the 1992–93 and 1993–94 PORs for all companies subject to these reviews, the Department used home market price, as defined in section 773 of the Tariff Act, when sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison.

We utilized constructed value (CV) as the basis for FMV for those U.S. sales by Izumi during the 1993–94 POR for

which there were no corresponding home market model matches, in accordance with section 773(a) of the Tariff Act.

Home market price, for the 1992-93 and 1993-94 PORs for all companies subject to these reviews, was based on a packed, FOB or CIF, delivered price to related and unrelated purchasers in Japan. We calculated CV for Izumi for the 1993-94 POR as the sum of materials, fabrication costs, general expenses, profit and U.S. packing. We added statutory or actual amounts for the general expenses and profit components of CV, as appropriate.

For PP sales comparisons, where applicable, for all companies subject to the 1992-93 and 1993-94 PORs, we made deductions from FMV for brokerage, inland freight, insurance and discounts. Where applicable, we made adjustment for differences in packing expenses, credit expenses, advertising expenses, warranty expenses, technical services, and differences in merchandise. We made further adjustments, where appropriate, for U.S. commissions in accordance with 19 CFR 353.56(a)(2). Where commissions were paid on U.S. sales and not paid on home market sales, we allowed an offset to FMV amounting to the lesser of the weighted-average home market indirect selling expenses or the U.S. commissions in accordance with 19 CFR 353.58(b) of the Department's regulations. We also made an adjustment to FMV for consumption taxes in accordance with the "Zenith footnote 4" methodology discussed above.

For comparison to ESP sales by Daido and Enuma during the 1992-93 and 1993-94 PORs, we allowed an ESP offset to FMV, amounting to the lesser of the weighted-average total of home market indirect selling expenses or the total U.S. indirect selling expenses, in accordance with 19 CFR 353.56(b)(2). No other adjustments were claimed or allowed.

We conducted an arms's length test and determined that Izumi's sales to its related customers during the 1993-94 POR were made at arm's length because the prices Izumi charged to its related customers were at least 99.5 percent of the prices it charged to unrelated customers.

Preliminary Results of the Review

As a result of this review, we preliminarily determine the following dumping margins for the period April 1, 1992 through March 31, 1993:

| Manufacturer/exporter | Margin (percent) |
|-----------------------|------------------|
| Daido | 0.15 |
| Enuma | 0.04 |

Further, we preliminarily determine the following dumping margins for the period April 1, 1993 through March 31, 1994:

| Manufacturer/exporter | Margin (percent) |
|-----------------------|------------------|
| Hitachi | *12.68 |
| Izumi | 23.57 |
| Pulton | **43.29 |
| RK Excel | 2.17 |
| Daido | 0.03 |
| Enuma | 0.06 |
| All Others | 15.92 |

* No sales during the period. Rate is from the last period in which there were sales.

** Not a calculated rate. Rate reflects the assignment of first-tier total BIA (see BIA section above).

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and FMV may vary from the percentages stated above. Upon completion of the review the Department will issue appraisal instructions on each exporter directly to Customs.

Interested parties may request disclosure within five days of the date of publication of this notice, and may request a hearing within ten 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 work day 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 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 the results of its analysis of issues raised in any such written comments or at a hearing.

Furthermore, the following deposit requirements will be effective for all shipments of roller chain, other than bicycle, from Japan, entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative reviews, as provided by section 751(a)(1) of the Act:

(1) The cash deposit rate for the reviewed companies will be those rates outlined above, except for Daido and

Enuma, which, because their weighted-average margins were de minimis, will be zero 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 in 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) If neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 15.92, the "all-others" rate based on the first review conducted by the Department in which a "new shipper" rate was established in the final results of antidumping finding administrative review (48 FR 51801, November 14, 1983).

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 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 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)(a) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: May 28, 1996.

Paul L. Joffe,
Acting Assistant Secretary for Import Administration.

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Applications for Duty-Free Entry of Scientific Instruments

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), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used,