

(LSIs) from Japan. The review covers one manufacturer/exporter of LSIs, Otsuka Electronics Co., Ltd. (Otsuka), and the period November 1, 1995 through October 31, 1996.

**EFFECTIVE DATE:** August 8, 1997.

**FOR FURTHER INFORMATION CONTACT:** G. Leon McNeill or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone (202) 482-4733.

**SUPPLEMENTARY INFORMATION:**

**Background**

On November 19, 1990, the Department published in the **Federal Register** (55 FR 48244) the antidumping duty order on LSIs from Japan. On November 4, 1996, we published in the **Federal Register** (61 FR 56663) a notice of opportunity to request an administrative review of the antidumping duty order on LSIs from Japan covering the period November 1, 1995 through October 31, 1996.

In accordance with 19 CFR 353.22(a)(1), the petitioner, Wyatt Technology Corporation, requested that we conduct an administrative review of Otsuka. We published a notice of initiation of this antidumping duty administrative review on January 17, 1997 (62 FR 2647).

**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 regulations codified at 19 CFR part 353 (April 1, 1997).

**Scope of the Review**

This review covers imports of LSIs and parts thereof from Japan. The Department defines such merchandise as LSIs and the parts thereof, specified below, that have classical measurement capabilities, whether or not also capable of dynamic measurement. Classical measurement (also known as static measurement) capability usually means the ability to measure absolutely (*i.e.*, without reference to molecular standards) the weight and size of macromolecules and submicron particles in solution, as well as certain molecular interaction parameters, such as the so-called second viral coefficient. (An instrument that uses single-angle instead of multi-angle measurement can

only measure molecular weight and the second viral coefficient.) Dynamic measurement (also known as quasi-elastic measurement) capability refers to the ability to measure the diffusion coefficient of molecules or particles in suspension and deduce therefrom features of their size and size distribution. LSIs subject to this review employ laser light and may use either a single-angle or multi-angle technique.

The following parts are included in the scope of this administrative review when they are manufactured according to specifications and operational requirements for use only in an LSI as defined in the preceding paragraph: scanning photomultiplier assemblies, immersion baths (to provide temperature stability and/or refractive index matching), sample-containing structures, electronic signal-processing boards, molecular characterization software, preamplifier/discriminator circuitry, and optical benches. LSIs subject to this review may be sold inclusive or exclusive of accessories such as personal computers, cathode ray tube displays, software, or printers. LSIs are currently classifiable under Harmonized Tariff Schedule (HTS) subheading 9027.30.40. LSI parts are currently classifiable under HTS subheading 9027.90.40. HTS subheadings are provided for convenience and U.S. Customs Service purposes. The written product description remains dispositive. Different items with the same name as subject parts may enter under subheading 9027.90.40. To avoid the unintended suspension of liquidation of non-subject parts, those items entered under subheading 9027.90.40 and generally known as scanning photomultiplier assemblies, immersion baths, sample-containing structures, electronic signal-processing boards, molecular characterization software, preamplifier/discriminator circuitry, and optical benches must be accompanied by an importer's declaration to the Customs Service stating that they are not manufactured for use in a subject LSI.

**Termination of Administrative Review**

Otsuka responded that it had no shipments of the subject merchandise during the period of review. We confirmed this information with the United States Customs Service. Therefore, in accordance with our practice, we are terminating this administrative review. *See, e.g., Calcium Hypochlorite from Japan: Termination of Antidumping Duty Administrative Review*, 62 FR 18086 (April 14, 1997). The cash deposit rate

for this firm will continue to be 129.71 percent, the rate established in the most recently completed administrative review. *See Light Scattering Instruments and Parts Thereof from Japan: Final Results of Antidumping Duty Administrative Review*, 60 FR 50551 (September 29, 1995).

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

Dated: July 31, 1997.

**Roland L. MacDonald,**

*Acting Deputy Assistant Secretary,  
Enforcement Group III.*

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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[A-588-823]

**Professional Electric Cutting Tools 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 Black & Decker Inc., the petitioners in this case, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on professional electric cutting tools (PECTs) from Japan. The period of review ("POR") covers shipments of the subject merchandise to the United States during the period July 1, 1995 through June 30, 1996.

We have preliminarily determined that respondents sold subject merchandise at less than normal value (NV) during the POR. 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 the NV.

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

**EFFECTIVE DATE:** August 8, 1997.

**FOR FURTHER INFORMATION CONTACT:** Stephen Jacques, AD/CVD Enforcement

Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482-3434.

#### 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 by the Uruguay Rounds Agreements Act (URAA). In addition, unless otherwise indicated, all references to the Department's regulations as codified at 19 CFR part 353, as they existed on April 1, 1996.

##### Background

On July 12, 1993, the Department published in the **Federal Register** the antidumping duty order on PECTs from Japan (58 FR 37461). On July 8, 1996, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of this antidumping duty order (61 FR 35713). On July 31, petitioners requested that we conduct an administrative review in accordance with 19 CFR 353.22(a)(1). We published the notice of initiation of this antidumping duty administrative review on August 15, 1996 (61 FR 42416).

The Department is conducting this review in accordance with section 751 of the Act.

##### Scope of the Review

Imports covered by this review are shipments of PECTs from Japan. PECTs may be assembled or unassembled, and corded or cordless.

The term "electric" encompasses electromechanical devices, including tools with electronic variable speed features. The term "assembled" includes unfinished or incomplete articles, which have the essential characteristics of the finished or complete tool. The term "unassembled" means components which, when taken as a whole, can be converted into the finished or unfinished or incomplete tool through simple assembly operations (e.g., kits).

PECTs have blades or other cutting devices used for cutting wood, metal, and other materials. PECTs include chop saws, circular saws, jig saws, reciprocating saws, miter saws, portable band saws, cut-off machines, shears, nibblers, planers, routers, joiners, jointers, metal cutting saws, and similar cutting tools.

The products subject to this order include all hand-held PECTs and certain bench-top, hand-operated PECTs. Hand-operated tools are designed so that only the functional or moving part is held and moved by hand while in use, the whole being designed to rest on a table top, bench, or other surface. Bench-top tools are small stationary tools that can be mounted or placed on a table or bench. They are generally distinguishable from other stationary tools by size and ease of movement.

The scope of the PECT order includes only the following bench-top, hand-operated tools: cut-off saws; PVC saws; chop saws; cut-off machines, currently classifiable under subheading 8461 of the Harmonized Tariff Schedule of the United States (HTSUS); all types of miter saws, including slide compound miter saws and compound miter saws, currently classifiable under subheading 8465 of the HTSUS; and portable band saws with detachable bases, also currently classifiable under subheading 8465 of the HTSUS.

This order does not include: professional sanding/grinding tools; professional electric drilling/fastening tools; lawn and garden tools; heat guns; paint and wallpaper strippers; and chain saws, currently classifiable under subheading 8508 of the HTSUS.

Parts or components of PECTs when they are imported as kits, or as accessories imported together with covered tools, are included within the scope of this order.

"Corded" and "cordless" PECTs are included within the scope of this order. "Corded" PECTs, which are driven by electric current passed through a power cord, are, for purposes of this order, defined as power tools which have at least five of the following seven characteristics:

1. The predominate use of ball, needle, or roller bearings (*i.e.*, a majority or greater number of the bearings in the tool are ball, needle, or roller bearings);
2. Helical, spiral bevel, or worm gearing;
3. Rubber (or some equivalent material which meets UL's specifications S or SJ) jacketed power supply cord with a length of 8 feet or more;
4. Power supply cord with a separate cord protector;
5. Externally accessible motor brushes;
6. The predominate use of heat treated transmission parts (*i.e.*, a majority or greater number of the transmission parts in the tool are heat treated); and
7. The presence of more than one coil per slot armature. If only six of the above seven characteristics are

applicable to a particular "corded" tool, then that tool must have at least four of the six characteristics to be considered a "corded" PECT.

"Cordless" PECTs, for the purposes of this order, consist of those cordless electric power tools having a voltage greater than 7.2 volts and a battery recharge time of one hour or less.

PECTs are currently classifiable under the following subheadings of the HTSUS: 8508.20.00.20, 8508.20.00.70, 8508.20.00.90, 8461.50.00.20, 8465.91.00.35, 85.80.00.55, 8508.80.00.65 and 8508.80.00.90. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under review is dispositive.

This review covers one company, Makita Corporation ("Makita"), and the period July 1, 1995 through June 30, 1996.

##### Level of Trade

To the extent practicable, we determine NV for sales at the same level of trade (LOT) as the U.S. sales (either EP or CEP). When there are no sales at the same level of trade, we compare U.S. sales to home market (or, if appropriate, third-country) sales at a different level of trade. The NV level of trade is that of the starting-price sales in the home market. When NV is based on constructed value, the LOT is that of the sales from which we derive SG&A and profit.

For both EP and CEP, the relevant transaction for the level-of-trade analysis is the sale (or constructed sale) from the exporter to the importer. While the starting price for CEP is that of a subsequent resale to an unaffiliated buyer, the construction of the CEP results in a price that would have been charged if the importer had not been affiliated. We calculate the CEP by removing from the first resale to an independent U.S. customer the expenses under section 772(d) of the Act and the profit associated with those expenses. These expenses represent activities undertaken by the affiliated importer. Because the expenses deducted under section 772(d) represent selling activities in the United States, the deduction of these expenses normally yields a different level of trade for the CEP than for the later resale (which we use for the starting price). Movement charges, duties, and taxes deducted under 772(c) do not represent activities of the affiliated importer and we do not remove them to obtain the CEP level of trade.

To determine whether home market sales are at a different level of trade than

U.S. sales, we examine whether home market sales are at different stages in the marketing process than the U.S. sales. The marketing process in both markets begins with goods being sold by the producer and extends to the sale to the final user, regardless of whether the final user is an individual consumer or an industrial user. The chain of distribution between the producer and the final user may have many or few links, and each respondent's sales occur somewhere along this chain. In the United States, the respondent's sales are generally to an importer, whether independent or affiliated. We review and compare the distribution systems in the home market and U.S. export markets, including selling functions, class of customer, and the extent and level of selling expenses for each claimed level of trade. Customer categories such as distributor, original equipment manufacturer (OEM), or wholesaler are commonly used by respondents to describe levels of trade, but, without substantiation, they are insufficient to establish that a claimed level of trade is valid. An analysis of the chain of distribution and of the selling functions substantiates or invalidates the claimed levels of trade. If the claimed levels are different, the selling functions performed in selling to each level should also be different. Conversely, if levels of trade are nominally the same, the selling functions should also be the same. Different levels of trade necessarily involve differences in selling functions, but differences in selling functions, even substantial ones, are not alone sufficient to establish a difference in the levels of trade. Differences in levels of trade are characterized by purchasers at different stages in the chain of distribution and sellers performing qualitatively or quantitatively different functions in selling to them.

When we compare U.S. sales to home market sales at a different level of trade, we make a level-of-trade adjustment if the difference in levels of trade affects price comparability. We determine any effect on price comparability by examining sales at different levels of trade in a single market, the home market. Any price effect must be manifested in a pattern of consistent price differences between home market sales used for comparison and sales at the equivalent level of trade of the export transaction. To quantify the price differences, we calculate the difference in the average of the net prices of the same models sold at different levels of trade. We use the average difference in net prices to adjust NV when NV is

based on a level of trade different from that of the export sale. If there is a pattern of no consistent price differences, the difference in levels of trade does not have a price effect, and no adjustment is necessary.

The statute also provides for an adjustment to NV when NV is based on a level of trade different from that of the CEP if the NV level is more remote from the factory than the CEP and if we are unable to determine whether the difference in levels of trade between CEP and NV affects the comparability of their prices. This latter situation can occur where there is no home market level of trade equivalent to the U.S. sales level or where there is an equivalent home market level but the data are insufficient to support a conclusion on price effect. This adjustment, the CEP offset, is identified in section 773(a)(7)(B) and is the lower of the following:

- The indirect selling expenses on the home market sale, or
- The indirect selling expenses deducted from the starting price in calculating CEP.

The CEP offset is not automatic each time we use CEP. The CEP offset is made only when the level of trade of the home market sale is more advanced than the level of trade of the U.S. (CEP) sale and there is not an appropriate basis for determining whether there is an effect on price comparability.

In this review, Makita reported two levels of trade in the home market: (1) Sales made at the wholesale/distributor price level; and (2) sales made to the retail level. Makita also reported twelve channels of distribution for the two levels of trade in the home market. Makita based the channels of distribution on which entity (*i.e.*, wholesaler, subwholesaler or retailers) in the distribution chain Makita had billed or shipped the merchandise to.

Although Makita described twelve channels of distribution, upon review we found that channels 1 through 7 were sales to the wholesale LOT, and channels 8 through 12 were at the retail LOT.

We found that the two home market levels of trade differed significantly with respect to selling activities. The level of selling activities with respect to the retail sales was much greater than with respect to the wholesaler sales. Based on these differences, which have been reported as business proprietary, we found that Makita's selling activities with respect to the levels of trade for wholesalers and retailers in the home market are sufficiently dissimilar to conclude that two separate levels of trade exist in the home market (*i.e.*,

wholesale and retail) (See Analysis Memo from Stephen Jacques to the File, July 31, 1997).

Makita reported only CEP sales in the U.S. market. The CEP sales were based on sales made by Makita to its wholly-owned U.S. subsidiary, Makita U.S.A. We determined that these sales constitute a single level of trade in the United States. Because Makita's sales to the United States were all CEP sales made by an affiliated company, we considered only the parent company's selling activities reflected in the price after the deduction of expenses and profit, pursuant to section 772(d) of the Act.

Based on an analysis of the record evidence, we disagree with Makita's assertion that there is no home market level equivalent to the CEP level of trade. To determine whether sales in the comparison market were at a different level of trade than CEP sales, we examined whether the CEP comparison sales were at different stages in the marketing process. We made this determination on the basis of a review of the distribution system in the two markets, including selling functions, class of customer, and the extent and the level of selling expenses for each type of sale. Overall, Makita listed fourteen separate selling activities which it performed in making sales in both markets in its business proprietary chart in Exhibit B-20 of the November 27, 1996 questionnaire response. The majority (ten) of these selling activities were either different in character or intensity between the CEP level of trade and the retail and wholesaler levels of trade in the home market. However, in comparing the CEP level of trade against both home markets levels of trade we found that the CEP level of trade had several (six) selling functions that were either identical to the home market wholesaler level of trade or differed only in intensity, not in character. In contrast, between the CEP level of trade and the retailer level of trade in the home market, we found only one selling activity that was identical to a CEP selling activity, while most of the remaining selling functions were completely different from selling activities Makita performed for its CEP sales.

Based upon this evidence, we have concluded that the differences between the channels of distribution for the CEP and the home market wholesale level of trade sales are not sufficient to constitute different levels of trade. Therefore, to the extent possible, we have used sales at the wholesale level of trade for comparison purposes in our

analysis without making a level-of-trade adjustment.

In addition, we note that in a previous review of this order, the Department found, based on verified information, that the wholesale level of trade in Japan is equivalent to the CEP level in the United States. See *Professional Electric Cutting Tools from Japan; Preliminary Results of Antidumping Duty Administrative Review*, 61 FR 46624, 46626 (September 4, 1996).

When we are unable to find sales of the foreign like product in the home market at the same level of trade as the U.S. sale, we examine whether a level of trade adjustment is appropriate. We make this adjustment when it is demonstrated that a difference in level of trade has an effect on price comparability. This is the case when it is established that, with respect to sales used to calculate NV, there is a pattern of consistent price differences between sales made at the two different levels of trade. To make this determination, we compared the weighted average of Makita's NV prices of sales made in the ordinary course of trade at the two levels of trade for models sold at both levels as indicated in Makita's Appendix B-21 of the November 27, 1996 questionnaire response. Because the weighted-average prices were higher at one of the levels of trade for a preponderance of the models, we considered this to demonstrate a pattern of consistent price differences. We based our finding on whether the weighted-average prices were higher for a preponderance of sales on the quantities of each model sold. See *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al.: Preliminary Results of Antidumping Duty Administrative Reviews*, 61 FR 35713 (July 8, 1996). On the basis of this analysis, we found that there was a pattern of consistent price differences between the two levels of trade in the home market. Thus, we made an adjustment to NV for the differences in levels of trade when we made our comparison to sales at the retail level.

Makita has requested a CEP offset in this review. 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.

As we stated in the final results of the recently completed administrative review of this product, "the amended statute permits the deduction of indirect

selling expenses from NV as a CEP offset only when a level-of-trade adjustment is warranted, but the data available do not provide an appropriate basis to determine a level of trade adjustment." See § 773(a)(7)(B). In addition, the SAA clearly states that the CEP offset is to be used *in lieu of* a level of trade adjustment. See SAA at 829. In the preliminary results of this review, we made a level of trade adjustment to NV in accordance with § 773(a)(7)(B). Therefore, we have not made a CEP offset.

#### Product Comparisons

In accordance with section 777A(d)(2) of the Act, we calculated transaction-specific CEPs for comparison to monthly weighted-average NVs. We compared CEP sales to sales in the home market and to constructed value (CV).

#### Constructed Export Price

For Makita, we based our margin calculation on CEP as defined in section 772(b) of the Act because the subject merchandise was first sold in the United States after importation into the United States by Makita U.S.A., a seller affiliated with Makita. We calculated CEP based on packed, delivered prices to the first unrelated purchaser in the United States.

We deducted Japanese and U.S. inland freight, ocean freight, insurance, brokerage and handling pursuant to section 772(c)(2) of the Act. We also deducted an amount from the price for the following expenses in accordance with section 772(d)(1) of the Act, which related to economic activities in the United States: commissions, direct selling expenses, including credit expenses, and indirect selling expenses, including inventory carrying costs. We also made deductions for discounts and rebates. Finally, we made an adjustment for profit allocated to these expenses in accordance with section 772(d)(3) of the Act.

#### Normal Value

We compared the aggregate volume of Makita's home-market sales of the foreign like product and U.S. sales of the subject merchandise to determine whether the volume of the foreign like product Makita sold in Japan was sufficient, pursuant to section 773(a)(1)(C) of the Act, to form a basis for NV. Because Makita's volume of home-market sales of foreign like product was greater than five percent of its U.S. sales of subject merchandise, in accordance with section 773(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 Japan.

In calculating NV, we disregarded sales of the foreign like product to affiliated customers in the home market where we determined that such sales were not made at arm's length. To test whether these sales were made at arm's length, we compared the starting prices of sales of the foreign like product to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, discounts and packing. Where the price to the affiliated party was on average 99.5 percent or more of the price to the unaffiliated party, we determined that the sale made to the affiliated party was at arm's-length. Where no affiliated customer ratio could be constructed because identical merchandise was not sold to unaffiliated customers, we were unable to determine that these sales were made at arm's length and, therefore, excluded them from our analysis. See *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina*, (58 FR 37062, 37077 (July 9, 1993)). Where the exclusion of such sales eliminated all sales of the most appropriate comparison product based on our model-matching hierarchy, we made comparisons to the next most similar model.

We based home-market prices on the packed, delivered prices to affiliated or unaffiliated purchasers in the home market. Where applicable, we made adjustments for differences in packing and for movement expenses in accordance with section 773(a)(6) (A) and (B) of the Act. We also made adjustments for discounts and rebates, and differences in cost attributable to the differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 353.56. If appropriate, we made circumstance of sale adjustments by deducting home-market direct selling expenses and adding U.S. direct selling expenses, except those deducted from the starting price in calculating CEP pursuant to section 772(d) of the Act.

We based NV on the price at which the foreign like product was first sold for consumption in Japan, in the usual commercial quantities, in the ordinary course of trade and in accordance with section 773(a)(1)(B)(i) of the Act. To extent practicable, we based NV on sales at the same level of trade as the CEP sales. If NV was calculated at a different level of trade, we made an adjustment, in accordance with section 773(a)(7) of the Act. This adjustment is discussed further in the Level of Trade section above.

### Cost of Production Analysis

On December 13, 1996, Black & Decker (U.S.), the petitioner in the LTFV investigation, alleged that respondent Makita made home market sales of professional electric cutting tools at prices below the cost of production ("COP") during this POR and provided information in support those allegations.

After petitioner's December 1996 allegation, the Department published the final results of the second administrative review on *Professional Electric Cutting Tools from Japan* (62 FR 386, January 3, 1997). In that most recently completed review of Makita, the Department disregarded sales by Makita at prices below cost, pursuant to section 773(b)(1). Because the Department disregarded sales below the COP in the last completed review, we have reasonable grounds to believe or suspect that sales of the foreign like 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)(ii) of the Act. Therefore, we did not consider petitioner's allegation, but pursuant to section 773(b)(1) of the Act, we initiated an investigation to determine whether Makita made home market sales during the POR at prices below its COP.

#### A. Calculation of COP

We calculated the COP based on the sum of the costs of materials and fabrication employed in producing the foreign like product, plus amounts for home market selling, general and administrative (SG&A) expenses and packing costs in accordance with section 773(b)(3) of the Act. We relied on the home market sales and COP information provided by Makita in their questionnaire responses.

#### B. Test of Home Market Prices

After calculating COP, we tested whether home market sales of the subject merchandise were made at prices below COP within an extended period of time in substantial quantities and whether such prices permitted recovery of all costs within a reasonable period of time. We compared model-specific COPs to the reported home market prices less any applicable movement charges, discounts, rebates and direct selling expenses.

#### C. Results of COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of a respondent's sales of a given product are at prices less than COP, we do not disregard any below-cost sales of that product because we determine that the

below-cost sales are not made in substantial quantities within an extended period of time. Where 20 percent or more of a respondent's sales of a given product during the POR are at prices less than the COP, we disregard the below-cost sales because we find such sales to be made in substantial quantities within an extended period and were at prices which would not permit the recovery of all costs within a reasonable period of time (see section 773(b)(2)(D) of the Act). Based on this test, for these preliminary results, we disregarded certain of Makita's below-cost sales. Where we disregarded all contemporaneous sales of the comparison product based on this test, we calculated NV based on CV, in accordance with section 773(a)(4) of the Act.

### Constructed Value

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 the foreign like product in Japan. 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 actual amounts incurred and realized by Makita in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in Japan. We used the weighted-average home market selling expenses.

Where appropriate, we made adjustments to CV in accordance with section 773(a)(6)(C)(iii) of the Act for differences in the circumstances of sale (COS). We made COS adjustments by deducting home direct selling expenses and adding U.S. direct selling expenses, except those deducted from the starting price in calculating CEP pursuant to section 772(d) of the Act. Where appropriate we made level of trade adjustments pursuant to 773(a)(7)(A).

### Duty Absorption

On December 13, 1996, the petitioner requested that the Department examine whether antidumping duties had been absorbed during the POR. Section 751(a)(4) of the Act provides that the Department, if requested, shall determine, during an administrative review initiated two years or four years after publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter subject to the order if the subject merchandise is sold in the U.S. through an affiliated importer. As noted above, this

proceeding is governed by the provisions of the Act as they existed on January 1, 1995, which includes section 751(a)(4). However, the regulations applicable to this proceeding do not address duty absorption. Therefore, section 351.701 of the new regulations (19 CFR part 351) serves as a statement of the Department's interpretation of the requirements of the Act regarding duty absorption.

Under section 751(c)(6)(C), orders that were in effect on January 1, 1995, constitute transition orders. Under section 751(c)(6)(D), the Department is to treat transition orders, such as the 1993 order at issue, as being issued on January 1, 1995. Section 351.213(j)(2) of the Department's new antidumping duty regulations provides that the Department will make a duty absorption determination, if requested by a domestic interested party, for any administrative review initiated in 1996 or 1998. See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 2295, 27394 (May 19, 1997). The preamble to the antidumping regulations explains that reviews initiated in 1996 will be considered initiated in the second year and reviews initiated in 1998 will be considered initiated in the fourth year. See 62 FR 27318.

This approach ensures that interested parties will have the opportunity for a duty absorption inquiry prior to a sunset review of the order under section 751(c) in cases where the second and fourth years following issuance of an order have already passed. Because the order on professional electric cutting tools from Japan had been in effect since 1993, this is a transition order. Therefore, the Department will first consider a request for an absorption determination during a review initiated in 1996. This being a review initiated in 1996, we are making a duty-absorption determination as part of this segment of the proceeding.

The statute provides for a determination on duty absorption if the subject merchandise is sold in the United States through an affiliated importer. In this case, Makita U.S.A. is the importer of record. Makita U.S.A. is wholly-owned by Makita Corporation of Japan. Therefore, the importer and exporter are "affiliated" within the meaning of section 751(a)(4). Furthermore, we have preliminary determined that there is a dumping margin for Makita on 16.3 percent of its U.S. sales during the POR. In addition, we cannot conclude from the record that the unaffiliated purchaser in the United States will pay the ultimately assessed duty. Therefore, based on these

circumstances, we preliminarily find that antidumping duties have been absorbed by Makita on 16.3 percent of its U.S. sales.

#### Preliminary Results of Review

As a result of our review, we preliminarily determine that the following weighted-average dumping margin exists for the period June 30, 1995, through July 1, 1996:

Manufacturer/exporter	Margin (per-cent)
Makita Corporation .....	0.50

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. 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 business day thereafter. Case briefs and/or other written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication of this notice. The Department will publish the final results of this administrative review, including its analysis of issues raised in any written comments or at a hearing, not later than 120 days after the date of publication of this notice.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. We have calculated an importer-specific *ad valorem* duty assessment rate 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 EP or CEP, by the total statutory EP or CEP value of the sales compared, and adjusting the result by the average difference between EP or CEP and customs value for all merchandise examined during the POR).

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 these administrative reviews, as

provided by section 751(a)(1) of the Act: (1) The cash deposit rate for Makita will be the rate established in the final results of this review (except that no deposit will be required for Makita if we find zero or *de minimis* margins, *i.e.*, margins less than 0.5 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 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) the cash deposit rate for all other manufacturers or exporters will continue to be 54.52 percent, the "All Others" rate made effective by the LTFV investigation.

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 C.F.R. 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 (19 U.S.C. 1675(a)(1)) and 19 C.F.R. 353.22(c)(5).

Dated: July 31, 1997.

**Robert S. LaRussa,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 97-20940 Filed 8-7-97; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-825]

#### Sebacic Acid From the People's Republic of China; 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

of sebacic acid from the People's Republic of China.

**SUMMARY:** The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on sebacic acid from the People's Republic of China (PRC) in response to requests from the petitioner, Union Camp Corporation, and three respondents: Tianjin Chemicals Import and Export Corporation (Tianjin), Guangdong Chemicals Import and Export Corporation (Guangdong) and Sinochem International Chemicals Company, Ltd. (SICC). This review covers four exporters of the subject merchandise, including the three respondent companies above and Sinochem Jiangsu Import and Export Corporation (Jiangsu). The period of review (POR) is July 1, 1995, through June 30, 1996.

We have preliminarily determined that sales have been made below normal value (NV) during this period. If these preliminary results are adopted in the final results of this administrative review, we will instruct the U.S. Customs Service to assess antidumping duties equal to the difference between United States price (USP) and NV. These assessment rates, if adopted for the final results of the review, will be calculated on an importer-specific *ad valorem* duty basis. Interested parties are invited to comment on these preliminary results.

**EFFECTIVE DATE:** August 8, 1997.

**FOR FURTHER INFORMATION CONTACT:** Lyn Baranowski, Doreen Chen, or Stephen Jacques, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-3793.

#### 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 Rounds Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are in reference to the regulations, codified at 19 CFR part 353, as they existed on April 1, 1996.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Department published in the **Federal Register** an antidumping duty order on sebacic acid from the PRC on July 14, 1995 (59 FR 35909). On July 8,