

TIE claims that it was reasonable and in accordance with law for the Department to use the ILO labor costs. TIE argues that there is nothing on the record which indicates that the ILO wages do not reflect actual costs to employers. TIE explains that in *TRBs from Romania* at 37197 the Department found no indication that the "minimum" rate for the industry excludes any employee-benefit costs which the Department normally considers. TIE notes that the Department also addressed this issue in its January 26, 1998, Preliminary Analysis Memorandum, where it added amounts to labor rates to account for benefits. TIE states that the Department adjusted the ILO data correctly by using information from the Foreign Labor Trends, as in *Lighters from the PRC*, which showed supplementary benefits to be 33 percent of manufacturing earnings.

TIE also opposes Torrington's contention that the Department should not use data from Indonesian iron and steel basic industries to value direct and indirect labor. TIE claims that the Department responded to this same argument in *TRBs from Romania* at 37197, where it acknowledged that wage rates for laborers in the iron and steel basic industries are not in the same industry as the bearings industry. TIE notes that section 773(c)(4) of the statute states that the Department will attempt to find producers of comparable products in selecting surrogate countries when the Department can not locate information from the same industry. TIE argues that the facts of the current case are the same as those in *TRBs from Romania* and, therefore, that there is no information on the record which pertains specifically to the bearing industry.

In addition, TIE argues that the Department rejected in *TRBs from Romania* at 37197 two of the alternate sources for surrogate data, *IL&T* and *Doing Business in Indonesia* (1996), proposed by Torrington. Also, TIE contests Torrington's suggestion that the Department use its own calculation of wage rates for NME countries, *Expected Wages of Selected Nonmarket Economy Countries*, which is referenced by the Department's new regulations. TIE argues that the new regulations are not relevant in this review and, therefore, it would be unreasonable for the Department to apply those wage rates in an old-regulations case without prior notice to TIE.

Department's Position: We disagree with the petitioner. The wage rates we used in the preliminary results represent actual costs. Although the ILO

data is a minimum wage, it includes such costs as "cost-of-living allowances, and other guaranteed and regularly paid allowances," according to the ILO's Special Supplement to the Bulletin of Labor Statistics (1994). Furthermore, this follows our practice in *AFBs 7, TRBs from Romania*, and in *Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Romania; Preliminary Results of Antidumping Duty Administrative Review*, 63 FR 11217 (March 6, 1998). Thus, we have continued to use, in these final results, the ILO labor data that we used in the preliminary results.

We have not used our own calculation of wage rates for NME countries, *Expected Wages of Selected Nonmarket Economy Countries*, because this administrative review is not governed by the new regulations. We do, however, intend to use this data source in any subsequently requested administrative reviews which will be governed by the new regulations.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-475-059]

Pressure Sensitive Plastic Tape From Italy; 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 pressure sensitive plastic tape from Italy.

SUMMARY: In response to a request from an importer, Horizon Plastics, the Department of Commerce is conducting an administrative review of the antidumping duty finding on pressure sensitive plastic tape from Italy. The period of review is October 1, 1996 through September 30, 1997. This review covers products manufactured and exported by N.A.R.S.p.A. We have preliminarily found that sales of subject merchandise have been made below normal value. If these preliminary results are adopted in our final results, we will instruct the Customs Service to assess antidumping duties based on the difference between the export price or constructed export price and normal value.

Interested parties are invited to comment on these preliminary results.

Parties who submit arguments are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument. We will issue the final results not later than 120 days from the date of publication of this notice.

EFFECTIVE DATE: June 18, 1998.

FOR FURTHER INFORMATION CONTACT: Todd Peterson or Thomas Futtner, AD/CVD Enforcement Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-4195, and 482-3814, respectively.

SUPPLEMENTARY INFORMATION:

The 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 of Commerce's (the Department's) regulations refer to the regulations codified at 19 CFR Part 351 (62 FR 27296, May 19, 1997).

Background

On October 21, 1997, the Department published in the **Federal Register** (42 FR 56110) the antidumping duty finding on pressure sensitive plastic tape (PSPT) from Italy. On October 31, 1997, in accordance with 19 CFR 351.213(b), an interested party and importer of the subject merchandise, Horizon Plastics, Inc., requested that the Department conduct an administrative review of N.A.R.S.p.A. exports of subject merchandise to the United States. We published the notice of initiation of this review on November 26, 1997 (62 FR 63069).

Scope of the Review

Imports covered by the review are shipments of PSPT measuring 1³/₈ inches in width and not exceeding 4 mils in thickness. During the period of review (POR), the above described PSPT was classified under HTS subheadings 3919.90.20 and 3919.90.50. The HTS subheadings are provided for convenience and for U.S. Customs purposes. The written description remains dispositive as to the scope of the product coverage.

Use of Facts Otherwise Available

We preliminarily determine that, in accordance with section 776(a)(2)(A) of the Act, the use of facts available is

appropriate for N.A.R.S.p.A. because this firm did not respond to the Department's antidumping questionnaire. In addition, there is no information on the record within the meaning of section 782(e) of the Act with regard to sales by N.A.R.S.p.A. and therefore no information to consider as an alternative to facts available in determining the margin for N.A.R.S.p.A.

The Department finds that, in not responding to the questionnaire, this firm failed to cooperate by not acting to the best of its ability to comply with requests for information from the Department. Where the Department must base the entire dumping margin for a respondent in an administrative review on the facts available because the respondent failed to cooperate, section 776(b) authorizes the Department to use an inference adverse to the interests of the respondent in choosing the facts available. Section 776(b) also 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.

As adverse facts available, we have used the highest rate from any prior segment of the proceeding, 12.66 percent. This rate was calculated in the *Final Results of Administrative Review of Antidumping Finding* (48 FR 35666), covering the period February 18, 1977 through September 30, 1980. Information from prior segments of the proceeding constitutes "secondary information" within the meaning of section 776(c) of the Act. Section 776(c) provides that the Department shall, to the extent practicable, corroborate secondary information by comparing it with independent sources reasonably at its disposal. The Statement of Administrative Action (SAA) 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* (60 FR 49567), 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.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following margin exists for the period October 1, 1996, through September 30, 1997:

Manufacturer/exporter	Margin (percent)
N.A.R.S.p.A	12.66

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Interested parties may also request a hearing within ten days of publication. If requested, a hearing will be held as early as convenient for the parties but not later than 39 days after the date of publication of the first work day thereafter. Interested parties may submit case briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication of this notice. The Department will issue a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any such briefs, within 120 days from the publication of these preliminary results.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of pressure sensitive plastic tape from Italy entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as

provided by section 751(a)(1) of the Act: (1) the cash deposit rate for the reviewed company will be the rate established in the final results of this administrative review (except no cash deposit will be required where weighted-average margin is *de minimis*, i.e., less than 0.5 percent); (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less-than-fair-value (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 an individual rate; (3) if the exporter is not a firm covered in this review, a previous review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous reviews or the original investigation, the cash deposit rate will be 12.66 percent, the "new shipper" rate established in the first notice of final results of administrative review published by the Department (48 FR 35686, August 5, 1983).

This notice serves as a preliminary reminder to importers of their responsibility 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 sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 11, 1998.

Robert S. LaRussa,

Assistant Secretary, Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of decision of panel.