DEPARTMENT OF COMMERCE

International Trade Administration

[A-475–703]

Granular Polytetrafluoroethylene Resin from Italy: Final Results of Changed Circumstances Review

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

ACTION: Notice of Final Results of Antidumping Duty Changed Circumstances Review.

SUMMARY: On March 20, 2003, the Department of Commerce published a notice of initiation and preliminary results of its changed circumstances review of the antidumping duty order on granular polytetrafluoroethylene resin from Italy (PTFE) (*see Antidumping Duty Order; Granular Polytetrafluoroethylene Resin from Italy*, 53 FR 33163 (August 30, 1988)) in which we preliminarily determined that Solvay Solexis SpA and Solvay Solexis, Inc. were the successors-in-interest to Ausimont SpA and Ausimont USA, Inc. We gave interested parties an opportunity to comment on the preliminary results of review, but received no comments. Therefore, the final results do not differ from the preliminary results of review.

EFFECTIVE DATE: May 12, 2003.

FOR FURTHER INFORMATION CONTACT: Vicki Schepker, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–1756.

SUPPLEMENTARY INFORMATION:

Background:

On March 20, 2003, in accordance with Section 751(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216 and 351.221(c)(3), the Department initiated a changed circumstances review and published its preliminary results in the **Federal Register**, preliminarily finding Solvay Solexis SpA and Solvay Solexis, Inc. (collectively, Solvay Solexis) to be the successors-in-interest to Ausimont SpA and Ausimont USA, Inc. (collectively, Ausimont). *See Granular Polytetrafluoroethylene Resin from Italy; Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review*, 68 FR 13672 (March 20, 2003) (Preliminary Results). We invited interested parties to comment on these findings. No comments were received.

Scope of the Review

The product covered by this review is granular PTFE resin, filled or unfilled. This order also covers PTFE wet raw polymer exported from Italy to the United States. *See Final Affirmative Determination; Granular Polytetrafluoroethylene Resin from Italy*, 58 FR 26100 (April 30, 1993). This order excludes PTFE dispersions in water and fine powders. Such merchandise is classified under item number 3904.61.00 of the Harmonized Tariff Schedule of the United States (HTSUS). We are providing this HTSUS number for convenience and customs purposes only. The written description of the scope remains dispositive.

Final Results of Changed Circumstances Review

Because we received no comments on the Preliminary Results and for the reasons stated in the Preliminary Results, we find Solvay Solexis to be the successor-in-interest to Ausimont for antidumping duty cash deposit purposes. In order to make this determination, we examined Ausimont's personnel, operations, supplier/customer relationships, and facilities by reviewing an amended certificate of incorporation, investor presentations, an application for amended certificate of authority, shareholder meeting minutes, press releases discussing the Solvay Group's purchase of Ausimont, management charts, a letter to customers, and product labels. Based on all the evidence reviewed, we find that Solvay Solexis is the successor-in-interest to Ausimont. Solvay Solexis will receive the same antidumping duty cash-deposit rate (*i.e.*, 12.08 percent) with respect to the subject merchandise as Ausimont, its predecessor company. This cash deposit requirement will be effective upon publication of this notice for all shipments of the subject merchandise by Solvay Solexis entered, or withdrawn from warehouse, for consumption, on or after the publication date of this notice. This cash deposit rate shall remain in effect until publication of the final results of the next administrative review in which Solvay Solexis participates.

We are issuing and publishing this finding and notice in accordance with sections 751(b)(1) and 777(i)(1) of the Act and section 351.216 of the Department's regulations.

Dated: May 5, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-201–802]

Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review: Gray Portland Cement and Clinker From Mexico

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

ACTION: Notice of preliminary results and rescission in part of antidumping duty administrative review.

EFFECTIVE DATE: May 12, 2003.

SUMMARY: In response to requests from interested parties, the Department of Commerce is conducting an administrative review of the antidumping duty order on gray portland cement and clinker from Mexico. The review covers exports of subject merchandise to the United States during the period August 1, 2001, through July 31, 2002, and one firm, CEMEX, S.A. de C.V., and its affiliate, GCC Cemento, S.A. de C.V. We have preliminarily determined that sales were made below normal value during the period of review. With respect to Apasco, S.A. de C.V., we are rescinding the antidumping duty administrative review of this company.

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

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla or Brian Ellman, Office of AD/CVD Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–3477, (202) 482–4852, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 6, 2002, the Department published in the **Federal Register** the *Notice of Opportunity to Request Administrative Review concerning the antidumping duty order on gray*

portland cement and clinker from Mexico (67 FR 50856). In accordance with 19 CFR 351.213, the petitioner, the Southern Tier Cement Committee (STCC), requested a review of CEMEX, S.A. de C.V. (CEMEX), CEMEX's affiliate, GCC Cemento, S.A. de C.V. (GCCC), and Apasco, S.A. de C.V. (Apasco). In addition, CEMEX and GCCC requested reviews of their own sales during the period of review. On September 25, 2002, we published in the **Federal Register** the *Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews* (67 FR 60210). The period of review is August 1, 2001, through July 31, 2002. Our review of Customs Service import data indicates that there were no entries of subject merchandise produced by Apasco during the period of review. See Memorandum from Analyst to the File, dated March 4, 2003. Therefore, in accordance with 19 CFR 351.213(d)(3), we are rescinding the review with respect to this manufacturer/exporter. We are conducting a review of CEMEX and GCCC pursuant to section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of Review

The products covered by this review include gray portland cement and clinker. Gray portland cement is a hydraulic cement and the primary component of concrete. Clinker, an intermediate material product produced when manufacturing cement, has no use other than of being ground into finished cement. Gray portland cement is currently classifiable under *Harmonized Tariff Schedule* (HTS) item number 2523.29 and cement clinker is currently classifiable under HTS item number 2523.10. Gray portland cement has also been entered under HTS item number 2523.90 as ''other hydraulic cements.'' The HTS subheadings are provided for convenience and customs purposes only. Our written description of the scope of the proceeding is dispositive.

Verification

As provided in section 782(i) of the Act, we verified U.S. sales information submitted by CEMEX and GCCC using standard verification procedures, including an examination of relevant sales and financial record and selection of original documentation containing relevant information. Our verification results are outlined in public versions of the verification reports.

Collapsing

Section 771(33) of the Act defines when two or more parties will be considered affiliated for purposes of an antidumping analysis. Moreover, the regulations describe when the Department will treat two or more affiliated producers as a single entity (*i.e.*, ''collapse'' the firms) for purposes of calculating a dumping margin (see 19 CFR 357.401(f)). In previous administrative reviews of this order, we analyzed the record evidence and collapsed CEMEX and GCCC in accordance with the regulations.[1]

The regulations state that we will treat two or more affiliated producers as a single entity where those producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities and we conclude that there is a significant potential for the manipulation of price or production. In identifying a significant potential for the manipulation of price or production, the factors we may consider include the following: (i) the level of common ownership; (ii) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and (iii) whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers. See 19 CFR 351.401(f).

Having reviewed the current record, we find that the factual information underlying our decision to collapse these two entities has not changed from previous administrative reviews. CEMEX's indirect ownership of GCCC exceeds five percent; therefore, these two companies are affiliated pursuant to section 771(33)(E) of the Act. In addition, both CEMEX and GCCC satisfy the criteria for treatment of affiliated parties as a single entity described at 19 CFR 351.401(f)(1): both producers have production facilities for similar and identical products such that substantial retooling of their production facilities would not be necessary to restructure manufacturing priorities. Consequently, any minor retooling required could be accomplished swiftly and with relative ease.

We also find that a significant potential for manipulation of prices and production exists as outlined under 19 CFR 351.401(f)(2). CEMEX indirectly owns a substantial percentage of GCCC. Also, CEMEX's managers or directors sit on the board of directors of GCCC and its affiliated companies. Accordingly, CEMEX's percentage ownership of GCCC and the interlocking boards of directors give rise to a significant potential for affecting GCCC's pricing and production decisions. See the Department's memorandum from Analyst to File, Collapsing CEMEX, S.A. de C.V. and GCC Cemento, S.A. de C.V. for the Current Administrative Review, dated January 14, 2003. Therefore, we have collapsed CEMEX and GCCC into one entity and calculated a single weighted-average margin using the information the firms provided in this review.

Constructed Export Price

Both CEMEX and GCCC reported constructed export price (CEP) sales. We calculated CEP based on delivered prices to unaffiliated customers in accordance with section 772(b) of the Act. Where appropriate, we made adjustments to the starting price for discounts, rebates, and billing adjustments. In accordance with section 772(d) of the Act and 19 CFR 351.402(b), we deducted those selling expenses, including inventory carrying costs, that were associated with commercial activities in the United States and related to the sale to an unaffiliated purchaser. We also made deductions for foreign brokerage and handling, foreign inland freight, U.S. inland freight and insurance, U.S. warehousing expenses, U.S. brokerage and handling, and U.S. duties, pursuant to section 772(c)(2)(A) of the Act. Finally, we made an adjustment for CEP profit in accordance with section 772(d)(3) of the Act. No other adjustments to CEP were claimed or allowed.

With respect to subject merchandise to which value was added in the United States prior to sale to unaffiliated U.S. customers (*i.e.*, cement that was imported and further-processed into finished concrete by U.S. affiliates of foreign exporters), we preliminarily determine that the special rule under section 772(e) of the Act for merchandise with value added after importation is applicable.

Section 772(e) of the Act provides that, where the subject merchandise is imported by a person affiliated with the exporter or producer and the value added in the United States by the affiliated person is likely to exceed substantially the value of the subject merchandise, we will determine the CEP for such merchandise using the price of identical or other subject

[1] See, *e.g.*, *Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review: Gray Portland Cement and Clinker From Mexico*, 67 FR 57379, 57380 (September 10, 2002). No changes were made in the final results of review (see *Gray Portland Cement and Clinker From Mexico; Final Results of Antidumping Duty Review*, 68 FR 1816 (January 14, 2003)).

merchandise if there is a sufficient quantity of sales to provide a reasonable basis for comparison and we determine that the use of such sales is appropriate. The regulations at 19 CFR 351.402(c)(2) provide that normally we will determine that the value added in the United States by the affiliated person is likely to exceed substantially the value of the subject merchandise if we estimate the value added to be at least 65 percent of the price charged to the first unaffiliated purchaser for the merchandise as sold in the United States. Normally we will estimate the value added based on the difference between the price charged to the first unaffiliated purchaser for the merchandise as sold in the United States and the price paid for the subject merchandise by the affiliated person. We will base this determination normally on averages of the prices and the value added to the subject merchandise. If there is not a sufficient quantity of such sales or if we determine that using the price of identical or other subject merchandise is not appropriate, we may use any other reasonable basis to determine the CEP. See section 772(e) of the Act.

During the course of this administrative review, the respondent submitted information which allowed us to determine whether, in accordance with section 772(e) of the Act, the value added in the United States by its U.S. affiliates is likely to exceed substantially the value of the subject merchandise. To determine whether the value added is likely to exceed substantially the value of the subject merchandise, we estimated the value added based on the difference between the averages of the prices charged to the first unaffiliated purchaser for the merchandise as sold in the United States and the averages of the prices paid for subject merchandise by the affiliate. Based on this analysis, we estimate that the value added was at least 65 percent of the price the respondent charged to the first unaffiliated purchaser for the merchandise as sold in the United States. Therefore, we preliminarily determine that the value added is likely to exceed substantially the value of the subject merchandise. Also, the record indicates that there is a sufficient quantity of subject merchandise to provide a reasonable and appropriate basis for comparison. Accordingly, for purposes of determining dumping margins for the further-manufactured sales, we have applied the preliminary weighted-average margin reflecting the rate calculated for sales of identical or other subject merchandise sold to unaffiliated purchasers.

Normal Value

A. Comparisons

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating normal value, we compared the respondent's volume of home-market sales of the foreign like product to the volume of U.S. sales of the subject merchandise in accordance with section 773(a)(1)(C) of the Act. Since the respondent's aggregate volume of home-market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable. Therefore, we have based normal value on home-market sales.

During the period of review, the respondent sold Type II LA and Type V LA cement in the United States. The statute expresses a preference for matching U.S. sales to identical merchandise in the home market. The respondent sold cement produced as CPC 30 R, CPC 40, and CPO 40 cement in the home market. We have attempted to match the subject merchandise to identical merchandise sold in the home market. In situations where identical product types cannot be matched, we have attempted to match the subject merchandise to sales of similar merchandise in the home market. See sections 773(a)(1)(B) and 771(16) of the Act.

We were able to find home-market sales of identical and similar merchandise to which we could match sales of Type II LA and Type V LA cement sold in the U.S. market. In the two most recent administrative reviews of this proceeding, we determined that CPO 40 cement produced and sold in the home market is the identical match to Type V LA cement sold in the United States. See, *e.g., Gray Portland Cement and Clinker From Mexico; Final Results of Antidumping Duty Administrative Review*, 67 FR 12518 (March 19, 2002), and the accompanying Issues and Decision Memorandum at comment 7. We have reviewed the information on the record and have determined that CPO 40 cement produced and sold in the home market is the identical match to Type V LA cement sold in the United States during this review period.

If we could not find an identical match to the cement types sold in the United States in the same month in which the U.S. sale was made or during the contemporaneous period, we based normal value on similar merchandise. During the review period, GCCC had sales of Type II LA in the United States but did not have any sales of this type in the home market. In the 2000/2001 administrative review of this proceeding, we determined that the chemical and physical characteristics of type CPO 40 cement produced and sold in Mexico are most similar to Type II LA cement sold in the United States. We have reviewed the information on the record and have determined that it is appropriate to match sales of CPO 40 cement produced and sold in Mexico to all sales of Type II LA sold in the United States.

Furthermore, in accordance with section 771(16)(B) of the Act, we find that both bulk and bagged cement are produced in the same country and by the same producer as the types sold

in the United States, both bulk and bagged cement are like the types sold in the United States in component materials and in the purposes for which used, and both bulk and bagged cement are approximately equal in commercial value to the types sold in the United States. The questionnaire responses submitted by the respondent indicate that, with the exception of packaging, sales of cement in bulk and sales of cement in bags are physically identical and both are used in the production of concrete. Also, since there is no difference in the cost of production between cement sold in bulk or in bagged form, both are approximately equal in commercial value. See CEMEX's and GCCC's responses to the Department's original and supplemental questionnaires. Therefore, we find that matching the U.S. merchandise which is sold in both bulk and bag to the foreign like product sold in bulk is appropriate.

B. Arm's-Length Sales

To test whether sales to affiliated customers were made at arm's length, we compared the prices of sales 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 parties, we determined that the sales made to the affiliated party were at arm's length. Consistent with 19 CFR 351.403, we included these sales in our analysis.

C. Cost of Production

The petitioner alleged on December 12, 2002, that the respondent sold gray portland cement and clinker in the home market at prices below the cost of production (COP). Because CPO 40 cement sold in the home market is the identical and similar match to sales of

Type V LA and Type II LA cement sold in the United States, sales of CPO 40 cement provide the basis for determining normal value and, as such, we determined that there is no reasonable grounds to initiate a sales-below-cost investigation on other cement models produced during this review. Upon examining the allegation, we determined that the petitioner had provided a reasonable basis to believe or suspect that CEMEX was selling CPO 40 cement in Mexico at prices below the COP. Therefore, pursuant to section 773(b)(1) of the Act, we initiated a model-specific COP investigation to determine whether the respondent made home-market sales of CPO 40 cement during the period of review at below-cost prices. See the memorandum from Laurie Parkhill to Susan Kuhbach entitled Gray Portland Cement and Clinker from Mexico: Request to Initiate Cost Investigation in the 2001/2002 Review (February 3, 2003).

In accordance with section 773(b)(3) of the Act, we calculated the COP based on the sum of the costs of materials and fabrication employed in producing CPO 40 cement, plus amounts for home-market selling, general, and administrative (SG&A) expenses. We used the home-market sales data and COP information pertaining to CPO 40 cement provided by CEMEX in its questionnaire response.

After calculating a weighted-average COP, in accordance with section 773(b)(3) of the Act, we tested whether CEMEX's home-market sales of CPO 40 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 the COP of CPO 40 cement to the reported home-market prices less any applicable direct selling expenses, movement charges, discounts and rebates, indirect selling expenses, and commissions.

Pursuant to section 773(b)(2)(C) of the Act, if less than 20 percent of the respondent's sales of a certain type were at prices less than the COP, we do not disregard any below-cost sales of that product because the below-cost sales were not made in substantial quantities within an extended period of time. If 20 percent or more of the respondent's sales of a certain type during the period of review were at prices less than the COP, such below-cost sales were made in substantial quantities within an extended period of time pursuant to sections 773(b)(2)(B) and (C) of the Act. Based on comparisons of home-market prices of CPO 40 cement to weighted-average COP for the period of review, we determined that below-cost sales of CPO 40 cement were not made in substantial quantities within an extended period of time, and, therefore, we did not disregard any below-cost sales.

D. Adjustments to Normal Value

Where appropriate, we adjusted home-market prices for discounts, rebates, packing, handling, interest revenue, and billing adjustments to the invoice price. In addition, we adjusted the starting price for inland freight, inland insurance, and warehousing expenses. We also deducted home-market direct selling expenses from the home-market price and home-market indirect selling expenses as a CEP-offset adjustment (see Level of Trade/CEP Offset section below). In addition, in accordance with section 773(a)(6) of the Act, we deducted home-market packing costs and added U.S. packing costs.

Section 773(a)(6)(C)(ii) of the Act directs us to make an adjustment to normal value to account for differences in the physical characteristics of merchandise where similar products are compared. The regulations at 19 CFR 351.411(b) direct us to consider differences in variable costs associated with the physical differences in the merchandise. Where we matched U.S. sales of subject merchandise to similar models in the home market, we adjusted for differences in merchandise.

E. Level of Trade/CEP Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine normal value based on sales in the home market at the same level of trade as the CEP. The home-market level of trade is that of the starting-price sales in the home market or, when normal value is based on constructed value (CV), that of sales from which we derive SG&A expenses and profit. For CEP, it is the level of the constructed sale from the exporter to an affiliated importer after the deductions required under section 772(d) of the Act.

To determine whether home-market sales are at a different level of trade than CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different level of trade and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which normal value is based and comparison-market sales at the level of trade of the export transaction, we make a level-of-trade adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the normal value level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between normal value and CEP affects price comparability, we adjust normal value under section 773(a)(7)(B) of the Act (the CEP-offset provision). See *Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732–33 (November 19, 1997).

With respect to U.S. sales, we conclude that CEMEX's and GCCC's sales constituted two separate levels of trade, one CEMEX U.S. level of trade and one GCCC U.S. level of trade. We based our conclusion on our analysis of each company's reported selling functions and sales channels after making deductions for selling expenses under section 772(d) of the Act. We found that CEMEX and GCCC performed different sales functions for sales to their respective U.S. affiliates. For instance, CEMEX reported that it performed technical advice, solicitation of orders/customer visits, account receivable management, warehousing, and communication activities whereas GCCC reported that it did not perform any of these activities.

Based on our analysis of the respondent's reported selling functions and sales channels, we conclude that the respondent's home-market sales to various classes of customers which purchase both bulk and bagged cement constitute one level of trade. We found that, with some minor exceptions, CEMEX and GCCC performed the same selling functions to varying degrees in similar channels of distribution. We also concluded that the variations in the intensities of selling functions performed were not substantial when all selling expenses were considered as a whole. See the memorandum entitled Gray Portland Cement and Clinker from Mexico: Level-of-Trade Analysis for the 01/02 Administrative Review, dated April 11, 2003 (Level-of-Trade Analysis memorandum).

Furthermore, the respondent's home-market sales occur at a different and more advanced stage of distribution than its sales to the United States. For example, the CEMEX U.S. level of trade does not include activities such as market research, after-sales service/warranties, advertising, and packing, whereas the home-market level of trade includes these activities. Similarly, the GCCC U.S. level of trade does not include activities such as market research, technical advice, advertising,

customer approval, solicitation of orders, computer/legal/accounting/ business systems, sales promotion, sales forecasting, strategic and economic planning, personnel training/exchange, and procurement and sourcing services whereas the home-market level of trade includes these activities.

As a result of our level-of-trade analysis, we could not match U.S. sales at either of the two U.S. levels of trade to sales at the same level of trade in the home market because there are no home-market sales at the same level of trade. In addition, because we found only one home-market level of trade, there is no basis for the calculation of a level-of-trade adjustment based on the collapsed entity's home-market sales of merchandise under review. Therefore, we have determined that the data available do not provide an appropriate basis on which to calculate a level-of-trade adjustment. We determined, however, that the level of trade of the home-market sales is more advanced than the levels of the U.S. sales. Thus, we made a CEP-offset adjustment to normal value in accordance with section 773(a)(7)(B) of the Act. In accordance with section 773(a)(7) of the Act, we calculated the CEP offset as the smaller of the following: (1) the indirect selling expenses on the home-market sale, or (2) the indirect selling expenses deducted from the starting price in calculating CEP. See the Level-of-Trade Analysis memorandum.

Adverse Facts Available

Section 776(a)(2) of the Act, provides that, if, in the course of an antidumping review, an interested party (A) withholds information that has been requested by the Department, (B) fails to provide such information in a timely manner or in the form or manner requested, (C) significantly impedes a proceeding under the antidumping statute, or (D) provides such information but the information cannot be verified, then the Department shall, subject to section 782(d) of the Act, use the facts otherwise available in reaching the applicable determination.

Section 782(e) of the Act provides that the Department ''shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the administering authority'' if (1) the information is submitted by the deadline established for its submission, (2) the information can be verified, (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination, (4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the Department with respect to the information, and (5) the information can be used without undue difficulties. Where these conditions are met, the statute requires the Department to use the information.

The Department determines that, in accordance with section 776(a)(2)(D) of the Act, the use of facts available is an appropriate basis for the calculation of a dumping margin on sales made by GCCC's U.S. affiliate, Rio Grande Materials (RGM).

On March 24, 2003, through March 26, 2003, the Department conducted a verification of the U.S. sales information submitted by GCCC. As discussed in detail in the verification report dated April 24, 2003, the Department was unable to obtain detailed source documentation supporting the quantity and value (Q&V) of RGM's reported sales and expenses. Furthermore, at the onset of the Department's verification, GCCC submitted numerous pre-verification corrections that, among other things, made substantial changes to the expenses GCCC had reported on sales by RGM.

As detailed in the verification report, without the necessary supporting documentation, the Department was unable to verify the information that was reported and/or corrected concerning RGM's sales of subject merchandise during the POR, as required under section 782(i) of the Act. This information is essential to the Department's dumping analysis. Thus, the sales information submitted on behalf of RGM does not comply with section 782(e) of the Act. Therefore, because we could not verify this information, we must resort to facts available.

Use of an Adverse Inference

Section 776(b) of the Act provides that, if the Department finds that an interested party has failed to cooperate by not acting to the best of its ability in complying with a request for information, the Department may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available. In addition, the *Statement of Administrative Action* accompanying the *Uruguay Round Agreements Act*, H. Doc. 103–316 (1994) (SAA), establishes that the Department may employ an adverse inference ''* * * to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' See SAA at 870. It also instructs the Department, in employing adverse inferences, to consider ''* * * the extent to which a party may benefit from its own lack of cooperation.'' *Id.*

The Department determines that, in accordance with section 776(b) of the Act, an adverse inference is appropriate in selecting from among the facts otherwise available for RGM sales. With respect to sales made by RGM, the main difficulty encountered by the Department at verification was the lack of availability of and access to the original source documentation supporting the information supplied to the Department. The other difficulty stemmed from RGM's unpreparedness to meet the specific requirements that were described in the Department's verification outline.

First, GCCC has been involved in numerous prior reviews of this order which indicates that it has experience with an antidumping proceeding. Second, pursuant to section 782(i)(3)(B) of the Act, the Department was required to verify the information provided by GCCC in this POR, as GCCC had not been verified during the two immediately preceding reviews. Thus, GCCC was aware that all documentation supporting the information it reported for this POR was subject to Departmental verification. Finally, although RGM was sold subsequent to the instant POR, GCCC was in control of the source documentation because it was stored in one of its facilities. Therefore, we have concluded that GCCC did not cooperate to the best of its ability.

In accordance with section 776(b) of the Act, we are making an adverse inference in our application of the facts available. As adverse facts available we have applied the highest published rate we have calculated for companies under review for any segment of this proceeding. Consequently, we preliminarily determine to apply the 73.74 percent rate that we calculated in the final results of the 2000/2001 administrative review to RGM's sales of subject merchandise in the United States during the POR. See *Gray Portland Cement and Clinker From Mexico; Final Results of Antidumping Duty Administrative Review*, 68 FR 1816–1817 (January 14, 2003). We discuss the corroboration of this rate below.

Corroboration of Secondary Information

An adverse inference may include reliance on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the

record. See section 776(b) of the Act. Section 776(c) provides, however, that, when the Department relies on secondary information rather than on information obtained in the course of a review, the Department shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. The SAA states that the independent sources may include published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation or review. See SAA at 870. The SAA clarifies that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. *Id.* As discussed in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used. In the preliminary margin calculation, numerous sales by CEMEX had margins greater than 73.74 percent. Therefore, we find that the adverse facts-available rate is relevant to this POR. Unlike other types of information, such as input costs or selling expenses, there are no independent sources from which the Department can calculate dumping margins. The only source for margins is administrative determinations. Thus, with respect to an administrative review, if the Department chooses as 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. Thus, the Department finds that the information is reliable. See *Freshwater Crawfish Tail Meat from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 68 FR 19504 (April 21, 2003).

Currency Conversion

Pursuant to section 773A(a) of the Act, we made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of U.S. sales as certified by the Federal Reserve Bank.

Preliminary Results of Review

As a result of our review, we preliminarily determine the dumping margin for the collapsed parties, CEMEX and GCCC, for the period August 1, 2001, through July 31, 2002, to be 71.77 percent.

We will disclose calculations performed in connection with these preliminary results to parties within five days of the date of publication of this notice. See 19 CFR 351.224(b). Interested parties may request a hearing within 30 days of publication of this notice. A hearing, if requested, will be held at the main Commerce Department building three business days after submission of rebuttal briefs.

Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. Case briefs from interested parties may be filed no later than 30 days after publication of this notice. Rebuttal briefs, limited to the issues raised in case briefs, may be submitted no later than five days after the deadline for filing case briefs.

Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument with an electronic version included.

Upon completion of this review, the Department will determine, and the U.S. Bureau of Customs and Border Protection (BCBP) shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated an importer-specific assessment rate for merchandise subject to this review. If these preliminary results are adopted in the final results of review, we will direct the BCBP to assess the resulting assessment rates against the entered customs values for the subject merchandise on each of the importer's entries during the review period.

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 review, as provided by section 751(a)(1) of the Act:

(1) The cash-deposit rate for the respondent will be the rate determined in the final results of review; (2) for previously reviewed or investigated companies not mentioned 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) the cash-deposit rate for all other manufacturers or exporters will be 61.35 percent, the all-others rate from the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

In conducting recent reviews of CEMEX/GCCC, the Department has observed a pattern of significant differences between the weighted-average margins and the assessment rates it has determined for this respondent in those reviews. This pattern of differences suggests that the collection of a cash deposit for estimating antidumping duty based on net U.S. price may result in the undercollection of estimated antidumping duties at the time of entry. We are considering whether it would be appropriate in this case to establish a per-unit cash-deposit requirement for CEMEX/GCCC. See preliminary analysis memo dated May 5, 2003. The Department invites interested parties to comment on this issue.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) 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.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: May 5, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-791–817]

Initiation of Antidumping Duty Investigation: Hydraulic Magnetic Circuit Breakers from South Africa

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

EFFECTIVE DATE: May 12, 2003.

FOR FURTHER INFORMATION CONTACT: Fred W. Aziz, Thomas Schauer, or Richard Rimlinger, Import Administration, International Trade Administration,