

Burden: 10 hours.

Number of Respondents: 60.

Avg Hours Per Response: 10 minutes.

Needs and Uses: The U.S. groundfish industry in the northwest is contacted up to twice yearly to determine its intent and capacity to utilize certain groundfish species. This information is needed to apportion groundfish quotas: (1) first to the domestic industry and secondly to foreign operations; and (2) within the domestic groundfish industry as required by the Magnuson Fishery Conservation and Management Act and the Pacific Coast Groundfish Fishery Management Plan.

Affected Public: Business or other for-profit organizations.

Frequency: Semi-Annual.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Don Arbuckle, (202) 395-7340.

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Inspection and Certification: Notice of Availability of NMFS HACCP-based Inspection Service.

Form Number(s): None.

Agency Approval Number: 0648-0266.

Type of Request: Extension of a currently approved collection.

Burden: 6,720 hours.

Number of Respondents: 35.

Avg Hours Per Response: 167 hours.

Needs and Uses: The information collected from participants will be used by NMFS in determining compliance with the inspection program. The reported information, the HACCP plan, describes the products and processing operations, the hazards associated with each step of the process, and the facility's monitoring procedures. NMFS will be auditing the facility and its records to determine the facility's maintenance of its plan.

Affected Public: Business or other for-profit organizations.

Frequency: Annual.

Respondent's Obligation: Required to obtain or maintain benefits.

OMB Desk Officer: Don Arbuckle, (202) 395-7340.

Copies of the above information collection proposals can be obtained by calling or writing Gerald Tache, DOC Forms Clearance Officer, (202) 482-3271, Department of Commerce, Room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to Don Arbuckle, OMB Desk Officer, Room 10202 New Executive Office Building, Washington, DC 20503.

Dated: August 23, 1995.

Gerald Tache,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 95-21313 Filed 8-28-95; 8:45 am]

BILLING CODE 3510-CW-F

International Trade Administration

[A-583-810]

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

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

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

SUMMARY: On December 19, 1994, the Department of Commerce (the Department) published the preliminary results of administrative review of the antidumping duty order on chrome-plated lug nuts from Taiwan. The review covers seven firms and the period September 1, 1992, through August 31, 1993. Based on our analysis of the comments received, we determine the dumping margins have not changed from those presented in the preliminary results.

EFFECTIVE DATE: August 29, 1995.

FOR FURTHER INFORMATION CONTACT: Todd Peterson or Thomas Futtner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482-4195 or 482-3814, respectively.

Applicable Statute and Regulations

The Department is conducting this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (Act). Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Background

On December 19, 1994, the Department published the preliminary results (59 FR 65317) of its administrative review of the antidumping duty order on chrome plated lug nuts from Taiwan (September 20, 1991, 56 FR 47737). The Department has now completed this administrative review in accordance with section 751 of the Act.

Scope of the Review

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

During the period of review, chrome-plated lug nuts were provided for under subheading 7318.16.00.00 of the Harmonized Tariff Schedule (HTS). Although the HTS subheading is provided for convenience and Customs purposes, our written description of the scope of this review is dispositive. This review covers seven firms; Gourmet Equipment (Taiwan) Corporation (Gourmet), Buxton International Corporation (Buxton), Chu Fong Metallic Industrial Works Co, Ltd, Transcend International, Kuang Hong Industrial Works, San Chien Industrial Works, Ltd, and Everspring Corporation, and the period September 1, 1993, through August 31, 1994.

Analysis of Comments Received

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

Comment

Respondent believes that the Department's use of overall best information available (BIA) to determine Buxton's preliminary margin was unsupported by the facts and not in accordance with the Department's past practice.

Buxton believes that its disclosure of several "minor pieces of data" not traceable to its audited financial statements is "normal business practice" and should not be seen as a deficiency. Buxton points to the Department's use of Sweaters Wholly or in Chief Weight of Man-Made Fiber from Taiwan; Final Results of Changed Circumstances Antidumping Duty Administrative Review, 58 FR 32644 (June 11, 1993) to justify its claim that

use of BIA is incorrect because in Buxton's opinion, Sweaters from Taiwan advocates the use of BIA only in cases of gross inconsistencies or deficiencies.

Buxton cites *Lasko Metal Products, Inc. v. United States*, Slip Op. 93-1242 (Fed. Cir. December 29, 1994) to point out that the purpose of the antidumping (AD) law is to determine the AD margin as accurately as possible. Buxton charges that by basing the entire margin on BIA, the Department has disregarded hundreds of verifiable items. Also, they claim the total BIA margin does not accurately reflect the true dumping margin.

Finally, Buxton cites *National Steel Corp. v. United States*, 18 CIT__, Slip. Op. 94-194, at 11 (December 13, 1994), to emphasize that the Department only applies total BIA when a respondent "has failed to submit information in a timely manner, or when part of the submitted data is sufficiently flawed so that the response as a whole is rendered unusable." Buxton claims that according to *Usinor Sacilor v. United States*, Slip Op. 94-197 at 14 (CIT December 19, 1994) total BIA is improper when data adjustments are minor or there is an inadvertent gap in the record.

Petitioner believes that the Department correctly applied a BIA margin to Buxton. Petitioner disagrees with Buxton's contention that the "problem areas are minor". Petitioner states that the respondent has the obligation to establish the validity and accuracy of all its reported expenses.

Petitioner states that the cooperative BIA rate assigned in the preliminary determination should be higher. Petitioner points to Brass Sheet and Strip from Sweden: Final Results of Antidumping Duty Administrative Review (57 FR 29278, July 1, 1992) for an explanation of the Department's BIA policy. There, the Department stated: "The primary purpose of the BIA rule is to induce respondents to provide the Department with timely, complete or accurate information, so that the agency can achieve the fundamental purpose of the Tariff Act, namely 'determining current margins as accurately as possible'." Furthermore, petitioner notes the Department stated in Final Results of Antidumping Duty Administrative Review, Steel Jacks from Canada, 52 FR 32957 (September 1, 1987): "To induce a noncomplying respondent to provide the necessary response to a future information request, the Department must select an appropriate BIA rate to encourage future compliance."

Petitioner cites section 353.37(b) of the Department's regulations which defines the Department's latitude in assigning BIA rates: "The best information available may include the factual information submitted in support of the petition or subsequently submitted by interested parties, * * * If an interested party refuses to provide factual information requested by the Secretary or otherwise impedes the proceeding, the Secretary may take that into account in determining what is the best information available." Petitioner further points to *Krupp Stahl A.G. v. United States*, Slip Op. 93-84 (CIT May 26, 1993) where the Court of International Trade affirmed the Department's broad discretion in determining which BIA rate to apply.

Department's Position

As the Department previously explained in the Preliminary Results of Antidumping Duty Administrative Review: Chrome-Plated Lug Nuts from Taiwan, 59 FR 65317 (December 19, 1994), reliance on the accounting system used for the preparation of the audited financial statements is a key and vital part of the Department's determination that a company's sales and constructed value data are credible. See Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, and Certain Cut-To-Length Carbon Steel Plate from Korea, 58 FR 37176, 37186 (July 9, 1993). The reason for this is that use of internal documents that have not been audited and are not used for preparation of the financial statements or for any purpose outside internal deliberations of the company does not guarantee the accuracy of the information contained in the documents. Without such assurance, such costs are not verifiable.

Buxton used data from internal documents that could not be traced to its audited financial statements. As a result, it was not possible for the Department to follow its standard practice of reconciling a company's sales and cost data to the company's audited financial statements. See Notice of Preliminary Results of Antidumping Duty Administrative Review: Chrome-Plated Lug Nuts from Taiwan, 59 FR 65317 (December 19, 1994).

It is not enough for Buxton simply to claim that it reported its normal business practices with respect to certain expenses because this can in no way compensate for the fact that certain expenses cannot be traced to its independently audited financial statements. In this respect, a claim of

"normal business practices" cannot overcome the deficiencies and inconsistencies present in its response. See Sweaters Wholly or in Chief Weight of Man-Made Fiber from Taiwan; Final Results of Changed Circumstances Antidumping Duty Administrative Review, 58 FR 32644, 32652 June 11, 1993.

Buxton misinterprets Sweaters from Taiwan as advocating use of BIA only in cases of gross inconsistencies or deficiencies. Rather, the Department determined that BIA was appropriate in Sweaters from Taiwan because the respondent's financial records were unreliable, as in the present case with Buxton. Because Buxton's records cannot be reconciled to its audited financial statements, the Department cannot be assured that all sales and costs have been appropriately reported. Similarly, in this respect, in Sweaters from Taiwan the Department was unable to determine to what extent transactions of a company were not recorded, and thus, "the Department could not confirm that these transactions totaled only a few hundred dollars nor could we confirm that these were minor expenses," 58 FR at 32651. Because the Department was unable to verify the accuracy or completeness of Buxton's response, the Department was compelled by section 776(c) of the Act to use BIA. See Memorandum to Holly Kuga, Director, Office of Antidumping Compliance: "Chrome-Plated Lug Nuts from Taiwan 9/1/92-8/31/93 Use of Best Information Available" (Jan. 12, 1995), in the proprietary file of this case in the Central Records Unit, Room B-099.

Buxton's reliance on National Steel Corps is also misplaced. For the reasons explained above, the Department determined that Buxton's submission was sufficiently flawed so as to be unreliable because Buxton could not reconcile that submission to its audited financial statements. Thus, contrary to Buxton's assertions, National Steel Corps supports the Department's determination to use BIA because in both cases, "part of the submitted data is sufficiently flawed, so that the response as a whole is rendered unusable." Slip Op. 94-194 at 11.

While we do not disagree with Buxton's reference to *Lasko Metal* for the general statutory proposition that dumping margins should be determined as accurately as possible, that statutory purpose cannot be carried out when part of the data submitted by the responding party is so flawed that it cannot be used. Thus, the court's statement in *National Steel Corp.* that the purpose of BIA is "to induce respondents to provide Commerce with requested information

in a timely, complete, and accurate manner * * * is more to the point in this case. Slip OP. 94-194 at 8. Furthermore, when the Department must resort to the BIA, the courts have recognized that "[the best information available is not necessarily the most accurate information; rather it is information that has become usable due to a respondent's failure to provide accurate information." *Usinor Sacilor v. United States*, Slip op. 94-197 at 12 (CIT December 19, 1994) (citations omitted). Accordingly, because Buxton's submission could not be reconciled to its audited financial statements, we have determined to continue to apply BIA to Buxton.

In choosing a BIA rate it is the Department's policy to select a rate which will encourage respondents to provide the necessary response to future requests. The Department uses the following two-tier hierarchy to separate cooperative firms from non-cooperative firms (see Final Results of Antidumping Administrative Review of Antifriction Bearings and Parts Thereof from France, *et al.*, 58 FR 39739, July 26, 1993):

1. When a company refuses to cooperate with the Department or otherwise significantly impedes these proceedings, we use as BIA the higher of (1) The highest of the rates found for any firm for the same class or kind of merchandise in the same country of origin in the LTFV investigation or prior administrative reviews; or (2) the highest rate found in this review for any firm for the same class or kind of merchandise in the same country of origin.

2. When a company substantially cooperates with our requests for information and, substantially cooperates in verification, but fails to provide the information requested in a timely manner or in the form required or was unable to substantiate it, we used as BIA the highest of (1) The highest rate ever applicable to the firm for the same class or kind of merchandise from either the LTFV investigation or a prior administrative review or if the firm has never before been investigated or reviewed, the all others rate from the LTFV investigation; or (2) the highest calculated rate in this review for the class or kind of merchandise for any firm from the same country of origin.

In this instance, second-tier BIA applies to Buxton because it cooperated, but nevertheless failed to provide data which could be verified. As the Department is unable to compute a margin from verifiable information in this review, we determine that use of the all others rate established in the LTFV investigation is reasonable.

We are not convinced that there is justification in this case to depart from our past practice in determining the cooperative BIA rate.

Final Results of Review

As a result of comments received, we have not changed our preliminary results.

Manufacturer/exporter	Percent margin
Gourmet Equipment (Taiwan) Corporation	6.47
Buxton International Corporation ..	6.93
Chu Fong Metallic Industrial Works Co, Ltd	10.67
Transcend International	10.67
Kuang Hong Industrial Works	10.67
San Chien Industrial Works, Ltd ..	10.67
Everspring	6.93

*No shipments or sales subject to this review. The firm had no individual rate from any segment of this proceeding, so we are applying the all others rate from the LTFV investigation.

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

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 these final results of administrative review, as provided for by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed firms will be the rates outlined above; and (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or in the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 6.93%, the all others rate established in the LTFV investigation.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that

reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of the APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: August 4, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95-21431 Filed 8-28-95; 8:45 am]

BILLING CODE 3510-DS-M

[A-583-810]

Chrome-Plated Lug Nuts From Taiwan; 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 a petitioner, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on chrome-plated lug nuts from Taiwan. The review covers 21 manufacturers/exporters of the subject merchandise to the United States for the period September 1, 1993, through August 31, 1994. The review indicates the existence of margins for the firms.

We have preliminarily determined that sales have been made below the foreign market value (FMV). If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs to assess antidumping duties equal to the difference between United States price (USP) and the FMV.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: August 29, 1995.

FOR FURTHER INFORMATION CONTACT: Todd Peterson or Thomas Futtner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department