

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-475-703]

**Amended Notice of Preliminary Results of Antidumping Duty Administrative Review: Granular Polytetrafluoroethylene Resin From Italy**

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

**EFFECTIVE DATE:** September 22, 2008.

**FOR FURTHER INFORMATION CONTACT:** Yasmin Nair or Alicia Winston, at (202) 482-3813 or (202) 482-1785, respectively; AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230.

**SUMMARY:** The Department of Commerce is conducting an administrative review of the antidumping duty order on granular polytetrafluoroethylene resin from Italy, covering the period August 1, 2006, through July 31, 2007. We preliminarily determine that sales of subject merchandise by Solvay Solexis, Inc. and Solvay Solexis S.p.A. have been made below normal value. If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection to assess antidumping duties on appropriate entries. Interested parties are invited to comment on these preliminary results. We released the preliminary results to the parties on Wednesday, September 3, 2008. However, that version inadvertently included business proprietary information, so this amended preliminary determination corrects that error. The error was discovered prior to publication in the *Federal Register*, consequently this amended notice is being published in its place.

**SUPPLEMENTARY INFORMATION:****Background**

On August 30, 1988, The Department of Commerce (the Department) published in the *Federal Register* the antidumping duty order on granular polytetrafluoroethylene resin (PTFE) from Italy. See *Antidumping Duty Order; Granular Polytetrafluoroethylene Resin from Italy*, 53 FR 33163 (August 30, 1988). On August 2, 2007, the Department issued a notice of opportunity to request an administrative review of this order. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation*;

*Opportunity to Request Administrative Review*, 72 FR 42383 (August 2, 2007). In accordance with 19 CFR 351.213(b), Solvay requested an administrative review. On September 25, 2007, the Department published the notice of initiation of this antidumping duty administrative review, covering the period August 1, 2006, through July 31, 2007 (the period of review, or POR). See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 72 FR 54428 (September 25, 2007).

On October 12, 2007, the Department issued its antidumping questionnaire to Solvay Solexis, Inc. and Solvay Solexis S.p.A (collectively, Solvay). The Department received timely responses to Sections A-E of the initial antidumping questionnaire and associated supplemental questionnaires.

On April 9, 2008, the Department published a notice of a 120-day extension of the preliminary results of this administrative review. See *Granular Polytetrafluoroethylene Resin from Italy: Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 73 FR 19193. This notice extended the deadline for the preliminary results to September 2, 2008.

**Scope of the Order**

The product covered by this order is granular PTFE resin, filled or unfilled. This order also covers PTFE wet raw polymer exported from Italy to the United States. See *Granular Polytetrafluoroethylene Resin from Italy: Final Affirmative Determination of Circumvention of Antidumping Duty Order*, 58 FR 26100 (April 30, 1993). This order excludes PTFE dispersions in water and fine powders. During the period covered by this review, such merchandise was 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 U.S. Customs and Border Protection (CBP) purposes only. The written description of the scope remains dispositive.

**Fair Value Comparisons**

We compared the constructed export price (CEP) to the normal value (NV), as described in the *Constructed Export Price* and *Normal Value* sections of this notice. Pursuant to section 777A(d)(2) of the Tariff Act of 1930, as amended (the Act), we compared the CEPs of individual transactions to contemporaneous monthly weighted-average prices of sales of the foreign like product.

Pursuant to section 771(16) of the Act, we first attempted to compare contemporaneous sales of products sold in the United States and the comparison market that were identical with respect to the following characteristics: type, filler, percentage of filler, and grade. Where we were unable to compare sales of identical merchandise, we compared U.S. sales with comparison market sales of the most similar merchandise. Where there were no sales of identical or similar merchandise made in the ordinary course of trade in the comparison market, we compared U.S. sales to constructed value (CV).

**Date of Sale**

Normally, the Department employs invoice date as the date of sale. However, if the Department determines that another date reflects the date on which the exporter or producer establishes the material terms of sale, the Department may use this date. See 19 CFR 351.401(i). Solvay reported that its terms of sale in the home market are subject to change until shipment. For virtually all of its home market sales, shipment date precedes the invoice date. When shipment date precedes invoice date, it is the Department's practice to use shipment date as the date of sale. See *Certain Cold Rolled and Corrosion Resistant Carbon Steel Flat Products from Korea: Final Results of Antidumping Duty Administrative Reviews*, 63 FR 13170, 13172 73 (Mar. 18, 1998). Therefore, we have relied upon Solvay's reported date of sale for home market transactions. For U.S. market sales, Solvay reported that the invoice date is the date on which the material terms of sale were established. Therefore, we are preliminarily using the date of invoice as the date of sale for Solvay's U.S. market sales.

**Constructed Export Price**

For all sales to the United States, we calculated CEP, as defined in section 772(b) of the Act, because all sales to unaffiliated parties were made after importation of the subject merchandise into the United States through the respondent's affiliate, Solvay Solexis, Inc. We based CEP on the packed, delivered prices to unaffiliated purchasers in the United States, net of billing adjustments. We adjusted these prices for movement expenses, including international freight, marine insurance, brokerage and handling in the United States, U.S. other transport expense, U.S. inland freight, U.S. warehousing, and U.S. customs duties, in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act, we deducted selling expenses incurred by the affiliated reseller. These expenses include credit, inventory carrying costs, and indirect selling expenses incurred by Solvay Solexis, Inc. See Memorandum from Alicia Winston, International Trade Compliance Analyst, to The File, Re: Preliminary Results Calculation Memorandum, dated September 2, 2008 (Analysis Memo).

## Normal Value

### A. Selection of Comparison Markets

In order to determine whether there was a sufficient volume of sales of granular PTFE resin in the home market to serve as a viable basis for calculating NV, we compared Solvay'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. Because the aggregate volume of home market sales of the foreign like product was greater than five percent of the respective aggregate volume of U.S. sales for the subject merchandise, we determined that the home market provided a viable basis for calculating NV. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the prices at which the foreign like product was first sold for consumption in the exporting country, in the usual commercial quantities and in the ordinary course of trade.

### B. Cost of Production Analysis

Because we disregarded below-cost sales in the calculation of the final results of the 2004–2005 administrative review, the most recently completed review of PTFE at the time of initiation of this review, with respect to Solvay, we had reasonable grounds to believe or suspect that home market sales of the foreign like product by Solvay had been made at prices below the cost of production (COP) during the period of this review. See section 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation regarding home market sales. Solvay calculated its model-specific costs of production on a POR basis.

#### 1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of Solvay's cost of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses (G&A), and interest expenses.

#### 2. Test of Home Market Sales Prices

We compared the weighted-average COP to the home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP within an extended period of time (*i.e.*, a period of one year) in substantial quantities and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time.

On a model-specific basis, we compared the COP to home market prices, less any rebates, discounts, applicable movement charges, and direct and indirect selling expenses.

#### 3. Adjustments to Respondent's Data

We relied on the COP information provided by Solvay except in the following instances. We adjusted the transfer prices for certain inputs purchased by Solvay from affiliated suppliers in accordance with the major input rule of section 773(f)(3) of the Act. Specifically, we increased the reported cost of manufacturing where we found that the transfer price for the inputs was below the reported costs of the affiliated suppliers of that input. Also, Solvay excluded certain expenses from the G&A expenses. Therefore, we adjusted the respondent's G&A expense ratio to include expenses that appear to relate to the general operations of the company and for which Solvay failed to provide an explanation for excluding these items. Finally, Solvay did not exclude packing costs from the cost of goods sold denominators used to calculate the G&A and financial expense ratios. Therefore, for the ratios to be applied on the same basis as they were calculated, we applied the G&A and financial expense ratios to the total cost of manufacturing including the packing costs. See Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results Solvay Solexis S.p.A. (Cost Calc Memo).

#### 4. Results of the COP Test

We disregarded below-cost sales where: (1) 20 percent or more of Solvay's sales of a given product during the POR were made at prices below the COP, because such sales were made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act; and (2) based on comparisons of price to weighted-average COPs for the POR, we determined that the below-cost sales of the product were at prices which would not permit recovery of all costs within a reasonable time period, in accordance with section 773(b)(2)(D) of

the Act. We found that Solvay made sales below cost, and we disregarded such sales where appropriate pursuant to section 773(b) of the Act.

### C. Calculation of Normal Value Based on Comparison-Market Prices

We determined home market prices net of price adjustments (*e.g.*, other discounts and rebates). Where applicable, we made adjustments for packing and movement expenses, in accordance with sections 773(a)(6)(A) and (B) of the Act. In order to adjust for differences in packing between the two markets, we deducted home market packing costs from NV and added U.S. packing costs. We also made adjustments for differences in costs attributable to differences in physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act, and for other differences in the circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Act (*i.e.*, differences in credit expenses). Finally, we made a CEP-offset adjustment to the NV for indirect selling expenses pursuant to section 773(a)(7)(B) of the Act, as discussed in the Level of Trade/CEP Offset section below.

### D. Calculation of Normal Value Based on Constructed Value

Section 773(a)(4) of the Act provides that where NV cannot be based on comparison-market sales, NV may be based on CV. Accordingly, for PTFE for which we could not determine the NV based on comparison market sales, either because there were no useable sales of a comparable product or all sales of the comparable products failed the COP test, we based NV on the CV.

Section 773(e) of the Act provides that the CV shall be based on the sum of the cost of materials and fabrication for the imported merchandise, plus amounts for selling, general and administrative (SG&A) expenses, profit, and U.S. packing costs. We calculated the cost of materials and fabrication based on the methodology described in the *Cost of Production Analysis* section, above. We based SG&A and profit on the actual amounts incurred and realized by Solvay in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the comparison market, in accordance with section 773(e)(2)(A) of the Act. We used U.S. packing costs as described in the *Constructed Export Price* section, above.

We made adjustments to CV for differences in COS in accordance with section 773(a)(8) of the Act and 19 CFR 351.410. For comparisons to CEP, we

made COS adjustments by deducting from CV direct selling expenses incurred on home-market sales (*i.e.*, credit expense and warranty expense).

#### *E. Level of Trade/CEP Offset*

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales at the same level of trade in the comparison market as the level of trade of the U.S. sales. The comparison market level of trade is that of the starting-price sales in the comparison market. For CEP sales, such as those made by Solvay in this review, the U.S. level of trade is the level of the constructed sale from the exporter to the importer.

To determine whether comparison market sales are at a different level of trade than that of the U.S. sales, 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 NV 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, if the NV 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 NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision). *See, e.g., Industrial Nitrocellulose from the United Kingdom; Notice of Final Results of Antidumping Duty Administrative Review*, 65 FR 6148, 6151 (February 8, 2000) (*Industrial Nitrocellulose*).

For this review, we obtained information from Solvay about the marketing involved in the reported U.S. sales and in the home market sales, including a description of the selling activities performed by Solvay for each channel of distribution. In identifying levels of trade for CEP and for home market sales, we considered the selling functions reflected in the CEP, after the deduction of expenses and profit under section 772(d) of the Act, and those reflected in the home market starting price before making any adjustments. We expect that, if claimed levels of trade are the same, the functions and activities of the seller should be similar. Conversely, if a party claims that levels of trade are different for different groups of sales, the functions and activities of the seller should be dissimilar.

The record evidence in this review indicates that the home market and the CEP levels of trade for Solvay have not changed from the 2005–2006 review,<sup>1</sup> the most recently completed review in this case. As explained below, we preliminarily determine in this review, as in the 2005–2006 administrative review, that there was one home market level of trade and one U.S. level of trade (*i.e.*, the CEP level of trade).

In the home market, Solvay sold directly to fabricators. These sales primarily entailed selling activities such as technical assistance, engineering services, research and development, technical programs, and delivery services. Given this fact pattern, we found that all home market sales were made at a single level of trade. In determining the level of trade for the U.S. sales, we considered only the selling activities reflected in the price after making the appropriate adjustments under section 772(d) of the Act. *See, e.g., Industrial Nitrocellulose*, 65 FR at 6150. The CEP level of trade involves minimal selling functions such as invoicing and the occasional exchange of personnel between Solvay and its U.S. affiliate. Given this fact pattern, we found that all U.S. sales were made at a single level of trade.

Based on a comparison of the home market level of trade and this CEP level of trade, we find the home market sales to be at a different level of trade from, and more remote from the factory than, the CEP sales. Section 773(a)(7)(A) of the Act directs us to make an adjustment for difference in levels of trade where such differences affect price comparability. However, we were unable to quantify such price differences from information on the record. Because we have determined that the home-market level of trade is more remote from the factory than the CEP level of trade, and because the data necessary to calculate a level-of-trade adjustment are unavailable, we made a CEP-offset adjustment to NV pursuant to section 773(a)(7)(B) of the Act.

#### **Currency Conversion**

We made currency conversions into U.S. dollars in accordance with section 773A of the Act, based on exchange rates in effect on the date of the U.S. sale, as certified by the Federal Reserve Bank.

#### **Preliminary Results of Review**

As a result of this review, we preliminarily determine that the

<sup>1</sup> *See Notice of Final Results of Antidumping Duty Administrative Review: Granular Polytetrafluoroethylene Resin from Italy*, 72 FR 65939 (November 26, 2007).

following weighted-average margin exists for the period August 1, 2006, through July 31, 2007:

Producer	Weighted-Average Margin (Percentage)
Solvay Solexis, Inc. and Solvay Solexis S.p.A (collectively, Solvay)	95.24

In accordance with 19 CFR 351.224(b), the Department will disclose its weighted average antidumping margin calculations within 5 days of the date of publication of these preliminary results. An interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 44 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results. *See* 19 CFR 351.309(c). Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication. *See* 19 CFR 351.309(d). Parties who submit arguments are requested to submit with the argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Further, the parties submitting written comments should provide the Department with an additional copy of the public version of any such comments on diskette.

The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results.

#### **Assessment**

Upon completion of this administrative review, pursuant to 19 CFR 351.212(b), the Department will calculate an assessment rate on all appropriate entries. We will calculate importer-specific duty assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total quantity of the sales for that importer. Where the assessment rate is above *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by that importer.

The Department clarified its “automatic assessment” regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This

clarification will apply to entries of subject merchandise during the

POR produced by the company included in these preliminary results for which the reviewed company did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company or companies involved in the transaction.

#### Cash Deposit Requirements

The following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of PTFE from Italy entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate listed above for Solvay will be the rate established in the final results of this review, except if a rate is less than 0.5 percent, and therefore de minimis, the cash deposit rate will be zero; (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 less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 46.46 percent, the "all others" rate established in the LTFV investigation. *See Final Determination of Sales at Less Than Fair Value: Granular Polytetrafluoroethylene Resin from Italy*, 53 FR 26096 (July 11, 1988). These cash deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entities 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 determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: September 16, 2008.

**Stephen J. Claeys,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E8-22108 Filed 9-19-08; 8:45 am]

**BILLING CODE 3510-DS-S**

#### DEPARTMENT OF COMMERCE

##### International Trade Administration

#### Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, as amended by Pub. L. 106-36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before October 14, 2008. Address written comments to Statutory Import Programs Staff, Room 2104, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. at the U.S. Department of Commerce in Room 2104.

*Docket Number: 08-047.* Applicant: Stanford University, Department of Structural Biology, D100 Fairchild Building, 299 Campus Drive West, Stanford, CA 94305-5126. Instrument: Electron Microscope, Model Tecnai G2 F20 TWIN. Manufacturer: FEI Company, the Netherlands. Intended Use: The instrument is intended to be used to study purified proteins from yeast *Saccharomyces cerevisiae*, also known as baker's yeast, which are involved in transcription. Researchers plan to employ single particle analysis to study the protein complexes involved in transcription, the synthesis on RNA from a DNA template. Application accepted by Commissioner of Customs and Border Protection: August 25, 2008.

Dated: September 16, 2008.

**Faye Robinson,**

*Director, Statutory Import Programs Staff.*

[FR Doc. E8-22107 Filed 9-19-08; 8:45 am]

**BILLING CODE 3510-DS-S**

#### DEPARTMENT OF COMMERCE

##### International Trade Administration

#### Exemption of Foreign Air Carriers From Excise Taxes; Review of Finding of Reciprocity (Dominican Republic), 26 U.S.C. 4221

**AGENCY:** International Trade Administration, U.S. Department of Commerce.

**ACTION:** Solicitation of public comments concerning a review of the existing exemption for aircraft registered in the Dominican Republic from certain internal revenue taxes on the purchase of supplies in the United States for such aircraft in connection with their international commercial operations.

**SUMMARY:** Notice is hereby given that the Department of Commerce is conducting a review to determine, pursuant to Section 4221 of the Internal Revenue Code, as amended (26 U.S.C. 4221), whether the Government of the Dominican Republic has discontinued allowing substantially reciprocal tax exemptions to aircraft of U.S. registry in connection with international commercial operations similar to those exemptions currently granted to aircraft of Dominican Republic registry by the United States under the aforementioned statute.

The above-cited statute provides exemptions for aircraft of foreign registry from payment of certain internal revenue taxes on the purchase of supplies in the United States for such aircraft in connection with their international commercial operations. These exemptions apply upon a finding by the Secretary of Commerce, or his designee, and communicated to the Department of the Treasury, that such country allows, or will allow, "substantially reciprocal privileges" to aircraft of U.S. registry with respect to purchases of such supplies in that country. If a foreign country discontinues the allowance of such substantially reciprocal exemption, the exemption allowed by the United States will not apply after the Secretary of the Treasury is notified by the Secretary of Commerce, or his designee, of the discontinuance.

Interested parties are invited to submit their views, comments and supporting documentation in writing concerning this matter to Mr. Mark Brady, Deputy Assistant Secretary for Services, Room 1128, U.S. Department of Commerce, Washington, DC 20230. Submissions should be sent electronically to [Airservices@ita.doc.gov](mailto:Airservices@ita.doc.gov). All