

5180-01-423-6468

NPA: Kandu Industries, Inc., Holland,
Michigan

Stand, Office Machine

7110-01-136-1563

7110-00-601-9835

7110-00-601-9849

(Requirements for GSA Zone 1 only)

NPA: Knox County ARC, Knoxville,
Tennessee

Paper, Bond & Writing

7530-00-160-9165

7530-00-616-7284

7530-00-515-1086

7530-01-364-9488

7530-01-078-5649

7530-01-077-5386

7530-01-071-9792

7530-01-509-8632

7530-01-071-9795

7530-01-077-5387

7530-01-077-5386

NPA: Louisiana Association for the Blind,
Shreveport, Louisiana

SPEAR Insulation Subsystem

8415-01-F01-0191 thru -0225

(Requirements for the U.S. Army Soldier
Systems Command, Natick, MA)

NPA: Peckham Vocational Industries, Inc.,
Lansing, Michigan

Services

Commissary Shelf Stocking and Custodial,
Wright-Patterson Air Force Base, Ohio

NPA: Goodwill Industries of the Miami
Valley, Dayton, Ohio

Janitorial/Custodial, Stewart Army Subpost,
New Windsor, New York

NPA: Orange County Rehabilitation Center—
Occupations Incorporated, Middletown,
New York

Janitorial/Custodial, Randolph Air Force
Base, Texas

NPA: Development Resources, Inc., San
Antonio, Texas

Petroleum Support, Fort Sam Houston/Camp
Bullis, Texas

NPA: Goodwill Industries of San Antonio,
San Antonio, Texas

Warehouse Operation, Naval Air Warfare
Center Training Systems Division, 12350
Research Parkway, Orlando, Florida

NPA: Goodwill Industries of Central Florida,
Orlando, Florida

Beverly L. Milkman,

Executive Director.

[FR Doc. 96-16603 Filed 6-27-96; 8:45 am]

BILLING CODE 6353-01-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-549-801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from Thailand; Final Results of Antidumping Duty Administrative Review and Revocation of Antidumping Duty Order

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

ACTION: Notice of Final Results of
Antidumping Duty Administrative
Review and Revocation of Antidumping
Duty Order.

SUMMARY: On December 7, 1995, the
Department of Commerce (the
Department) published the preliminary
results of the administrative review of
the antidumping duty order on
antifriction bearings (other than tapered
roller bearings) and parts thereof from
Thailand. The class or kind of
merchandise covered by this order is
ball bearings. This review covers one
producer and/or exporter of antifriction
bearings to the United States for the
period May 1, 1993, through April 30,
1994.

We gave interested parties an
opportunity to comment on the
preliminary results. Based on our
analysis of the comments received, we
have made certain changes for the final
results. We have determined the
margins for NMB Thai Ltd., Pelmec Thai
Ltd., NMB Hi-Tech Bearings Ltd., and
NMB Corporation (collectively, NMB/
Pelmec) to be *de minimis*. We have also
determined that NMB/Pelmec has met
the requirements for revocation.

EFFECTIVE DATE: June 28, 1996.

FOR FURTHER INFORMATION CONTACT: Lyn
Johnson or Rich Rimlinger, 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) 482-4733.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all
citations to the statute and to the
Department's regulations are references
to the provisions as they existed on
December 31, 1994.

Background

On May 15, 1989, the Department
published in the Federal Register (54
FR 20909) the antidumping duty order

on ball bearings and parts thereof from
Thailand. On June 22, 1994, in
accordance with 19 C.F.R. 353.22(c), we
initiated an administrative review of
this order for the period May 1, 1993,
through April 30, 1994 (59 FR 32180).
The Department conducted a
verification of NMB/Pelmec's response
for this period of review.

On May 31, 1994, NMB/Pelmec
submitted a request, in accordance with
19 C.F.R. 353.25(b), to revoke the order
with respect to NMB/Pelmec's sales of
this merchandise. In accordance with 19
C.F.R. 353.25(a)(2)(iii), this request was
accompanied by certifications from the
firm that it had not sold the relevant
class or kind of merchandise at less than
foreign market value (FMV) for a three-
year period, including this review
period, and would not do so in the
future. NMB/Pelmec also agreed to its
immediate reinstatement in the relevant
antidumping order, as long as any firm
is subject to this order, if the
Department concludes under 19 C.F.R.
353.22(f) that, subsequent to revocation,
it sold the subject merchandise at less
than FMV.

On December 7, 1995, we published
in the Federal Register the preliminary
results of our administrative reviews of
the antidumping duty orders on
antifriction bearings (other than tapered
roller bearings) and parts thereof (AFBs)
from France, Germany, Japan,
Singapore, Sweden, and Thailand (60
FR 62817) wherein we gave notice of
our intent to revoke the order on
Thailand and invited interested parties
to comment. On January 31, 1996, and
February 8, 1996, parties to the
Thailand proceeding submitted their
case and rebuttal briefs, respectively. At
the request of interested parties, we held
a public hearing for the Thailand
proceeding on February 14, 1996.

The Department is conducting this
administrative review in accordance
with section 751 of the Tariff Act of
1930, as amended (the Act).

Scope of Review

The products covered by this order,
antifriction bearings (other than tapered
roller bearings), mounted or
unmounted, and parts thereof (AFBs)
from Thailand, fall within the following
class or kind of merchandise:

Ball Bearings and Parts Thereof:
These products include all AFBs that
employ balls as the roller element.
Imports of these products are classified
under the following categories:
antifriction balls, ball bearings with
integral shafts, ball bearings (including
radial ball bearings) and parts thereof,
and housed or mounted ball bearing
units and parts thereof. Imports of these

products are classified under the following Harmonized Tariff Schedule (HTS) subheadings: 3926.90.45, 4016.93.00, 4016.93.10, 4016.93.50, 6909.19.5010, 8431.20.00, 8431.39.0010, 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.05, 8482.99.10, 8482.99.35, 8482.99.6590, 8482.99.70, 8483.20.40, 8483.20.80, 8483.50.8040, 8483.50.90, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.60.80, 8708.70.6060, 8708.70.8050, 8708.93.30, 8708.93.5000, 8708.93.6000, 8708.93.75, 8708.99.06, 8708.99.31, 8708.99.4960, 8708.99.50, 8708.99.58, 8708.99.8080, 8803.10.00, 8803.20.00, 8803.30.00, 8803.90.30, 8803.90.90.

The size or precision grade of a bearing does not influence whether the bearing is covered by the order. For a further discussion of the scope of the orders being reviewed, including recent scope determinations, see *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al.; Final Results of Antidumping Duty Administrative Reviews, Partial Termination of Administrative Reviews, and Revocation in Part of Antidumping Duty Orders*, 60 FR 10900 (February 28, 1995) (*AFBs IV*).

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made the following changes in the final results:

In our computer calculations of profit for constructed value (CV) we inadvertently omitted interest expense. We have included this expense in our final calculations. We also changed the program to perform a test for profit so that the greater of actual profit or the statutory minimum of eight-percent profit is used. Finally, we improperly classified insurance as a direct selling expense. Since insurance identified in the response covers pre-sale transportation from the factory to the warehouse, we have reclassified it as an indirect selling expense for the final results.

Analysis of Comments Received

We invited interested parties to comment on our preliminary results and intent to revoke the order. We received case and rebuttal briefs from The Torrington Company (Torrington), petitioner in this proceeding, and respondent, NMB/Pelmec Thailand. We held a public hearing on February 14, 1996.

Company-Specific Issues

Comment 1: Torrington argues that the Department was incorrect in applying the statutory minimum for calculating profit, selling, general and

administrative expense (SG&A). The petitioner also claims that the Department did not compute average home market (HM) profits as a percentage of costs nor did it check to determine whether such profits exceed the statutory minimum. In addition, Torrington argues that the Department did not calculate profits based only on sales to unrelated parties. Torrington suggests that, in calculating profit for sales to unrelated parties, below-cost sales should be excluded since, in Torrington's opinion, such sales should not be considered to have been made in the "ordinary course of trade."

NMB/Pelmec claims that it calculated weighted-average profit margins and determined whether actual profit was above or below the statutory minimum before applying it to CV. Thus, it contends, it performed a proper analysis of the profit margins prior to entering the information into the computer database. NMB/Pelmec also argues that Torrington's suggestion to exclude below-cost sales from the profit calculation is at odds with the Department's past determinations. Respondent claims that Torrington has not demonstrated that below-cost sales were not made in the "ordinary course of trade." Therefore, NMB/Pelmec contends that the Department should include all HM sales in the profit calculation.

Department's Position: We performed a partial analysis of the profit margins before applying them to CV. For the preliminary results, we calculated an average profit margin as a percentage of CV; however, we did not test this percentage to determine whether profit was above or below the statutory minimum. Therefore, for the final calculations, we have tested the profit information to ensure that we use the greater of actual profit or the statutory minimum of eight-percent profit.

In response to Torrington's argument that the Department should limit its calculation of profit to sales to unrelated parties, such calculations were not possible in this case. Where the Department has calculated profit on sales to unrelated parties, it had HM cost of production (COP) data on the record of the segment of the proceeding. (See *AFBs IV*.) However, for this review, since we were not conducting a sales-below-cost investigation, we did not have the cost information necessary to calculate profit rates for related and unrelated parties. Therefore, we used the profit information that we requested and which NMB/Pelmec provided in calculating CV.

Finally, we reject Torrington's suggestion that below-cost sales are per

se outside the ordinary course of trade. See *Torrington v. United States*, 881 F. Supp. 622, 633 (CIT 1995). The Department considers a variety of circumstances in determining whether HM sales are outside the ordinary course of trade. In this review, Torrington has failed to provide any evidence demonstrating that below-cost sales are outside the ordinary course of trade.

Comment 2: Torrington contends that interest expense should be included in the calculation of COP. According to petitioners, the formula for calculating profits in the Department's calculations does not include interest expenses, so that the calculation of profit is understated.

Department's Position: We agree that, for our CV calculations, it is appropriate to include interest expenses in the cost figures we use to calculate profit. (See section above entitled "Changes Since the Preliminary Results.")

Comment 3: Torrington argues that the Department has been inconsistent in its treatment of NMB/Pelmec's "Route B" sales to HM customers. Torrington refers to NMB/Pelmec's two methods for routing sales to customers in the home market: 1) Route A sales in which subject merchandise is sold directly to related and unrelated customers in Thailand, and 2) Route B sales in which subject merchandise is first shipped to an affiliated party in Singapore prior to sale to related and unrelated customers in Thailand. Torrington contends that Route B sales should be excluded for purposes of assessing the viability of Thailand as a comparison market. Torrington notes that the Court of International Trade (CIT) remanded the 1990-91 review of this order to the Department with two decisions: first, the CIT instructed the Department to explain its differing treatment of Route B sales from the original investigation and, second, that NMB/Pelmec did not establish that Route B sales were correctly classified in the 1990-91 review before including them as HM sales. Also, Torrington argues that, as in the original less-than-fair-value (LTFV) investigation, the fact that subject merchandise was exported to Singapore and was exempt from taxes and duties confirmed, in part, that Route B sales were export sales.

NMB/Pelmec argues that the Department is correct in identifying Route B sales as HM sales. First, NMB/Pelmec points out that the record indicates that subject merchandise was shipped to Singapore with the knowledge that it would be returned for sale in Thailand. Second, NMB/Pelmec contends that the Department's decision

in the preliminary results is consistent with the Department's prior decisions. NMB/Pelmec notes that the Department's explanation as to why Route B sales are reclassified as HM sales in the second and subsequent reviews is clear in the *Final Results of Redetermination Pursuant to Court Remand* at 12, filed on August 10, 1995, in *Torrington Company v. United States*, 881 F. Supp. 622 (CIT 1995).

Finally, NMB/Pelmec claims that Torrington's argument that Route B sales were export sales because the sales were exempt from taxes and duties has already been addressed by the Department. NMB/Pelmec notes that in the remand in the second review, the Department stated, "Second, we recognize that HM sales can have different tax or duty treatments based on the particular circumstances of the sale. For example, certain bearings may be exempted from certain taxes and duties if they are consumed in the production of an export product such as a machine. However, since such bearings are consumed in the home market, they are undeniably HM sales of bearings regardless of the fact that the machine made from these bearings was ultimately exported and the tax treatment of these HM bearings sales is different from other HM sales of bearings." See *Final Results of Redetermination Pursuant to Court Remand* in Ct. No. 92-07-00483, August 14, 1995, at 12.

Department's Position: We agree with NMB/Pelmec that Route B sales are properly classified as HM sales. Route B merchandise is shipped to NMB/Pelmec's Singapore selling affiliate with the knowledge that it will be returned to Thailand for delivery to the unrelated customer. Therefore, the first unrelated sale in this review for all Route B sales occurred in Thailand. This differs from the original LTFV investigation in which certain sales made through the affiliate in Singapore, which NMB Thailand classified as Route B sales, were sold to an unrelated customer in Singapore. In the LTFV investigation, we determined that those particular Route B sales were third country sales, not HM sales. This distinction is significant, since, under section 773(a)(1)(A) of the Act, the ultimate consideration as to whether the sales in question are HM sales is whether the merchandise "is sold, or in the absence of sales, offered for sale in the principal markets of the country from which exported, in the usual commercial quantities and in the ordinary course of trade for home consumption. . . ." (emphasis added). We have not been inconsistent in our treatment of Route B

sales since the fact pattern differs between the LTFV investigation and this review. In addition, although HM sales can have different tax or duty treatments based on the particular circumstances of the sale, this does not alter the fact that the sales were consumed in the home market, which we have previously addressed in the remand in the second review as noted by NMB/Pelmec above. Therefore, we have included NMB/Pelmec's Route B sales as HM sales in our analysis.

Comment 4: The Torrington Company argues that NMB/Pelmec's reported movement expenses and charges for Route B sales should not be deducted from foreign market value (FMV) since Route B sales should not be considered HM sales. It contends that such expenses, *i.e.*, pre-sale freight expenses, are unrelated to the sale of bearings in Thailand.

NMB/Pelmec contends that pre-sale freight expenses for Route B sales are direct expenses and should be deducted from FMV through a circumstance-of-sale-adjustment. However, if the Department concludes that these expenses are indirect, NMB/Pelmec claims that it is still entitled to an adjustment under the exporter's sales price (ESP) offset provision of the regulations.

Department's Position: We disagree with Torrington that Route B sales are not HM sales (see our response to comment 4). However, the record shows that charges NMB/Pelmec incurred in shipping the merchandise to Singapore are pre-sale freight charges. Since NMB/Pelmec has not demonstrated that these freight charges are related directly to particular sales made in Thailand, we have treated the charges in these final results as indirect selling expenses.

Comment 5: Torrington argues that NMB/Pelmec should not be allowed adjustments for duty drawback. It claims that NMB/Pelmec did not demonstrate any link between the duties alleged to be paid and rebated and what was actually paid and rebated.

NMB/Pelmec contends that the Department verified all aspects of what it claimed for the adjustment for uncollected duties, and refers to the Department's Verification Report of March 16, 1995.

Department's Position: We agree with NMB/Pelmec that we verified respondent's claimed adjustments, as noted in our Verification Report of March 16, 1995, and found respondent's claim to be appropriate.

General Issues

Comment 6: Torrington argues that the Department should require

respondents to affirm that responses conform to any prior Department determinations in these reviews. As an example, Torrington comments that, if, as a result of litigation, the Department changed its methodology with respect to price adjustments for a firm, that firm should indicate that its response for this review conforms to the latest changes in methodology.

Department's Position: Torrington's comment is directed at certain changes which do not apply in the case of NMB/Pelmec.

Comment 7: Torrington argues that the Department's calculation of the deposit rate is not tax-neutral and is adversely affected by the Department's new value-added tax methodology. Torrington claims that, since United States price (USP) is likely to be higher than entered value, the Department's deposit rate calculation based on USP results in understated deposit rates. Therefore, Torrington argues that the Department should recalculate deposit rates using the relationship between the total dumping duties due and total entered value instead of using total adjusted USP in the denominator.

Department's Position: Because we are revoking the order based on the fact that NMB/Pelmec has had a three-year period in which we have not calculated dumping margins greater than *de minimis*, we are not establishing a deposit rate for NMB/Pelmec. Therefore, this issue is moot for this order.

Comment 8: Torrington argues that the Department should recalculate profit for constructed value to exclude below-cost sales. Petitioner contends that, in such calculations, losses incurred on below-cost sales will offset profits companies realize on above-cost sales, thus decreasing the calculated average profit. If the Department does not calculate profit based solely on above-cost sales, petitioner asks that the Department calculate average profit by totalling all profits realized on profitable sales and dividing the result by total COP on all sales.

Department's Position: We disagree with Torrington's contention, as we have in prior reviews, that the calculation of profit should be based only on sales that are priced above the COP. (See *Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Duty Order: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.*, 58 FR 39729, 39752 (July 26, 1993), and *AFBs IV* at 10922.) The Department's methodology for calculating profit in determining CV is in compliance with section 773(e)(1)(B) of the Act. The

statute does not explicitly instruct us to disregard below-cost sales in the calculation of profit. Accordingly, it would be inappropriate for the Department to read such a requirement into the statute. Thus, the Department does not deem it necessary to change its methodology as further suggested by petitioner. (Comment 1 also relates to this issue.)

Comment 9: Torrington argues that a sale should be presumed to be an export sale whenever the circumstances suggest that the sales are not for home market consumption. As an example, Torrington comments that, where the record for a company shows that either a HM customer (or related party) has U.S. manufacturing facilities which use bearings in a further-manufactured article or export documents were prepared by the manufacturer, the Department should presume that the manufacturer knew or should have known that the sales in question were for export. Petitioner further notes that, in this case, if the respondent provides adequate rebuttal evidence, the presumption is then defeated. Petitioner argues that this creates incentive for respondents to find out whether such sales are for home market consumption and to report relevant information.

Department's Position: With the exception of Route B sales, we find no evidence on the record that HM sales of NMB/Pelmech's merchandise were exported. With respect to Route B sales, see our response to Comment 3.

Comment 10: Torrington argues that the Department should not exclude U.S. sales of bearings used by a related party as a minor component in a further-manufactured article.

Department's Position: Since NMB/Pelmech did not have sales of bearings used by a related party as a minor component in further manufacturing, and the Department did not exclude such sales in this case, this issue does not apply to the firm.

Comment 11: Torrington argues that the Department should calculate profit on the basis of sampled, above-cost HM sales only. Petitioner contends that profit for CV should be based on profits on sampled HM sales, not on sales of the class or kind of merchandise generally in the home market. Petitioner claims that the use of the sampled sales insures that profit is based on a verified database of sales of in-scope merchandise of the same general class or kind, as opposed to the use of general profit data, for which the Department has little assurance that the reported profits are actually based on sales of in-scope merchandise of the same general class or kind.

Department's Position: We disagree with Torrington's contention that profit should be calculated on the basis of the sampled sales. The Department consistently used profit information based on the general class or kind of merchandise. See AFBs IV at 10923. As far as above-cost sales are concerned, see our response to Comment 3.

Comment 12: Torrington asks that the Department reconsider its treatment of antidumping duties and deduct such duties from ESP as a selling cost.

Department's Position: We disagree with petitioner. As stated in AFBs IV at 10905, it has been our consistent interpretation of 19 CFR 353.26 that evidence of reimbursement is necessary before we can make an adjustment to USP. In this review, Torrington has not identified record evidence that there was reimbursement of antidumping duties, and we have not adjusted USP for the duties.

Final Results of Review

We determine that, for the period May 1, 1993, through April 30, 1994, NMB/Pelmech had a weighted-average antidumping duty margin of 0.19 percent, which is de minimis. We further determine that NMB/Pelmech has not sold ball bearings at less than FMV for three consecutive review periods, including this review period. The certification from the firm (mentioned above) and the fact that there were no comments with respect to our intent to revoke this order in the preliminary results warrant revocation of the order. Therefore, the Department is revoking the order on antifriction bearings (other than tapered roller bearings) and parts thereof from Thailand, with regard to ball bearings, in accordance with section 751(c) of the Act and 19 CFR 353.25.

This revocation applies to all entries of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after May 1, 1994. The Department will order the suspension of liquidation ended for all such entries and will instruct the Customs Service to release any cash deposit or bonds. The Department will further instruct Customs to refund with interest any cash deposits on post-May 1, 1994 entries. In addition, the Department will terminate the review covering subject merchandise from Thailand sold during the period May 1, 1994, through April 30, 1995, which was initiated on June 19, 1995 (60 FR 31952).

Assessment Rates: The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Because

sampling and other simplification methods prevent entry-by-entry assessments, we will calculate wherever possible an exporter/importer specific assessment rate for each class or kind of antifriction bearings.

Exporter's Sales Price Sales: For ESP sales, which we sampled, we divided the total dumping margin for the reviewed sales by the total entered value of those reviewed sales for the importer. We will direct Customs to assess the resulting percentage margin against the entered Customs values for the subject merchandise on entries under the relevant order during the review period. While the Department is aware that the entered value of sales during the period of review (POR) is not necessarily equal to the entered value of entries during the POR, use of entered value of sales as the basis of the assessment rate permits the Department to collect a reasonable approximation of the antidumping duties which would have been determined if the Department had reviewed those sales of merchandise actually entered during the POR.

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 the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This administrative review, revocation, and notice are in accordance with sections 751(a)(1) and 751(c) of the Act (19 U.S.C. 1675(a)(1)) and sections 353.22 and 353.25 of the Department's regulations (19 CFR 353.22 and 19 CFR 353.25).

Dated: June 21, 1996.
Robert S. LaRussa,
Acting Assistant Secretary for Import
Administration.
[FR Doc. 96-16614 Filed 6-27-96; 8:45 am]
BILLING CODE 3510-DS-P