

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) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be 24 percent, the rate established in the first notice of final results of administrative review published by the Department (47 FR 10268, March 10, 1982). 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 subsequent assessment of double antidumping duties.

Notification to Interested Parties

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 of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an 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: November 30, 1995.

Paul L. Joffe,

Deputy Assistant Secretary for Import Administration.

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[A-475-801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Italy; Preliminary Results of Antidumping Duty Administrative Reviews

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

ACTION: Notice of preliminary results of antidumping duty administrative reviews.

SUMMARY: In response to requests from interested parties, the Department of

Commerce (the Department) is conducting administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from Italy. The classes or kinds of merchandise covered by these orders are ball bearings and cylindrical roller bearings. The reviews cover 3 manufacturers/exporters. The period of review (the POR) is May 1, 1993, through April 30, 1994.

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

EFFECTIVE DATE: December 7, 1995.

FOR FURTHER INFORMATION CONTACT: The appropriate case analyst, for the various respondent firms listed below, at the Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482-4733.

Davina Hashmi (Meter), Michael Rausher (FAG), Thomas Schauer (SKF), Michael Rill, or Richard Rimlinger.

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 orders on ball bearings (BBs) and cylindrical roller bearings (CRBs) and parts thereof from Italy. On June 22, 1994, and July 15, 1994, in accordance with 19 CFR 353.22(c) (1994), we initiated administrative reviews of those orders for the period May 1, 1993, through April 30, 1994 (59 FR 32180 and 59 FR 36160). The Department is now conducting these administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of Reviews

The products covered by these reviews are antifriction bearings (other than tapered roller bearings) and parts thereof (AFBs), and constitute the

following classes or kinds of merchandise:

1. *Ball Bearings and Parts Thereof:* These products include all antifriction bearings that employ balls as the rolling 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 Schedules (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, 8708.99.5800, 8708.99.8080, 8803.10.00, 8803.20.00, 8803.30.00, 8803.90.30, 8803.90.90.

2. *Cylindrical Roller Bearings and Parts Thereof:* These products include all AFBs that employ cylindrical rollers as the rolling element. Imports of these products are classified under the following categories: antifriction rollers, all cylindrical roller bearings (including split cylindrical roller bearings) and parts thereof, and housed or mounted cylindrical roller bearing units and parts thereof.

Imports of these products are classified under the following HTS subheadings: 3926.90.45, 4016.93.00, 4016.93.10, 4016.93.50, 6909.19.5010, 8431.20.00, 8431.39.0010, 8482.40.00, 8482.50.00, 8482.80.00, 8482.91.00, 8482.99.25, 8482.99.35, 8482.99.6530, 8482.99.6560, 8482.99.6590, 8482.99.70, 8483.20.40, 8483.20.80, 8483.50.8040, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.93.5000, 8708.99.4000, 8708.99.4960, 8708.99.50, 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 Italy; Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Duty Order, 60 FR 10959 (February 28, 1995). The HTS item numbers are provided for

convenience and Customs purposes. The written descriptions remain dispositive.

These reviews cover the following firms and classes or kinds of merchandise:

Name of firm	Class or kind
FAG Italia S.p.A	BBs, CRBs.
Meter, S.p.A	BBs.
SKF Industrie S.p.A	BBs, CRBs.

United States Price

In calculating United States price (USP), the Department used purchase price or exporter's sales price (ESP), as defined in section 772 of the Tariff Act, as appropriate.

Due to the extremely large number of transactions that occurred during the POR and the resulting administrative burden involved in calculating individual margins for all of these transactions, we sampled sales to calculate USP, in accordance with section 777A of the Tariff Act. When a firm made more than 2,000 ESP sales transactions to the United States for a particular class or kind of merchandise, we reviewed ESP sales which occurred during sample weeks. We selected one week from each two-month period in the review period, for a total of six weeks, and analyzed each transaction made in those six weeks. The sample weeks included June 27–July 3, 1993, July 4–10, 1993, October 10–16, 1993, November 7–13, 1993, February 13–19, 1994, and April 24–30, 1994. We reviewed all purchase price sales transactions during the POR because there were few purchase price sales.

USP was based on the packed f.o.b., c.i.f., or delivered price to unrelated purchasers in, or for exportation to, the United States. We made deductions, as appropriate, from purchase price and ESP for movement expenses, discounts and rebates.

We made additional deductions from ESP for direct selling expenses, indirect selling expenses, and repacking in the United States.

In light of the Federal Circuit's decision in *Federal Mogul v. United States*, CAFC No. 94–1097, the Department has changed its treatment of home market consumption taxes. Where merchandise exported to the United States is exempt from the consumption tax, the Department will add to the U.S. price the absolute amount of such taxes charged on the comparison sales in the home market. This is the same methodology that the Department adopted following the decision of the Federal Circuit in *Zenith v. United States*, 988 F. 2d 1573, 1582 (1993), and

which was suggested by that court in footnote 4 of its decision. The Court of International Trade (CIT) overturned this methodology in *Federal Mogul v. United States*, 834 F. Supp. 1391 (1993), and the Department acquiesced in the CIT's decision. The Department then followed the CIT's preferred methodology, which was to calculate the tax to be added to U.S. price by multiplying the adjusted U.S. price by the foreign market tax rate; the Department made adjustments to this amount so that the tax adjustment would not alter a "zero" pre-tax dumping assessment.

The foreign exporters in the *Federal Mogul* case, however, appealed that decision to the Federal Circuit, which reversed the CIT and held that the statute did not preclude the Department from using the "Zenith footnote 4" methodology to calculate tax-neutral dumping assessments (*i.e.*, assessments that are unaffected by the existence or amount of home market consumption taxes). Moreover, the Federal Circuit recognized that certain international agreements of the United States, in particular the General Agreement on Tariffs and Trade (GATT) and the Tokyo Round Antidumping Code, required the calculation of tax-neutral dumping assessments. The Federal Circuit remanded the case to the CIT with instructions to direct the Department to determine which tax methodology it will employ.

The Department has determined that the "Zenith footnote 4" methodology should be used. First, as the Department has explained in numerous administrative determinations and court filings over the past decade, and as the *Federal Circuit* has now recognized, Article VI of the GATT and Article 2 of the Tokyo Round Antidumping Code required that dumping assessments be tax-neutral. This requirement continues under the new Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade. Second, the Uruguay Round Agreements Act (URAA) explicitly amended the antidumping law to remove consumption taxes from the home market price and to eliminate the addition of taxes to U.S. price, so that no consumption tax is included in the price in either market. The Statement of Administrative Action (p. 159) explicitly states that this change was intended to result in tax neutrality.

While the "Zenith footnote 4" methodology is slightly different from the URAA methodology, in that section 772(d)(1)(C) of the pre-URAA law required that the tax be added to U.S. price rather than subtracted from home

market price, it does result in tax-neutral duty assessments. In sum, the Department has elected to treat consumption taxes in a manner consistent with its longstanding policy of tax-neutrality and with the GATT.

With respect to subject merchandise to which value was added in the United States prior to sale to unrelated U.S. customers, *e.g.*, parts of bearings that were imported and further processed into finished bearings by U.S. affiliates of foreign exporters, we deducted any increased value in accordance with section 772(e)(3) of the Tariff Act.

Those bearings which are otherwise subject to the order that are imported into the United States and incorporated into nonbearing products by or for the exporter, and which collectively comprise less than one percent of the value of the finished products sold to unrelated customers in the United States are not subject to the assessment of antidumping duties (see Antidumping Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany; Final Results of Antidumping Duty Administrative Review, 56 FR 31694 (July 11, 1991). In Roller Chain, Other Than Bicycle, from Japan 48 FR 51801 (November 14, 1983), roller chain, which was subject to an antidumping duty finding, was imported by a related party and incorporated into finished motorcycles. The finished motorcycles were the first products sold by the exporter to unrelated purchasers in the United States. Because the roller chain did not constitute a significant percentage of the value of the completed product, the Department found that a USP could not reasonably be determined for the roller chain. The Department, therefore, did not assess antidumping duties on these transactions. We have applied this same principle to these reviews.

Foreign Market Value

The home markets were viable for all companies and all classes or kinds of merchandise pursuant to 19 C.F.R. 353.48. The Department used home market prices or constructed value (CV), as defined in section 773 of the Tariff Act, as appropriate, to calculate foreign market value (FMV).

Due to the extremely large number of transactions that occurred during the POR and the resulting administrative burden involved in examining all of these transactions, we sampled sales to calculate FMV, in accordance with section 777A of the Tariff Act. When a firm had more than 2,000 home market sales transactions for a particular class or kind of merchandise, we used sales

from sample months that corresponded to the sample weeks selected for U.S. sales sampling plus one

contemporaneous month prior to the POR and one following the POR. The sample months included April, June, July, October, and November of 1993, and February, April, and May of 1994.

In general, the Department relies on monthly weighted-average prices in the calculation of FMV in administrative reviews. Because of the significant volume of home market sales involved in these reviews, we examined whether it was appropriate to average, in accordance with section 777A of the Tariff Act, all of each respondent's home market sales on an annual basis. In this case, the use of POR weighted-average prices results in significant time and resource savings for the Department. To determine whether a POR weighted-average price was representative of the transactions under consideration, we performed a three-step test.

We first compared each monthly weighted-average home market price for each model with the weighted-average POR price of that model. We calculated the proportion of each model's sales whose POR weighted-average price did not vary meaningfully (i.e., was within plus or minus 10 percent) from the monthly weighted-average prices. We did this for each model within each class or kind of merchandise. We then compared the volume of sales of all models within each class or kind of merchandise whose POR weighted-average price did not vary meaningfully from the monthly weighted-average price with the total volume of sales of that class or kind of merchandise. If the POR weighted-average price of at least 90 percent of sales in each class or kind of merchandise did not vary meaningfully from the monthly weighted-average price, we considered the POR weighted-average prices to be representative of the transactions under consideration. Finally, we tested whether there was any correlation between fluctuations in price and time for the home market sales. Where the absolute value of the correlation coefficient was less than 0.05 (where a coefficient approaching 1.0 means a direct relation between price and time, i.e., that prices consistently rise from month to month, and a coefficient approaching zero means no relation between prices and time), we concluded that there was no significant relation between price and time. We calculated a weighted-average POR FMV only for those classes or kinds that satisfied our three-step test for the factors of price, volume, and time.

We compared U.S. sales with sales of such or similar merchandise in the home market. We considered all non-identical products within a bearing family to be equally similar. As defined in the questionnaire, a bearing family consists of all bearings within a class or kind of merchandise that are the same in the following physical characteristics: load direction, bearing design, number of rows of rolling elements, precision rating, dynamic load rating, outer diameter, inner diameter, and width.

Home market prices were based on the packed, ex-factory or delivered prices to related or unrelated purchasers in the home market. Where applicable, we made adjustments for movement expenses, differences in cost attributable to differences in physical characteristics of the merchandise pursuant to 773(a)(4)(C) of the Tariff Act, and differences in packing. We also made adjustments for differences in circumstances of sale in accordance with 19 C.F.R. 353.56. For comparisons to purchase price sales, we deducted home market direct selling expenses and added U.S. direct selling expenses. For comparisons to ESP sales, we deducted home market direct selling expenses. We also made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions in purchase price and ESP calculations and to offset U.S. indirect selling expenses deducted in ESP calculations, but not exceeding the amount of the indirect U.S. expenses. For comparisons to both ESP and purchase price sales, we adjusted FMV for taxes consistent with our change in practice as stated above.

We used sales to related customers only where we determined such sales were made at arm's-length prices, i.e., at prices comparable to prices at which the firm sold identical merchandise to unrelated customers.

Where we found home market sales below the cost of production in the 1991-1992 administrative reviews, we concluded that reasonable grounds exist to believe or suspect that home market sales during the POR were made at prices below the cost of production, and we initiated cost investigations.

In accordance with section 773(b) of the Tariff Act, in determining whether to disregard home market sales made at prices below the cost of production, we examined whether such sales were made in substantial quantities over an extended period of time. When less than 10 percent of the home market sales of a particular model were at prices below the cost of production, we found that there were not substantial quantities of that model sold below cost and did not

disregard any sales of that model. When 10 percent or more, but not more than 90 percent, of the home market sales of a particular model were determined to be below cost, we determined that substantial quantities of that model were sold below cost and excluded the below-cost home market sales from our calculation of FMV, provided that these below-cost sales were made over an extended period of time. When more than 90 percent of the home market sales of a particular model were made below cost over an extended period of time, we disregarded all home market sales of that model from our calculation of FMV and used CV (see Polyethylene Terephthalate Film, Sheet, and Strip from Korea, 56 FR 16306 (1991)).

To determine if sales below cost had been made over an extended period of time, we compared the number of months in which sales below cost had occurred for a particular model to the number of months in which the model was sold. If the model was sold in three or fewer months, we did not find that below-cost sales were made over an extended period of time unless there were sales below cost of that model in each month. If a model was sold in more than three months, we did not find that below-cost sales were made over an extended period of time unless there were sales below cost in at least three of the months in which the model was sold (see Final Results of Antidumping Duty Administrative Reviews: 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, 58 FR 64729 (December 9, 1993)).

Since none of the respondents has submitted information indicating that any of its sales below cost were at prices which would have permitted "recovery of all costs within a reasonable period of time in the normal course of trade" within the meaning of section 773(b)(2) of the Tariff Act, we were unable to conclude that the costs of production of such sales were recovered within a reasonable period of time. As a result, we disregarded below-cost sales when the conditions described above were met.

In accordance with sections 773(a)(1) and 773(b)(2) of the Tariff Act, we used CV as the basis for FMV when there were no usable sales of such or similar merchandise for comparison.

We calculated CV in accordance with section 773(e) of the Tariff Act. We included the cost of materials, fabrication, general expenses, profit, and packing. To calculate CV we used: (1) Actual general expenses or the statutory

minimum of 10 percent of materials and fabrication, whichever was greater; (2) actual profit or the statutory minimum of 8 percent of materials, fabrication costs and general expenses, whichever was greater; and (3) packing costs for merchandise exported to the United States. Where appropriate, we made adjustments to CV in accordance with 19 C.F.R. 353.56 for differences in circumstances of sale. For comparisons to purchase price sales, we deducted home market direct selling expenses and added U.S. direct selling expenses. For comparisons to ESP sales, we deducted home market direct selling expenses. We also made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions in purchase price and ESP calculations. For comparisons involving ESP transactions, we made further deductions for CV for indirect selling expenses in the home market, capped by the indirect selling expenses incurred on ESP sales in accordance with 19 C.F.R. 353.56(b)(2).

Preliminary Results of Reviews

As a result of our reviews, we preliminarily determine the weighted-average dumping margins (in percent) for the period May 1, 1993, through April 30, 1994 to be:

Company	BBs	CRBs
FAG	2.23	0.00
Meter	3.75	(¹)
SKF	3.26	(²)

¹ No review requested.

² Order partially revoked with respect to this company.

Parties to this proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of the date of publication of this notice. A general issues hearing, if requested, and any hearings regarding issues related solely to specific countries, if requested, will be held in accordance with the following schedule and at the indicated locations in the main Commerce building:

	Date	Time	Room No.
General issues.	Jan. 22, 1996.	10 a.m .	1412
Italy	Jan. 22, 1996.	2 p.m ...	1412

Issues raised in hearings will be limited to those raised in the respective briefs or written comments, and rebuttal briefs or rebuttals to written comments. Briefs or written comments from interested parties, and rebuttal briefs or

rebuttals to written comments, limited to the issues raised in the respective case briefs and comments, may be submitted not later than the dates shown below for general issues and the respective country-specific cases. The Department will subsequently publish the final results of these administrative reviews, including the results of its analysis of issues raised in any such written comments or hearings.

Case	Briefs/com-ments due	Rebuttals due
General is-sues.	Jan. 8, 1996	Jan. 16, 1996
Italy	Jan. 8, 1996	Jan. 16, 1996

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Because sampling prevents calculation of duties on an entry-by-entry basis, we will calculate an importer-specific *ad valorem* duty assessment rate for each class or kind of merchandise based on the ratio of the total value of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of that particular importer made during the POR. (This is equivalent to dividing the total value of antidumping duties, which are calculated by taking the difference between statutory FMV and statutory USP, by the total statutory USP value of the sales compared, and adjusting the result by the average difference between USP and customs value for all merchandise examined during the POR.)

In some cases such as purchase price situations, the respondent does not know the entered value of the merchandise. Then, we will either calculate an approximate entered value or we will calculate an average per-unit dollar amount of antidumping duty based on all sales examined during the POR. See AFBs I at 31694. The Department will issue appropriate appraisal instructions directly to the Customs Service upon completion of these reviews.

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 these administrative reviews, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rates for the reviewed companies will be those rates established in the final results of

these reviews (except that no deposit will be required for firms with zero or *de minimis* margins; *i.e.*, margins less than 0.5 percent); (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 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) the cash deposit rate for all other manufacturers or exporters will continue to be the "all others" rate made effective by the final results of the 1991-92 administrative reviews of these orders (see Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Duty Order, 58 FR 39729 (July 26, 1993)). As noted in those previous final results, these rates are the "all others" rates from the relevant LTFV investigations. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative reviews.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 C.F.R. 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.

These administrative reviews and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 C.F.R. 353.22(c)(5).

Dated: November 30, 1995.

Paul L. Joffe,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 95-29888 Filed 12-6-95; 8:45 am]

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