DEPARTMENT OF COMMERCE

International Trade Administration

[A–485–801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Romania; Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On November 29, 1996, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on antifriction bearings (other than tapered roller bearings) and parts thereof (AFBs), from Romania. The period of review (POR) is May 1, 1993 through April 30, 1994. This review covers one class or kind of merchandise, ball bearings (BBs), and one respondent, Tehnoimportexport S.A. (TIE).

Based on our analysis of comments received, we have made changes to the margin calculations. The final weighted-average dumping margin is in the section titled *Final Results of Review* below.

EFFECTIVE DATE: July 13, 1997.

FOR FURTHER INFORMATION CONTACT: Charles Riggle or Thomas O. Barlow, 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.

Applicable Statute and Regulations: Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended, (the Act) and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

SUPPLEMENTARY INFORMATION:

Background

On November 29, 1996, we published in the **Federal Register** the preliminary results of administrative review of the antidumping duty order on BBs and parts thereof from Romania. *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from Romania; Preliminary Results of Antidumping Duty Administrative Review,* 61 FR 60679. We gave interested parties an opportunity to comment on our preliminary results. Only TIE submitted comments.

We have conducted this administrative review in accordance with section 751(a)(1) of the Act and 19 CFR 353.22.

Scope of this Review

Imports covered by this review are shipments of BBs from Romania. This merchandise is currently classifiable under Harmonized Tariff Schedule (HTS) item numbers 3926.90.45, 4016.93.00, 4016.93.10, 4016.93.50, 6909.19.5010, 8431.20.00, 8431.39.010, 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.

The size or precision grade of a bearing does not influence whether the bearing is covered by the order. For a further discussion on the scope of the order being reviewed, including recent scope decisions, *see Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al.; Final Results of Antidumping Duty Administrative Reviews, and Revocation in Part of Antidumping Duty Orders,* 60 FR 10900 (February 28, 1995). The HTS item numbers are provided for convenience and Customs purposes. The written description of the scope of this order remains dispositive.

Analysis of Comments Received

Comment 1: TIE argues that it is entitled to a separate rate, and that, in refusing to provide a separate rate for TIE, the Department overlooked significant changes that occurred both in Romania and at TIE over the past several years. TIE points out that in 1993, pursuant to Romanian law, it was a joint stock company with 70 percent of the stock held by the State Ownership Fund (SOF) and 30 percent held by the Private Ownership Fund (POF). TIE claims that there is no evidence that the government had any theoretical control over TIE's daily activities. Even if the shareholders, *i.e.,* the SOF and the POF had some rights with respect to the selection of the Council of Administration, which had the right to select certain management personnel, TIE states that this should not negate a finding that there was no government control with respect to TIE's exports. TIE argues that shareholders of government-owned companies in any country have certain rights, including the right to select certain company officials.

TIE states that exporters in non-market economy (NME) countries are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law and in fact, with respect to exports, and it further claims that separate rate determinations are rendered on a case-by-case basis, citing *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China* (*Sparklers*), 56 FR 20588 (May 6, 1991), and *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China* (*Silicon Carbide*), 59 FR 22585 (May 2, 1994). TIE argues that the Department failed to supply any causal connection between government selection of management and actual control of export prices, and TIE claims that there is no record evidence to support the Department's assumption of such a connection.

TIE also argues that, in response to the Polish government's request that the Department revoke Poland's status as a NME country, the Department did not determine that ''government ownership'' of state-owned enterprises, or the selection of management by the owner, precludes a commercial entity's independence, referring to Department Memorandum, Respondent's Request for Revocation of Poland's NME Status (June 21, 1993) at 18–19.

Finally, TIE argues, the Department has determined, in other cases involving Romania, that former state-owned Romanian trading companies which have undergone partial privatization were entitled to separate rates, citing, *e.g., Circular Welded Non-Alloy Steel Pipe from Romania: Final Determination of Sales at Less Than Fair Value,* 61 FR 24274, 24283 (May 14, 1996) (*Steel Pipe*). While TIE acknowledges that it was not privatized during the POR, TIE claims that its management, and not the government, controlled all aspects of the export process. Accordingly, TIE asserts, the Department should provide TIE with a separate rate for the final results.

Department's Position: We disagree with TIE. To determine whether a company is sufficiently independent of government control to be entitled to a separate rate we analyze the exporting entity under the test established in *Sparklers,* as amplified by *Silicon Carbide.* We test the absence of both *de jure* and *de facto* government control with respect to the following criteria: (1) the respondent's export prices are not set by, nor subject to the approval of, a

government authority; (2) the respondent has the authority to negotiate and sign contracts and other agreements; (3) the respondent has autonomy from the government regarding the selection of management; and (4) the respondent retains the proceeds from its export sales and makes indepenent decisions regarding the disposition of profits.

In applying this test to TIE we determined that, from a *de facto* perspective, TIE did not have autonomy in making decisions regarding the selection of management. *See Memorandum For Director, Office of Antidumping Compliance, From Director, Division II, Office of Antidumping Compliance: Assignment of a Separate Rate for Tehnoimportexport S.A., in the 1993–94 Administrative Review of the Antidumping Duty Order on Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from Romania,* January 31, 1996. During the POR, the Council of Administration, composed mostly of members of the government, was responsible for the hiring and firing of key personnel, including TIE's general director. The Council of Administration also selected the Executive Committee, which controlled day-to-day activities of TIE, indicating a significant degree of *de facto* government control. The fact that TIE did not have autonomy in the selection of management also suggested that TIE's export prices were subject to the approval of a government entity, and that TIE's authority to negotiate and sign contracts was similarly not free from government direction.

We find TIE's citation to our decision regarding the Polish government's request that the Department revoke Poland's status as an NME country, to be inapposite. Our test for determining NME status is different from our separate-rates test. Additionally, as TIE acknowledges, separate-rates analyses are rendered on a case-by-case basis. Accordingly, we have made our determination as to TIE's eligibility for a separate rate based on the characteristics unique to TIE's situation.

We also note certain differences between this case and *Steel Pipe.* Whereas in Steel Pipe we verified that respondents' Councils of Administration were sufficiently independent of the government (*Steel Pipe* at 24276), TIE's Council of Administration was, as explained above, composed mostly of members of the government during the POR. Accordingly, we have, for these final results, maintained our preliminary determination that TIE is not entitled to a separate rate.

Comment 2: TIE argues that the Department's labor rate calculation, based on the labor rate in Poland, was erroneous in three respects. First, TIE challenges the monthly hours worked used to calculate surrogate wage rates in Poland, obtained from the International Labor Office (ILO) Yearbook of Labor Statistics. TIE claims that the monthly hours figure is illogical, and assumes Polish workers are working only 31.65 hours per week. Further, TIE claims that the Department's use of the ILO data conflicts with more recent information used by the Department, citing *Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the Republic of Romania; Final Results of Antidumping Duty Administrative Review,* 61 FR 51427, 51430 (October 2, 1996) (*TRBs from Romania*). Likewise, TIE notes that the Department used the same data in *Tapered Roller Bearings and Parts Thereof, Finished or Unfinished from Romania; Preliminary Results of Antidumping Duty Administrative Review,* 61 FR 63826, 63927 (December 2, 1996). TIE asserts that, assuming that wage statistics from the Polish Statistical Bulletin are used for the final results, the data should be amended to reflect a 42-hour work week consistent with the cited cases.

Second, TIE argues that the Polish labor rates improperly included bonus payments. TIE claims that the Department typically uses a simple hourly wage as a surrogate value, and that use of a wage that includes bonus payments unfairly assumes profits were made by the Polish companies. Accordingly, TIE argues that the Department should modify the Polish labor data to exclude bonus payments from profit.

Finally, TIE argues that Polish labor rates are not representative of labor rates in Romania, or in other potential surrogate countries. TIE claims that the labor rate used by the Department in the preliminary results, $1.46 per hour, exceeds the rate in Romania, presumably because, based on 1992 statistical data used by the Department, Poland's *per capita* GNP was roughly double that of Romania. TIE argues that it is unfair to use the labor rate from a country with such a disparate edge in *per capita* income without adjusting such labor rates to account for the income disparity. TIE points out that record evidence indicates that the labor rate for Ecuador, a potential surrogate country whose *per capita* GNP was almost identical to that of Romania, was $0.73 per hour.

TIE states that the Department's proposed regulations direct the Department to use an average of the wage rates in market economy countries considered to be economically comparable to the NME country. TIE suggests that the Department adopt that policy for purposes of the final results and use an average of the Polish rate (as modified by TIE's other arguments explained above) and the Ecuadoran rate.

Department's Position: We agree with TIE in part. The ILO data we used in the preliminary results represented actual hours worked as opposed to paid hours, including, *e.g.,* paid holidays and paid vacations. The wage statistics from the Polish Statistical Bulletin are based on total paid hours. Therefore, consistent with *TRBs from Romania,* for these final results we have recalculated the wage rate using a 42-hour work week based on information from *Investing, Licensing and Trading Conditions Abroad, Poland,* published by the Economist Intelligence Unit.

We disagree with TIE's second argument. Wage rates should be, as accurately as possible, a reflection of the actual costs to employers. Bonus payments represent a portion of the fabrication cost to the employer and are properly a part of our calculation.

Finally, we disagree with TIE's suggestion that, in accordance with our proposed regulations, we use an average of the Polish wage rate and the Ecuadoran wage rate. Although our proposed regulations suggest the use of an alternative method for valuing labor, (61 FR 7308, 7345 (February 27, 1996)), our current practice remains unchanged and we continue is to use wage data from a single surrogate country. Furthermore, of the two countries suggested by TIE with which to calculate an average wage rate, only Poland has a comparable industry. As such, Poland is the proper source for the surrogate wage rate.

Comment 3: TIE argues that the Department should use the statutory minimum of 8 percent to calculate profit for foreign market value (FMV) purposes.

Department's Position: We disagree with TIE. If the profit in the surrogate is higher than 8 percent, as here, we use the actual profit in the surrogate for our FMV calculation. We use the statutory minimum for profit only in cases for which the surrogate profit is below 8 percent.

Final Results of the Review

As a result of our analysis of the comments we received, we determine the following weighted-average margin

exists for the period May 1, 1993 through April 30, 1994:

Manufacturer/exporter	Margin (percent)
Romania Rate	0.00

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following cash deposit requirements will be effective upon publication of these final results for all shipments of BBs and parts thereof from Romania entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) the cash deposit rate for TIE and for all other Romanian exporters will be zero percent; and (2) for non-Romanian exporters of BBs and parts thereof from Romania, the cash deposit rate will be the rate applicable to the Romanian supplier of that exporter. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a 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 disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of the 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 Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: May 27, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–15605 Filed 6–12–97; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–421–804]

Cold-Rolled Carbon Steel Flat Products From the Netherlands; Amended Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of amended final results of Antidumping Duty Administrative Review.

SUMMARY: On April 15, 1997, the Department of Commerce (the Department) published the final results of its administrative review of the antidumping duty order on cold-rolled carbon steel flat products from the Netherlands (62 FR 18476). The period of review is August 1, 1994 through July 31, 1995. On April 21, 1997, the sole respondent, Hoogovens Staal BV, and its U.S. subsidiary, Hoogovens Steel USA, Inc. (collectively, Hoogovens) filed a timely request that the Department correct two ministerial errors in these final results. On May 1, 1997, the petitioners (Bethlehem Steel Corporation, U.S. Steel Company (a Unit of USX Corporation), Inland Steel Industries, Inc., Geneva Steel, Gulf States Steel Inc. of Alabama, Sharon Steel Corporation, and Lukens Steel Company) also filed a timely request for the correction of certain ministerial errors in the programming language. We are publishing this amendment to the final results of review in accordance with 19 CFR 353.28(c).

EFFECTIVE DATE: June 13, 1997.

FOR FURTHER INFORMATION CONTACT: Helen Kramer or Linda Ludwig, AD/CVD Enforcement Group III, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0405 or (202) 482–3833, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise stated, all citations to the Tariff Act are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

Scope of the Review

The products covered by this review include cold-rolled (cold-reduced) carbon steel flat-rolled products, of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished or coated with plastics or other nonmetallic substances, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized tariff Schedule (HTS) under item numbers 7209.15.000, 7209.16.1030, 7209.16.0060, 7209.16.0090, 7209.17.0030, 7209.17.0060, 7209.17.0090, 7209.18.1530, 7209.18.1560, 7209.18.2550, 7209.18.6000, 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7210.70.3000, 7210.90.9000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500, 7211.23.6030, 7211.23.6060, 7211.23.6085, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7215.50.0015, 7215.50.0060, 7215.50.0090, 7215.90.5000, 7217.10.1000, 7217.10.2000, 7217.10.3000, 7217.10.7000, 7217.90.1000, 7217.90.5030, 7217.90.5060, and 7217.90.5090. Included in this review are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ''working after rolling'')—for example, products which have been beveled or rounded at the edges. Excluded from this review is certain shadow mask steel, *i.e.*, aluminum-killed, cold-rolled steel coil that is open-coil annealed, has a carbon content of less than 0.002 percent, is of 0.003 to 0.012 inch in thickness, 15 to 30 inches in width, and has an ultra flat, isotropic surface. These HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The POR is August 1, 1994, through July 31, 1995. This review covers entries of certain cold-rolled carbon steel flat