

All sales to these two customers were reported as HM sales because INA had no way of knowing which particular bearings were resold in Germany and which were exported.

Department's Position: In accordance with section 772(b) of the Tariff Act, transactions in which the merchandise was "purchased * * * for exportation to the United States" must be reported as U.S. sales in an antidumping proceeding. However, we have not found in this review sufficient evidence to conclude reasonably that any alleged HM sales are in fact U.S. sales under section 772(b). Therefore, we have not reclassified any respondent's HM sales as U.S. sales in these reviews.

Section 773(a) of the Tariff Act provides that FMV be based on sales "for home consumption." Therefore, sales which are not for home consumption, even if they are not classifiable as U.S. sales under section 772(b), are not appropriately classified as HM sales for antidumping purposes. In these reviews, except for certain sales reported as HM sales by one company, we did not find sufficient evidence to conclude reasonably that reported HM sales were not "for home consumption" as required by section 773(a).

With respect to German wholesalers/exporters specifically, at verification we determined that, except for certain FAG sales, there were no distinguishing characteristics by which to differentiate sales by German manufacturers to alleged exporters from other HM sales, and we found insufficient evidence to indicate that respondents' HM sales to customers that Torrington alleges to be wholesalers/exporters were destined for export.

We do not agree with Torrington's argument that all sales made to so-called wholesalers/exporters should be treated as U.S. sales, because we do not have sufficient reason to conclude that such sales were for export to the United States, nor even that they were for export at all. We also do not agree that rejection of FAG's response and use of BIA is warranted. However, we do agree that there is sufficient evidence to conclude that certain sales reported by FAG as home market sales were in fact export sales.

With respect to FAG, for these final results we excluded reported HM sales to two customers. For these sales, the evidence indicates that the merchandise in question was destined for export and thus not for home consumption. We found at verification that FAG referred to these customers as "indirect exporters" and that FAG excluded sales to other "indirect exporters" based on its conclusion that these were export

sales. In addition, one FAG subsidiary sold to one of these two "indirect exporters" from its export, rather than domestic, price list. We also visited and interviewed one of these resellers and found that it only sells in export markets. This reseller claimed that its suppliers, including FAG, know that it does not resell within Germany. For these reasons, we conclude that these sales were for export and not for domestic consumption. Therefore, these sales cannot be included in FAG's HM sales.

We do not agree with FAG's assertion that the collection of VAT is confirmation that a sale is for HM consumption. Collection of VAT on the sale between FAG and its customer does not preclude the customer from reselling the merchandise for exportation and ultimately receiving a VAT rebate on the resale of the merchandise. Thus, collection of VAT by FAG is not a determinant of the ultimate destination of the merchandise.

FAG's reference to *Fuel Ethanol* is only relevant to the question of whether certain sales should be regarded as U.S. sales. We agree with FAG that there is not sufficient evidence to reclassify any of its reported HM sales as U.S. sales. However, this does not mean that such sales are automatically sales "for home consumption" as required by section 773(a) of the Tariff Act. Furthermore, *Television Receivers* and *OCTG* also concerned the issue of whether certain sales should be regarded as U.S. sales, not whether certain sales should be regarded as sales for home consumption.

In *Television Receivers* and *OCTG*, the unrelated reseller sold the product in both Canada and the United States. Therefore, the producer did not know the ultimate destination of the merchandise at the time of sale to the unrelated reseller. *OCTG* at 50740. In this case, where unrelated German resellers both export and resell within Germany, we determined that the manufacturer did not know the ultimate destination of the merchandise. Such sales were retained in the HM database.

Therefore, based on the above circumstances, no further changes have been made to either the HM or the U.S. databases with regard to HM sales to alleged wholesalers/exporters.

Comment 2: Torrington argues that U.S. dollar- or Singapore dollar-denominated HM sales in Singapore and/or Thailand should be excluded from the HM database, because such sales are not HM sales.

The NMB/Pelmeccompanies rebut Torrington's argument by stating that it is not unusual for multinational

companies in developing countries sometimes to conduct business in foreign currencies. Further, the NMB/Pelmeccompanies claim that nothing has changed since *AFBs III* (at 39783), when the Department determined that there was no evidence that the NMB/Pelmeccompanies had any reason to know that U.S. dollar-denominated sales, or sales to Thai affiliates of U.S. companies, consisted of merchandise destined for the United States. In addition, the NMB/Pelmeccompanies note that where they knew that a sale to a domestic customer was actually destined for export, the Department verified that such sale was excluded from the HM database.

Department's Position: We agree with the NMB/Pelmeccompanies. We verified sales made in U.S. dollars and Singapore dollars, and found no evidence to indicate that the NMB/Pelmeccompanies had any reason to know or to believe that its U.S. dollar- or Singapore dollar-denominated transactions were destined for the United States.

Comment 3: Torrington claims that NMB Pelmecc/Thai's bonded warehouse sales and Route B sales of AFBs should be excluded from the HM sales listing because the Department determined in the original investigation that such sales properly represented third country sales. Torrington states that due to the exemption of VAT and import duties, it can be inferred that all such sales are ultimately being exported. Finally, Torrington argues that such sales are not in the ordinary course of trade.

NMB/Pelmecc Thai states that the Department has consistently treated bonded warehouse sales as HM sales since *AFBs I*. Further, NMB/Pelmecc asserts that the Department has treated Route B sales as HM sales in the past three administrative reviews. It claims that such sales fit the statutory definition of sales made in the ordinary course of trade. NMB/Pelmecc also claims that Torrington has not offered any new evidence as to why the Department should treat Route B sales differently than it has in the past.

Department's Position: We agree with NMB/Pelmecc Thai. We have treated such sales as HM sales consistently in the past three reviews, and find the facts in this review to be the same. With respect to the sales in question, we find that the first sale to an unrelated party occurred in Thailand. Route B sales are sales made through NMB/Pelmecc Thai's related selling agent, Minebea Singapore Branch (MSB). We verified that MSB's sales, which represent the first sale to an unrelated party, are to customers in Thailand. Therefore, we conclude that