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International Trade Administration
Washington, D.C. 20230

A-570-601
DF Machinery Scope Inquiry
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MEMORANDUM TO: Christian Marsh
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for Antidumping and Countervailing Duty Operations

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RE: Tapered Roller Bearings and Parts Thereof, finished and
Unfinished, from the People's Republic of China- Final Scope
Determination on DF Machinery's Agricultural Hub Units

SUMMARY

On May 12, 2011, the Department of Commerce ("Department") received a request from DF Machinery International, Inc. ("DF Machinery"), a U.S. importer of tapered roller bearings ("TRBs"), on whether its agricultural hub units are subject to the antidumping duty order on TRBs from the People's Republic of China ("PRC").¹ No interested party commented on DF Machinery's request. In accordance with 19 CFR 351.225(d) and 351.225(k)(1), we recommend that the Department determine that the agricultural hub units imported by DF Machinery that are the subject of this inquiry,² are within the scope of the antidumping duty order on TRBs from the PRC.

¹ See *Antidumping Duty Order; Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the People's Republic of China*, 52 FR 22667 (June 15, 1987) ("Order").

² See "Application for Scope Ruling; Antidumping Duty Order A-570-601; Tapered Roller Bearings from the People's Republic of China; DF Machinery, Inc.," dated May 11, 2011 ("DF Machinery's Request").



BACKGROUND

On May 12, 2011, DF Machinery submitted a request seeking a determination on whether its agricultural hub units are outside the scope of the *Order*.³ Pursuant to the requirements of 19 CFR 351.225(c), DF Machinery provided, in lieu of a detailed description, a copy of an agricultural hub unit drawing, exclusive of the TRB cone assembly and stated that DF Machinery imports several models of agricultural hub units from the PRC inclusive of the TRB cone assembly. DF Machinery states that the agricultural hub units it imports are similar to the wheel hub assemblies examined by the Department in the scope proceeding involving wheel hub assemblies imported by Blackstone OTR LLC and OTR Wheel Engineering, Inc. (collectively, “Blackstone OTR”), where the Department found these wheel hub assemblies to be covered by the scope.⁴ However, citing to the Department’s *TRBs 2000-2001 Final Results*,⁵ DF Machinery argues that its agricultural hub units should be excluded from the *Order* because these products should be considered to be products of a company that has been excluded from the order, *i.e.*, Tianshui Hailin Import and Export Corp. (“Hailin I&E”)/Hailin Bearing Factory (“HB Factory”). *See TRBs 2000-2001 Final Results*.

No interested party filed comments regarding DF Machinery’s scope request. In response to DF Machinery’s May 12, 2011 scope inquiry, the Department extended the deadline for issuing our scope ruling until August 8, 2011.

SCOPE OF THE ORDER

The current scope description as published in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of the 2008-2009 Antidumping Duty Administrative Review*, 76 FR 3086 (January 19, 2011) is as follows:⁶

Imports covered by the order are shipments of tapered roller bearings and parts thereof, finished and unfinished, from the PRC; flange, take up cartridge, and hanger units incorporating tapered roller bearings, and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. These products are currently classifiable under Harmonized Tariff Schedule of the United States (“HTSUS”) item numbers 8482.20.00, 8482.91.00.50, 8482.99.15, 8482.99.45, 8483.20.40, 8483.20.80,

³ *Id.* at 1 and 2.

⁴ *See* “Tapered Roller Bearings from the People’s Republic of China- Final Scope Determination on Blackstone OTR’s Wheel Hub Assemblies,” dated February 7, 2011 (“Blackstone OTR Final Ruling”).

⁵ *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People’s Republic of China: Final Results of 2000-2001 Administrative Review, Partial Rescission of Review, and Determination to Revoke Order, in Part*, 67 FR 68990 (November 14, 2002) (“*TRBs 2000-2001 Final Results*”).

⁶ The Department notes that the scope in the 1987 *Order* reflects tariff classification item numbers from the “Tariff Schedules of the United States” (“TSUS”) (*e.g.*, 680.30, 680.39, *etc.*). In 1987, at the time the order was issued, the United States was in the process of adopting the current HTSUS product classification system. In 1991, after the adoption of the HTSUS, the scope language of the *Order* was revised to reflect HTSUS item numbers relevant to the TRB scope.

8483.30.80, 8483.90.20, 8483.90.30, 8483.90.80, 8708.99.80.15⁷ and 8708.99.80.80.8 Although the HTSUS item numbers are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

LEGAL FRAMEWORK

The regulations governing the Department's antidumping scope determinations can be found at 19 CFR 351.225. In considering whether a particular product is within the scope of an order, the Department will take into account the descriptions of the merchandise contained in the petition, the initial investigation, and the determinations of the Department (including prior scope determinations) and those of the U.S. ITC. *See* 19 CFR 351.225(d) and 19 CFR 351.225(k)(1). If the Department determines that these descriptions are dispositive of the matter, the Department will issue a final scope ruling as to whether the subject merchandise is covered by the order. *See* 19 CFR 351.225(d). If the Department finds that it cannot make a determination based on the application and the description of the merchandise referred to in paragraph (k)(1) of the Department's regulations, it will initiate a scope inquiry. *See* 19 CFR 351.225(e).

Where the descriptions of the merchandise are not dispositive, the Department will consider the additional factors set forth at 19 CFR 351.225(k)(2). These criteria are: i) the physical characteristics of the product; ii) the expectations of the ultimate purchasers; iii) the ultimate use of the product; iv) the channels of trade in which the product is sold; and v) the manner in which the product is advertised and displayed.⁹ The determination as to which analytical framework is most appropriate in any given scope inquiry is made on a case-by-case basis after consideration of all record evidence before the Department.

For this proceeding, the Department evaluated DF Machinery's request in accordance with 19 CFR 351.225(k)(1) and finds that the description of the merchandise contained in the scope of the order, the petition, the initial investigation, the determinations by the Secretary (including prior scope determinations) and the U.S. ITC are dispositive with respect to DF Machinery's agricultural hub units. Therefore, the Department finds it unnecessary to consider the additional factors in 19 CFR 351.225(k)(2).

PRODUCT DESCRIPTION

The products subject to this scope inquiry are agricultural hub units which are classified for tariff purposes under a "use" tariff provision for agricultural parts. *See* DF Machinery's Request at 4. At Exhibit 1 of DF Machinery's Request, it provided a copy of a drawing, with limited product specifications, of its agricultural hub unit. The drawing of the agricultural hub unit, which is not a finished hub unit drawing, indicates that DF Machinery's agricultural hub units may consist of

⁷ Effective January 1, 2007, the HTSUS subheading 8708.99.8015 is renumbered as 8708.99.8115. *See* United States International Trade Commission ("U.S. ITC") publication entitled, "Modifications to the Harmonized Tariff Schedule of the United States Under Section 1206 of the Omnibus Trade and Competitiveness Act of 1988," U.S. ITC Publication 3898 (December 2006) found at www.usitc.gov.

⁸ Effective January 1, 2007, the HTSUS subheading 8708.99.8080 is renumbered as 8708.99.8180; *see id.*

⁹ These factors are known commonly as the *Diversified Products* criteria. *See generally Diversified Products Corp. v. United States*, 572 F. Supp. 883 (CIT 1983) ("*Diversified Products*").

the following unassembled components: a cast circular wheel hub with a certain number of threaded studs on the one side; and TRB cone assemblies. The drawing also indicates that an inner and outer bearing cup (the outer ring of a TRB) is already press-fitted into the cast wheel hub. *See* DF Machinery's Request at Exhibit 1. The drawing is consistent with Blackstone OTR's product description in the Blackstone OTR Final Ruling. *See* Blackstone OTR Final Ruling at 2 and 3.

INTERESTED PARTY COMMENTS

DF Machinery states that its merchandise is not covered by the scope for the following reasons:¹⁰

- DF Machinery argues that the agricultural hub units that it purchased from a PRC exporter, are not subject to the *Order* because the PRC producer of these hub units purchased TRB parts (*i.e.*, TRB cone assemblies), which are part of the agricultural hub unit, from an unaffiliated third party (*i.e.*, Hailin I&E/HB Factory), a Chinese exporter/producer combination that has been excluded from the *Order*.
- DF Machinery further argues that the unaffiliated third party, *i.e.*, Hailin I&E/HB Factory, knew at the time of its sale of the TRB parts to the PRC agricultural hub unit producer that its TRB parts were destined for the United States and because of this knowledge, the agricultural hub units are products of the third party producer, *i.e.*, Hailin I&E/HB Factory. DF Machinery provided an affidavit from Hailin I&E/HB Factory attesting to this knowledge.
- DF Machinery also argues that it is the Department's practice in AD cases where a manufacturer knows, at the time of sale in the home market (or to a third country), that its products are ultimately destined for sale to the United States, such products are considered to be subject to the assessment rate of the manufacturer.

RECORD EVIDENCE

The Department finds that record evidence, which includes DF Machinery's Request, its accompanying exhibits, and the Blackstone OTR Final Ruling, demonstrates that the characteristics of the agricultural hub units imported by DF Machinery are identical to Blackstone OTR's wheel hub assemblies for the following reasons:

1. DF Machinery's agricultural hub units that are subject to this scope request incorporate two TRB cone assemblies into a cast wheel hub, which are identical to Blackstone OTR's wheel hub assemblies.¹¹
2. DF Machinery's wheel hub units consist of an inner and outer bearing cup (the outer ring of a TRB) which is already press-fitted into the cast wheel hub flanged, identical to Blackstone OTR's wheel hub assemblies.¹²

¹⁰ *See* DF Machinery's Request at 3-9.

¹¹ *See* DF Machinery's Request at Exhibit 1; *see also* Blackstone OTR Final Ruling at 2 and 3.

¹² *Id.*

ANALYSIS

With respect to DF Machinery's comments that its imported agricultural wheel hub units are similar to those found to be within the scope of the order on TRBs in the Blackstone OTR Final Ruling, we agree. In this inquiry, as discussed above, record evidence indicates that DF Machinery's agricultural hub units are identical to Blackstone OTR's wheel hub assemblies which were the subject of the Blackstone OTR Final Ruling. Under 19 CFR 351.225(k)(1), the Department first looks to see whether the scope of the *Order*, as interpreted with the aid of the descriptions of the merchandise in the petition, the investigation, prior scope rulings and the U.S. ITC report, is dispositive as to whether the merchandise is within the scope of the *Order*. Specifically, in the Blackstone OTR Final Ruling that covered merchandise identical to DF Machinery's imports, the Department found that Blackstone OTR's wheel hub assemblies met the physical description of tapered roller housings covered under the *Order*. The scope of the *Order* includes "tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use." Blackstone OTR's wheel hub assemblies are essentially tapered roller housings incorporating tapered rollers without spindles that are for non-automotive uses. More specifically, Blackstone OTR's wheel hub assemblies consist of a complete TRB housed within a flanged mounting unit (*i.e.*, wheel hub) which is fixed to a wheel or other apparatus. The eight bolts secure the flanged hub in place and facilitate the axial rotation. Additionally, we found that Blackstone OTR's wheel hub assemblies consist of the same four basic unassembled elements of a TRB described in the both the Petition¹³ and the ITC Report:¹⁴ a cup, a cone, a cage, and tapered rollers. *See* Blackstone OTR Final Ruling at 4. As such, Blackstone OTR's wheel hub assemblies meet the physical description of the merchandise covered by the *Order*. Because DF Machinery's agricultural hub units are identical to those of Blackstone OTR, and because we determined in a prior scope ruling that these wheel hub assemblies are within the scope of the *Order*, we find that our analysis under 19 CFR 351.225(k)(1) with respect to this scope inquiry is dispositive. Therefore, we find that DF Machinery's agricultural hub units are covered by the scope of the *Order*.

With respect to DF Machinery's argument that its agricultural hub units should be excluded from the *Order* because DF Machinery believes the agricultural hub units are products of a company that has been excluded from the *Order*, *i.e.*, Hailin I&E/HB Factory, we note that the revocation applies exclusively to TRBs exported to the United States by Hailin I&E and produced by HB Factory. The information contained in DF Machinery's request indicates that the agricultural hub units were produced and exported from the PRC to the United States by companies other than the revoked exporter/producer combination of Hailin I&E/HB Factory.¹⁵ In addition, we note that in practice, the knowledge test applies only to exporters that have dealings with entities outside of the non-market economy ("NME") country. In an NME situation, the Department disregards transactions between producers and exporters that are both in-country, since we do not

¹³ *See* Petition under Title VII of the Tariff Act of 1930 with respect to tapered roller bearings, tapered rollers and other parts: request for antidumping investigation on imports from Japan, Yugoslavia, Romania, Hungary, Italy, and the People's Republic of China, dated August 25, 1986 ("Petition").

¹⁴ "Tapered Roller Bearings and Parts Thereof, and Certain Housings Incorporating Tapered Rollers from Hungary, the People's Republic of China, and Romania" U.S. ITC Publication 1983, Inv. Nos. 731-TA-341, 344, and 345 (final) (June 1987) ("ITC Report").

¹⁵ *See* DF Machinery's Request at 5 and Exhibit 2.

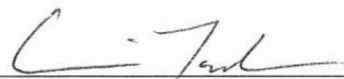
utilize prices based on internal transactions between two companies located in the NME country.¹⁶ In any event, we do not consider the application of the partial revocation or the knowledge test to be matters properly addressed in a scope inquiry.

RECOMMENDATION

Pursuant to 19 CFR 351.225(k)(1), we recommend finding that DF Machinery's agricultural hub units are within the scope of the *Order* because DF Machinery's wheel hub units meet the description of wheel hub units and tapered roller housings included in the scope of the Petition, the ITC Report, and the *Order*. Moreover, this is consistent with a prior Department scope ruling (*i.e.*, Blackstone OTR Final Ruling), addressing products identical in nature to DF Machinery's agricultural hub units.

With respect to DF Machinery's request to be excluded from the *Order* based on a third party's revocation from the *Order*, we do not consider the application of the partial revocation or the knowledge test to be matters properly addressed in the context of a scope inquiry.

Agree Disagree



Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

8/2/11

Date

¹⁶ See *Final Determination of Sales at Less Than Fair Value: Tetrahydrofurfuryl Alcohol From the People's Republic of China*, 69 FR 34130 (June 18, 2004) and accompanying Issues and Decision Memorandum at Comment 2.