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MEMORANDUM TO: James J. Jochum
Assistant Secretary
Import Administration

FROM: Jeffrey May
Deputy Assistant Secretary
Import Administration, Group I

SUBJECT: Issues and Decision Memorandum for the 2002-2003 Administrative Review of Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China; Final Results

Summary

We analyzed the case brief and rebuttal brief submitted by interested parties in the 2002-2003 administrative review of the antidumping duty order covering tapered roller bearings and parts thereof, finished and unfinished ("TRBs" or "subject merchandise"), from the People's Republic of China ("PRC"). As a result of our analysis, we have made changes to the margin calculation. We recommend that you approve the positions we developed in the "Discussion of Issues" section of this memorandum. Below is a complete list of the issues in this administrative review for which we received comments and rebuttal comments from parties:

Comment 1: Source of Data Used to Benchmark the Cup and Cone Surrogate Data
Comment 2: Use of Japanese Exports to Value the Roller Steel Input
Comment 3: Use of an Indian Inflator to Adjust the Indian Price of Electricity
Comment 4: U.S. Customs Duties and U.S. Inland Freight Possibly Incurred by Shanghai United Bearing Co., Ltd.
Comment 5: Shanghai United Bearing Co., Ltd.'s U.S. Sales

Background

On March 5, 2004, the Department of Commerce ("the Department") published the preliminary results

and partial rescission of this administrative review of TRBs from the PRC. See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Preliminary Results of 2002-2003 Administrative Review and Partial Rescission of Review, 69 FR 10424 (March 5, 2004) ("Preliminary Results"). The period of review ("POR") is June 1, 2002, through May 31, 2003. We invited parties to comment on the Preliminary Results. We received comments from Shanghai United Bearing Co., Ltd. ("SUB" or "the respondent") and the Timken Company ("the petitioner").

Discussion of Issues

Comment 1: Source of Data Used to Benchmark the Cup and Cone Surrogate Data

Petitioner's Argument: The petitioner disagrees with the Department's decision in the Preliminary Results to reject Indian import statistics for valuing the steel used in cup and cone production because the Department found these values aberrational when compared to a benchmark derived from U.S. import statistics. Instead, the petitioner argues that, to test the reliability of the Indian import statistics, the Department should use public data from two bearing producing companies located in the primary surrogate country of India. According to the petitioner, the Department should use data from the primary surrogate country (i.e., India) as a benchmark because that data is most comparable to the PRC. Furthermore, the petitioner argues that relying on benchmark data from the same country as the primary surrogate country, even if that benchmark data would not itself be used as surrogate information due to other policy considerations, would conform to the Department's policy of valuing factors of production (except labor), where possible, in a single surrogate country. Therefore, if Indian import values are an approximation of the cost of steel in India, then Indian domestic prices would be a better benchmark than import values in the United States, which is a country economically dissimilar to the People's Republic of China.

Using data from the two Indian bearing producers' (SKF India and ABC) annual reports, the petitioner calculated a weighted average cost for steel of $997.58/MT, which the petitioner claims reasonably corroborates the Indian import value calculated by the Department ($1,061.22/MT). Therefore, the petitioner urges the Department to use the weighted-average SKF India and ABC value, rather than the U.S. import value, as an appropriate benchmark to test the reliability of Indian trade statistics. Petitioner then asserts that the Department will find the Indian import statistics reliable and should use them to value the steel used to produce rollers for the final results.

Respondent's Argument: SUB states that the Department properly used a U.S. benchmark to determine that the Indian import values of steel were aberrational. SUB argues that the Department consistently has employed this methodology in previous antidumping duty administrative reviews of TRBs from the PRC and that the U.S. Court of International Trade has upheld this practice. See, e.g., Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of 2001-2002 Administrative Review and Partial Rescission of Review, 68 FR

70488 (December 18, 2003) ("TRBs XV"), Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of 1996-1997 Administrative Review and Partial Rescission of Review and New Shipper Review and Determination Not to Revoke Order in Part, 63 FR 63842, 63844 (November 17, 1998) ("TRBs X"), The Timken Company v. United States, 59 F. Supp. 2d 1371, 1376 (CIT 1999), and Peer Bearing Company v. United States, 12 F. Supp. 2d 445 (CIT 1998). In these past reviews, the Department consistently has stated that the U.S. import data under subheading 7228.30.2000 is the most specific to the type of steel that Chinese respondents would use in the production of cups and cones and is the most precise source of market prices for this type of steel.

According to the respondent, the Department previously rejected the petitioner's benchmarking methodology in TRBs X, where the Department found that the financial report data of Indian bearing producers does not indicate the type or grade of the steel used by these companies. SUB also states that the petitioner itself previously argued that grade is vitally important when analyzing the reliability of a surrogate or a benchmark. See TRBs X, 63 FR 63844. Further, the respondent argues that, as in TRBs X "there is no definitive evidence on the record indicating that the Indian import statistics do not also include case-hardened and through-hardened steel." See SUB's rebuttal brief at 4, citing to TRBs X at 63 FR 63844.

In conclusion, the respondent argues that it is the Department's mandate to use the most precise data available to value a non-market economy company's reported factors of production, and accordingly, the Department should use the most precise data available as benchmarks. The petitioner's "efforts to surmise" the type of steel reported in the annual reports of only two Indian producers does not attain the level of precision found in U.S. import data where the Department precisely knows the type of steel it is using for comparison. See SUB's rebuttal brief at 4. Therefore, the respondent states that for the final results, the Department should continue to use the U.S. benchmark, as it has consistently in numerous TRB administrative reviews.

Department's Position: We agree with the respondent. In TRBs X, the petitioner argued that the Department should rely on an Indian bearing producer's transfer prices, the Timken Company's own steel prices, and U.S. imports from Sweden for calculating an appropriate benchmark. This argument was rejected by the Department in TRBs X. See TRBs X at 63 FR 63844.

As noted in TRBs X, the Department consistently has found data for Indian import category 7228.30 (hot-rolled bars and rods of alloy steel) to be unreliable. In TRBs X and in subsequent TRB reviews, we have stated that we are unable to isolate bearing quality steel because none of the eight-digit tariff categories within the Indian harmonized schedule ("HS") basket category 7228.30 specifically included bearing quality steel bar. Therefore, as explained in TRBs X, and subsequent TRB reviews, we have used U.S. data as a benchmark to test the reliability of the surrogate values for this input because the U.S. harmonized tariff schedule ("HTS") category is the only tariff category that explicitly contains only bearing quality steel, the type of steel used to manufacture TRBs cups and cones. By using values from

this U.S. HTS category, we are able to test whether the broader surrogate country HS categories likely reflect imports of bearing quality steel or whether they likely reflect imports of other types of steel. Moreover, the use of the U.S. data for this purpose has been upheld by the Court of International Trade. See, e.g., Timken Company v. United States, 59 F. Supp. 2d 1371, 1376 (CIT 1999) and Timken.

The Department further noted in TRBs X that the U.S. import data under HTS category 7228.30.2000 is the most specific to the type of steel used by the Chinese respondents and is the most precise source of market prices on the record for this product. This same level of precision is not attained from the Indian bearing producers' annual reports. As noted in TRBs X and in the petitioner's case brief on this record, the Indian annual reports do not distinguish between the costs for steel used to manufacture cups and cones, rollers, or cages. Without more specific cost data as pertains to the type of steel, we find the Indian domestic producer data to be less precise, and therefore less reliable, than the U.S. import statistics.

Accordingly, for these final results we continue to use U.S. import statistics to calculate the benchmarks for evaluating surrogate values for steel for cups and cones. Relying on these benchmarks we have continued to value cups and cones using the same surrogate value as in the Preliminary Results.

Comment 2: Rollers Surrogate Value: Japanese Exports to India Versus to Indonesia

Petitioner's Argument: The petitioner argues that rather than using Indonesian import statistics to value the bearing-quality steel used to manufacture rollers as it did in the Preliminary Results, for the final results the Department should follow its practice for valuing the cup and cone steel input and value the roller steel using Japanese exports to Indonesia trade data. While the Japanese export and Indonesian import HS numbers (HS# 7228.50) both cover "Other bars and rods, not further worked than cold-formed," the petitioner argues that the Japanese data is more appropriate because it further isolates several narrower subcategories within 7228.50, whereas the Indonesian (and Indian) data do not. Therefore, it is possible to exclude from the Japanese trade data, certain types (subcategories) of HS #7228.50 steel (e.g., tool steel, steel for structural purposes, free-cutting, and spring steel) that would not be used to manufacture bearings while these types of steel would be included in the broader Indonesian (and Indian) HS category, which is not broken out into subcategories. Specifically, the petitioner argues that because of these subcategories, the Japanese HS #7228.50.900 only includes 10% of all exports within the HS #7228.50 category, and thus is a more narrowly defined HS category than the Indonesian HS "other" category used in the Preliminary Results. Moreover, the petitioner contends that the inclusion of large quantities of cheaper steel contained in the Indonesian category 7228.50.000, which would not be used in bearing manufacturing, such as steel for structural purposes and spring steel,"would skew the average {Indonesian} price downward." See Petitioner's case brief at 8.

In conclusion, the petitioner argues that the Department can use Japanese exports of 7228.50.900 steel

to Indonesia ($1,525.10/MT) to value steel used to manufacture rollers because it is within a reasonable range of the U.S. benchmark ($1,115.97/MT). Accordingly, the petitioner urges the Department to use Japanese exports to Indonesia to value the roller steel input in the final results.

Respondent's Argument: The respondent contends that the petitioner's argument is flawed for several reasons.

According to the respondent, in 2002, Indonesian imports from Japan accounted for only 4.4% of Indonesian imports from all countries under HS category 7228.50.000, and accounted for 7.9% if the Indonesian imports are limited to only countries that produce bearing-quality steel. These small percentages, the respondent argues, do "not more precisely reflect the market price in Indonesia than as reported by the total Indonesian import statistics for this HTS steel." See SUB's rebuttal brief at 5. Furthermore, the respondent finds the Japanese export data to be inherently flawed, as the data is not within a reasonable range of the U.S. benchmark, as argued by the petitioner. In fact, SUB notes that the Japanese data is nearly 140 percent of the U.S. benchmark.

Therefore, the respondent states that, for these final results, the Department should continue to use Indonesian import statistics to value the bearing quality steel used to manufacture rollers.

Department's Position: We agree with the petitioner. It is the Department's practice, when analyzing the surrogate data available for valuing cups and cones, to first consider Indian import data and then, if the Indian data is found unreliable, to examine Japanese exports to India data. We do this for cups and cones because we find that the Japanese tariff schedule has the narrowest tariff category that could contain bearing quality steel used to manufacture cups and cones, whereas the available Indian and Indonesian trade data are basket categories that encompass a broad range of hot-rolled bars and rods of alloy steel, in addition to the bearing-quality steel bars and rods used in TRB cup and cone production. As such, the Japanese export data is effectively a refinement of Indian import data.

In our analysis of possible surrogate values to use to value roller steel in the Preliminary Results, we did not consider Japanese export data because we did not consider the Japanese tariff category covering the type of steel used to produce rollers to be more narrowly defined than the Indian or Indonesian tariff categories. For each country, the tariff categories that the Department considered were "other" categories of HS #7228.50. As "other" tariff categories, we considered each country's (i.e., India's, Indonesia's, and Japan's) data to be equal in precision. In other words, there was no reason for the Department to consider Japanese export data, as a refinement of the primary (or secondary) surrogate country's import data, to offer any different, or better, data than the Indian or Indonesian statistics. Therefore, in the Preliminary Results, in accordance with our past practice when valuing rollers, we first analyzed data from our primary surrogate country, India. See, e.g., TRBs XV or TRBs XIV. When this data proved unreliable in comparison to our U.S. benchmark value, we next examined data from

our second surrogate country, Indonesia.[1] In this examination, we found the Indonesian import data to be reliable in comparison to the U.S. benchmark. Therefore, we used the Indonesian data to value the steel input used to manufacture rollers in the Department's preliminary margin calculation.

For these final results, we have re-analyzed the available surrogate data. In this analysis, we find that the Japanese tariff schedule does provide a breakdown of the broad six-digit HS category 7228.50 into several narrowly defined sub-categories. Although the Japanese HS category 7228.50.900 (Other Bars and Rods, Not Further Worked Than Coldformed or Coldfinished: Other) - the HS category the petitioner argues we use to value roller steel - does not specifically isolate bearing quality steel as does the U.S. benchmark (HTS #7228.50.1010), we find that only this Japanese category out of the five Japanese subcategories within HS #7228.50 would include the type of bearing quality steel bar used to manufacture the TRB roller. As for the Indonesian import data relied on in the Preliminary Results, we find the Indonesian HS number (7228.50000) to be a basket category that encompasses a broad range of hot-rolled bars and rods of alloy steel, in addition to the bearing quality steel bars and rods used in TRB roller production. Therefore, we find the Indonesian import data relied on in the Preliminary Results, as a basket HS category, to be less reliable in comparison to the more narrowly defined Japanese export data (HS #7228.50.900). See Final Results of Redetermination Pursuant to the CIT's Remand Order from the United States Court of International Trade ("CIT") in Luoyang Bearing Factory v. United States, Slip Op. 03-41 (CIT 2003), dated July 14, 2003, at pages 14-15.

Based on this determination, for these final results, we considered Japanese exports in our analysis as a possible source for valuing the roller steel input. We first examined Japanese exports to India data from the Japanese HS category 7228.50.900.[2] At $2,603/MT, we found the Japanese exports to India data to be an unreliable indicator of the value of bearing quality steel used in the production of rollers because it is significantly higher than the U.S. benchmark of $1,115.97/MT. Because we found the Japanese exports to India statistics to be unreliable, we next examined data on Japanese exports to Indonesia also from the Japanese HS category 7228.50.900 and calculated a per metric ton value of $1,557.77. In comparing the Japanese exports to Indonesia data to the U.S. benchmark of $1,115.97/MT, we find that the average Japanese exports to Indonesia value, $1,557.77/MT, provides a reasonable measure for this input.

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[1] See the October 16, 2003, Memorandum to File: "Requests for Surrogate Values," which includes the September 2, 2003, Memorandum to John Brinkmann from Ron Lorentzen: "Antidumping Administrative Review on Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Request for a List of Surrogate Countries" and the March 1, 2004, Memorandum to Susan Kuhbach: "Selection of a Surrogate Country and Steel and Scrap Value Sources" for a further discussion of our surrogate selection (both memoranda are on file in the Department's Central Records Unit, which is located in Room B-099 of the main Department building).

[2] In the Preliminary Results, we rejected the Indian import value because it was significantly higher than the U.S. import benchmark value.

Because the Japanese tariff category is the narrowest category which could contain bearing quality steel, and because it is consistent with values contained in our U.S. benchmark category, we believe that this data is reliable for valuing steel used in the production of rollers. Therefore, for these final results, we relied on Japanese exports to Indonesia trade data to calculate the surrogate price used to value the steel input used in the manufacture of rollers. For additional information, see Memorandum to Susan Kuhbach, "Factors of Production Values Used for the Final Results," dated July 6, 2004.

Comment 3: Use of an Indian Inflator to Adjust the Indian Price of Electricity

Petitioner's Argument: The petitioner disagrees with the Department's decision to inflate the Indian electricity price using a U.S. inflation factor. Although the Indian electricity price was reported in U.S. dollars, the petitioner argues that the Indian electricity data was based on Indian domestic prices (incurred in Indian Rupees), which are affected by domestic conditions of the reporting country. Therefore, the petitioner argues that the inflation adjustment should be country specific.

In this regard, the petitioner suggests that the Department use the Reserve Bank of India ("RBI") Bulletin electricity index prices to inflate the Indian electricity surrogate value. Furthermore, the petitioner notes that in the previous reviews of TRBs from the Peoples Republic of China (see, e.g., Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Preliminary Results of 2000-2001 Administrative Review, Partial Rescission of Review, and Notice of Intent to Revoke the Order in Part, 67 FR 45451, 45454 (July 9, 2002)) the Department has relied on RBI data to inflate Indian electricity price data. According to the petitioner, the appropriate inflation adjustment is 25.90 percent. The petitioner states that for the final results, the Department should conform to its prior practice and use the electricity-specific price indices published in the RBI Bulletin to adjust the Indian electricity price for inflation.

Respondent's Argument: The respondent argues that it would be like mixing apples and oranges if the Department used an inflationary factor calculated using prices reported in Rupees to inflate a U.S. dollar denominated value. Although the respondent agrees with the petitioner that the Department previously has used the RBI price index to calculate an inflation factor, SUB notes that the Department applied this Indian inflator to Indian electricity prices reported in Rupees by an Indian research group.

Department's Position: We do not agree with the petitioner. It is the Department's normal practice to use an inflationary factor calculated in the same currency in which the surrogate price is reported. See, e.g., Memorandum from Richard Moreland to Faryar Shirzad, "Valuation of factors of production for the preliminary determination," dated February 23, 2001, at page 5, which is part of the

Ammonium Nitrate[3] case file in Import Administration's Central Records Unit ("CRU"), Room B-099 of the main Department of Commerce building; Notice of Preliminary Determination of Sales at Less Than Fair Value: Silicomanganese From Kazakhstan, 66 FR 56639, 56643 (November 9, 2001); and Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China, 62 FR 61964, 61987 (November 20, 1997). As the petitioner pointed out, in previous administrative reviews of TRBs the Department has relied on the Reserve Bank of India ("RBI") price index to inflate Indian electricity prices. However, we only used the RBI, consistent with Department practice, to inflate Indian electricity prices reported in Indian Rupees, not to inflate Indian electricity prices reported in U.S. dollars. We agree with the respondent, to use an Indian price index to inflate prices reported in U.S. dollars would be mixing apples and oranges.

Therefore, we are not making any changes to the surrogate value for electricity from the Preliminary Results for these final results.

Comment 4: U.S. Customs Duties and U.S. Inland Freight Possibly Incurred by Shanghai United Bearing Co., Ltd.

Petitioner's Argument: The petitioner argues that SUB's sales information is contradictory and confusing. As the remainder of the argument is treated as business proprietary information, it cannot be adequately summarized here. See the Memorandum from Case Analyst to File, "Final Results Calculation Memorandum for Shanghai United Bearing Co., Ltd." ("SUB's Calc Memo"), dated July 6, 2004, at Section III.2, which is on file in the Department's CRU, for further discussion.

Respondent's Argument: SUB argues that it appropriately responded to the Department's questions. SUB contends that the transaction documentation, which are the actual documents, accurately reflect the final agreements between the parties. As the remainder of the respondent's argument is treated as business proprietary information, it cannot be adequately summarized here. See SUB's Calc Memo at Section III.2 for further discussion.

Department's Position: We disagree with the petitioner and have not included any additional costs for U.S. inland freight in the Department's calculation of SUB's final margin. Due to the proprietary nature of the Department's response, it could not be adequately summarized here. For the Department's position, see SUB's Calc Memo at Section III.2.

Comment 5: Shanghai United Bearing Co., Ltd.'s U.S. Sales

[3]Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Solid Agricultural Grade Ammonium Nitrate from Ukraine, 66 FR 13286 (March 5, 2001) ("Ammonium Nitrate")

The entire comment and the Department's position are business proprietary information. Therefore, this claim is addressed separately in SUB's Calc Memo at Section III.3.

Recommendation

Based on our analysis of the comments received, we recommend adopting all of the above positions and adjusting all related margin calculations accordingly. If these recommendations are accepted, we will publish the final results of review and the final weighted-average dumping margins for all reviewed firms in the Federal Register.

AGREE _____ DISAGREE _____

_____

James J. Jochum
Assistant Secretary
for Import Administration

_____

Date