

REMAND DETERMINATION

NSK Ltd. v. United States
Consol. Court No. 98-07-02527, Slip Op. 05-26

Summary

This remand determination, submitted in accordance with the order of the U.S. Court of International Trade (the CIT) of February 18, 2005 (Slip Op. 05-26), involves challenges to the determinations of the U.S. Department of Commerce (the Department) in the administrative reviews of the antidumping duty orders on antifriction bearings and parts thereof from Japan (Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews, 63 FR 33320 (June 18, 1998) (AFBs 8)), concerning the period of review from May 1, 1996, through April 30, 1997, for ball bearings and cylindrical roller bearings. In accordance with the CIT's order, we have reconsidered our treatment of NSK Ltd.'s (NSK's) U.S. repacking expenses and have recalculated NSK's antidumping margins accordingly. The changes to our calculations with respect to NSK resulted in a change in the weighted-average margin for ball bearings from 2.35 percent to 2.34 percent and a change in the weighted-average margin for cylindrical roller bearings from 2.21 percent to 2.19 percent.

On April 19, 2005, we released our draft results of redetermination to interested parties. We received no comments on our draft results of redetermination.

Discussion

On December 2, 2004, the Court of Appeals for the Federal Circuit (the CAFC) determined that the Department had not adequately explained what the CAFC termed the inconsistencies in its treatment of certain expenses in AFBs 8. See NSK Ltd. v. United States, 390 F.3d 1352 (CAFC 2005).

The CIT remanded this case to the Department to revisit its classification of U.S. repacking expenses as selling expenses and provide an explanation for the inconsistent treatment of U.S. repacking, warehousing, and shipping expenses. We have revisited the record for these reviews and determine that NSK's U.S. repacking expenses should be classified as movement expenses. Although NSK reported to the Department that its repacking was done for some of its customers, there is no

evidence on the record of these reviews showing that NSK's U.S. customers had a repacking requirement. Therefore, we have treated NSK's U.S. repacking expenses as movement expenses and recalculated NSK's antidumping duty margins accordingly. See section 772(c)(2)(A) of the Tariff Act of 1930, as amended (the Act).

Because we have now treated NSK's U.S. repacking expenses as movement expenses, there is no inconsistency between our treatment of NSK's U.S. repacking, warehousing, and shipment expenses for these reviews. There may be instances, however, in which, based on record evidence, U.S. repacking expenses would be classified more appropriately as selling expenses (one such example would be a situation in which the U.S. customer required a particular type of packaging as a precondition for purchase). See section 772(d)(1)(B) of the Act. As explained above, however, the record does not support such a finding in these reviews with respect to NSK.

We received no comments on this issue.

Results of Redetermination

In accordance with the remand order, we have recalculated the antidumping duty margins for NSK. The recalculated weighted-average percentage margins for NSK for the period May 1, 1996, through April 30, 1997, for ball bearings and cylindrical roller bearings are listed as follows:

	Ball Bearings	Cylindrical Roller Bearings
Original	2.35 percent	2.21 percent
Revised	2.34 percent	2.19 percent

These results of redetermination are pursuant to the remand order of the CIT in NSK Ltd. v. United States, Court No. 98-07-02527, Slip Op. 05-26 (February 18, 2005).

Joseph A. Spetrini
Acting Assistant Secretary
for Import Administration

Date