

THE TORRINGTON COMPANY V. UNITED STATES,
Consol. Court No. 99-08-00462, Slip Op. 01-135 (November 26, 2001)

FINAL RESULTS OF REDETERMINATION PURSUANT TO COURT REMAND

SUMMARY

The Department of Commerce has prepared these final results of redetermination pursuant to the remand order from the U.S. Court of International Trade in The Torrington Company v. United States, Consol. Court No. 99-08-00462, Slip Op. 01-135 (November 26, 2001). In accordance with the U.S. Court of International Trade's instructions, we have reconsidered our denial of NTN Corporation's home-market packing expenses and we have made a change to our calculations with respect to NTN Corporation that results in the following weighted-average margins for the period May 1, 1997, through April 30, 1998: 4.25 percent for ball bearings, 3.63 for cylindrical roller bearings, and 1.44 for spherical plain bearings.

BACKGROUND

On November 26, 2001, the U.S. Court of International Trade (CIT) issued an order in The Torrington Company v. United States, Consol. Court No. 99-08-00462, Slip Op. 01-135 (November 26, 2001) (Torrington II), remanding to the Department of Commerce (the Department) the Department's final results of redetermination for The Torrington Company v. United States, Consol. Court No. 99-08-00462, Slip Op. 01-56 (May 11, 2001) (Torrington I). In Torrington I, the Court remanded the final results in Final Results of Antidumping Duty Administrative Reviews: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy,

Japan, Romania, Sweden and the United Kingdom, 64 FR 35590 (July 1, 1999) (AFBs 9), with respect to two issues. In Torrington II, the Court remanded the final results to the Department to clarify its final decision concerning its denial of home-market packing expenses reported by NTN Corporation (NTN) in AFBs 9. On February 6, 2002, the Department released its draft results of redetermination to interested parties for comment. On February 11, 2002, the Torrington Company and NTN submitted comments on the Department's draft results of redetermination. Both Torrington I and Torrington II affect NTN with respect to the administrative reviews of the antidumping duty orders on ball bearings (BBs), cylindrical roller bearings (CRBs), and spherical plain bearings (SPBs) from Japan for the period May 1, 1997, through April 30, 1998.

DISCUSSION

Packing Expenses

In our final results of redetermination pursuant to the Court's remand order in Torrington I, we explained that we had denied NTN's claim for home-market packing expenses because we found that the firm's allocation methodology was distortive. In Torrington II, the Court found the Department's explanation insufficient, saying the Department was silent on the following issues: 1) why the Department could not reallocate the expenses; 2) how distortive was the data supplied by NTN; 3) whether the revisions to NTN's methodology requested by the Department were given to NTN in a timely manner; and 4) whether the adjustment to NTN's methodology required by the Department was reasonable and feasible to NTN. Torrington II, Slip. Op. 01-135 at 5.

We have reconsidered our treatment of NTN's home-market packing expenses. We find that we can reallocate the expenses in such a manner as to make it sufficiently non-distortive such that we

may appropriately deduct the expenses from home-market price in the course of calculating normal value. This methodology is consistent with the methodology we used in a subsequent administrative review of the orders on antifriction bearings (see 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 and Revocation of Orders in Part, 65 FR 49,219 (August 11, 2000)).

To implement this methodology, we reallocated NTN's reported packing expenses so that sales to [* * *] and [* * *] would have [* * *] expense than [* * *] sales. We did this by assigning each home-market transaction an "allocation value." For [* * *] sales, this value is simply one. For distributor and aftermarket sales, this value is the quantity of the transaction. We then summed the total "allocation value" and the total packing expenses from the sales database on a class-or-kind basis and calculated a packing-expense factor. We calculated this factor by dividing the total packing expenses by the total "allocation value." We then calculated the packing expenses applicable to each transaction by multiplying the "allocation value" of the transaction by the factor. Thus, the effect of this allocation is to treat the quantity of [* * *] transactions as one to take into account the fact that such sales are [* * *], while using the quantity of [* * *] sales as reported because such sales are [* * *]. Finally, we calculated the per-unit packing expense by dividing the packing expense applicable to the transaction by the reported quantity of the transaction.

The Court ordered the Department to explain how the data that NTN provided was distortive. We find NTN's methodology for allocating home-market packing expenses to be highly distortive

because, although NTN's [* * *] were [* * *] and its [* * *] were [* * *], NTN's allocation methodology resulted in packing expenses that were [* * *] between the different types of customer.

The Court ordered an explanation as to whether we made our request to make the revisions to its methodology in a timely manner such that NTN could comply with the request. We believe we made this request in a timely manner. We requested NTN to revise its methodology for allocating packing expenses in our supplemental questionnaire to NTN dated September 24, 1998, at page 9, and gave NTN a total of 24 days (including an extension of the original deadline) to respond to this request and other questions. This period is at least the same as the amount of time we gave other respondents in the review to provide supplemental information. We published our preliminary results of review on February 23, 1999 (see Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Rescission of Administrative Reviews, 64 FR 8790 (February 23, 1999)). Thus, our request for this information was still early in our proceeding (nearly five months before completing our preliminary results of review). For all these reasons, we find that we made our request to NTN in a timely manner.

Finally, the Court ordered an explanation as to whether the adjustment to NTN's methodology we required was reasonable and feasible to NTN. The adjustment we requested NTN to perform was reasonable and feasible, because, in our experience, a typical methodology for reporting packing material expenses is to identify how each sale is packed. Once this is done, a respondent can identify the materials which it used and the quantities used of each packing type. Finally, using the costs of the materials used in packing the merchandise, the respondent can calculate precisely the packing material

expenses incurred. NTN never explained why it could not have adopted this (or another) methodology that would reasonably capture the actual costs of packing materials. With regard to packing labor, we cannot determine whether NTN could have calculated the differences in packing labor with any precision, but virtually any allocation methodology which accounted for the differences in packing would have been superior to the one NTN used because NTN's methodology did not account for these differences at all.

Comment 1: Torrington argues that the Department should not have reallocated NTN's home-market packing expenses. Torrington contends that the remand order did not require the Department to reallocate these expenses. Rather, it asserts, the Court instructed the Department merely to explain in more detail why it denied the expenses.

Torrington agrees with the Department's analysis that NTN's allocation is distortive for the reasons cited by the Department. Torrington also agrees that the Department timely requested NTN to revise its allocation. However, Torrington argues that the Department should explain that the record, in spite of the Department's request of NTN for additional information and explanation during the course of the review, does not contain any data which would permit the Department to substitute its own reallocation. Therefore, according to Torrington, a substantial deficiency remains.

Torrington requests that the Department abandon its proposed allocation. According to Torrington, the Department's allocation results in arbitrary and random results. Torrington provides several example calculations demonstrating the effect of the Department's allocation. Based on these examples, Torrington claims that the actual effect of the Department's allocation is extremely radical and arbitrary because [* * *]. Torrington observes that the results of the Department's allocation

varies depending on the quantity of sales to [* * *] customers and contends that the appropriate ratio of packing expenses among sales to different kinds of customers cannot be derived from the quantity of sales.

Department's Position: While it is true that the remand order did not instruct us to reallocate NTN's packing expenses, the Court explicitly asked us to explain why we could not reallocate these expenses. We inferred that it was the Court's intent that, if we could reasonably reallocate these expenses, we should do so. Therefore, because we could reasonably reallocate NTN's home-market packing expenses, we did so. Moreover, it is proper to reallocate NTN's home-market packing expenses instead of simply denying the adjustment because we know that NTN actually incurred such expenses. Thus, denial of NTN's reported expenses should only be contemplated when no reasonable adjustment to the distortive reported expenses can be made.

Contrary to Torrington's claim, the fact that [* * *] in our reallocation does not demonstrate that our methodology is distortive. Indeed, given that [* * *] and [* * *], one would expect that the actual expenses, if they could be quantified precisely, would be [* * *] and that this difference in expense is largely a function of [* * *]. While we recognize that our allocation methodology is not wholly precise, it does reasonably weight the differences in packing incurred among the different types of customers.

Moreover, the allocation methodology we used for the draft results of redetermination could lead to potentially distortive results. For example, this allocation methodology could yield identical packing costs for two bearings of vastly different sizes. In order to mitigate such a result, for these final results of redetermination, we used a methodology identical to the one we used in the 1998-99 and

1999-2000 administrative reviews of the orders. The methodology we used for these aforementioned reviews is identical to the one we used for the draft results of redetermination except that we calculated an “allocation value” which for [* * *] and for [* * *]. Although we recognize that [* * *] is an imperfect measure by which to capture differences in the [* * *] of bearings, it is the most reasonable method we have available in the record of this segment of the proceeding. Furthermore, this methodology is appropriate because it most reasonably captures the differences between the packing expenses incurred among sales to different kinds of customers.

Comment 2: NTN argues that the Department referred to the wrong period of review in the letter to NTN requesting comments on its draft results of redetermination.

Department’s Position: We agree with NTN. This was an inadvertent error on our part. This error has no effect on the margin calculation.

FINAL RESULTS OF REDETERMINATION

In accordance with the remand order, we have recalculated the antidumping duty margins for NTN as directed by the CIT.

The recalculated weighted-average percentage dumping margins for the period May 1, 1997, through April 30, 1998, for BBs, CRBs, and SPBs are as follows:

<u>Company</u>	<u>BBs</u>	<u>CRBs</u>	<u>SPBs</u>
NTN Corporation			
Published Final Results	6.13	3.48	12.49
Final Results of Redetermination	4.25	3.63	1.44

These final results of redetermination are pursuant to the remand order of the CIT in The Torrington Company v. United States, Consol. Court No. 99-08-00462, Slip Op. 01-135 (November 26, 2001).

Faryar Shirzad
Assistant Secretary
for Import Administration

Date