

PUBLIC DOCUMENT

TIMKEN COMPANY v. THE UNITED STATES

Court No. 98-12-03235
Slip Op. 02-38 (April 22, 2002)

**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 Court of International Trade in Timken Company v. United States (Slip Op. 02-38, April 22, 2002). In accordance with the Court of International Trade's instructions, we are 1) providing the Court of International Trade with an explanation as to why Japanese exports to India were not selected as the best available information in valuing hot-rolled steel bar used to produce tapered roller bearing cups and cones; and 2) explaining why American Metal Market prices are not an appropriate surrogate value for valuing scrap for tapered roller bearing cups, cones, and rollers. Because we believe that these explanations address the Court of International Trade's concerns, we have not changed our valuation of these factors and, accordingly, have not recalculated the final dumping margins for the companies involved in the aforementioned review.

BACKGROUND

On April 22, 2002, the Court of International Trade ("CIT") issued an order in Timken Company v. United States (Slip Op. 02-38, April 22, 2002) ("Timken") remanding to the Department of Commerce ("the Department") Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results of 1996-1997

Antidumping Duty Administrative Review and New Shipper Review and Determination Not to Revoke Order in Part, 63 FR 63842 (November 17, 1998), as amended in Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Amended Final Results of 1996-1997 Antidumping Duty Administrative Review, 63 FR 71447 (December 28, 1998) (collectively, "TRBs X"). This review covered the period June 1, 1996, through May 31, 1997. The Timken Company, the petitioner in this proceeding, contested the Department's final results in TRBs X.

In its ruling, the CIT remanded two issues to the Department. First, the CIT instructed the Department to provide an explanation as to why statistics on Japanese exports to India were not used to value the hot-rolled steel used to manufacture cups and cones, components of tapered roller bearings ("TRBs"). Second, the CIT instructed the Department to explain whether American Metal Market prices could serve as an alternative surrogate to value scrap for cups, cones, and rollers, and, if so, to recalculate the margins reached in TRBs X. The Department's analysis with respect to these two issues is presented below.

On July 8, 2002, we released our draft results of redetermination to The Timken Company, Peer Bearing Company (the Defendant-Intervenor in this proceeding), and the counsel for the other companies involved in current reviews of this order. We received no comments on the draft results from any of these parties.

DISCUSSION

Steel Used to Value TRBs Cups and Cones

In TRBs X, we based the value of steel used for the production of TRBs cups and cones on Japanese exports to Indonesia. Pursuant to the CIT's direction, we are now providing a further

explanation as to why we selected Japanese exports to Indonesia, and not Japanese exports to India, as the best alternative for valuing steel used in the production of TRBs cups and cones.

As we explained in TRBs X, we first examined import data from our primary surrogate country, India (specifically, from Indian Harmonized Schedule (“HS”) category 7228.30 (Other Bars & Rods, Hot Rolled, Hot-Drawn & Extruded)). As in prior TRBs reviews, we were unable to isolate bearing quality steel used to manufacture TRBs cups and cones because none of the eight-digit tariff subcategories within Indian basket HS category 7228.30 specifically included bearing quality steel bar. We found that only the “Others” category (7228.3019) could contain the type of bearing quality steel used in the production of cups and cones, in addition to several other types of hot-rolled steel.

In comparing this Indian data to other market values, including U.S. imports under U.S. Harmonized Tariff Schedule (“HTS”) category 7228.30.20 (the only import category on the record which explicitly contains only bearing quality steel), the Department found the Indian values to be unreliable because the values for these imports were significantly higher than the U.S. values which specifically related to bearing quality steel. The same comparison was made for import values in our secondary surrogate country, Indonesia. We found that Indonesian import data for Indonesian HS category 7228.30 was also unreliable because this basket category likely included several other types of hot-rolled bars and rods of alloy steel in addition to the bearing quality steel bars and rods used in TRBs cups and cones production.

We note that, as explained in TRBs X and in past TRBs reviews, we used the U.S. data as a benchmark to test the reliability of the surrogate values for this input because the U.S. HTS category was the only world HS category which 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 were able to test whether the broader surrogate country HS categories likely reflected imports of bearing quality steel or whether they likely reflected imports of other types of steel. 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. 2nd 1371, 1376 (CIT 1999) and Timken.

After rejecting import statistics for India and Indonesia, we sought to further refine the data for these surrogate countries by examining Japanese export data. As explained in TRBs X, the Japanese export statistics break down the broad six-digit Japanese HS category 7228.30 into several narrowly defined sub-categories. Although Japanese HS category 7228.30.900 (Bars and Rods, of Other Alloy Steel) does not specifically isolate bearing quality steel as does the U.S. HTS category 7228.30.20, this Japanese category would include the type of bearing quality steel bar that is used to manufacture TRBs cups and cones and is narrower than the Indian and Indonesian import categories. Moreover, by limiting our consideration to Japanese exports to India and Indonesia, we are relying on an Indian or an Indonesian value, i.e., a value from a surrogate country which is economically comparable to the People's Republic of China ("PRC").

In examining the data from this narrower Japanese HS category, we found Japanese export prices to India to be unreliable. Specifically, we found that the U.S. bearing quality steel values ranged from US\$652 per metric ton to US\$833 per metric ton, with an average of US\$750 per metric ton, while the value of the Japanese exports to India data in HS category 7228.30.900 was US\$1091 per metric ton, well above the range of the U.S. prices. In contrast, the value for the Japanese exports to Indonesia was consistent with the U.S. data.

Thus, as explained above, we rejected Japanese exports to India (as reported under Japanese

HS category 7228.30.900) because our analysis indicated that these prices were not consistent with the price of bearing quality steel as reflected in the data for U.S. imports under HS category 7228.30.20. The unreliability of the prices of Japanese exports to India may be caused by the breadth of the Japanese HS category 7228.30.900 as compared to the narrower U.S. HTS category, or it may be that the Japanese export prices to India are aberrational, i.e., above world market prices for bearing quality steel. However, because the prices of Japanese exports to Indonesia are consistent with the U.S. benchmark, we determined that the Japanese export prices to Indonesia constitute the best available information for valuing this factor of production.

Scrap Values for TRBs Cups, Cones, and Rollers

In TRBs X, we valued scrap generated in the production of cups and cones using Indonesian import statistics from Indonesian HS category 7204.29.00 (other waste and scrap of alloy steel). We valued scrap generated from the production of rollers using Indian import statistics from Indian HS category 7204.29.09 (waste and scrap of other alloy steel).

In Timken, the petitioner argued that the Department should have considered the scrap prices reported in American Metal Market as possible surrogate values for scrap. The petitioner submitted these prices in TRBs X as a potential benchmark value. In response to the CIT's remand order with respect to this issue, we are providing an explanation as to why American Metal Market prices are not the best available information for valuing scrap generated in the production of cups, cones, and rollers, and why we would not have selected these prices for use as surrogate values for TRBs cups, cones, and rollers scrap had we considered them as potential surrogate values in TRBs X.

First, as we discussed in TRBs X in response to the petitioner's comment that we should

use American Metal Market scrap prices as benchmarks, the Department believes that because the steel used to produce TRBs cups, cones, and rollers is bearing quality steel, the scrap resulting from that production must be bearing quality steel. However, as the petitioner has stated, the American Metal Market scrap prices are for “shop turnings,” a low quality scrap that is not comparable to bearing quality steel scrap (see 62 FR at 63846). Thus, were we to value scrap from cups, cones, and rollers using the American Metal Market prices, we would be assigning the value of another, different product to that scrap.

Moreover, section 773(c)(4) of the Tariff Act of 1930, as amended, requires that the Department value the factors of production in a market economy country that is at a comparable level of economic development to the nonmarket economy under investigation and that is a significant producer of comparable merchandise, to the extent possible. In TRBs X, both India and Indonesia were found to meet these criteria. While the Department may use values from the United States or other countries not at a comparable level of development for individual factors, our practice is to do so only if we cannot find reliable, non-aberrational values in an economically comparable economy that produces comparable merchandise. See Notice of Final of Antidumping Duty Administrative Review of Sebacic Acid from the People’s Republic of China, 62 FR 65674, 65676 (December 15, 1997) and Final Determination of Sales at Less Than Fair Value: Beryllium Metal and High Beryllium Alloys from the Republic of Kazakhstan, 62 FR 2648, 2650 (January 17, 1997). Thus, the Department properly relied upon Indonesian import statistics to value scrap generated from the PRC production of cups, cones, and rollers, rather than the American Metal Market scrap prices, which are based on U.S. prices.

In summary, the American Metal Market prices suggested by the petitioner as potential

surrogate values for scrap generated from the production of cups, cones, and rollers are for a lower quality scrap that is not comparable to bearing quality steel scrap generated in the PRC production of cups, cones, and rollers. Moreover, the American Metal Market prices are not values from market economy countries that are comparable in terms of economic development to the PRC. Thus, we do not find that the American Metal Market prices are the best available information for valuing scrap generated during the production of TRBs cups, cones, and rollers.

INTERESTED PARTY COMMENTS

As noted above, we received no comments on the draft results from any interested party or any party involved in the proceeding.

FINAL RESULTS OF REMAND

Based on the above explanations, we did not change our valuation of these factors from TRBs X. Thus, we did not recalculate the final dumping duty margins for each of the companies involved in the aforementioned review.

This redetermination is in accordance with the order of the CIT in Timken Company v. United States (Slip Op. 02-38, April 22, 2002).

Faryar Shirzad
Assistant Secretary
for Import Administration

Date