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December 11, 2006

**MEMORANDUM TO:** David M. Spooner  
Assistant Secretary  
for Import Administration

**FROM:** Stephen J. Claeys  
Deputy Assistant Secretary  
for Import Administration

**SUBJECT:** Issues and Decision Memorandum for the Final Results of the 18th Administrative Review of the Antidumping Duty Order on Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China

## **SUMMARY**

We have analyzed the comments of the interested parties in the antidumping duty administrative review on tapered roller bearings and parts thereof, finished and unfinished ("TRBs"), from the People's Republic of China ("PRC"). As a result of our analysis of these comments, we made the changes to our margin calculations addressed in the "Changes Since the Preliminary Results" section of the accompanying Federal Register notice. We recommend that you approve the positions we describe in the "Discussion of the Issues" section of this memorandum. China National Machinery Import & Export Corporation ("CMC") and The Timken Company Limited ("Timken") were the only interested parties to comment on the preliminary results of review. Below is the complete list of the issues that were raised in these briefs:

Comment 1: Outdated TRBs tariff classification  
Comment 2: Remove "consumption of Traded Goods" from surrogate financial ratio  
Comment 3: Ministerial error on Timken India Limited's "profit before tax"

## **BACKGROUND**

On July 21, 2005, the Department of Commerce ("the Department") published in the Federal Register a notice of the initiation of the antidumping duty administrative review of TRBs from the PRC for the period June 1, 2004, through May 31, 2005, for CMC, Chin Jun Industrial Ltd. ("Chin Jun"), Peer Bearing Company - Changshan ("CPZ"), Weihai Machinery Holding (Group) Company, Ltd. ("Weihai Machinery"), The Yantai Timken Company ("Yantai Timken"), and Zhejiang Machinery Import & Export Corp ("ZMC"). See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 70 FR 42028

(July 21, 2005) (“Initiation Notice”). On August 29, 2005, the Department also published an initiation notice with respect to Wanxiang for the same period. See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 70 FR 51009 (August 29, 2005). On October 26, 2005, the Department published a notice partially rescinding this review with respect to Yantai Timken and Wanxiang. See Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the People’s Republic of China: Notice of Partial Rescission of the Antidumping Duty Administrative Review, 70 FR 61788 (October 26, 2005) (“Rescission Notice”).

On July 14, 2006, the Department published its preliminary results of review. See Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the People’s Republic of China: Preliminary Results of Antidumping Administrative Review, and Notice of Intent to Rescind in Part, 71 FR 40069 (July 14, 2006) (“Preliminary Results”). On August 11, 2006, The Timken Company (“Timken”) (i.e., Petitioner) submitted a case brief and on August 18, 2006, CMC submitted a rebuttal brief.

## **DISCUSSION OF THE ISSUES**

### **Comment 1: Outdated TRBs classification**

Petitioner states that the scope of the order of the Department’s Preliminary Results includes the Harmonized Tariff Schedule of the United States (“HTSUS”) subheading 8482.99.30, which covered parts of TRBs until 1994. However, Petitioner states, in 1995 the HTSUS was replaced such that HTSUS subheading 8482.99.30 was split and replaced by HTSUS 8482.99.15 for cups and other rings (cones), and HTSUS 8482.99.45 for other TRBs parts. Thus, Petitioner argues that the split HTSUS subheadings were in force during this period of review (“POR”) and the Department should reflect the split HTSUS subheadings in its final results.

### **Department’s Position:**

We agree with Timken that the Department’s scope of the order includes an HTSUS number from 1994 and that this HTS number was split into two HTSUS subheadings and should be used for purposes of the final results. Therefore, for the final results, the Department will use HTSUS 8482.99.15 for cups and other rings (cones) and HTSUS 8482.99.45 for other parts of TRBs.

### **Comment 2: Remove “consumption of traded goods” from surrogate financial ratio**

Petitioner states that the Department included the line item “consumption of traded goods” in the cost of materials for SKF India Limited (“SKF”), one of two Indian companies, the Department used to calculate the surrogate financial ratios in its Preliminary Results. Petitioner argues that traded goods are not materials used in production, but are purchased and resold, as such traded goods should be excluded from SKF’s cost of materials in the financial ratio calculations. Petitioner points out that in SKF’s 2004 Annual Report, traded goods are clearly segregated from

raw materials and components consumed. See SKF's 2004 Annual Report at 38, 44, and 45. Citing past U.S. Court of International Trade ("CIT") cases, Petitioner argues that since traded goods are not used in the surrogate company's production activities, they should be excluded from its cost of materials in the calculation of surrogate financial ratios. See Timken Co. v. United States, 59 F. Supp.2d 1371, 1373-1379, 1381 (CIT 1999) ("Timken 1999"); and Timken Co. v. United States, 166 F.Supp.2d 608, 630-631, 635 (CIT 2001) ("Timken 2001"); see also Luoyang Bearing Factory v. United States, 26 CIT 1156, 1174-1175, 1195, 240 F.Supp.2d 1268, 1286-1287, 1305 (CIT 2002) ("Luoyang Bearing").

CMC contends that Petitioner's argument is flawed and inaccurate because a more recent CIT decision supports the Department decision to include "consumption of traded goods" in the financial ratio calculation. CMC asserts that in citing three specific CIT decisions, Petitioner glosses over a key distinction between "purchases of traded goods" and "consumption of traded goods." CMC states that in Timken 1999, 59 F. Supp. 2d at 1378, and Timken 2001, 166 F. Supp. 2d at 630-31, the CIT agreed that "purchases of traded goods" should be excluded from the cost of manufacturing denominator of the overhead, SG&A and profit ratio calculations because traded goods are products that are purchased and sold and thus are not material costs of production. In these decisions, CMC asserts that the mere existence of traded goods was not the basis for the exclusion from the surrogate financial ratio calculation; rather it was the fact that such traded goods were purchased and resold and were unrelated to any manufacturing process that was the basis for the exclusion. CMC argues that Luoyang Bearing cannot provide any meaningful precedential value because in Luoyang Bearing there was no analysis explaining how "consumption of traded goods" can be deemed practically identical to "purchases of traded goods" because no respondent challenged the Department's or Petitioner's arguments on this issue.

CMC further contends that if SKF was merely purchasing and reselling the traded goods, there would be no reason for SKF to identify this line item as "consumption of traded goods" because in past financial statements the line item was identified as "purchases of traded goods." Additionally, CMC argues in this review that the SKF financial statements include the subheading "consumption of traded goods" under the heading for Manufacturing and Other Expenses, thus record evidence establishes that SKF's traded goods related to manufacturing and should be included in the denominator of the surrogate ratio calculations. Furthermore, CMC asserts that in a recent CIT decision the Court stated that the exclusion of traded goods (purchased) should not apply to the denominator of the SG&A ratio unless the expenses related to the purchase of the traded goods could also be excluded from the numerator of the SG&A ratio. See Fuyao Glass Industry Group v. United States, Slip-Op. 05-6 (January 25, 2005) ("Fuyao Glass"). Accordingly, CMC argues that because SKF's expenses associated with the consumption of traded goods cannot be excluded from the numerator of the SG&A ratio, the consumption of traded goods must be included in the denominator of the SG&A ratio, in order to make an apples-to-apples comparison. Therefore, for the final results, CMC contends that there is no basis for the Department to exclude "consumption of traded goods" from the surrogate financial ratio calculations.

**Department’s Position:** We agree with Petitioner, in part, and CMC, in part. When deriving the factory overhead surrogate financial ratio, it is the Department’s practice to include in the denominator only those costs associated with materials, labor and energy. The Department has stated, and the CIT has affirmed, that the line item “consumption of traded goods” is similar in nature to “purchases of traded goods,” and is not a material consumed in production. See Luoyang Bearing, 240 F. Supp. 2d at 1287. Further, because the numerator of the factory overhead surrogate ratio includes only factory overhead costs that would not be associated with the purchase of trade goods, there is no danger of not making an apples-to-apples comparison between the ratio’s numerator and denominator when excluding this item from the denominator of the calculation. Additionally, though not commented upon by any party, the Department is treating the line item “purchase of products for resale,” in the financial statements of the Indian surrogate company Timken India Limited, in the same fashion as the line item “consumption of traded goods.”

However, the Department will normally include traded goods in the denominator to calculate the SG&A and profit ratios because a company does incur SG&A expenses and realize profit on traded goods. See e.g., Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China, 70 FR 24502 (May 10, 2005), and accompanying Issues and Decision Memorandum at Comment 7, see also Fuyao Glass at 35-36. Therefore, we include the consumption of traded goods in the denominator of the SG&A and profit ratio calculations.

Additionally, for this review, the Department calculated specific ratios for depreciation and interest. Because the calculation for the surrogate ratio for depreciation includes only the line items associated with depreciation, *i.e.*, line items that would not be associated with traded goods, we have not included traded goods in the denominator of the surrogate depreciation ratio. However, because the ratio for interest expenses includes line items for company-wide interest costs, we have included traded goods in the denominator of the surrogate interest ratio. See Final Analysis Memorandum for the Final Results of Administrative Review on Tapered Roller Bearings and Parts Thereof from the People’s Republic of China of China: National Machinery Import & Export Corp. (“Final Analysis Memo”), December 11, 2006.

Accordingly, for these final results, we have changed the surrogate value ratio calculation for overhead and depreciation to exclude the line items “consumption of traded goods” and “purchase of products for resale” from the denominator. However, we have continued to include the line item “consumption of traded goods” and “purchase of products for resale” in the denominator of the SG&A, profit and interest ratios. See Final Results of Review of Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People’s Republic of China: Surrogate Value Memorandum for the Final Results of Review, December 11, 2006 (“Final FOP Memo”), and Final Analysis Memo.

**Comment 3: Ministerial Error in the calculation of the surrogate profit rate**

Petitioner claims the Department made a ministerial error in the calculation of the surrogate profit rate. Petitioner states that in the Preliminary Results the Department stated that it used Timken India Limited’s “Profit before tax” in the calculation of surrogate profit, but Timken India Limited’s financial statements show the amount the Department actually used reflected the value from line item “Provision for Taxation.” Petitioner argues the Department should correct this inadvertent error in the final results by using the correct “Profit before tax” amount.

**Department’s Position:**

We agree with Timken. In the preliminary results, the Department inadvertently used “Provision for Taxation” in the surrogate profit ratio. Therefore, for the final results, we have corrected our surrogate profit calculation and used the “Profit before Tax” amount in the calculation of the surrogate profit rate. See Final Analysis Memo. Additionally, though not commented upon by any party, the Department has noted that the values for the line items “provident and other funds” and “welfare expenses” were entered incorrectly in the ratio calculation worksheet of the surrogate Indian company Timken India Limited. The Department has changed these values in the worksheet to reflect the correct amounts for these line items. See Final FOP Memo and Final Analysis Memo.

**RECOMMENDATION**

Based on our analysis of the comments received, we recommend adopting the above positions. If these recommendations are accepted, we will publish the final results of this review and the final weighted-average dumping margin for CMC in the Federal Register.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_

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David M. Spooner  
Assistant Secretary  
for Import Administration

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(Date)