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September 17, 2014

MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

FROM: Gary Taverman *GT*
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results of Antidumping
Duty Administrative Reviews: Ball Bearings and Parts Thereof
from Japan and the United Kingdom; 2010-2011

SUMMARY

The Department of Commerce (the Department) is conducting these administrative reviews of the antidumping duty orders on ball bearings and parts thereof (ball bearings) from Japan and the United Kingdom.¹ The reviews cover 12 producers/exporters of the subject merchandise. The period of review (POR) is May 1, 2010, through April 30, 2011. We preliminarily find that NSK sold subject merchandise at less than normal value (NV) in the administrative review concerning ball bearings from the United Kingdom during the POR. Additionally, we preliminarily assign three respondents in the administrative review concerning ball bearings from Japan and one respondent in the administrative review concerning ball bearings from the United Kingdom weighted-average dumping margins based on facts otherwise available with an adverse inference (adverse facts available or AFA) because each failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information. Further, the Department assigned weighted-average dumping margins to seven companies in the administrative review concerning ball bearings from the United Kingdom which were not individually examined.

¹ See *Antidumping Duty Orders: Ball Bearings, Cylindrical Roller Bearings, and Spherical Plain Bearings, and Parts Thereof From Japan*, 54 FR 20904 (May 15, 1989) (*Japan Order*) and *Antidumping Duty Orders and Amendments to the Final Determinations of Sales at Less Than Fair Value: Ball Bearings, and Cylindrical Roller Bearings and Parts Thereof From the United Kingdom*, 54 FR 20910 (May 15, 1989) (*U.K. Order*) (collectively, *Orders*).



Background

On May 15, 1989, the Department published the antidumping duty orders on ball bearings and parts thereof from Japan and the United Kingdom in the *Federal Register*. On June 28, 2011, in accordance with 19 CFR 351.221(b), we published a notice of initiation of administrative reviews of 43 companies subject to these *Orders*.²

On July 15, 2011, pursuant to a decision of the Court of International Trade (CIT) that affirmed the International Trade Commission's (ITC's) negative injury determinations on remand in the second sunset review of the antidumping duty orders on bearings from Japan and the United Kingdom, the Department revoked the *Orders* and discontinued these administrative reviews.³ On May 16, 2013, the United States Court of Appeals for the Federal Circuit (Federal Circuit) reversed the CIT's decision and ordered the CIT to reinstate the ITC's affirmative material injury determinations.⁴ Subsequently, on November 18, 2013, the CIT issued final judgment reinstating the ITC's affirmative injury determinations.⁵ As a result, the Department reinstated the *Orders* and resumed these administrative reviews.⁶

We rescinded the administrative review concerning ball bearings from Japan, in part,⁷ for all firms upon which we initiated a review except for Bosch Packaging Technology K.K., Bosch Rexroth Corporation, and Hagglunds Ltd.⁸ Bosch Packaging Technology K.K., Bosch Rexroth Corporation, and Hagglunds Ltd. (Japan) filed an untimely withdrawal of its request for review which we did not grant.⁹ As discussed in the *Japan Rescission*, we did not rescind the review of Bosch Packaging Technology K.K., Bosch Rexroth Corporation, and Hagglunds Ltd. (Japan). Subsequent to the *Japan Rescission*, on May 19, 2014, Bosch Packaging Technology K.K., Bosch Rexroth Corporation, and Hagglunds Ltd. (Japan) filed a letter entitled, "Ball Bearings and Parts Thereof from Japan: Request for Reconsideration of Decision Not to Permit Withdrawal of Request for Review" (Bosch Reconsideration Request) and also presented their arguments concerning why we should reverse our decision not to grant the withdrawal request in a meeting with Department officials on June 4, 2014.¹⁰

² See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 76 FR 37781 (June 28, 2011) (*Initiation Notice*).

³ See *Ball Bearings and Parts Thereof From Japan and the United Kingdom: Revocation of Antidumping Duty Orders*, 76 FR 41761 (July 15, 2011) (*Revocation Notice*).

⁴ *NSK Corp v. United States International Trade Commission*, 716 F.3d 1352 (Fed. Cir. 2013) (*NSK May 2013*).

⁵ *NSK Corp. v. United States International Trade Commission*, Court No. 06-334, Slip Op. 2013-143 (CIT November 18, 2013) (*NSK November 2013*).

⁶ See *Ball Bearings and Parts Thereof From Japan and the United Kingdom: Notice of Reinstatement of Antidumping Duty Orders, Resumption of Administrative Reviews, and Advance Notification of Sunset Reviews*, 78 FR 76104 (December 16, 2013) (*Reinstatement Notice*).

⁷ See *Ball Bearings and Parts Thereof From Japan: Rescission of Antidumping Duty Administrative Review, in Part; 2010-2011*, 79 FR 26405 (May 8, 2014) (*Japan Rescission*). See also *Ball Bearings and Parts Thereof From Japan: Amended Rescission of Antidumping Duty Administrative Review, in Part; 2010-2011*, 79 FR 32693 (June 6, 2014). In its May 31, 2011, request for review Robert Bosch LLC identified Bosch Packaging Technology K.K., Bosch Rexroth Corporation, and Hagglunds Ltd. as affiliated exporters.

⁸ Even though these three companies provided joint submissions as affiliates of Robert Bosch LLC, the Department has made no determination whether these three companies should be considered as a single entity.

⁹ See *Japan Rescission* 79 FR at 26406.

¹⁰ See Memorandum to file, "Antifriction Ball Bearings and Parts Thereof From Japan - Ex Parte Meeting" (June 4, 2014).

On September 8, 2014, the Timken Company (the petitioner) filed pre-preliminary comments regarding our differential-pricing analysis.¹¹ We have not considered these comments for these preliminary results of review because the comments came in with insufficient time for us to adequately consider them by the September 17, 2014, deadline for issuing the preliminary results.¹²

Scope of the Orders

The products covered by the *Orders* are ball bearings and parts thereof. These products include all antifriction bearings that employ balls as the rolling element. Imports of these products are classified under the following categories: antifriction balls, ball bearings with integral shafts, ball bearings (including radial ball bearings) and parts thereof, and housed or mounted ball bearing units and parts thereof.

Imports of these products are classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 3926.90.45, 4016.93.10, 4016.93.50, 6909.19.50.10, 8414.90.41.75, 8431.20.00, 8431.39.00.10, 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.05, 8482.99.35, 8482.99.25.80, 8482.99.65.95, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.50.90, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.60.80, 8708.93.30, 8708.93.60.00, 8708.99.06, 8708.99.31.00, 8708.99.40.00, 8708.99.49.60, 8708.99.58, 8708.99.80.15, 8708.99.80.80, 8803.10.00, 8803.20.00, 8803.30.00, 8803.90.30, 8803.90.90, 8708.30.50.90, 8708.40.75.70, 8708.40.75.80, 8708.50.79.00, 8708.50.89.00, 8708.50.91.50, 8708.50.99.00, 8708.70.60.60, 8708.80.65.90, 8708.93.75.00, 8708.94.75, 8708.95.20.00, 8708.99.55.00, 8708.99.68, and 8708.99.81.80.

Although the HTSUS item numbers above are provided for convenience and customs purposes, the written descriptions of the scope of the orders remain dispositive.

The size or precision grade of a bearing does not influence whether the bearing is covered by one of the orders. The orders cover all the subject bearings and parts thereof (inner race, outer race, cage, rollers, balls, seals, shields, *etc.*) outlined above with certain limitations. With regard to finished parts, all such parts are included in the scope of the orders. For unfinished parts, such parts are included if they have been heat-treated or if heat treatment is not required to be performed on the part. Thus, the only unfinished parts that are not covered by the orders are those that will be subject to heat treatment after importation. The ultimate application of a bearing also does not influence whether the bearing is covered by the orders. Bearings designed for highly specialized applications are not excluded. Any of the subject bearings, regardless of whether they may ultimately be utilized in aircraft, automobiles, or other equipment, are within the scope of the orders.

¹¹ See letter from the petitioner to the Department “Administrative Review of the Antidumping Duty Order Covering Ball Bearings and Parts Thereof From the United Kingdom (5/1/10-4/30/11); The Timken Company’s Pre-Preliminary Determination Comments on NSK,” (September 8, 2014).

¹² Pursuant to 19 CFR 351.309(c)(2) if this issue remains relevant, in a party’s view, for the final results, a case brief must present all arguments that continue in the submitter’s view to be relevant to the final results.

Rescission in Part

As stated in the accompanying *Federal Register* notice, we received timely withdrawals of the requests for review of SKF (UK) Limited SNFA Operations and SKF UK Limited Stonehouse Operations in connection with the administrative review concerning ball bearings from the United Kingdom. Because there were no other requests for review of these companies, we are rescinding the administrative review concerning ball bearings from the United Kingdom with respect to SKF (UK) Limited SNFA Operations and SKF UK Limited Stonehouse Operations in accordance with 19 CFR 351.213(d)(1).

Continuation of Administrative Review of Bosch Packaging Technology K.K., Bosch Rexroth Corporation, and Hagglunds Ltd. (Japan)

We have not rescinded the review with respect to Bosch Packaging Technology K.K., Bosch Rexroth Corporation, and Hagglunds Ltd. (Japan). These three companies argue that it was our long standing practice, prior to our regulation change, to honor an untimely withdrawal request if we had not devoted significant resources to the review and there were no other parties requesting a review of the same party.¹³ Bosch Packaging Technology K.K., Bosch Rexroth Corporation, and Hagglunds Ltd. (Japan) argue that we had not devoted significant resources to their review when they filed their withdrawal request and should reconsider our denial to rescind the review.¹⁴

Pursuant to 19 CFR 351.213(d)(1), we do not find it reasonable to extend the deadline for submitting withdrawals of request for review for Bosch Packaging Technology K.K., Bosch Rexroth Corporation, and Hagglunds Ltd. (Japan). These companies were duly notified of the 90 day deadline in the *Reinstatement Notice*.¹⁵ Further, the withdrawal of the request for review was filed 11 days after the deadline established in the *Reinstatement Notice*, a long period for an experienced party which self-requested its review, and which filed respondent selection comments during the 90 day window provided for withdrawals.¹⁶ While these companies pointed to examples of where the Department accepted untimely withdrawals in the past,¹⁷ we find that Bosch Packaging Technology K.K., Bosch Rexroth Corporation, and Hagglunds Ltd. (Japan) did not show good cause for their untimely withdrawal in 2014. Finally, the fact that Bosch Packaging Technology K.K., Bosch Rexroth Corporation, and Hagglunds Ltd. (Japan) do not want to be individually examined is not a reasonable basis for the Department to accept their untimely requests to withdraw their requests for review.

Bosch Packaging Technology K.K., Bosch Rexroth Corporation, and Hagglunds Ltd. (Japan) also argue that they did not know the other parties in the administrative review had withdrawn their respective requests. However, Bosch Packaging Technology K.K., Bosch Rexroth

¹³ See Bosch Reconsideration Request at 3 (citing *Stainless Steel Sheet and Strip in Coils from Mexico: Rescission of Antidumping Duty Administrative Review*, 76 FR 18518 (April 4, 2011)).

¹⁴ See Bosch Reconsideration Request at 3.

¹⁵ See Japan Rescission, 79 FR at 26406.

¹⁶ See letter entitled "Antifriction (Ball) Bearings from Japan: Comments by Robert Bosch Companies Regarding Respondent Selection" dated January 22, 2014.

¹⁷ See Bosch Packaging Technology K.K., Bosch Rexroth Corporation, and Hagglunds Ltd. (Japan) letter entitled, "Antifriction Ball Bearings from Japan: Withdrawal of Request for Administrative Review" dated March 27, 2014.

Corporation, and Hagglands Ltd. (Japan) only filed their notice of appearance on May 6, 2014. Had they done so earlier they could have ensured that they received service of the other parties' public submissions, including withdrawal of their review requests.¹⁸ Otherwise, the onus was on Bosch Packaging Technology K.K., Bosch Rexroth Corporation, and Hagglands Ltd. (Japan) to check on the status of the administrative review requests by accessing the information on IA ACCESS. Given that parties had 90 days to file withdrawal requests after reinstatement, we do not find it reasonable to offer additional time by granting the untimely withdrawal of the requests for review of Bosch Packaging Technology K.K., Bosch Rexroth Corporation, and Hagglands Ltd. (Japan) based on the arguments advanced by Bosch Packaging Technology K.K., Bosch Rexroth Corporation, and Hagglands Ltd. (Japan).

Selection of Respondents

Due to the large number of companies involved in the administrative review of the *U.K. Order*, the Department found that it was not practicable to individually examine each company for which a review was initiated. Thus, the Department exercised its authority to limit the number of respondents selected for individual examination in the administrative review concerning ball bearings from the United Kingdom.¹⁹ Where it is not practicable to examine all known exporters/producers of subject merchandise because of the large number of such companies, section 777A(c)(2) of the Act allows the Department to limit its examination to either a sample of exporters, producers, or types of products that is statistically valid, based on the information available at the time of selection, or exporters and producers accounting for the largest volume of subject merchandise from the exporting country that can be reasonably examined.

Accordingly, in December 2013, we requested information concerning the quantity and value of sales to the United States from the 12 exporters/producers for which we had initiated a review. We received responses from all but one of the exporters/producers subject to the review. Based on our analysis of the responses and our available resources, we selected NSK Bearings Europe Ltd. and NSK Europe Ltd. (collectively, NSK)²⁰ for individual examination.²¹

Non-Individually Examined Respondents

Taking guidance from section 735(c)(5) of the Act, which provides instructions for calculating the all-others margin in an investigation, for the responding companies in the administrative review concerning ball bearings from the United Kingdom which remain under review and which we did not select for individual examination in the review, we assigned a weighted-average dumping margin equal to the rate which we calculated for NSK, the sole respondent which we individually examined.

¹⁸ See letter entitled "Ball Bearings and Parts Thereof from Japan: Entry of Appearance" dated May 6, 2014; 19 CFR 351.303(f).

¹⁹ See Memorandum to Thomas Gilgunn, "Antidumping Duty Administrative Review of Ball Bearings and Parts Thereof from the United Kingdom for the 2010-11 Review Period – Selection of Respondents" (April 1, 2014).

²⁰ NSK Bearings Europe Ltd. is a U.K. manufacturing company for ball bearings and NSK Europe Ltd. is a U.K. sales company for ball bearings; both are wholly owned by NSK Europe Ltd. See NSK's Section A response dated May 30, 2014, at A-4.

²¹ See Memorandum to Thomas Gilgunn, "Antidumping Duty Administrative Review of Ball Bearings and Parts Thereof from the United Kingdom for the 2010-11 Review Period – Selection of Respondents" (April 1, 2014).

Use of Facts Otherwise Available

For the reasons discussed below, we determine that the use of adverse facts available is appropriate for the preliminary results of these reviews with respect to four companies.

A. Use of Facts Available

Section 776(a)(2) of the Act provides that, if an interested party withholds information requested by the administering authority, fails to provide such information by the deadlines for submission of the information and in the form or manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act, significantly impedes a proceeding under this title, or provides such information but the information cannot be verified as provided in section 782(i) of the Act, the administering authority shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination.

Bayerische Motoren Werke AG (U.K.) did not respond to our request to provide information concerning the quantity and value of its U.S. sales. Because this company did not respond to our request, we could not determine whether and to what extent this company participated in sales of subject merchandise to the U.S. market.

Bosch Packaging Technology K.K., Bosch Rexroth Corporation, and Hagglands Ltd. (Japan) did not respond to our antidumping duty questionnaire.²² Because these companies did not respond to our request, we could not calculate weighted-average dumping margins for these companies.

Accordingly, we must base the weighted-average dumping margins for Bayerische Motoren Werke AG (U.K.), and Bosch Packaging Technology K.K., Bosch Rexroth Corporation, and Hagglands Ltd. (Japan) on facts otherwise available because necessary information is not available on the record and these companies failed to provide the information requested and, thus, significantly impeded the respective reviews.²³

B. Application of Adverse Inferences for Facts Available

In applying the facts otherwise available, section 776(b) of the Act provides that, if the administering authority finds that an interested party fails to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority, in reaching the applicable determination under this title, the administering authority may use an adverse inference in selecting from among the facts otherwise available.²⁴

²² See the Department's March 27, 2014, letter to Bosch Packaging Technology K.K., Bosch Rexroth Corporation, and Hagglands Ltd. (Japan) and the enclosed antidumping duty questionnaire.

²³ See sections 776(a)(1), (a)(2)(B), and (a)(2)(C) of the Act.

²⁴ See, e.g., *Notice of Final Results of Antidumping Duty Administrative Review, and Final Determination to Revoke the Order In Part: Individually Quick Frozen Red Raspberries from Chile*, 72 FR 70295, 70297 (December 11, 2007) (*Raspberries from Chile Final*).

Adverse inferences are appropriate “to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”²⁵ Further, “affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.”²⁶

Because neither Bayerische Motoren Werke AG (U.K.), nor Bosch Packaging Technology K.K., Bosch Rexroth Corporation, and Haggglunds Ltd. (Japan) provided requested data concerning their sales of subject merchandise to the United States during the period of review, we determine that each failed to cooperate by not acting to the best of its ability.²⁷ Therefore, we conclude that the use of an adverse inference is warranted in applying facts otherwise available to these companies.

C. Selection and Corroboration of Information Used as Facts Available

Where the Department applies AFA because a respondent failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Act authorizes the Department to rely on information derived from the petition, a final determination, a previous administrative review, or other information placed on the record.²⁸

As AFA, we selected the rate of 106.61 percent for Bosch Packaging Technology K.K., Bosch Rexroth Corporation, and Haggglunds Ltd. (Japan), and the rate of 254.25 percent for Bayerische Motoren Werke AG (U.K.).²⁹ These rates represent the highest rates calculated in the petition with respect to ball bearings from Japan and the United Kingdom, respectively.³⁰ When a respondent is not cooperative, the Department has the discretion to presume that the highest prior dumping margin reflects the current weighted-average dumping margin.³¹ If this were not the case, the party would produce current information showing its rate to be less.³² Further, by using

²⁵ See *Notice of Preliminary Results of Antidumping Duty Administrative Review, Notice of Partial Rescission of Antidumping Duty Administrative Review, Notice of Intent to Revoke in Part: Certain Individually Quick Frozen Red Raspberries from Chile*, 72 FR 44112, 44114 (August 7, 2007) (unchanged in *Raspberries from Chile Final*, 72 FR at 70297).

²⁶ See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27340 (May 19, 1997). See also *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1380-84 (CAFC 2003).

²⁷ See *Antifriction Bearings and Parts Thereof From France, et al.: Final Results of Antidumping Duty Administrative Reviews, Rescission of Administrative Reviews in Part, and Determination To Revoke Order in Part*, 69 FR 55574 (September 15, 2004) (AFBs 14).

²⁸ See 19 CFR 351.308(c)(1) & (2); Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103-316, vol.1 (1994) at 868-870 (SAA).

²⁹ In prior reviews of these orders, we have generally used the highest rates calculated in prior segments of the proceeding which we could corroborate as adverse facts available. See, e.g., *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Preliminary Results of Antidumping Duty Administrative Reviews and Intent to Rescind Reviews in Part*, 73 FR 25654, 25657-8 (May 7, 2008) (unchanged in final; 73 FR 52823, September 11, 2008). However, in this review, we are not using calculated rates from prior segments of this proceeding as adverse facts available because all calculated rates in prior segments of these proceedings either involved the use of zeroing or were zero. See *Final Modification for Reviews*.

³⁰ See memorandum to file, “Ball Bearings and Parts Thereof from Japan and the United Kingdom – Placing Relevant Pages from the Petitions on the Record,” dated concurrently with this memorandum.

³¹ See *Ta Chen Stainless Steel Pipe, Inc. v. United States*, 298 F.3d 1330, 1339 (Fed. Cir. 2002) (citing *Rhone Poulenc, Inc. v. United States*, 899 F.2d 1185, 1190 (Fed. Cir. 1990)).

³² See *Rhone Poulenc*, 899 F.2d at 1190.

the highest prior dumping margin, the exporter will not benefit from refusing to provide information. These rates are sufficiently adverse to ensure that the uncooperative parties do not obtain a more favorable result by failing to cooperate than if they had fully cooperated.³³

Section 776(c) of the Act provides that the Department shall corroborate, to the extent practicable, secondary information used for facts available by reviewing independent sources reasonably at its disposal. Information from a prior segment of the proceeding constitutes secondary information.³⁴ The word “corroborate” means that the Department will satisfy itself that the secondary information to be used has probative value.³⁵

To corroborate secondary information, to the extent practicable, the Department will examine the reliability and relevance of the information used. With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a rate not relevant. Where circumstances indicate that the selected rate is not appropriate as AFA, the Department will disregard the rate and determine an appropriate rate.³⁶

We find that the rates we are using for these preliminary results, as identified above have probative value and, therefore, are appropriate rates for use as AFA. As for the relevance of these rates, the rate which we selected for Bayerische Motoren Werke AG (U.K.) falls within the range of individual dumping margins which we calculated for NSK in the instant administrative review concerning ball bearings from the United Kingdom.³⁷ Bosch Packaging Technology K.K., Bosch Rexroth Corporation, and Hagglands Ltd. are the only respondents examined in the instant administrative review with respect to ball bearings from Japan. Thus, we do not have data contemporaneous to the instant review on the record with which to corroborate the selected rate; therefore, we used data from the immediately preceding administrative review of the *Japan*

³³ See H.R. Doc. No. 103–316, vol. 1, at 870, reprinted in 1994 U.S.C.C.A.N. 4040; see also *Timken Co. v. United States*, 354 F.3d 1334, 1345 (Fed. Cir. 2004); *F.lli De Cecco Di Filippo Fara S. Martino S.p.A v. United States*, 216 F.3d 1027, 1032 (Fed. Cir. 2000).

³⁴ See SAA at 870. See also *Certain Frozen Warmwater Shrimp from Brazil: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 39940 (July 11, 2008).

³⁵ See *Final Results of Antidumping Duty Administrative Reviews, Rescission of Administrative Reviews in Part, and Determination to Revoke Order in Part: Antifriction Bearings and Parts Thereof From France, Germany, Italy, Japan, Singapore, and the United Kingdom*, 69 FR 55574, 55577 (September 15, 2004); see also *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings Four Inches or Less in Outside Diameter, and Components Thereof, from Japan: Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996).

³⁶ See *Fresh Cut Flowers From Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (February 22, 1996) (the Department disregarded the highest dumping margin as best information available because the rate was based on another company's uncharacteristic business expense resulting in an unusually high dumping margin).

³⁷ See Memorandum to File entitled, “Ball Bearings and Parts Thereof from the United Kingdom: NSK Europe Ltd. and NSK Bearings Europe Ltd. – Analysis Memorandum for the Preliminary Results of the Administrative Review covering the period May 1, 2010, through April 30, 2011” dated concurrently with this memorandum, at page 189 of the margin program output.

Order to determine relevance.³⁸ The rate we selected for Bosch Packaging Technology K.K., Bosch Rexroth Corporation, and Hagglands Ltd. falls within the range of individual dumping margins which we calculated for Mori Seiki Co., Ltd., the only reseller of the individually examined companies in the 2009/2010 administrative review of the *Japan Order*.³⁹ As for the reliability of these rates, there is no information on the record of these reviews that demonstrates that the rates we selected are not reliable. Therefore, we find that we corroborated these rates to the extent practicable.

Comparisons to Normal Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d) (2012),⁴⁰ to determine whether NSK's sales of the subject merchandise to the United States were made at less than NV, the Department compared the constructed export price (CEP) to the NV as described in the "Constructed Export Price" and "Normal Value" sections of this memorandum.

A. *Determination of Comparison Method*

Pursuant to 19 CFR 351.414(c)(1) (2012), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average CEPs (the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In antidumping investigations, the Department examines whether to use the average-to-transaction method as an alternative comparison method using an analysis consistent with section 777A (d)(1)(B) of the Act. Although section 777A (d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) (2012) in administrative reviews is, in fact, analogous to the issue in antidumping investigations.⁴¹ In recent proceedings, the Department applied a "differential pricing" analysis for determining whether application of average-to-transaction comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) (2012) and consistent with section 777A (d)(1)(B) of the

³⁸ See *Shandong Machinery Import & Export Company v. United States*, Ct No. 07-355, Slip Op. 11-47 (CIT April 26, 2011) (in which the Court sustained the Department's use of transaction specific rates from the immediately preceding administrative review to demonstrate the reliability and relevance of a petition rate as AFA).

³⁹ See Memorandum to Thomas Gilgunn entitled, "Corroboration of Secondary Information for the Robert Bosch Companies in the 2010/2011 Administrative Review of the Antidumping Duty Order on Ball Bearings and Parts Thereof from Japan" dated concurrently with this memorandum (Japan Corroboration Memo).

⁴⁰ As noted in the *Final Modification for Reviews*, the Department's revised practice, as reflected in 19 CFR 351.414 as revised, "will also be applicable to any reviews currently discontinued by the Department if such reviews are continued after April 16, 2012 by reason of a final and conclusive judgment of a U.S. Court." See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012) (*Final Modification for Reviews*) at 8113. This review was "currently discontinued" at the time of the *Final Modification for Reviews* (see *Ball Bearings and Parts Thereof From Japan and the United Kingdom: Revocation of Antidumping Duty Orders*, 76 FR 41761 (July 15, 2011)) and subsequently continued after April 16, 2012 (see *Ball Bearings and Parts Thereof From Japan and the United Kingdom: Notice of Reinstatement of Antidumping Duty Orders, Resumption of Administrative Reviews, and Advance Notification of Sunset Reviews*, 78 FR 76104 (December 16, 2013)).

⁴¹ See *Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012).

Act.⁴² The Department finds that the differential pricing analysis used in those recent proceedings may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of export prices (or constructed export prices) for comparable merchandise that differs significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported customer codes. Regions are defined using the reported destination code (*i.e.*, zip code) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region and time period, that the Department uses in making comparisons between export price (or CEP) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the "Cohen's *d* test" is applied. The Cohen's *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen's *d* coefficient is calculated when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen's *d* coefficient is used to evaluate the extent to which the net prices to a particular purchaser, region or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen's *d* test: small, medium or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant, and the sales in the test groups were found to pass the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

⁴² See, e.g., *Polyethylene Terephthalate Film, Sheet, and Strip From India: Preliminary Results of Antidumping Duty Administrative Review; 2011–2012*, 78 FR 48143 and accompanying Decision Memorandum at "Determination of Comparison Method" and "Results of Differential Pricing Analysis" (August 7, 2013) (*2011/2012 PET Film Preliminary Results*), unchanged in *Polyethylene Terephthalate Film, Sheet, and Strip From India: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 11406 (February 28, 2014).

Next, the “ratio test” assesses the extent of the significant price differences for all sales as measured by the Cohen’s *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test account for 66 percent or more of the value of total sales, then the identified pattern of export prices that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen’s *d* test as an alternative to the average-to-average method, and application of the average-to-average method to those sales identified as not passing the Cohen’s *d* test. If 33 percent or less of the value of total sales passes the Cohen’s *d* test, then the results of the Cohen’s *d* test do not support consideration of an alternative to the average-to-average method.

If both tests in the first stage (*i.e.*, the Cohen’s *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether using only the average-to-average method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on the results of the Cohen’s *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two calculations is meaningful, this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if 1) there is a 25 percent relative change in the weighted-average dumping margin between the average-to-average method and the appropriate alternative method when both rates are above the *de minimis* threshold, or 2) the resulting weighted-average dumping margin moves across the *de minimis* threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used.

B. *Results of the Differential Pricing Analysis*

For NSK, based on the results of the differential pricing analysis, the Department finds that 51.81 percent of NSK’s export sales confirm the existence of a pattern of prices for comparable merchandise that differ significantly among purchasers, regions, or time periods. Moreover, the Department determines that the average-to-average method cannot appropriately account for such differences because the resulting weighted-average dumping margins move across the *de minimis* threshold when calculated using the average-to-average method and an alternative method based on the average-to-transaction method applied to the U.S. sales which pass the

Cohen's *d* test.⁴³ Accordingly, the Department determines to use the average-to-transaction method for U.S. sales passing the Cohen's *d* test and the average-to-average method for U.S. sales not passing the Cohen's *d* test to calculate the weighted-average dumping margin for NSK.

Product Comparisons

In accordance with section 771(16) of the Act, we compared products produced by NSK and sold in the United States and home market on the basis of the comparison product which was either identical or most similar in terms of the physical characteristics to the product sold in the United States. We identified the most similar home-market model using the following methodology: we limited our examination to models that had the same bearing design, load direction, number of rows, and precision grade. We then calculated the sum of the deviations (expressed as a percentage of the value of the U.S. characteristics) of the inner diameter, outer diameter, width, and load rating and selected the bearing with the smallest sum of the deviations. If two or more bearings had the same sum of the deviations, we resolved ties by selecting the model that was closest to the U.S. model in terms of level of trade, contemporaneity, and variable cost of manufacture. We capped the total sum of the deviations at 40 percent. If no bearing sold in the comparison market had a sum of the deviations that was less than 40 percent, we concluded that no appropriate comparison existed in the comparison market.

Date of Sale

Section 351.401(i) of the Department's regulations states that the Department normally will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The regulation provides further that the Department may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established. The Department has a long-standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established.⁴⁴

NSK reported invoice date as the date of sale for all home-market sales and for all U.S. sales. NSK reported that “{i}n the United Kingdom as well as the United States, customers may change quantity or cancel orders prior to delivery. In addition, NSK's invoice clearly indicates that the price of the sale is the price in effect at the time of shipment, which provides NSK the ability to increase or decrease prices up to the actual date of shipment of the goods. Further, NSK's accounting records do not recognize sales until invoices are actually issued, which does not occur until goods are shipped.”⁴⁵ This record evidence demonstrates that the material terms

⁴³ See Memorandum titled “2010-2011 Administrative Review of the Antidumping Duty Order on Ball Bearings and Parts Thereof from the United Kingdom - Preliminary Results Analysis Memorandum for NSK Bearings Europe Ltd. and NSK Europe Ltd.” (Preliminary Analysis Memorandum) dated concurrently with this notice, at 2.

⁴⁴ See *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From Thailand*, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10; see also *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams From Germany*, 67 FR 35497 (May 20, 2002), and accompanying Issues and Decision Memorandum at Comment 2.

⁴⁵ See NSK's Section A response dated May 30, 2014, at A-32.

of sale are not established until the date of invoice. Therefore, we preliminarily determine that the invoice date is the appropriate date of sale for all home-market sales and for all U.S. sales.

Constructed Export Price

In accordance with section 772(b) of the Act, we used CEP for NSK, because the subject merchandise was sold in the United States by a U.S. seller affiliated with the producer and export price was not otherwise indicated.

We calculated CEP based on the ex-warehouse or delivered price to unaffiliated purchasers in the United States. We made deductions for discounts and rebates in accordance with 19 CFR 351.401(c) and 351.102(b)(38). We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. In accordance with section 772(d)(1) of the Act, we calculated the CEP by deducting selling expenses associated with economic activities occurring in the United States, which includes direct selling expenses and indirect selling expenses. Finally, we made an adjustment for profit allocated to these expenses in accordance with section 772(d)(3) of the Act.

Normal Value

A. *Home Market Viability as Comparison Market*

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home-market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), we compared the volume of NSK's home-market sales of the foreign like product to the volume of its U.S. sales of subject merchandise, in accordance with section 773(a)(1)(C) of the Act.⁴⁶ Based on this comparison, we determined that NSK had a viable home market during the POR. Consequently, we based NV on home-market sales to unaffiliated purchasers made in the usual quantities in the ordinary course of trade.

B. *Level of Trade*

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (LOT) as the CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).⁴⁷ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.⁴⁸ To determine whether NV sales are at a different LOT than U.S. sales, we examine stages in the marketing process and selling functions along the chain of distribution.⁴⁹ If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences

⁴⁶ See NSK's Section A response dated May 30, 2014, at A-2 and Exhibit A-1.

⁴⁷ See 19 CFR 351.412(c)(2).

⁴⁸ *Id.*; see also *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997) (*CTL Plate*).

⁴⁹ See 19 CFR 351.412(c)(2).

between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision).⁵⁰

NSK reported three channels of distribution in the home market: sales to automotive OEMs, industrial OEMs, and aftermarket distributors.⁵¹ We found that the two OEM channels of distribution provide the same level of intensity with respect to the following selling activities: repackaging activities, prototype development services, custom design products and customer-specific R&D, salesman visits to end-users, engineering visits to end-users, entertainment, technical services on behalf of customers, strategic and economic planning/analysis, computer, legal, accounting, and price negotiations with end-users.⁵² We also found that the two home-market OEM channels of distribution do not differ significantly with respect to the remaining reported selling activities such as freight & delivery arrangement, engineering services, advice, and support.⁵³ As such, we preliminarily determine that the two OEM home-market channels of distribution constitute a single OEM level of trade. We found that the home-market OEM channels of distribution differed from the aftermarket distributor channel of distribution with respect to selling activities such as just-in-time delivery, inventory-holding services, incentive-rebate programs, prototype-development services, custom-design products and customer-specific R&D, distributor product training/orientation, provision of sales aids, brochures, and other tools to aid the sales of product, excess-inventory return programs, and price negotiations with end-users.⁵⁴ Based on these differences, we preliminarily determine that the OEM and distributor home-market channels of distribution constituted two levels of trade.

In the U.S. market, NSK reported CEP sales.⁵⁵ Although NSK reported that the CEP sales it made to unaffiliated customers were made to OEM and aftermarket customers, the selling activities among all sales to the affiliated reseller were similar.⁵⁶ Therefore, we preliminarily determine that the CEP constitutes only one level of trade. We compared the selling activities at the CEP level of trade with the selling activities at each home-market level of trade and found, after deducting selling functions performed by NSK U.K.'s U.S. affiliate, that these levels were substantially dissimilar. For example, the CEP level involves little or no distributor product training/orientation, inventory-holding services, and excess-inventory return programs.⁵⁷ Therefore, we preliminarily determine that the home-market sales are at different levels of trade and at more advanced stages of distribution than the CEP level of trade. Because the home-market levels of trade were different from the CEP level of trade, we could not match sales at the same level of trade in the home market nor could we determine a level-of-trade adjustment based on NSK's home-market sales of the foreign like product. Furthermore, we have no other

⁵⁰ See *CTL Plate*, 62 FR at 61732, and *Final Determination of Sales at Less Than Fair Value: Greenhouse Tomatoes From Canada*, 67 FR 8781 (February 26, 2002).

⁵¹ See NSK's Section A response dated May 30, 2014, at A-12.

⁵² *Id.*, at Exhibit A-15.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*, at Exhibit A-1.

⁵⁶ *Id.*, at Exhibit A-15.

⁵⁷ *Id.*

information that provides an appropriate basis for determining a level-of-trade adjustment. For NSK, to the extent possible, we determined NV at the same level of trade as the starting price for the CEP, which was the price to the unaffiliated customer, and made a CEP-offset adjustment in accordance with section 773(a)(7)(B) of the Act.

C. Calculation of Normal Value Based on Comparison Market Prices

We based NV on the starting prices to home-market customers. Pursuant to section 773(a)(6)(B)(ii) of the Act, we deducted movement expenses NSK incurred on its home-market sales. We made adjustments for differences in domestic and export packing expenses in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act. We also made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411 and for differences in circumstances of sale in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We made circumstance-of-sale adjustments by deducting home-market imputed credit expenses from NV. We also made a CEP-offset adjustment as described above.

D. Calculation of Normal Value Based on Constructed Value

In accordance with section 773(a)(4) of the Act, we used constructed value as the basis for NV when there were no usable sales of the foreign like product in the comparison market. We calculated constructed value in accordance with section 773(e) of the Act. We included the cost of materials and fabrication, SG&A expenses, U.S. packing expenses, and profit in the calculation of constructed value. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by NSK in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the home market.

When appropriate, we made adjustments to constructed value in accordance with section 773(a)(8) of the Act, 19 CFR 351.410, and 19 CFR 351.412 for circumstance-of-sale differences and made a CEP-offset adjustment in accordance with section 773(a)(7)(B) of the Act. We made circumstance-of-sale adjustments by deducting home-market imputed credit expenses from constructed value.

E. Cost of Production

Because we disregarded sales made below cost in the most recently completed administrative review of NSK, we have reasonable grounds to believe or suspect that sales of foreign like product under consideration for the determination of NV have been made at prices below the cost of production (COP) as provided by section 773(b)(2)(A)(ii) of the Act. Accordingly, we tested for below-cost home-market sales in this review pursuant to section 773(b)(1) of the Act.⁵⁸

⁵⁸ See *Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Preliminary Results of Antidumping Duty Administrative Reviews, Preliminary Results of Changed-Circumstances Review, Rescission of Antidumping Duty Administrative Reviews in Part, and Intent To Revoke Order in Part*, 75 FR 22384 (April 28, 2010).

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated the COP based on the sum of the cost of materials and fabrication for the foreign like product plus an amount for general and administrative expenses (G&A), interest expenses, and comparison-market selling expenses and packing costs (*see* the “Test of Comparison-Market Sales prices” section below for treatment of comparison-market selling expenses and packing costs). We relied on the COP data submitted by NSK. We examined the cost data and preliminarily determined that our quarterly cost methodology is not warranted. Therefore, we applied our standard methodology of using annual costs based on the reported data.

2. Test of Comparison-Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the home market sales of the foreign like product, as required under section 773(b) of the Act, to determine whether the sales were made at prices below the COP. We compared model-specific COPs to the reported home market prices less any applicable movement charges, discounts and rebates, selling, and packing expenses.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of the respondent’s sales of a given product are at prices less than the COP, we do not disregard any below cost sales of that product because we determine that the below cost sales were not made in “substantial quantities.” Where 20 percent or more of the respondent’s sales of a given product during the POR were at prices less than COP, we determine that such sales have been made in “substantial quantities” and, thus, we disregard below cost sales.⁵⁹ Further, we determine that the sales were made within an extended period of time, in accordance with section 773(b)(2)(B) of the Act, because we examine below cost sales occurring during the entire POR. In such cases, because we compare prices to POR-average costs, we also determine that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act.

In this review, we found that, for certain specific products, more than 20 percent of NSK’s home-market sales were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. Therefore, we disregarded these sales and used the remaining sales as the basis for determining NV in accordance with section 773(b)(1) of the Act.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A of the Act and 19 CFR 351.415, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. The exchange rates are available on the Enforcement and Compliance website at <http://enforcement.trade.gov/exchange/index.html>.

⁵⁹ *See* section 773(b)(2)(C) of the Act.

Recommendation

We recommend applying the above methodology for these preliminary results.

✓

Agree

Disagree

Ronald K Lorentzen

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

September 17, 2014
(Date)