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DATE: June 5, 2013

MEMORANDUM TO: Christian Marsh  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

THROUGH: James Maeder  
Director, Office 2  
Antidumping and Countervailing Duty Operations

FROM: The Team

SUBJECT: Decision Memorandum for the Rescission, in Part, of Antidumping  
Duty Administrative Review of Tapered Roller Bearings and Parts  
Thereof, Finished and Unfinished (TRBs) from the People's  
Republic of China (PRC)

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## SUMMARY

On July 31, 2012, the Department of Commerce (Department) initiated an administrative review of the antidumping duty order TRBs from the PRC. One of the companies included in the review is Shanghai General Bearing (SGB).<sup>1</sup> Based on record information demonstrating that SGB is a factory established and owned by an entity previously revoked from the Order,<sup>2</sup> we made a preliminary decision to rescind the review of SGB on March 25, 2013,<sup>3</sup> and provided parties an opportunity to comment on this decision. After reviewing the comments and additional factual information received from parties, we continue to find that SGB is a factory established by a previously revoked entity and, accordingly, we recommend rescinding the review of SGB.

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<sup>1</sup> See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 77 FR 45338, 45340 (July 31, 2012) (Initiation Notice).

<sup>2</sup> See Notice of Antidumping Duty Order: Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the People's Republic of China, 52 FR 22667 (June 15, 1987) (Order).

<sup>3</sup> See the memorandum to James Maeder, Director, Office 2, AD/CVD Operations, from Blaine Wiltse, Senior Analyst, Office 2, AD/CVD Operations, entitled, "2011-2012 Administrative Review of Tapered Roller Bearings and Parts Thereof, Finished and Unfinished from the People's Republic of China: Intent to Rescind Administrative Review," dated March 25, 2013, at 3 (Intent to Rescind Memo).

## BACKGROUND

In 1997, the Department revoked the antidumping duty order on TRBs from the PRC with respect to merchandise produced and exported by Shanghai General Bearing Co., Ltd. (SGBC).<sup>4</sup> In June 2012, we received a timely-filed request from The Timken Company (the petitioner) to conduct an administrative review of Shanghai General Bearing – Ningbo Plant (SGBN). Because the Department reviews producers/exporters, not factories of producers/exporters in isolation,<sup>5</sup> on July 31, 2012, we initiated a review of SGB, the entity which we believed to be SGBN's parent company.<sup>6</sup> However, after initiation, we learned that SGBN is actually owned by SGBC.<sup>7</sup>

In September and October, we received comments from SGBC and the petitioner regarding the review initiated on SGB. In these comments, SGBC requested that the Department rescind the review for SGB because this company is the same entity as SGBC, and SGBC is revoked from the Order. In contrast, the petitioner argued that, because SGBN was established after SGBC's revocation and the record was unclear as to SGBN's history, creation, and ownership, the Department should conduct a successor-in-interest analysis to determine if SGBN is entitled to SGBC's revocation.

On March 25, 2013, we notified parties of our intent to rescind the review for SGB and provided parties an opportunity to comment on this preliminary rescission.<sup>8</sup> In April 2013, we received additional comments and rebuttal comments from the petitioner and SGBC, respectively. On April 22, 2013, we requested that SGBC provide additional clarification regarding the timing of certain lease agreements between SGBN and the owner of its manufacturing facility. SGBC provided this information on April 26 and 29, 2013.

## INTERESTED PARTIES' POST-PRELIMINARY RESCISSION ARGUMENTS

The petitioner argues that the Department's preliminary determination that SGBN is a factory established and owned by SGBC is not supported by the information on the record of this review. Specifically, the petitioner contends that apparent date inconsistencies on the documents provided by SGBC (i.e., Written Resolution of the Board of Directors of SGBC, Plant Lease

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<sup>4</sup> See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results of Antidumping Duty Administrative Review and Revocation in Part of Antidumping Duty Order, 62 FR 6189, 6214 (Feb. 11, 1997) (SGBC Revocation FR).

<sup>5</sup> See 19 CFR 351.213(b)(1).

<sup>6</sup> See Initiation Notice, 77 FR at 45340.

<sup>7</sup> See the Memorandum to Melissa G. Skinner, Director, Office 8, Antidumping and Countervailing Duty Operations, from Brendan Quinn, International Trade Compliance Analyst, Office 8, Antidumping Duty and Countervailing Operations, entitled, "Selection of Respondents for the 2011-2012 Administrative Review of the Antidumping Duty Order on Tapered Roller Bearings and Parts Thereof, Finished and Unfinished from the People's Republic of China," dated October 10, 2012, at footnote 4.

<sup>8</sup> See Intent to Rescind Memo.

Agreement, and Real Estate Lease Agreement)<sup>9</sup> raise questions about the origins of SGBN and the arrangements made by SGBC to occupy it. Further, the petitioner alleges that certain of these documents appear to indicate that SGBC agreed to lease a pre-existing facility owned by another bearing manufacturer.

The petitioner cites to Brass from Canada, Ball Bearings from the UK, and Ball Bearings from France,<sup>10</sup> as support for conducting a successor-in-interest analysis in situations where a company acquired some or all of the assets of another company. The petitioner argues that, as in these cases, information on the record here suggests that SGBC acquired the existing assets of another company and, thus, it is similarly appropriate for the Department to conduct a successor-in-interest analysis. Therefore, the petitioner urges the Department to collect additional information concerning the history, creation, and current functions of SGBN.

SGBC argues that, despite the petitioners' speculation to the contrary, all the facts on the record support SGBC's statements that it did not establish SGBN by acquiring another company's existing production operations. Rather, SGBC explains that SGBN was established by leasing a newly-constructed building that had never been occupied either by a producer of TRBs or by any other party. SGBC reiterates that it established SGBN to expand its own production and notes that it could have obtained the same result by building an addition to its existing factory. As a result, SGBC argues that its establishment of SGBN is not a change in corporate ownership and, thus, not analogous to the situations in the cases cited by the petitioner.

SGBC explains that the date inconsistencies noted by the petitioner are the result of an informal agreement between the principals of SGBC and the lessor that allowed SGBC to occupy the facility (that later became SGBN) prior to the formal signing of the lease between the parties. SGBC contends that, although there are no records available to demonstrate this informal decision, its payment records show that SGBC paid rent to lease the facility from the date of the proposed lease agreement to the present. SGBC provided a payment history on April 26, 2013.

For these reasons, SGBC urges the Department to rescind its review of SGB.

## ANALYSIS

As noted above, in the "Background" section of this memorandum, in 1997, the Department revoked the antidumping duty order on TRBs from the PRC with respect to merchandise produced and exported by SGBC. See SGBC Revocation FR. As explained in the Intent to Rescind Memo, we preliminarily determined that SGBN is a factory owned by SGBC (a revoked entity) and noted that, pursuant to 19 CFR 351.213(b)(1), the Department conducts reviews of

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<sup>9</sup> See SGBC's submission dated September 25, 2012, at Appendix 1-5.

<sup>10</sup> See Brass Sheet and Strip from Canada: Final Results of Antidumping Duty Administrative Review, 57 FR 20460, 20461 (May 13, 1992) (Brass from Canada); Ball Bearings and Parts Thereof from the United Kingdom: Preliminary Results of Changed-Circumstances Review, 73 FR 30378, 30379 (May 27, 2008) (Ball Bearings from the UK), unchanged in Ball Bearings and Parts Thereof From the United Kingdom: Final Results of Changed-Circumstances Review, 74 FR 57147, 57148 (Nov. 4, 2009); and Ball Bearings and Parts Thereof From France: Preliminary Results of Changed-Circumstances Review, 74 FR 60242 (Nov. 20, 2009) (Ball Bearings from France), unchanged in Ball Bearings and Parts Thereof from France: Final Results of Changed-Circumstances Review, 75 FR 34688, 34689 (June 18, 2010).

exporters/producers, not factories of producers/exporters in isolation. Since making this preliminary determination, SGBC has placed additional information on the record that reinforces this finding. Specifically, SGBC has explained how the date inconsistencies between its corporate resolution and lease documents were the result of an informal agreement between the principals of the parties. Additionally, SGBC has provided records to demonstrate that it made rental payments on the SGBN facilities since the start date of its lease, including the period during which the above-noted informal agreement applied. Therefore, we continue to find that SGBN is a factory established by a revoked entity, and, accordingly, it is appropriate to rescind the review that was initiated for the company we believed to be its parent, SGB.

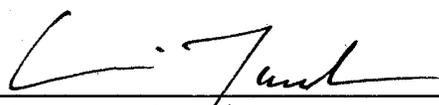
With respect to the cases cited by the petitioner, we disagree that these cases are on point. Evidence on the record shows that SGBC leased a facility wherein it began a production operation – a significantly different fact pattern from those where corporate assets were transferred between companies. The Department does not find the mere expansion of a company's operations to be a sufficient condition for performing a successor-in-interest analysis. Therefore, we find no basis to conduct a successor-in-interest analysis in this instance.

### RECOMMENDATION

Consistent with the evidence outlined above, we recommend rescinding the review of SGB.

✓  
 \_\_\_\_\_  
 Agree

\_\_\_\_\_ Disagree

  
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 Christian Marsh  
 Deputy Assistant Secretary  
 for Antidumping and Countervailing Duty Operations

6/5/13  
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 (Date)