



A-570-601

Changed Circumstances Review


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

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

SUBJECT: Decision Memorandum for the Preliminary Results of the
Antidumping Duty Changed Circumstances Review of Tapered
Roller Bearings and Parts Thereof, Finished and Unfinished, from
the People's Republic of China

SUMMARY

As a result of an adequate allegation from a domestic interested party in this proceeding, the Department of Commerce (the Department) is conducting a changed circumstances review (CCR) of the antidumping duty (AD) order on tapered roller bearings and parts thereof, finished and unfinished (TRBs), from the People's Republic of China (PRC) to determine whether Shanghai General Bearing Co., Ltd. (SGBC/SKF) has resumed dumping TRBs and whether the AD order should be reinstated for TRBs from the PRC manufactured and exported by SGBC/SKF. The period of review (POR) is June 1, 2014, through May 31, 2015. We preliminarily find that SGBC/SKF has sold TRBs at prices below normal value (NV) and that TRBs produced and exported by SGBC/SKF should be reinstated in the AD order on TRBs from the PRC.

Background

On June 15, 1987, the Department published the AD order on TRBs from the PRC.¹ On February 11, 1997, the Department conditionally revoked the TRBs Order with respect to

¹ See 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) (TRBs Order).



merchandise produced and exported by SGBC/SKF,² based on a finding of three years of no dumping.³

On August 13, 2015, based on a properly-filed allegation from the petitioner⁴ that SGBC/SKF has resumed dumping TRBs in the United States,⁵ the Department initiated a CCR on the AD order on TRBs from the PRC to determine whether to reinstate the AD order with respect to SGBC/SKF.⁶ Accordingly we issued the non-market economy (NME) AD questionnaire to SGBC/SKF.

In September 2015, SGBC/SKF responded to section A of the questionnaire (i.e., the section relating to general information), and in October, it responded to sections C and D of the questionnaire (i.e., the sections relating to U.S. sales and factors of production (FOPs), respectively). Also in October, we aligned the deadlines of the CCR with those in the concurrent 2015-2015 administrative review of TRBs from the PRC,⁷ and we received surrogate value (SV) comments from the petitioner and SGBC/SKF, as well as SV rebuttal comments from the petitioner.

From November 2015 through June 2016, we issued supplemental questionnaires to SGBC/SKF.

² SGBC/SKF is currently part of a group of companies owned by AB SKF (SKF) in Sweden. See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Notice of Final Results of Changed Circumstances Review, 80 FR 19070 (April 9, 2015) and accompanying Issues and Decision Memorandum (SII CCR) at Comment 1. At the time of revocation, SGBC/SKF was not part of this group. However, the Department conducted a CCR after the company's change in ownership, and we found that SGBC/SKF is the successor in interest to the company as it existed at the time of revocation. Id.

³ 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 (February 11, 1997) (for the 1993-1994 review) (SGBC/SKF Revocation).

The regulatory provision governing partial revocation at the time of SGBC/SKF's revocation was 19 CFR 353.25 (1997). The relevant language remained substantively unchanged when 19 CFR 353.25 was superseded by 19 CFR 351.222 in 1997. See Antidumping Duties; Countervailing Duties: Notice of Proposed Rulemaking and Request for Public Comments, 61 FR 7308 (February 27, 1996) (1996 Notice of Proposed Rulemaking); see also Antidumping Duties; Countervailing Duties: Final rule, 62 FR 27296, 27325-26, 27399-402 (May 19, 1997) (Preamble). The portion of 19 CFR 351.222 related to partial revocations of orders as to specific companies has been revoked for all reviews initiated on or after June 20, 2012. See Modification to Regulation Concerning the Revocation of Antidumping and Countervailing Duty Orders: Final Rule, 77 FR 29875 (May 21, 2012).

⁴ The petitioner in this case is the Timken Company.

⁵ See the petitioner's February 20, 2013, letter to the Department (CCR Request).

⁶ See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Initiation of Antidumping Duty Changed Circumstances Review, 80 FR 48493 (August 13, 2015) (Initiation).

⁷ See memorandum from Alice Maldonado, International Trade Compliance Analyst, Office II, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled "Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Changed Circumstances Review of Shanghai General Bearing Company, Ltd., entitled, Alignment with the 2014-2015 Antidumping Duty Administrative Review of Tapered Roller Bearings from the People's Republic of China," dated October 27, 2015.

We received responses to these questionnaires from December 2015 through June 2016.

In February and June 2016, we received additional SV comments from the petitioner and SGBC/SKF. In June 2016, we issued a correction initiation notice to indicate that if we preliminarily determine in this CCR that SGBC/SKF resumed dumping, we will direct CBP to suspend liquidation of all entries of TRBs manufactured in the PRC, and exported, by SGBC/SKF.⁸ Also in June, the petitioner filed comments regarding SGBC/SKF's reported FOP methodology and argued that the Department should base SGBC/SKF's preliminary margin on adverse facts available (AFA).⁹ SGBC/SKF responded to these comments and the petitioner subsequently submitted sur-rebuttal comments.¹⁰

Scope of the Order

Imports covered by the order are shipments of tapered roller bearings and parts thereof, finished and unfinished, from the PRC; flange, take up cartridge, and hanger units incorporating tapered roller bearings; and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. These products are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) item numbers 8482.20.00, 8482.91.00.50, 8482.99.15, 8482.99.45, 8483.20.40, 8483.20.80, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.80, 8708.70.6060, 8708.99.2300, 8708.99.4850, 8708.99.68.90, 8708.99.81.15, and 8708.99.81.80. Although the HTSUS item numbers are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

DISCUSSION OF THE METHODOLOGY

Non-Market Economy Country Status

The Department considers the PRC to be an NME country.¹¹ In accordance with section 771(18)(C)(i) of the Tariff Act of 1930, as amended (the Act), any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. Therefore, we continue to treat the PRC as an NME country for purposes of these preliminary results.

⁸ See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Notice of Correction to the Initiation of Antidumping Duty Changed Circumstances Review, 81 FR 36261 (June 6, 2016) (Initiation Correction).

⁹ See the petitioner's June 15, 2016, letter to the Department.

¹⁰ See SGBC/SKF's June 20, 2016, letter to the Department; and the petitioner's June 24, 2016, letter.

¹¹ See, e.g., Multilayered Wood Flooring From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 70267, 70268 (November 25, 2013), unchanged in Multilayered Wood Flooring From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 79 FR 26712 (May 9, 2014).

Separate Rates

In NME proceedings, there is a rebuttable presumption that companies are subject to government control and, thus, should be assessed a single AD rate.¹² It is the Department's policy to assign exporters of the subject merchandise from an NME country a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (de jure) and in fact (de facto), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in Sparklers,¹³ as amplified by Silicon Carbide.¹⁴ However, if the Department determines that a company is wholly foreign-owned, then consideration of the de jure and de facto criteria is not necessary to determine whether it is independent from government control.¹⁵

Under the separate rates test, the Department considers the following de jure criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) legislative enactments decentralizing control over export activities of the companies; and (3) other formal measures by the government decentralizing control over export activities of companies.¹⁶

Further, the Department typically considers four factors in evaluating whether a respondent is subject to de facto government control of its export functions: (1) whether the EPs are set by, or are subject to the approval of, a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and, (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses.¹⁷

The Department continues to evaluate its practice with regard to the separate rates analysis in light of the diamond sawblades from the PRC AD proceeding, and the Department's

¹² See Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China, 71 FR 53079, 53082 (September 8, 2006); see also Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof From the People's Republic of China, 71 FR 29303, 29307 (May 22, 2006).

¹³ See Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China, 56 FR 20588 (May 6, 1991) (Sparklers).

¹⁴ See Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China, 59 FR 22585 (May 2, 1994) (Silicon Carbide).

¹⁵ See, e.g., Final Results of Antidumping Duty Administrative Review: Petroleum Candles From the People's Republic of China, 72 FR 52355, 52356 (September 13, 2007).

¹⁶ See Sparklers, 56 FR at 20589.

¹⁷ See Silicon Carbide, 59 FR at 22586-89; Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China, 60 FR 22544, 22545 (May 8, 1995).

determinations therein.¹⁸ In particular, we note that in litigation involving the diamond sawblades proceeding, the U.S. Court of International Trade (CIT) found the Department's existing separate rates analysis deficient in the circumstances of that case, in which a government-controlled entity had significant ownership in the respondent exporter.¹⁹ We have concluded that where a government entity holds a majority ownership share, either directly or indirectly, in the respondent exporter, the majority ownership holding in and of itself means that the government exercises or has the potential to exercise control over the company's operations generally, which may include control over, for example, the selection of management, a key factor in determining whether a company has sufficient independence in its export activities to merit a separate rate.²⁰ Consistent with normal business practices, we would expect any majority shareholder, including a government, to have the ability to control, and an interest in controlling, the operations of the company, including the selection of management and the profitability of the company. Accordingly, we have considered the level of government ownership where necessary.

Separate Rate Recipient

In accordance with our practice, the Department analyzed whether SGBC/SKF demonstrated the absence of de jure and de facto governmental control over its export activities. In the instant proceeding, we preliminarily find no evidence of PRC government ownership of SGBC/SKF and that this company is entitled to a separate rate in this review.

¹⁸ See Final Results of Redetermination Pursuant to Remand Order for Diamond Sawblades and Parts Thereof from the People's Republic of China (May 6, 2013) in Advanced Technology & Materials Co., Ltd. v. United States, 885 F. Supp. 2d 1343 (CIT 2012) (Advanced Technology), affirmed in Advanced Technology & Materials Co., Ltd. v. United States, 938 F. Supp. 2d 1342 (CIT 2013). This remand redetermination is on the Enforcement and Compliance website at <http://enforcement.trade.gov/remands/12-147.pdf>. See also Diamond Sawblades and Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 77098 (December 20, 2013) and accompanying Preliminary Decision Memorandum at 7, unchanged in Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 79 FR 35723 (June 24, 2014) and accompanying Issues and Decision Memorandum at Comment 1.

¹⁹ See, e.g., Advanced Technology, 885 F. Supp. 2d at 1349 ("The court remains concerned that Commerce has failed to consider important aspects of the problem and offered explanations that run counter to the evidence before it."); id. at 1351 ("Further substantial evidence of record does not support the inference that SASAC's {state-owned assets supervision and administration commission} 'management' of its 'state-owned assets' is restricted to the kind of passive-investor de jure 'separation' that Commerce concludes.") (footnotes omitted); id. at 1355 ("The point here is that 'governmental control' in the context of the separate rate test appears to be a fuzzy concept, at least to this court, since a 'degree' of it can obviously be traced from the controlling shareholder, to the board, to the general manager, and so on along the chain to 'day-to-day decisions of export operations,' including terms, financing, and inputs into finished product for export."); id. at 1357 ("AT&M *itself* identifies its 'controlling shareholder' as CISRI {owned by SASAC} in its financial statements and the power to veto nomination does not equilibrate the power of control *over* nomination.") (footnotes omitted).

²⁰ See Carbon and Certain Alloy Steel Wire Rod From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances, in Part, 79 FR 53169 (September 8, 2014), and accompanying Preliminary Decision Memorandum at 5-9.

Partially PRC-Owned Company

SGBC/SKF stated that it is majority foreign-owned by a company located in a market economy (ME) country; however it is also partially owned by a Chinese company.²¹ In accordance with our practice, the Department analyzed whether this company demonstrated the absence of de jure and de facto governmental control over its export activities.

a) Absence of De Jure Control

The evidence provided by SGBC/SKF supports a preliminary finding of an absence of de jure government control based on the following: (1) there is an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) there are applicable legislative enactments decentralizing control of the company;²² and (3) there are formal measures by the government decentralizing control of the company.²³

b) Absence of De Facto Control

The evidence provided by SGBC/SKF supports a preliminary finding of an absence of de facto government control based on record statements and supporting documentation showing that the company: (1) set its own EPs independent of the government and without the approval of a government authority; (2) has the authority to negotiate and sign contracts and other agreements; (3) maintains autonomy from the government in making decisions regarding the selection of management; and (4) retains the proceeds of its respective export sales and make independent decisions regarding the disposition of profits or financing of losses.²⁴

Therefore, the evidence placed on the record of this review by SGBC/SKF demonstrates an absence of de jure and de facto government control under the criteria identified in Sparklers and Silicon Carbide. Accordingly, the Department preliminarily grants a separate rate to SGBC/SKF.

Collapsing of SGBC/SKF with Another Producer of TRBs

In accordance with 19 CFR 351.401(f)(1) and (2), the Department will treat two or more affiliated producers as a single entity where those producers have production facilities for similar or identical products that would not require substantial retooling of either facility and there is significant potential for the manipulation of price or production. In regards to significant potential for manipulation of price or production, 19 CFR 351.401(f)(2)(i)-(iii) states that the Department may consider the following factors: (i) level of common ownership, (ii) the extent to

²¹ See SGBC/SKF's Section A response, dated September 14, 2015 (SGBC/SKF Section A Response), at A-2 – A-11, and Appendix A-2; and SGBC/SKF's Supplemental Sections A-C response, dated December 18, 2016, at 1-4.

²² See SGBC/SKF Section A Response, at A-6 and Appendix A-6.

²³ Id.

²⁴ Id., at A-8 – A-11.

which managerial employees or board members of one firm sit on the board of directors of an affiliated firm, and (iii) the degree to which operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers.

SGBC/SKF is affiliated with CPZ/SKF, another producer of TRBs located in the PRC, via a common owner, AB SKF. In the two prior reviews, we examined whether it was appropriate to collapse SGBC/SKF and CPZ/SKF into a single entity.²⁵ After analyzing the facts on those segments of the proceeding, we found that the records did not support a determination that there was a significant potential for manipulation of price or production. We stated in those segments, however, that we would request additional information in subsequent review and re-evaluate our decision if warranted.

Consistent with our stated intention, we have examined whether it is appropriate to collapse SGBC/SKF and CPZ/SKF into a single entity in this CCR. After analyzing the facts in this segment of the proceeding along with those in the concurrent administrative review regarding CPZ/SKF, we find that the records do not support a determination that there was a significant potential for manipulation of price or production. Specifically, while CPZ/SKF and SGBC are indeed affiliated, and they both produce TRBs, the record of this case establishes that both companies operated completely independently during the POR. There were no transactions between the companies, and they shared no facilities, employees, or pricing/production information;²⁶ similarly, they had no common board members or managers.²⁷ Further, although the companies did have a small number of suppliers in common, they had many more which were not the same.²⁸ Additionally, while SGBC/SKF and CPZ/SKF are affiliated producers who make a small number of the same products and sell to a small number of the same customers, they do not interact with each other nor do they share personnel or information. Finally, while the companies sell through U.S. affiliates which have a common owner, those affiliates do not interact with each other, nor is there evidence that they provide their owner with information on their day-to-day operations.²⁹ Absent additional evidence, the existence of a few common suppliers, products, and customers does not support a finding that there exists a significant potential for the manipulation of production, and, thus, we find that it is appropriate to treat SGBC/SKF and CPZ/SKF as separate entities for purposes of this segment of the proceeding.

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the

²⁵ See TRBs AR 26 Final, and accompanying Issues and Decision Memorandum at Comment 4 and Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of the Antidumping Duty Administrative Review; 2013-2014, 81 FR 1396 (January 12, 2016) (TRBs AR-27 Final), and accompanying Issues and Decision Memorandum at Comment 1.

²⁶ See SGBC/SKF's Supplemental Sections A and C Response, dated May 9, 2016, at 2 – 5, and 11.

²⁷ Id., at 11-12.

²⁸ Id., at 11.

²⁹ Id.

Act directs it to base NV, in most circumstances, on the NME producer's FOPs, valued in a surrogate ME country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more ME countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.³⁰ As a general rule, the Department selects a surrogate country that is at the same level of economic development as the NME country unless it is determined that none of the countries are viable options because (a) they either are not significant producers of comparable merchandise, (b) do not provide sufficient reliable sources of publicly available SV data, or (c) are not suitable for use based on other reasons.³¹ Surrogate countries that are not at the same level of economic development as the NME country, but still at a level of economic development comparable to the NME country, are selected only to the extent that data considerations outweigh the difference in levels of economic development. To determine which countries are at the same level of economic development, the Department generally relies on per capita gross national income (GNI) data from the World Bank's World Development Report.³² Further, the Department normally values all FOPs in a single surrogate country.³³

In this review, the Department determined that Bulgaria, Ecuador, Mexico, Romania, South Africa, and Thailand are countries at the same level of economic development as the PRC, based on per capita GNI.³⁴ The sources of the SVs we have used in this CCR are discussed under the "Normal Value" section below.

With respect to the Department's selection of a surrogate country, both the petitioner and SGBC/SKF argue that Thailand is the most appropriate surrogate country from which to derive SVs for the PRC.³⁵ No other party commented on this issue.

The Department preliminarily selected Thailand as the surrogate country on the grounds that: (1) it is at the same level of economic development as the PRC; (2) it is a significant producer of comparable merchandise; and (3) we have reliable data from Thailand that we can use to value

³⁰ See Import Administration Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004).

³¹ Id.

³² Id.

³³ See 19 CFR 351.408(c)(2).

³⁴ See letter To All Interested Parties, entitled "2014-2015 Antidumping Duty Administrative Review, 2014-2015 New Shipper Reviews, and 2014-2015 Changed Circumstances Review of Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Surrogate Country and Surrogate Value Comments," dated September 1, 2015, at Attachment I.

³⁵ See the petitioner's submission, "The Timken Company's Surrogate Country Comments," dated September 15, 2015 (Petitioner's Surrogate Country Comments); and SGBC/SKF's submission, "Tapered Roller Bearings and Parts Thereof (Finished and Unfinished) from the People's Republic of China: SKF Surrogate Value Comments," dated October 2, 2015 (SGBC/SKF SV Comments).

the FOPs.³⁶ Specifically, regarding significant production, UN Comtrade data for exports demonstrate that Thailand exported a significant volume of comparable merchandise in recent years.³⁷ With respect to reliable data to value FOPs, the record contains Global Trade Atlas (GTA) data from Thailand for each of the inputs except labor, certain transportation services, and financial ratios. GTA data are country-wide, published data, which the Department frequently uses to value FOPs. Accordingly, we calculated NV using Thai SVs when available and appropriate to value SGBC/SKF's FOPs.

Date of Sale

Section 351.401(i) of the Department's regulations states that, normally, we 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 we may use a date other than the date of the invoice if satisfied that a different date better reflects the date on which the material terms of sale are established.

SGBC/SKF reported that the date of sale was determined by the invoice issued to its unaffiliated U.S. customers.³⁸ In this case, because the Department found no evidence contrary to SGBC/SKF's claims that invoice date reflected the date on which the materials terms of sale were established. Thus, because record evidence does not demonstrate that the material terms of sale were established on another date, the Department used invoice date as the date of sale for these preliminary results, in accordance with 19 CFR 351.401(i).

Comparisons to Normal Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), in order to determine whether SGBC/SKF's sales of the subject merchandise from the PRC to the United States were made at less than NV, the Department compared CEP to NV, as described in the "Constructed Export Price" and "Normal Value" sections, below.

A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs (or CEPs) (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, the Department examines whether to compare weighted-average NVs with the export prices (EPs) or constructed export prices

³⁶ See memorandum from Blaine Wiltse, Senior Trade Analyst, Office II, to the File, entitled "Surrogate Value Memorandum" (Surrogate Value Memo)," dated July 5, 2016; see also the "Factor Valuations" section of this memorandum, below.

³⁷ See Petitioner's Surrogate Country Comments, at 3-4.

³⁸ We note that SGBC/SKF's invoices are always issued on the date of shipment. See SGBC/SKF Section A Response at A-17; and SGBC/SKF's October 14, 2015, sections C and D questionnaire response (SGBC/SKF sections C and D Response) at C-8.

(CEPs) of individual sales (i.e., 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) in administrative reviews is, in fact, analogous to the issue in less-than-fair-value investigations.³⁹

In recent investigations, the Department applied a “differential pricing” analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.⁴⁰ The Department finds that the differential pricing analysis used in recent investigations 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 a respondent’s weighted-average dumping margin.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of EPs (or CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchaser, region and time period to determine whether a pattern of prices that differ significantly exists. 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 analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated 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 period of review based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region and time period, that the Department uses in making comparisons between EP (or CEP) and normal value 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* coefficient is a generally recognized statistical measure of the extent of the difference between the mean (i.e., weighted-average price) of a test group and the mean (i.e.,

³⁹ 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) and accompanying Issues and Decision Memorandum at comment 1; see also Apex Frozen Foods Private Ltd. v. United States, 37 F. Supp. 3d 1286 (CIT 2014).

⁴⁰ See, e.g., Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 33351 (June 4, 2013); Steel Concrete Reinforcing Bar From Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, 79 FR 54967 (September 15, 2014); or Welded Line Pipe From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value, 80 FR 61362 (October 13, 2015).

weighted-average price) of a comparison group. First, for comparable merchandise, the Cohen's *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region or time period 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 prices to the particular purchaser, region or time period differ significantly from the 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 (0.2, 0.5 and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are 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.

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 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, the Department examines 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 comparison 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, then this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative comparison 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 margins between the average-to-average method and the appropriate alternative method where both rates are above the de minimis threshold, or 2) the resulting weighted-average dumping margins between the average-to-average method and the appropriate alternative method move 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 in this proceeding.

For SGBC/SKF, based on the results of the differential pricing analysis, the Department preliminarily finds that 46.9 percent of the value of U.S. sales pass the Cohen's *d* test,⁴¹ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department preliminarily determines that the average-to-average method cannot account for such differences because there is a 25 percent relative change between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test. Thus, for these preliminary results, the Department is applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test to calculate the weighted-average dumping margin for SGBC/SKF.

Constructed Export Price

We used CEP methodology for SGBC/SKF's sales, in accordance with section 772(b) of the Act, because the subject merchandise was first sold in the United States by a U.S. seller affiliated with the producer and EP methodology was not otherwise indicated.⁴²

Value-Added Tax (VAT)

The Department's practice in NME cases is to adjust EP or CEP for the amount of any un-refunded (hereafter irrecoverable) VAT, in accordance with section 772(c)(2)(B) of the Act.⁴³ The Department explained that when an NME government imposes an export tax, duty, or other charge on subject merchandise, or on inputs used to produce subject merchandise, from which the respondent was not exempted, the Department will reduce the respondent's EP and CEP prices accordingly by the amount of the tax, duty or charge paid, but not rebated.⁴⁴ Where the irrecoverable VAT is a fixed percentage of CEP or EP, the Department explained that the final step in arriving at a tax neutral dumping comparison is to reduce the U.S. CEP or EP downward

⁴¹ See memorandum to the File from Alice Maldonado, International Trade Compliance Analyst, Office II, "Calculation Adjustments for Shanghai General Bearing Co., Ltd. for the Preliminary Results" dated July 5, 2016 (SGBC/SKF Prelim Calc Memo) at 2.

⁴² See SGBC/SKF's October 14, 2015, response to section C of the questionnaire at C-8 (SGBC/SKF Section C Response).

⁴³ See Methodological Change for Implementation of Section 772(c)(2)(B) of the Tariff Act of 1930, as Amended, In Certain Non-Market Economy Antidumping Proceedings, 77 FR 36481 (June 19, 2012) (Methodological Change).

⁴⁴ Id.; see also Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 79 FR 4875 (January 30, 2014), and accompanying Issues and Decision Memorandum at Comment 5.A.

by this same percentage.⁴⁵

The Department's methodology, as explained above and applied in this review, essentially amounts to performing two basic steps: (1) determining the irrecoverable VAT tax on subject merchandise, and (2) reducing U.S. price by the amount (or rate) determined in step one. Information placed on the record of this review by SGBC/SKF indicates that, according to the Chinese VAT schedule, the standard VAT levy is 17 percent⁴⁶ and the rebate rate for subject merchandise is 15 percent.⁴⁷ For the purposes of these preliminary results, therefore, we removed from U.S. price the difference between the rates (2 percent), which is the irrecoverable VAT as defined under Chinese tax law and regulation.⁴⁸

A. *SGBC/SKF*

We based CEP on prices to the first unaffiliated purchaser in the United States. We added surcharges to the starting price, where appropriate.⁴⁹ We made deductions from the starting price for discounts and rebates, where appropriate, in accordance with 19 CFR 351.401(c). We made deductions from the U.S. sales price for movement expenses, in accordance with section 772(c)(2)(A) of the Act. These included foreign inland freight from the plant to the port of exportation, foreign brokerage and handling, international freight, marine insurance, U.S. other transportation expenses, U.S. customs duty, U.S. warehousing expenses, U.S. inland freight from port to the warehouse, and, where applicable, U.S. inland freight from the warehouse to the customer. In accordance with our practice,⁵⁰ we offset inland freight expenses from SGBC/SKF's U.S. warehouse to its U.S. customer by the reported freight revenue for these sales.⁵¹ In instances where the above-listed expenses were incurred in the PRC, we valued these expenses using the SV methodology described in the "Factor Valuations" section of this memorandum, below.

In accordance with section 772(d)(1) of the Act, the Department deducted from the U.S. price commissions paid to unaffiliated selling agents, inventory carrying costs, credit expenses, repacking expenses, and U.S. indirect selling expenses, all of which relate to commercial activity in the United States. We recalculated U.S. credit expenses to add surcharges to the gross unit price. Finally, we deducted CEP profit, in accordance with sections 772(d)(3) and 772(f) of the Act.

⁴⁵ See Methodological Change, 77 FR 36481.

⁴⁶ See SGBC/SKF Section C Response, at C-37 and C-38.

⁴⁷ Id.

⁴⁸ Id.

⁴⁹ Because SGBC/SKF claimed business proprietary treatment regarding the nature of the surcharges, we are unable to discuss them further here. For further discussion, see SGBC/SKF's Section C response, at C-18.

⁵⁰ See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Preliminary Results and Partial Rescission of the Antidumping Duty Administrative Review; 2013-2014, 80 FR 38665 (July 7, 2015) (TRBs AR 27 Prelim), unchanged in TRBs AR-27 Final.

⁵¹ See SGBC/SKF Prelim Calc Memo.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using an FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home market prices, third country prices, or constructed value under section 773(a) of the Act. The Department bases NV on the FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies. Under section 773(c)(3) of the Act, FOPs include, but are not limited to: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. The Department used FOPs reported by SGBC/SKF for materials, labor, and packing, but excluded energy (*i.e.*, electricity). See the Surrogate Value Memo for further discussion regarding energy reporting in financial statements.

Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on FOPs reported by SGBC/SKF for the POR.⁵²

Except as noted below, the Department used Thai import data and other publicly-available Thai sources in order to calculate SVs for SGBC/SKF's FOPs. To calculate NV, the Department multiplied the reported per-unit FOP quantities by publicly-available SVs. The Department's practice when selecting the best available information for valuing FOPs is to select, to the extent practicable, SVs which are product-specific, representative of a broad market average, publicly available, contemporaneous with the POR, and exclusive of taxes and duties.⁵³

For the preliminary results, in accordance with the Department's practice, we used data from the Thai import statistics in the GTA, published by Global Trade Information Services, Inc., and other publicly-available Thai sources to calculate SVs for certain FOPs reported by SGBC/SKF (*i.e.*, direct materials, packing materials, and certain movement expenses). The GTA reports import statistics, such as into Thailand, in the original reporting currency and, thus, these data correspond to the original currency value reported by each country. The record shows that data in the Thai import statistics, as well as those from several other Thai sources, are contemporaneous with the POR, product-specific, and tax-exclusive.⁵⁴ In those instances where we could not obtain publicly-available information contemporaneous to the POR with which to

⁵² As noted above, the petitioner argued that the Department should base SGBC/SKF's preliminary dumping margin on AFA due to deficiencies in its methodology for reporting its FOP information. However, after reviewing the information on the record, we disagree that SGBC/SKF's methodology is inaccurate and, therefore, we have relied on this information for purposes of the preliminary results.

⁵³ See, e.g., Electrolytic Manganese Dioxide From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 48195 (August 18, 2008), and accompanying Issues and Decision Memorandum at Comment 2.

⁵⁴ See Surrogate Value Memo.

value factors, we adjusted the SVs using the Thai Purchase Price Index (PPI), as published in the International Monetary Fund's (IMF's) International Financial Statistics.⁵⁵

As appropriate, the Department adjusted input prices by including freight costs to render them delivered prices. Specifically, the Department added to Thai import SVs reported on a Cost, Insurance and Freight basis a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory where it relied on an import value. This adjustment is in accordance with the decision of the Court of Appeals for the Federal Circuit in Sigma Corp. v. United States, 117 F.3d 1401, 1408 (Fed. Cir. 1997). Additionally, where necessary, the Department adjusted SVs for inflation, exchange rates, and taxes.

Furthermore, with regard to the Thai import-based SVs, we disregarded import data on inputs that we have reason to believe or suspect may be subsidized. We have reason to believe or suspect that prices of inputs from Indonesia, India, and the Republic of Korea may have been subsidized because we have found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies.⁵⁶ Therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized.⁵⁷ Further, guided by the legislative history, it is the Department's practice not to conduct a formal investigation to ensure that such prices are not subsidized.⁵⁸ Rather, the Department bases its decision on information that is available to it at the time it makes its determination. Additionally, consistent with our practice, we disregarded prices from NME countries and excluded from the SVs imports labeled as originating from an "unspecified" country, because the Department could not be certain that they were not from either an NME country or a country with general export subsidies.⁵⁹

⁵⁵ See, e.g., Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 74 FR 9600 (March 5, 2009) (Kitchen Racks), unchanged in Kitchen Racks Final, 74 FR 36656.

⁵⁶ See, e.g., Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order, 75 FR 13257 (March 19, 2010), and accompanying Issues and Decision Memorandum at 4-5; Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review, 70 FR 45692 (August 8, 2005), and accompanying Issues and Decision Memorandum at 4; and Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review, 74 FR 2512 (January 15, 2009), and accompanying Issues and Decision Memorandum at 17, 19-20.

⁵⁷ See Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China, 69 FR 20594 (April 16, 2004), and accompanying Issues and Decision Memorandum at Comment 7.

⁵⁸ See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576, at 590 (1988); see also Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China, 72 FR 30758, 30763 (June 4, 2007), unchanged in Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China, 72 FR 60632 (October 25, 2007).

⁵⁹ See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates From the People's Republic of China, 69 FR 75294, 75300 (December 16, 2004), unchanged in 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).

Therefore, we have not used prices from these countries either in calculating the Thai import-based SVs or in calculating ME input values.

Pursuant to 19 CFR 351.408(c)(1), where a factor is produced in one or more ME countries, purchased from one or more ME suppliers and paid for in an ME currency, the Department normally will use the prices paid to the ME suppliers if substantially all (*i.e.*, 85 percent or more) of the total volume of the factor is purchased from the ME suppliers.⁶⁰ In those instances where less than substantially all of the total volume of the factor is produced in one or more ME countries and purchased from one or more ME suppliers, the Department will weight-average the actual prices paid for the ME portion and the surrogate value for the NME portion by their respective quantities.

SGBC/SKF purchased certain raw material inputs that are produced in ME countries, from ME suppliers and paid for in an ME currency.⁶¹ The Department valued those inputs in accordance with 19 CFR 351.408(c).⁶²

The Department used Thai import statistics from GTA to value raw materials, by-products, and packing materials purchased from NME suppliers.

Regarding by-products, SGBC/SKF reported that steel scrap was recovered as a by-product of the production of subject merchandise, both by itself and by certain subcontractors involved in the production process. SGBC/SKF provided production quantity as well as sales data for the scrap that it, and certain of its contractors, generated, and it successfully demonstrated that the scrap has commercial value. Therefore, we granted a by-product offset for the reported steel scrap, valued using Thai import data.⁶³

On June 21, 2011, the Department revised its methodology for valuing the labor input in NME AD proceedings.⁶⁴ In Labor Methodologies, the Department determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country. Additionally, the Department made a determination to use Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization (ILO) Yearbook of

⁶⁰ See Use of Market Economy Input Prices in Nonmarket Economy Proceedings, 78 FR 46799 (August 2, 2013).

⁶¹ See SGBC/SKF's sections C and D Response, at Appendix D-46.

⁶² See Surrogate Value Memo and SGBC/SKF Prelim Calc Memo.

⁶³ *Id.* In reviewing SGBC/SKF's by-product claim, we noted that SGBC/SKF based its claim on sales, instead of production quantity, of scrap. Further it appears that SGBC/SKF has double counted certain scrap amounts for its subcontractors and it included a scrap offset for other subcontractors for which the Department permitted it to report surrogate FOP data. Because the Department did not request information from SGBC/SKF with respect to these potential problems, we have allowed SGBC/SKF's reported by-product offset for purposes of the preliminary results; however, we intend to request that SGBC/SKF provide additional information on its offset calculations and we will reconsider these calculations for purposes of the final results.

⁶⁴ See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, 76 FR 36092 (June 21, 2011) (Labor Methodologies).

Labor Statistics as its primary source for industry-specific labor rates.⁶⁵

However, in these preliminary results, the Department calculated the labor input value using data from Thailand's National Statistics Office (NSO) Labor Force Survey data for "manufacturing" for the POR. Although the NSO Labor Force Survey data are not from the ILO, the Department finds that this fact does not preclude us from using this source for valuing labor. In Labor Methodologies, the Department decided to change to the use of ILO Chapter 6A from the use of ILO Chapter 5B data, on the rebuttable presumption that Chapter 6A data better account for all direct and indirect labor costs.⁶⁶ The Department did not, however, preclude all other sources for evaluating labor costs in NME antidumping proceedings. Rather, we continue to follow our practice of selecting the best available information to determine SVs for inputs such as labor.⁶⁷ Thus, we find that the NSO Labor Force Survey data are the best available information for valuing labor for this segment of the proceeding. Specifically, the NSO Labor Force Survey data are contemporaneous and reflect the fully-loaded labor costs and, thus, are the closest match to all costs covered by the ILO Chapter 6A labor data.⁶⁸ Therefore, we find that the general manufacturing labor data provides the best available information for the purposes of these preliminary results. The calculated wage rate is provided in the Surrogate Value Memo.

Pursuant to 19 CFR 351.408(c)(4), the Department valued factory overhead, selling, general and administrative expenses, and profit using non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country. For these preliminary results, we used ratios derived from the financial statements of JTEKT (Thailand) Co., Ltd. (JTEKT) for the fiscal year ending December 31, 2011. We find these statements to be the best available information on the record of this review because they are from the primary surrogate country, and from a producer of comparable merchandise. Further, upon review of JTEKT's financial statements, the Department finds no reason to believe or suspect that JTEKT may have received countervailable subsidies. In sum, we therefore find that these financial statements constitute the best available information with which to determine the financial ratios.

As stated above, the Department used Thailand data reported under the NSO Labor Force Survey data, which reflects all costs related to labor, including wages, benefits, housing, training, etc. Because the financial statements used to calculate the surrogate financial ratios do not include an itemized detail of indirect labor costs, the Department made no adjustments to the surrogate financial ratios.

We valued truck freight using Thai data in the World Bank publication Doing Business in Thailand.⁶⁹ We also valued brokerage and handling using this data source, which provided a

⁶⁵ Id.

⁶⁶ Id., at 36093.

⁶⁷ See Xanthan Gum from the PRC, and accompanying Issues and Decision Memorandum at Comment 6-C; and Drawn Stainless Steel Sinks From the People's Republic of China: Investigation, Final Determination, 78 FR 13019 (February 26, 2013), and accompanying Issues and Decision Memorandum at Comment 3.

⁶⁸ See TRBs AR-27 Final and accompanying Issues and Decision Memorandum at Comment 4.

⁶⁹ Id.

price list for export procedures necessary to export a standardized cargo of goods in Thailand in a 20-foot container. The price list was published in Doing Business in Thailand.⁷⁰ We did not inflate these prices because they are contemporaneous with the POR.

We valued ocean freight using data published by the Thailand Board of Investment. The reported prices were contemporaneous with the POR.

SGBC/SKF reported that 100 percent of its marine insurance services were purchases from ME suppliers in ME currency. Therefore we used the actual ME prices paid for marine insurance.⁷¹

Currency Conversion

Where necessary, the Department made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

CONCLUSION

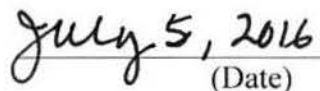
We recommend applying the above methodology for these preliminary results.

✓

Agree Disagree



Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance



(Date)

⁷⁰ Id.

⁷¹ See SGBC/SKF's sections C and D Response at C-22 and Appendix C-9.