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FINAL RESULTS OF REDETERMINATION
PURSUANT TO COURT REMANDS
FAG Italia, S.p.A. et al. v. United States
Court No. 97-02-00260-S (July 7, 2005)
FAG Kugelfischer Georg Schafer AG et al. v. United States
Court No. 97-02-00260 (July 7, 2005)
NTN Bearing Corp. of America et al. v. United States
Court No. 97-10-01800 (July 7, 2005)

SUMMARY

This remand redetermination, conducted in accordance with the orders of the U.S. Court of International Trade (CIT) of July 5, 2005, involves a challenge to the determination of the U.S. Department of Commerce (the Department) in the administrative reviews of the antidumping duty orders on antifriction bearings and parts thereof from Germany and Italy for two periods of review. Specifically, this remand redetermination covers the following administrative reviews:

- _____ ● Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Singapore, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews, 62 FR 2081 (January 15, 1997), and Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Singapore, and the United Kingdom; Amended Final Results of Antidumping Duty Administrative Reviews, 62 FR 14391 (March 26, 1997) (collectively AFBs 6).
- _____ ● Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the

United Kingdom; Final Results of Antidumping Duty Administrative Reviews, 62 FR 54043 (October 17, 1997), and Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom; Amended Final Results of Antidumping Duty Administrative Reviews, 62 FR 61963 (November 20, 1997) (collectively AFBs 7).

The periods of review for AFBs 6 and AFBs 7 are May 1, 1994, through April 30, 1995, and May 1, 1995, through April 30, 1996, respectively. The AFBs 6 respondents covered by this remand determination are as follows:

- * FAG Italia S.p.A. and FAG Bearings Corporation (collectively FAG Italy)
- * INA Walzlager Schaeffler KG (INA Germany)
- * FAG Kugelfischer Georg Schafer AG and FAG Bearings Corporation (collectively FAG Germany)

The AFBs 7 respondent covered by this remand is INA Walzlager Schaeffler KG (INA Germany).

In accordance with the CIT's order, we have afforded "Plaintiffs an opportunity to show that their dumping margins were incorrectly determined because Commerce's use of actual expenses did not account for United States credit and inventory carrying costs in the calculation of total expenses." Because none of the respondents presented evidence to demonstrate that their dumping margins had been determined incorrectly, we have determined that, for the purpose of computing the constructed-export-price (CEP) profit ratio, we used actual expenses as the measure of "total expenses" accurately.

BACKGROUND

On April 6, 2005, the Court of Appeals for the Federal Circuit (CAFC) determined that, although the Department may account for credit and inventory carrying costs using imputed expenses in one instance and using actual expenses in the other, the Department was required to provide respondents who so desired an opportunity to demonstrate that the amount of imputed expenses is not reflected accurately or embedded in its actual expenses. See SNR Roulements v. United States, 402 F.3d 1358 (CAFC 2005).

The CIT remanded this case to the Department to allow respondents an opportunity to “show that their dumping margins were incorrectly determined because Commerce’s use of actual expenses did not account for United States credit and inventory carrying costs in the calculation of total expenses.” FAG Kugelfischer Georg Schafer AG et al. v. United States, Court No. 97-02-00260 (July 7, 2005), FAG Italia S.p.A. et al. v. United States, Court No. 97-02-00260-S (July 7, 2005), and NTN Bearing Corp. of America et al. v. United States, Court No. 97-10-01800 (July 7, 2005). On July 13, 2005, we invited respondents to demonstrate that their dumping margins had been determined incorrectly.¹ The respondents submitted nothing in response to our invitations. Thus, we have determined that the record does not demonstrate that the respondents’ margins had been determined incorrectly by our use of actual expenses as the measure of “total expenses” in the calculation of the respondents’ CEP-profit ratios.

¹ On July 15, 2005, the Department corrected an error in the letter it had sent to FAG Italy which referred to the incorrect period of review. Additionally, on July 15, 2005, the Department invited INA and FAG Germany to demonstrate that their margins had been calculated incorrectly in AFBs 6.

COMMENTS

On September 22, 2005, we released a copy of our draft results of redetermination for comments. Respondents did not submit any comments on our draft results of redetermination. On September 26, 2005, Timken U.S. Corporation (Timken) submitted comments stating that the Department's calculations contained clerical errors with respect to the AFBs 6 margin-calculations for both FAG Germany and INA Germany. With respect to the Department's determinations for FAG Italy in AFBs 6 and INA Germany in AFBs 7, Timken submitted comments stating that it agreed with the draft results.

Department's Position: The Department has determined that Timken's ministerial-error allegation is untimely because the alleged errors relate to the Department's original calculations in 1997; thus, Timken has had numerous opportunities to bring the alleged error to the Department's attention prior to this redetermination. Because we have determined that Timken's ministerial-error allegation is untimely, we have not addressed the merits of the alleged errors. See Torrington Co. v. United States, 22 CIT 136 (1998) (finding Torrington's allegation during a remand proceeding of a clerical error in the original calculation in the administrative review is time-barred).

FINAL RESULTS OF REDETERMINATION

In accordance with the remand orders, after providing respondents an opportunity to demonstrate that their dumping margins had been determined incorrectly, we have determined that we calculated the respondents' CEP-profit ratios accurately. The weighted-average percentage margins for the periods May 1, 1994, through April 30, 1995, and May 1, 1995, through April 30, 1996, for ball bearings (BBs), cylindrical roller bearings (CRBs), and spherical

roller bearings (SPBs) and parts thereof have changed for some company/period-of-review combinations from those we determined in response to earlier remands from the CIT on this issue. The revised weighted-average percentage margins reflecting the results of this remand are as follows:

<u>Company</u>	<u>Period</u>	<u>Class or Kind</u>	<u>Previous Rate²</u>	<u>Revised Rate</u>
FAG Italy	1994-1995	BBs	4.12	4.12
FAG Germany	1994-1995	BBs	13.42	13.42
	1994-1995	CRBs	22.56	22.59
	1994-1995	SPBs	12.08	12.08
INA Germany	1994-1995	BBs	19.38	19.43
	1994-1995	CRBs	18.23	18.31
INA Germany	1995-1996	BBs	44.35	44.53
	1995-1996	CRBs	19.99	20.09
	1995-1996	SPBs	28.62	28.62

² Prior to the current remand orders, we completed several remand redeterminations involving multiple issues, including the change in the CEP-profit calculation remanded by the CIT which we have now eliminated. In the interest of clarity, we have included these previous margins in this redetermination.

These final results of redetermination are in accordance with the remand orders of the CIT in FAG Kugelfischer Georg Schafer AG et al. v. United States, Court No. 97-02-00260 (July 7, 2005), FAG Italia S.p.A. et al. v. United States, Court No. 97-02-00260-S (July 7, 2005), and NTN Bearing Corp. of America et al. v. United States, Court No. 97-10-01800 (July 7, 2005).

Joseph A. Spetrini
Acting Assistant Secretary
for Import Administration

Date