TAPERED ROLLER BEARINGS AND PARTS THEREOF, AND CERTAIN HOUSINGS INCORPORATING TAPERED ROLLERS FROM JAPAN

Determination of the Commission in Investigation No. 731-TA-343 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation

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UNITED STATES INTERNATIONAL TRADE COMMISSION

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Jerry Tepper, Financial Analyst
Peder Andersen, Commodity-Industry Analyst
Elizabeth Henning, Economist
Phyllis Smithey, Attorney
Lynn Featherstone, Supervisory Investigator

Address all communications to
Kenneth R. Mason, Secretary to the Commission
United States International Trade Commission
Washington, DC 20436

C O N T E N T S

Table

Note.--Information that would reveal the confidential operations of individual concerns may not be published and, therefore, has been deleted from this report. Such deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC

Investigation No. 731-TA-343 (Final)

Tapered Roller Bearings and Parts Thereof, and Certain Housings Incorporating Tapered Rollers from Japan

Determination

On the basis of the record 1/ developed in the subject investigation, the Commission unanimously determines, pursuant to section 735(b)(1) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)(1)), that an industry in the United States is materially injured by reason of imports from Japan of tapered roller bearings and parts thereof, and certain housings incorporating tapered rollers, all the foregoing provided for in items 680.3040, 680.3932, 680.3934, 680.3938, 680.3940, 681.1010, or 692.3295 of the Tariff Schedules of the United States annotated, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective March 23, 1987, following a preliminary determination by the Department of Commerce that imports of the subject merchandise from Japan are being sold at LTFV within the meaning of section 731 of the Act (19 U.S.C. § 1673). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of April 8, 1987 (52 F.R. 11347). The hearing was held in Washington, DC, on May 12, 1987, and all persons who requested the opportunity were permitted to appear in person or by counsel.

1/ The record is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(i)).

VIEWS OF COMMISSIONER ECKES
COMMISSIONER LODWICK, AND COMMISSIONER ROHR

We determine that an industry in the United States is materially injured by reason of imports of tapered roller bearings and parts thereof and certain housings incorporating tapered rollers from Japan, articles which the U.S. Department of Commerce has determined are being, or are likely to be, sold in the United States at less than fair value (LTFV). 1/ Our affirmative determination is based on an assessment of the cumulative volume and effects of imports from Japan together with imports from Hungary, Italy, the People's Republic of China (PRC), Romania, and Yugoslavia which are the subject of recently issued final antidumping duty orders. 2/ 3/ We have found that

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1/ See 52 Fed. Reg. 30700 (Aug. 17, 1987).

2/ See 52 Fed. Reg. 22667 (June 15, 1987) (China); 52 Fed. Reg. 22319 (June 19, 1987) (Hungary); 52 Fed. Reg. 23320 (June 19, 1987) (Romania); 52 Fed. Reg. 30417 (Aug. 14, 1987) (Italy and Yugoslavia). (Invs. Nos. 731-TA-341, 342, 344, 345, and 346 (Final), Tapered Roller Bearings and Parts Thereof, and Certain Housings Incorporating Tapered Rollers, from Hungary, Italy, the People's Republic of China (PRC), Romania, and Yugoslavia).

3/ Preliminary investigations Nos. 731-TA-341 through 346 were instituted together on the basis of the same Timken petition and each investigation covered the same types of merchandise. See 51 Fed. Reg. 31732 (Sept. 4, 1986); 51 Fed. Reg. 36874 (Oct. 16, 1986); Tapered Roller Bearings and Parts Thereof, and Certain Housings Incorporating Tapered Rollers, from Hungary, Italy, Japan, the People's Republic of China, Romania, and Yugoslavia, Invs. Nos. 731-TA-341 through 346 (Preliminary), USITC Pub. 1899 (Oct. 1986). The Commission's final investigations proceeded according to different schedules because Commerce extended the

(Footnote continued on next page)

during the period under investigation, the performance indicators of the domestic industry have deteriorated, the volume and penetration of imports are significant and have increased or remained constant, the value of such imports has increased, and the increasing levels of imports have had an adverse impact on prices in the United States for the like product.

Like Product and the Domestic Industry

Section 771(4)(A) defines the term "industry" as "the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." 4/ "Like product," in turn, is defined as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article[s] subject to an investigation . . . ." 5/

The imports subject to investigation are: tapered roller bearings and parts thereof (finished or unfinished); flange, take-up, cartridge, and hanger

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(Footnote continued from previous page)
deadlines for issuing its preliminary and/or final LTFV determinations concerning imports from the six countries in question. See 19 U.S.C. § 1673d(b)(2); 52 Fed. Reg. 5841 (Feb. 26, 1987); 52 Fed. Reg. 11347 and 11348 (Apr. 8, 1987). See also 52 Fed. Reg. 2125 (Jan. 20, 1987) (Japan); 52 Fed. Reg. 6361 (Mar. 3, 1987) (Italy); 52 Fed. Reg. 6366 (Mar. 3, 1987) as amended at 52 Fed. Reg. 8404 (Mar. 17, 1987) (Yugoslavia); 52 Fed. Reg. 8088 (Mar. 16, 1987) (the PRC); 52 Fed. Reg. 11721 (Apr. 10, 1987) (Hungary); 52 Fed. Reg. 11722 (Apr. 10, 1987) (Japan); 52 Fed. Reg. 11722 (Apr. 10, 1987) (Romania).

4/ 19 U.S.C. § 1677(4)(A).

5/ 19 U.S.C. § 1677(10).

units incorporating tapered roller bearings; and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles and whether or not for automotive use. [6/] In the preliminary investigation of imports from Japan and in the recently concluded final investigations of tapered roller bearings from Hungary, Italy, the PRC, Romania, and Yugoslavia, we concluded that the domestically produced articles constituted a single like product. [7/]

However, in this investigation, various respondents argued that the Commission should treat each of the following groups of articles as a discrete like product:

1. "precursor materials" (i.e., unfinished forged rings) and "finished bulk parts" (i.e., rollers and cages) of tapered roller bearings;

2. unfinished tapered roller bearing components (i.e.--unfinished outer rings and inner rings);

6/ See 52 Fed. Reg. 11347 (Apr. 8, 1987); 19 U.S.C. § 1673d(b)(1); 52 Fed. Reg. 30700 (Aug. 17, 1987). Product information obtained from the previous final investigations of imports from Italy and Yugoslavia was used in the present investigation. For a description of the characteristics of, uses of, and markets for the articles under investigation, see generally Tapered Roller Bearings and Parts Thereof, and Certain Housings Incorporating Tapered Rollers, from Italy and Yugoslavia, Invs. Nos. 731-TA-342, and 346 (Final); USITC Pub. 1999 at A-3 through A-13 and A-20 through A-27 (Aug. 1987).

7/ See USITC Pub. 1899 at 4-6; Tapered Roller Bearings and Parts Thereof, and Certain Housings Incorporating Tapered Rollers, from Hungary, the People's Republic of China, and Romania, Invs. Nos. 731-TA-341, 344, and 345 (Final), USITC Pub. 1983 at 3-9 (June 1987); USITC Pub. 1999 at 5-12.

3. finished tapered roller bearings. [8/]

For the reasons set forth below, we decline to adopt the respondents' proposed like product definitions.

1. Characteristics and Uses. The essential characteristics of a finished tapered roller bearing are its ability to reduce friction and its radial and thrust load-carrying ability. [9/] Neither finished components nor unfinished components are, by themselves, capable of reducing friction or carrying radial and thrust loads. It is only after all parts and components are finished and assembled into a complete tapered roller bearing that the antifriction and load carrying functions can be performed. [10/] That fact--coupled with the fact that neither finished nor unfinished parts or components have any commercial use other than as components of tapered roller bearings [11/]--is one of our primary reasons for finding it inappropriate to treat parts or components as separate like products.

2. Interchangeability. All tapered roller bearings and parts or components thereof are not functionally interchangeable or substitutable for

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8/ See generally Prehearing Brief of NTN Bearing Corp. of America et al. (NTN) at 12-31; NTN's Posthearing Statement at 1-4; NTN's Supplemental Brief at 9-29; Prehearing Brief of Koyo Seiko Corp., Ltd. et al. (Koyo) at 1-24; Koyo's Posthearing Brief at 1-4; Koyo's Supplemental Brief at 2-13.

9/ See USITC Pub. 1999 at A-3, A-4, and A-6.

10/ Id. at A-8.

11/ See Id. at A-4, A-26, and A-27.

each other. However, the problem of nonsubstitutability or noninterchangeability also applies to finished tapered roller bearings as a class, unfinished components of tapered roller bearings as a class, and finished components of tapered roller bearings as a class. Hence, the lack of functional interchangeability among the respective classes does not necessarily mean that it would be appropriate to find that each class should be considered a discrete like product.

3. Manufacturing Process and Production Facilities. Finished tapered roller bearings are the result of an integrated, multi-step, production process. Each step is necessary and does not alter the ultimate use of the part or component being manufactured or finished. 12/ Manufacturers of tapered roller bearing parts generally have the capability to produce finished tapered roller bearings. Moreover, there is a certain degree of overlap among the production facilities used in the manufacture of tapered roller bearings and those used in the manufacture of unfinished and finished components. Those factors constitute an additional reason for rejecting the argument that there are separate domestic industries for parts or components of tapered roller bearings.

For the foregoing reasons, we again determine that there is but a single like product consisting of tapered roller bearings and parts thereof--finished or unfinished; flange, take-up cartridge, and hanger units incorporating

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12/ We note further that there are some major similarities in the production processes of various domestic producers. See Id. at A-8 n.1.

tapered roller bearings, and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, and whether or not for automotive use. 13/

In the preliminary investigation of imports from Japan and in the recently concluded final investigations of imports from Hungary, Italy, the PRC, Romania, and Yugoslavia, we found that there was one domestic industry and that it included all domestic companies which produced tapered roller bearings and parts thereof, and certain housings incorporating tapered rollers, during the period under investigation. 14/ We have no reason to revise that definition here.

Condition of the domestic industry

In determining the condition of the domestic industry, the Commission considers, among other factors, domestic consumption, production, capacity, capacity utilization, shipments, inventories, employment, and financial performance. 15/

13/ Other important considerations in our decision not to treat parts or components as separate like products from finished tapered roller bearings are: (1) the Congressional admonition against defining the like product "in such a fashion as to prevent consideration of an industry adversely affected by imports under investigation" (S.Rep. No. 249, 96th Cong. 1st Sess. 90-91 (1979)); and (2) concern that the remedial effect of an antidumping duty order issued as a result of these proceedings could be minimized if various parts or components were excluded from coverage under the order.

14/ USITC Pub. 1899 at 7-8; USITC Pub. 1983 at 9-10; USITC Pub. 1999 at 12 n.39.

15/ See 19 U.S.C. § 1677(7)(C)(iii).

The Commission examined the condition of the domestic tapered roller bearing industry most recently in the final investigations of imports from Italy and Yugoslavia. In those investigations, economic data concerning the performance of the domestic industry reflected adverse trends in many of the indicators noted above. We found that even though some of the domestic industry's performance indicators improved from 1983-84, the industry's performance deteriorated from 1985-86, and overall 1986 levels were below those for 1983. 16/ Moreover, data concerning the industry's performance during the first quarter of 1987 showed that some of the declining trends continued during that period, as compared with the corresponding period of 1986. 17/ Since we have used the industry data from the Italy and Yugoslavia investigations in the current investigation, 18/ we again determine that the domestic tapered roller bearing industry is experiencing material injury.

Cumulation

The Commission is required to cumulatively assess the volume and effect of imports subject to investigation from two or more countries if the imports: (1) compete with each other and with the domestic like product, (2) are subject to investigation, and (3) are marketed within a reasonably

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16/ See USITC Pub. 1999 at 13-14.

17/ Id. at 14-15.

18/ See Report at A-1.

coincident period. [19/] In the preliminary investigation of imports from Japan and in the recently concluded final investigations of imports from Hungary, Italy, the PRC, Romania, and Yugoslavia, we found it appropriate to cumulate the effect of prices and volumes of imports from Hungary, Italy, Japan, the PRC, Romania, and Yugoslavia. [20/] In the present final investigation, no new information has been brought to our attention which leads us to believe that cumulation is inappropriate or that imports from any individual country should be excluded from a cumulative analysis. [21/]

Respondent NTN Toyo Bearing Co., Ltd. et al. (NTN) argued that the Commission lacks the authority to issue a final determination covering NTN's 0-4 inch imports in connection with the current proceedings. In the present proceedings, however, both Commerce's preliminary and final LTFV determinations concerning Japanese imports expressly covered

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19/ 19 U.S.C. § 1677(7)(C)(iv); H.R. Rep. No. 725, 98th Cong., 2nd Sess. 36-37 (1984).

20/ USITC Pub. 1899 at 11-14; USITC Pub. 1983 at 12-15; USITC Pub. 1999 at 3, and 15-17.

21/ Commissioner Lodwick notes that Commerce extended its deadline for issuing a preliminary LTFV determination concerning imports from Japan after determining that the case was extraordinarily complicated, and that Commerce extended the deadlines for issuing final LTFV determinations concerning imports from all six countries at the request of various respondents. See 52 Fed. Reg. 2125 (Jan. 20, 1987) (Japan); 52 Fed. Reg. 6361 (Mar. 3, 1987) (Italy); 52 Fed. Reg. 6366 (Mar. 3, 1987) as amended at 52 Fed. Reg. 8404 (Mar. 17, 1987) (Yugoslavia); 52 Fed. Reg. 8088 (Mar. 16, 1987) (the PRC); 52 Fed. Reg. 11721 (Apr. 10, 1987) (Hungary); 52 Fed. Reg. 11722 (Apr. 10, 1987) (Japan); 52 Fed. Reg. 11722 (Apr. 10, 1987) (Romania).

NTN's 0-4 inch imports. [22/] Therefore, as a matter of law, this final investigation and the resulting Commission determination must also address those imports. [23/]

In the absence of any new information which leads us to believe that cumulation is inappropriate or that any of the LTFV imports should be excluded from our analysis, we have cumulatively assessed the volume and effect of the imports from Hungary, Italy, Japan, the PRC, Romania, and Yugoslavia.

Material injury by reason of unfairly traded imports

In determining whether the domestic industry is materially injured "by reason of" LTFV imports, the Commission considers, among other factors, the volume of imports, the effect of imports on prices in the United States for the like product, and the impact of such imports on the relevant domestic industry. [24/]

In the recently concluded final investigations of imports from Italy and Yugoslavia, we cumulatively assessed the impact of imports from the six countries in question. As we did in those investigations, we again find that the large and stable volume and penetration of LTFV imports, the increasing value of such imports at a time of declining shipments by the domestic industry, and evidence of fairly consistent underselling by the subject

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22/ See 52 Fed. Reg. 9905, 9907 (Mar. 27, 1987); 52 Fed. Reg. 30700, 30709 (Aug. 17, 1987).

23/ See 19 U.S.C. § 1673d(b)(1).

24/ 19 U.S.C. § 1677(7)(B).

imports at a time of declining prices demonstrates that those imports are a cause of material injury to the domestic industry. 25/

For the foregoing reasons and the other reasons specified in our opinion concerning material injury by reason of imports from Italy and Yugoslavia, 26/ we determine that the domestic industry producing tapered roller bearings and parts thereof and certain housings incorporating tapered rollers is materially injured by reason of LTFV imports from Japan.

25/ Data from the Italy and Yugoslavia investigations were used in the present investigation. Therefore, see generally USITC Pub. 1999 at 17-19. See also Report at A-2 and A-3.

26/ See USITC Pub. 1999 at 18-19.

VIEWS OF CHAIRMAN LIEBELER

Inv. No. 731-TA-343(Final)
Tapered Roller Bearings and Parts Thereof, and Certain Housings Incorporating Tapered Rollers from Japan

I determine that an industry in the United States is materially injured by reason of imports of tapered roller bearings and parts thereof, and certain housings incorporating tapered rollers, from Japan which the Department of Commerce has determined are being sold at less than fair value (LTFV).[1] I concur with the majority in its discussion of related parties and definition of the domestic industry. Although I concur with the majority in its discussion of like product, I do so with the same reservations advanced by Vice Chairman Brunsdale in her opinion.

I do not join the Commission's views on cumulation, and concur with the views on cumulation expressed by Vice Chairman Brunsdale in her opinion, as well as those first expressed by the Vice Chairman on pages 43 to 53 of her

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[1] Material retardation is not an issue because the industry is well established.

opinion in the case of Tapered Roller Bearings and Parts Thereof, and Certain Housings Incorporating Tapered Rollers From Hungary, the People's Republic of China, and Romania, Inv. Nos. 731-TA-341, 344, and 345 (Final)(USITC Pub. No. 1983, June 1987). For purposes of assessing causation of material injury in this investigation, I cumulated only imports from Italy and Japan. I have not cumulated imports from Hungary, the People's Republic of China, Romania, and Yugoslavia with those from Italy and Japan because of differences in quality between imports from the different sets of countries.

With respect to the issue of condition of the domestic industry, I concur with the views set forth by Vice Chairman Brunsdale in her opinion. I provide below my own views with respect to the issue of causation.

Material Injury by Reason of Imports

In order for a domestic industry to prevail in a final investigation, the Commission must determine that dumped or subsidized imports cause or threaten to cause material injury to the domestic industry producing the

like product. First, the Commission must determine whether the domestic industry producing the like product is materially injured or is threatened with material injury. Second, the Commission must determine whether any injury or threat thereof is by reason of the dumped or subsidized imports. Only if the Commission finds both injury and causation, will it make an affirmative determination in the investigation.

Before analyzing the data, however, the first question is whether the statute is clear or whether one must resort to the legislative history in order to interpret the relevant sections of the antidumping law. In general, the accepted rule of statutory construction is that a statute, clear and unambiguous on its face, need not and cannot be interpreted using secondary sources. Only statutes that are of doubtful meaning are subject to such statutory interpretation.[2]

The statutory language used for both parts of the two-part analysis is ambiguous. "Material injury" is

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[2] Sands, Sutherland Statutory Construction Sec. 45.02 (4th Ed.)

defined as "harm which is not inconsequential, immaterial, or unimportant."[3] This definition leaves unclear what is meant by harm. As for the causation test, "by reason of" lends itself to no easy interpretation, and has been the subject of much debate by past and present commissioners. Clearly, well-informed persons may differ as to the interpretation of the causation and material injury sections of title VII. Therefore, the legislative history becomes helpful in interpreting title VII.

The ambiguity arises in part because it is clear that the presence in the United States of additional foreign supply will always make the domestic industry worse off. Any time a foreign producer exports products to the United States, the increase in supply, ceteris paribus, must result in a lower price of the product than would otherwise prevail. If a downward effect on price, accompanied by a Department of Commerce dumping or subsidy finding and a Commission finding that financial indicators were down were all that were required for an affirmative determination, there would be no need to inquire further into causation.

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[3] 19 U.S.C. sec. 1977(7)(A)(1982).

But the legislative history shows that the mere presence of LTFV or subsidized imports is not sufficient to establish causation. In the legislative history to the Trade Agreements Acts of 1979, Congress stated:

> [T]he ITC will consider information which indicates that harm is caused by factors other than the subsidized imports.[4]

The Finance Committee emphasized the need for an exhaustive causation analysis, stating, "the Commission must satisfy itself that, in light of all the information presented, there is a sufficient causal link between the less-than-fair-value imports and the requisite injury."[5]

The Senate Finance Committee acknowledged that the causation analysis would not be easy: "The determination of the ITC with respect to causation is, under current law, and will be, under section 735, complex and

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[4] Report on the Trade Agreements Act of 1979, S. Rep. No. 249, 96th Cong. 1st Sess. 58 (1979).

[5] Id.

difficult, and is matter for the judgment of the ITC."[6] Since the domestic industry is no doubt worse off by the presence of any imports (whether LTFV, subsidized, or fairly traded) and Congress has directed that this is not enough upon which to base an affirmative determination, the Commission must delve further to find what condition Congress has attempted to remedy.

In the legislative history to the 1974 Act, the Senate Finance Committee stated:

> This Act is not a 'protectionist' statute designed to bar or restrict U.S. imports; rather, it is a statute designed to free U.S. imports from unfair price discrimination practices. * * * The Antidumping Act is designed to discourage and prevent foreign suppliers from using unfair price discrimination practices to the detriment of a United States industry.[7]

Thus, the focus of the analysis must be on what constitutes unfair price discrimination and what harm results therefrom:

> [T]he Antidumping Act does not proscribe transactions which involve selling an imported

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[6] Id.

[7] Trade Reform Act of 1974, S. Rep. 1298, 93rd Cong. 2d Sess. 179.

> product at a price which is not lower than that needed to make the product competitive in the U.S. market, even though the price of the imported product is lower than its home market price.[8]

This "difficult and complex" judgment by the Commission is aided greatly by the use of economic and financial analysis. One of the most important assumptions of traditional microeconomic theory is that firms attempt to maximize profits.[9] Congress was obviously familiar with the economist's tools: "[I]mporters as prudent businessmen dealing fairly would be interested in maximizing profits by selling at prices as high as the U.S. market would bear."[10]

An assertion of unfair price discrimination should be accompanied by a factual record that can support such a conclusion. In accord with economic theory and the legislative history, foreign firms should be presumed to

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8 Id.

9 See, e.g., P. Samuelson & W. Nordhaus, Economics 42-45 (12th ed. 1985); W. Nicholson, Intermediate Microeconomics and Its Application 7 (3d ed. 1983).

10 Trade Reform Act of 1974, S. Rep. 1298, 93rd Cong. 2d Sess. 179.

behave rationally. Therefore, if the factual setting in which the unfair imports occur does not support any gain to be had by unfair price discrimination, it is reasonable to conclude that any injury or threat of injury to the domestic industry is not "by reason of" such imports.

In many cases unfair price discrimination by a competitor would be irrational. In general, it is not rational to charge a price below that necessary to sell one's product. In certain circumstances, a firm may try to capture a sufficient market share to be able to raise its price in the future. To move from a position where the firm has no market power to a position where the firm has such power, the firm may lower its price below that which is necessary to meet competition. It is this condition which Congress must have meant when it charged us "to discourage and prevent foreign suppliers from using unfair price discrimination practices to the detriment of a United States industry."[11]

In Certain Red Raspberries from Canada, I set forth a framework for examining what factual setting would merit

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[11] Trade Reform Act of 1974, S. Rep. 1298, 93rd Cong. 2d Sess. 179.

an affirmative finding under the law interpreted in light of the cited legislative history.[12]

> The stronger the evidence of the following . . . the more likely that an affirmative determination will be made: (1) large and increasing market share, (2) high dumping or subsidy margins, (3) homogeneous products, (4) declining prices and (5) barriers to entry to other foreign producers (low elasticity of supply of other imports).[13]

The statute requires the Commission to examine the volume of imports, the effect of imports on prices, and the general impact of imports on domestic producers.[14] The legislative history provides some guidance for applying these criteria. The factors incorporate both the statutory criteria and the guidance provided by the legislative history. What follows is an evaluation of each of these factors in turn.

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12 Inv. No. 731-TA-196 (Final), USITC Pub. 1680, at 11-19 (1985) (Additional Views of Vice Chairman Liebeler).

13 Id. at 16.

14 19 U.S.C. 1677(7)(B)-(C) (1980 & cum. supp. 1985).

Causation analysis

Let us start with import penetration data. A large market share is a necessary condition for a seller to obtain or enhance market power through unfair price discrimination. LTFV imports of tapered roller bearings from Italy and Japan have been, on a quantity basis, between fourteen and twenty percent of apparent U.S. consumption from 1983 through the first quarter of 1987.[15] Over this period of time, penetration trends have been erratic, although on a quantity basis they have trended upward in recent years.[16] Japanese and Italian imports have thus been moderately high and generally increasing. Consequently, import penetration data are not inconsistent with an affirmative determination.

The second factor is a high margin of dumping or subsidy. The higher the margin, ceteris paribus, the more

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15 USITC Pub. No. 1999 at Table 26; Report at A-3. On a value basis, Japanese and Italian imports have been around ten percent of apparent U.S. consumption for the same time period. Id.

16 Id.

likely it is that the product is being sold below the competitive price[17] and the more likely it is that the domestic producers will be adversely affected. The LTFV margin for Italy is 124.75,[18] , while the LTFV margin for Japan ranges, by company, from 47.05 percent to 70.44 percent.[19] Based on 1986 quantity figures, the cumulated weighted dumping margin for Japan and Italy is 50.8 percent.[20] This margin is moderately high, and not inconsistent with an affirmative determination.

The third factor is the homogeneity of the products. The more homogeneous the products, the greater will be the effect of any allegedly unfair practice on domestic producers. While there are some differences, the Japanese

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17 See text accompanying note 8, supra.

18 USITC Pub. No. 1999 at A-19.

19 Report at A-2. These figures are considerably higher than those preliminarily determined by the Department of Commerce. See USITC Pub. No. 1999 at Appendix C, a-18.

20 This figure is over twice as high as the one used in an earlier case in evaluating injury by reason of Italian imports. See Tapered Roller Bearings and Parts Thereof, and Certain Housings Incorporating Tapered Rollers from Italy and Yugoslavia, 731-TA-342 & 346, August 1987, USITC Pub. No. 1999 at 63.

and Italian products are basically fungible with domestic products. Thus, this factor is also consistent with an affirmative determination.

As to the fourth factor, evidence of declining domestic prices, ceteris paribus, might indicate that domestic producers were lowering their prices to maintain market share. For the products investigated, domestic prices have generally decreased from 1984 to March, 1987.[21] Producer prices decreased for seven of the ten available price series, and price declines for these seven series ranged from 1 percent to 41 percent.[22] Domestic prices have been consistent with an affirmative determination.

The fifth factor is barriers to entry (foreign supply elasticity). If there are barriers to entry (or low foreign elasticity of supply) it is more likely that a producer can gain market power. In 1986, imports from Japan and Italy constituted a clear majority of those

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[21] USITC Pub. No. 1999 at A-89.

[22] Id. at Tables 27 to 31.

tapered roller bearings imported into the United States,[23] although tapered roller bearings were also imported from a wide variety of other countries. Countries from which over 500,000 tapered roller bearing units were imported in 1986 included: Australia, Brazil, Canada, France, West Germany, Hong Kong, Hungary, Mexico, Romania, and Yugoslavia.[24] It should be noted that imports from some of these countries are currently subject to anti-dumping orders, and that some of these imports, as well as others, differ in quality when compared to those from Japan and Italy. Nevertheless, the fact remains that imports from a wide variety of countries other than Italy and Japan do enter the U.S. market. It thus appears that evidence on this factor is mixed, with the precise degree of restraint imports from other countries place on Japanese and Italian market power difficult to assess.

All of these factors must be considered in each case to reach a sound determination. While evidence on barriers to entry is mixed, all other factors tend to cut

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[23] USITC Pub. No. 1999 at Table 22.

[24] Official Statistics of the U.S. Department of Commerce, 1986.

in favor of an affirmative determination. Although import penetration trends have been somewhat erratic, on a quantity basis import penetration has been increasing in recent years, and has been at a moderately high level. Moreover, Japanese and Italian imports are essentially homogeneous with U.S. products, U.S. product prices have generally been declining, and the cumulated weighted dumping margin based on 1986 quantities is moderately high. Consequently, the evidence in this case is consistent with finding material injury by reason of dumped imports of tapered roller bearings from Japan.

Conclusion

Therefore, I conclude that an industry in the United States is materially injured by reason of dumped imports of tapered roller bearings and parts thereof, and certain housings incorporating tapered rollers from Japan.

ADDITIONAL VIEWS OF VICE CHAIRMAN ANNE E. BRUNSDALE

Tapered Roller Bearings from Japan
Investigation No. 731-TA-343 (Final)

September 23, 1987

In this investigation, as in our previous investigation on tapered roller bearings from Italy, I concur with Commissioners Eckes, Lodwick, and Rohr on many points. I agree with their definitions of like product and domestic industry, and their finding that the domestic industry is materially injured. In addition, I agree that the material injury is by reason of dumped imports from Japan, although my path to this conclusion is different from theirs.

Definition of the Like Product and Domestic Industry

I agree that the like product in this investigation is all tapered roller bearings and parts thereof, plus certain housings incorporating tapered rollers, and that the producers of that like product constitute the domestic industry. The respondents urged the Commission to treat various component parts and assembled tapered roller bearings as separate like products.[1]

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[1] See, e.g., Koyo Seiko Corporation Supplemental Brief at 2-11; NTN Toyo Bearing Co. Posthearing Brief at 1-4.

I cannot accept this recommendation.

First, although there are obvious physical differences between the components and the finished product, the components (both finished and unfinished) are used almost exclusively in the assembly of tapered roller bearings.[2] As the staff report indicates, these components have almost no independent or alternative use.[3]

Second, the facts of the case do not lend themselves to a like product argument based upon substitutability. NTN contended that, because the components are not completely finished and the tapered roller bearings are ready for immediate use by consumers, the products are not like.[4] This argument does not provide the Commission with a useful standard for determining like product. If the Commission were to determine like product on the basis of whether the products were ready for immediate use by consumers,

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[2] There is a small residual market for finished and unfinished components. The purchasers in the residual market are tapered roller bearing producers who finish the components into complete bearings or who purchase to alleviate short-term material shortages. See USITC Pub. 1999 at A-27. The residual market accounts for a very small portion of consumption and is not significant in this case. See id. at A-21 (Table 4).

[3] See id. at A-3-7.

[4] Id.

unfinished products (regardless of the amount of processing necessary to complete the product) could never be considered within the same like product category as the finished product. I do not believe Congress intended this result and, accordingly, I reject the respondents' contention.

Third, the channels of distribution for bearings and components are in most cases quite different. Most components are transferred internally by producers of tapered roller bearings.[5] Tapered roller bearings are sold in the open market, mostly to unrelated consumers.[6] Some components are sold in the open market, but the quantity is not significant.[7] Thus, even though there are some similarities, for the most part, components and tapered roller bearings have different channels of distribution.

Finally, manufacturing facilities for components and bearings overlap to some degree.[8] Timken in fact produces both

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[5] See USITC Pub. 1999 at A-26.

[6] Id.

[7] Id. at A-26-27, A-32.

[8] See Timken Co. Prehearing Brief at 9; NTN Toyo Bearing Co. Prehearing Brief at 17.

components and bearings at the same facilities.[9] Such common facilities are another indication that the Commission should include both within the same like product definition.

The majority of these factors lead me to conclude there should be one like product in this investigation. In addition, drawing the like product definition so narrowly as to exclude components would circumvent congressional intent and allow for easy avoidance of any sanctions.[10] Therefore, I determine that the like product in these investigations consists of all tapered roller bearings and parts thereof, and certain housings incorporating tapered rollers.

Condition of Industry

In determining the condition of the domestic industry, the Commission considers, among other factors, domestic consumption, U.S. production, productive capacity, capacity utilization, inventories, shipments, employment, and financial performance.[11] Although the evidence on these factors is

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[9] See Timken Co. Prehearing Brief at 9.

[10] See S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

[11] 19 U.S.C. 1677(7)(C)(iii).

somewhat mixed, the record does make it clear that the domestic tapered roller bearing industry experienced difficulties during the period under investigation. Thus, domestic consumption and production declined, as did the number of workers in the industry.[12] Moreover, the financial data show that the industry as a whole suffered net losses from 1985 through interim 1987.[13] I therefore conclude for purposes of this investigation that the domestic industry is suffering material injury.

Cumulation for Assessing Material Injury

Section 771(7)(C)(iv) of the Tariff Act of 1930 requires that the Commission cumulatively assess the volume and price effects of imports from different countries if they are subject to investigation and if they compete with each other and with the

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12 See USITC Pub. 1999 at A-26 (Table 6), A-24 (Figure 3), A-29 (Table 7), A-33 (Table 11).

13 See id. at A-36 (Table 13). For a more complete discussion of the condition of this industry, see Tapered Roller Bearings and Parts Thereof, and Certain Housings Incorporating Tapered Rollers from Italy and Yugoslavia, Inv. Nos. 731-TA-342 and 346 (Final), USITC Pub. 1999 at 31-34 (August 1987) [hereinafter cited as Tapered Roller Bearings from Italy and Yugoslavia].

domestic like product.[14] Cumulation is intended to allow the Commission to assess injury to domestic industry correctly in situations where the harm is allegedly caused by the combined effect of unfair imports from more than one country.

Petitioner in this investigation urged the Commission to cumulate dumped imports of tapered roller bearings from Japan with the dumped imports from Hungary, the People's Republic of China (PRC), Romania, Yugoslavia, and Italy.[15] It is

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[14] Trade and Tariff Act of 1984, Pub. L. No. 98-573, 98 Stat. 2948, 3033 (codified at 19 U.S.C. 1677(7)(C)(iv)). The purpose of this provision, added by Congress in 1984, was to codify and mandate the Commission's previously discretionary practice of applying cumulation on a case-by-case basis. See Trade and Tariff Act of 1984, Conference Report to Accompany H.R. 3398, H.R. Rep. No. 1156, 98th Cong., 2nd Sess. 173 (1984); see also generally Mock, Cumulation of Import Statistics in Injury Investigations before the International Trade Commission, 7 Nw. J. of L. & Bus. 433, 439-40 (1986).

[15] See Prehearing Brief of the Timken Co. at 53-56. The Department of Commerce made final determinations that imports from Hungary, Romania, Italy, Yugoslavia, and the People's Republic of China are being sold at LTFV. See Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the Hungarian People's Republic; Final Determination of Sales at Less Than Fair Value, 52 Fed. Reg. 17,428 (ITA May 8, 1987); Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the Socialist Republic of Romania; Final Determination of Sales at Less Than Fair Value, 52 Fed. Reg. 17,433 (ITA May 8, 1987); Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From Italy; Final Determination of Sales at

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indisputable that bearings from all of these countries were in the domestic market at the same time. Therefore, the Commission must determine (1) whether the imports from all five countries are subject to investigation and (2) whether they compete with each other and with the domestic like product.

As to the first issue, the Commission made its final determinations on bearings from the five countries in June and August 1987 and Commerce issued its final antidumping-duty orders forthwith.[16] I do not think, however, that this fact justifies

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Less Than Fair Value, 52 Fed. Reg. 24,198 (ITA June 29, 1987); Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From Yugoslavia; Final Determination of Sales at Less Than Fair Value, 52 Fed. Reg. 24,200 (ITA June 29, 1987); Tapered Roller Bearings From the People's Republic of China; Final Determination of Sales at Less Than Fair Value, 52 Fed. Reg. 19,748 (ITA May 27, 1987). For a complete discussion of cumulation in this case, see Tapered Roller Bearings and Parts Thereof, and Certain Housings Incorporating Tapered Rollers from Hungary, the People's Republic of China, and Romania, Inv. Nos. 731-TA-341, 344 and 345 (Final), USITC Pub. 1983 at 43-53 (June 1987) [hereinafter cited as Tapered Roller Bearings from Hungary, the PRC, and Romania].

[16] See Tapered Roller Bearings from Hungary, the PRC, and Romania, supra note 15, at 3; Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the Socialist Republic of Romania; Antidumping Duty Order, 52 Fed. Reg. 23,320 (ITA June 19, 1987); Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the Hungarian People's Republic; Antidumping Duty Order, 52 Fed. Reg.
(Footnote continued on next page)

a refusal to cumulate bearings from these countries. The Commerce Department agreed to different deadlines for these investigations, even though the petitioner had filed one petition against all countries, after requests from respondents for more time and after determining that the Japanese preliminary investigation would require more time.[17] Because all six investigations were initiated at the same time and because the time between final determinations is relatively short, I believe it consistent with Congress' intent to cumulate tapered roller bearings from those countries already subject to outstanding dumping orders with those from Japan.[18]

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23,319 (ITA June 19, 1987); Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the People's Republic of China; Antidumping Duty Order, 52 Fed. Reg. 22,667 (ITA June 15, 1987); Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Italy and Yugoslavia, Antidumping Duty Order, 52 Fed. Reg. 30,417 (ITA August 14, 1987).

17 See 19 U.S.C. 1673d(b)(2); 52 Fed. Reg. 2,125 (ITA Jan. 30, 1987) (extension of preliminary investigation for Japan), 52 Fed. Reg. 6,361 (ITA Mar. 3, 1987) (extension for Italy), 52 Fed. Reg. 6,366 (ITA Mar. 3, 1987) as amended at 52 Fed. Reg. 8,404 (ITA Mar. 17, 1987) (extension for Yugoslavia); 52 Fed. Reg. 8,088 (ITA Mar. 16, 1987) (extension for the PRC); 52 Fed. Reg. 11,721 (ITA April 10, 1987) (extension for Hungary); 52 Fed. Reg. 11,722 (ITA April 10, 1987) (extension for Japan); 52 Fed. Reg. 11,722 (ITA April 10, 1987) (extension for Romania).

18 This approach is consistent with previous decisions by the Commission. See, e.g., Certain Welded Carbon Steel Pipes and Tubes from Taiwan, Inv. No. 731-TA-349 (Final), USITC Pub. 1994 at 18-20 (July 1987); Butt-Weld Pipe Fittings from Japan, Inv. No. 731-TA-309 (Final), USITC Pub. 1943 at 8-9, nn.25 and 26 (Jan. 1987).

The second issue has several parts. Although the petitioner argued that imports from all six countries under investigation should be cumulated,[19] I disagree. In my view, the differences in quality between bearings from the four nonmarket-economy countries and those from Japan and Italy are so great that the two groups do not compete with each other.[20] They are not sufficiently close substitutes to support the cumulation of all imports in the analysis of the causation of potential injury in this case.[21] Accordingly, I cumulate only the Italian imports with the Japanese imports under investigation for purposes of determining material injury in this case.

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19 See Prehearing Brief of the Timken Co. at 53-56.

20 For a more detailed discussion of this issue, see Tapered Roller Bearings from Hungary, the PRC, and Romania, supra note 15, at 43-53; Tapered Roller Bearings from Italy and Yugoslavia, supra note 13, at 35-40; see also USITC Pub. 1999 at A-62-65.

21 Central to the question of whether domestic and imported bearings compete with each other is the issue of their substitutability. The degree of substitutability includes consideration of specific customer requirements and other quality-related questions. See Certain Carbon Steel Products from Austria, Czechoslovakia, East Germany, Hungary, Norway, Poland, Romania, Sweden, and Venezuela, Inv. Nos. 731-TA-213-217, 219, 221-226, and 228-235 (Preliminary), USITC Pub. 1642 at 13 (February 1985). In a case where all dumped imports are not substitutable and should not be cumulated, it still might be appropriate to assess separately the impact of imports in light of the impact of other unfairly traded imports even though cumulation is not appropriate.

Respondents argued that 0-4 inch diameter bearings from NTN should not be cumulated with the other bearings under investigation because the NTN bearings were already covered by an outstanding antidumping duty order.[22] It must be noted, however, that the portion of the order that covered the NTN bearings was revoked in 1982.[23] Consequently, those bearings were not subject to antidumping duties during the period of investigation and thus cannot automatically be considered fairly traded. I therefore cumulate 0-4 inch diameter NTN bearings for purposes of my causation analysis.

Causation Analysis: Material Injury by Reason of LTFV Imports from Japan:

I agree with my colleagues in the majority that dumped imports

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22 See NTN Bearing Corp. Prehearing Brief at 10-11; 41 Fed. Reg. 34,974 (Aug. 18, 1976); see also 46 Fed. Reg. 40,550 (Aug. 10, 1981).

23 47 Fed. Reg. 25,757 (June 15, 1982). The revocation was challenged by Timken and has not been finally decided by the U.S. Court of International Trade. The Timken Co. v. United States, Court No. 82-6-00890. The case has been remanded to Commerce twice for additional findings. See The Timken Co. v. United States, 7 CIT 319 (1984); The Timken Co. v. United States, 630 F. Supp. 1327 (Ct. Int'l Trade 1986), 10 CIT. Following the second remand, Commerce advised the Court of International Trade that the revocation should be rescinded in part. Commerce did not, however, publish the proposed rescission in the Federal Register or implement it. Commerce stated that it will not take any action until the proposed

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from Japan have materially injured the domestic industry. However, my analysis is somewhat different from theirs.

To analyze the effect of dumped imports on the domestic industry, I believe it is necessary to consider, among other key factors, the import penetration ratio for the dumped imports and the dumping margin reported by the Department of Commerce.[24] The available evidence for Japan and Italy, even though much of it is confidential, did reveal that the dumped imports from these countries captured a large share of the U.S. market. Moreover, from 1984 through 1986, the market share of the dumped imports from Japan and Italy was large and stable when measured by quantity,[25] and increased slightly when measured by value.[26] Finally, the number of units sold at less than fair value from these two countries in 1986 was large -- over 40 million

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rescission is judicially approved. See 52 Fed. Reg. 30,700 (ITA Aug. 17, 1987).

24 For a discussion of the role of import penetration ratio and the dumping margin in assessing harm to a domestic industry, see Memorandum from the Office of Economics, EC-J-010 (January 7, 1986), at 29-31.

25 See USITC Pub. 1999 at A-60 (Table 26).

26 See id. at A-61 (Table 26).

units.[27] The quantity-weighted average dumping margin for these two countries was also high, reaching a level greater than 50 percent.[28]

As I noted in my discussion of cumulation, there is a high degree of substitutability between the domestic and the Japanese and Italian bearings. As a consequence, they compete head-to-head in many segments of the tapered roller bearing market.[29] Given this close substitutability and the high elasticity for domestic supply,[30] it is likely that the combination of large import penetration ratios and high dumping margins would have had an immediate impact on domestic sales. The revenue loss suffered by the domestic industry in such a case would be significant.

The combination of a large weighted-average dumping margin, high product substitutability, and high penetration of dumped

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27 This compares with production by U.S. industry of 180,569,000 units in 1986. See id. at A-29 (Table 7).

28 See Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From Italy; Final Determination of Sales at Less Than Fair Value, 52 Fed. Reg. 24,198 (ITA June 29, 1987); Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From Japan; Final Determination of Sales at Less Than Fair Value, 52 Fed. Reg. 30,700 (ITA Aug. 17, 1987).

29 See USITC Pub. 1999 at A-21 (Table 4), A-23 (Table 5).

30 See Memorandum from the Office of Economics, EC-K-302 at 2 (July 28, 1987).

imports from these two countries (on both a quantity and a value basis) leads me to conclude that Japanese imports caused material injury to the domestic industry.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

Following a preliminary determination by the U.S. Department of Commerce that imports from Japan of tapered roller bearings and parts thereof, and certain housings containing tapered rollers 1/ are being sold in the United States at less than fair value (LTFV), the U.S. International Trade Commission instituted antidumping investigation No. 731-TA-343 (Final). In this antidumping investigation, the Commission must determine whether an industry in the United States is materially injured, or threatened with material injury, by reason of the subject imports.

The petition leading to this investigation also covered imports of the subject products from Hungary, Italy, the People's Republic of China, Romania and Yugoslavia. Due to Department of Commerce extensions, however, the Commission's schedule for the conduct of the investigation on imports of tapered roller bearings from Japan is later than that for the other countries. 2/ The Commission's hearing on May 12, 1987 covered all six countries and the two previous final investigations and reports on subject products from Hungary, the People's Republic of China, and Romania (USITC Publication 1983 of June 1987) and from Italy and Yugoslavia (USITC Publication 1999 of August 1987) included trade data on all six countries. **This memorandum contains additional data on imports of the subject products from Japan and is intended to supplement USITC Publication 1999, which is complete in its coverage of product and trade information.**

Background and Scope of the Current Investigation

Since the Commission's determination in 1974 that a U.S. industry was likely to be injured by reason of LTFV imports of tapered roller bearings from Japan and the Treasury Department's finding of dumping in 1976 with regard to such imports, imports of certain tapered roller bearings from Japan have been subject to periodic examination by the Department of Commerce and the Court of International Trade (CIT). Commerce clarified the scope of the original antidumping order and revoked the order with respect to one Japanese producer,

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1/ Tapered roller bearings and parts thereof, and certain housings containing tapered rollers are imported under Tariff Schedules of the United States (TSUS) items 680.30, 680.39, 681.10, 692.32, and elsewhere as provided for in the TSUS.

2/ Notice of the institution of the Commission's antidumping investigations and of the public hearing held in connection with them was given by posting copies of the notices in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notices in the Federal Register of Feb. 26, 1987 (52 F.R. 5841) and Apr. 8, 1987 (52 F.R. 11347). In a vote taken on May 27, 1987, the Commission made affirmative determinations (Chairman Liebeler and Vice Chairman Brunsdale dissenting) in the final investigations involving Hungary, the People's Republic of China, and Romania (invs. Nos. 731-TA-341, 344 and 345). In a separate vote on July 30, 1987, the Commission made affirmative determinations in the final investigations involving Italy (inv. No. 731-TA-342) (Chairman Liebeler dissenting) and Yugoslavia (inv. No. 731-TA-346) (Chairman Liebeler and Vice-Chairman Brunsdale dissenting). Copies of the Commission's notices are presented in app. A.

NTN Toyo Bearing Co., Ltd. Imports from Japan that are currently subject to investigation (i.e., those not covered by the original order) include imports of tapered roller bearings 0-4 inches in outside diameter from NTN; imports of all tapered roller bearing sets, cone assemblies, and cups greater than 4 inches in outside diameter; imports of tapered rollers and all other bearing parts; and unfinished tapered roller bearing components. Commerce recently recommended to the CIT that Commerce's revocation of the outstanding dumping order be rescinded with regard to NTN Toyo. The CIT has not yet ruled on this case. For further detail on previous and ongoing investigations, see USITC Publication 1999, pp. A-1-3.

Nature and Extent of Sales at LTFV

The final LTFV margins determined by the Department of Commerce were 70.44 percent for Koyo Seiko Co., Ltd; 47.05 percent for NTN Toyo Bearing Co., Ltd.; and 47.57 percent for all others. Commerce found LTFV margins on *** percent (by quantity) of verified sales for Koyo and *** percent (by quantity) for NTN. Commerce's conduct of the investigation, factors taken into consideration, and methods used to calculate the LTFV margins are detailed in Commerce's notice, which is included in appendix B. 1/

Consideration of Alleged Threat of Material Injury

In its examination of the question of threat of material injury to an industry in the United States, the Commission may take into consideration such factors as the rate of increase of the subject imports, the rate of increase in U.S. market penetration by such imports, the rate of increase of imports held in inventory in the United States, the capacity of producers in the exporting country to generate exports, and the price-depressing or price-suppressing effect of the subject imports on domestic prices. These factors are reviewed below.

Levels of imports of subject products

The total quantity of imports from Japan of finished tapered roller bearings subject to investigation declined by *** percent during the period under investigation, from *** units in 1983 to *** units in 1986. The value of these imports increased by *** percent during this period, from *** in 1983 to *** in 1986. The total value of all subject imports from Japan, including parts, rose by *** percent from 1983 to 1986, from *** to ***. On the other hand, the value of imports of Japanese tapered roller bearing products during January-March 1987 was *** percent less than that during the corresponding period of 1986. Table 24 of USITC Publication 1999 (p. A-56) categorizes imports of finished tapered roller bearings according to size and further details trends in levels of imports of these products.

1/ The final LTFV margins determined by Commerce for countries covered in the previous investigations were 0.97 percent for China, 7.42 percent for Hungary, 124.75 percent for Italy, 8.70 percent for Romania, and 33.61 percent for Yugoslavia.

U.S. market penetration by subject products

On the basis of value, the market share accounted for by LTFV imports from Japan increased by *** percentage points, from *** percent in 1983 to *** percent in 1986. On the basis of quantity, however, the market share of imports from Japan was essentially the same in 1986 as it was in 1983. Cumulative quantity and value of LTFV imports subject to investigation are presented in table 26 of USITC Publication 1999 (pp. A-60-61).

U.S. importers' inventories of subject products

Inventories of tapered roller bearing imports from Japan subject to investigation rose by *** percent, while inventories as a ratio to imports increased from *** percent to *** percent during 1983-86. However, inventories of imports from Japan were *** percent lower during the first quarter of 1987 than during the first quarter of 1986, and inventories as a ratio to imports were also lower during January-March 1987 than during January-March 1986. Table 20 of USITC Publication 1999 (p. A-48) presents inventories of imports from Japan.

Ability of foreign producers to generate exports

According to "Market Share in Japan, 1985" 1/ there are about 10 manufacturers of tapered roller bearings in Japan. The four largest companies, NTN Toyo, Bearing Co., Ltd.; Nippon Seiko KK. (NSK); Koyo Seiko Co., Ltd.; and Nachi-Fujikoshi, accounted together for 93.6 percent of 1984 production. 2/ Estimated production share by company was 37.3 percent for NTN, 27.1 percent for NSK, 19.7 percent for Koyo, and 9.4 percent for Nachi-Fujikoshi. 3/ According to the U.S. Department of State, Nachi-Fujikoshi had no exports of tapered roller bearings to the United States from 1980 to 1986, but in March of 1987 the company exported a small quantity of pilot products to the United States. Officials at the Department of State named two other Japanese tapered roller bearing producers: Maekawa Bearings Manufacturing Co., Ltd. and Osaka Bearing Manufacturing Co., Ltd. Maekawa has had no exports of tapered roller bearings to the United States in recent years, and Osaka has not exported these products to the United States since 1980. 4/

NTN, NSK, and Koyo, together, are believed to account for over 90 percent of Japanese exports of tapered roller bearings to the United States. Commission staff requested counsel for these tapered roller bearing producers to supply information on the producers' capacity, production, shipments to the

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1/ This source is published by YANO Research Institute Ltd.
2/ The Japan External Trade Organization provided a list of Japanese roller bearing manufacturers which consisted of only six companies. NTN, NSK, and Koyo are included in this list.
3/ Information obtained from "Market Share in Japan, 1985," published by YANO Research Institute Ltd.
4/ Information obtained from Japan desk, U.S. Department of State on Aug. 21, 1987.

United States, home-market shipments, shipments to all other countries, and end-of-year inventories for the years 1983-86, and for January-March 1986 and January-March 1987 (table 1).

Total shipments to the United States from NTN, Koyo, and NSK of finished tapered roller bearings rose by *** percent from 1983 to 1986, from *** units in 1983 to *** units in 1986 (table 1, p. A-9). As a ratio to these producers' total shipments (i.e., home market shipments, shipments to the United States, and all other shipments), total shipments to the United States increased by *** percentage points, from *** percent in 1983 to *** percent in 1986. Total shipments to the United States of tapered roller bearing units accounted for *** percent of all shipments during January-March 1987 (as compared with *** percent during January-March 1986). From 1983 to 1986 production of tapered roller bearings by the three companies declined by *** percent, while inventories increased by *** percent. Capacity utilization dropped by *** percentage points from 1983 to 1986.

Total shipments to the United States from NTN, Koyo, and NSK of finished tapered roller bearings currently subject to investigation rose by *** percent during the period under investigation, from *** units in 1983 to *** units in 1986. 1/ During the same period U.S. shipments subject to investigation as a ratio to total shipments of products which currently are subject to investigation (or would be subject to investigation if exported to the United States) rose by *** percentage points, from *** percent in 1983 to *** percent in 1986. U.S. shipments subject to investigation as a ratio to total shipments increased by ***, from *** percent in 1983 to *** percent in 1986.

NTN's shipments to the United States of finished tapered roller bearings (all of which are subject to investigation) *** by *** percent from 1983 to 1986, from *** units in 1983 to *** units in 1986 (table 1, p. A-7). As a ratio to NTN's total shipments, shipments to the United States *** by *** percentage points during the period under investigation. From 1983 to 1986 NTN's production of finished tapered roller bearings *** by *** percent, while inventories *** by *** percent. During the same period, NTN's capacity utilization *** by *** percentage points.

From 1983 to 1986 Koyo's total shipments to the United States of finished tapered roller bearing units *** by *** percent, from *** units in 1983 to *** units in 1986 (table 1, p. A-5). However, the company's shipments to the United States of tapered roller bearings subject to investigation *** by *** percent during the period under investigation. Koyo's total production and total inventories *** from 1983 to 1986 and its capacity utilization ***.

NSK's total shipments to the United States of finished tapered roller bearings *** during the period under investigation, from *** units in 1983 to *** units in 1986 (table 1, p. A-6). During the same period, the company's shipments to the United States of tapered roller bearings subject to investigation ***, from *** units in 1983 to *** units in 1986. While NSK's total production of tapered roller bearing units ***, its inventories *** and capacity utilization ***.

1/ The difference between the total quantity of imports from Japan of tapered roller bearings cited on p. A-2 and the total quantity of Japanese exports of these products given here is accounted for by differences in ***.

Table 1
Tapered roller bearings: Foreign producer data, 1983-86, January-March 1986, and January-March 1987

Item	1983	1984	1985	1986	January-March 1986	January-March 1987
Koyo:						
0-4 inches in outside diameter:						
Capacity 1/....1,000 units..	***	***	***	***	***	***
Production.....do....	***	***	***	***	***	***
Capacity utilization percent..	***	***	***	***	***	***
Inventories....1,000 units..	***	***	***	***	***	***
Home market shipments.do....	***	***	***	***	***	***
Shipments to the U.S..do....	***	***	***	***	***	***
All other shipments...do....	***	***	***	***	***	***
U.S. shipments as a ratio to total shipments percent..	***	***	***	***	***	***
Over 4 inches in outside diameter:						
Capacity 1/....1,000 units..	***	***	***	***	***	***
Production.....do....	***	***	***	***	***	***
Capacity utilization percent..	***	***	***	***	***	***
Inventories....1,000 units..	***	***	***	***	***	***
Home market shipments.do....	***	***	***	***	***	***
Shipments to the U.S. 2/ 1,000 units..	***	***	***	***	***	***
All other shipments...do....	***	***	***	***	***	***
U.S. shipments as a ratio to total shipments percent..	***	***	***	***	***	***
Subtotal:						
Capacity 1/....1,000 units..	***	***	***	***	***	***
Production.....do....	***	***	***	***	***	***
Capacity utilization percent..	***	***	***	***	***	***
Inventories....1,000 units..	***	***	***	***	***	***
Home market shipments.do....	***	***	***	***	***	***
Shipments to the U.S. 1,000 units..	***	***	***	***	***	***
All other shipments...do....	***	***	***	***	***	***
U.S. shipments as a ratio to total shipments percent..	***	***	***	***	***	***

See footnotes at end of table.

Table 1
Tapered roller bearings: Foreign producer data, 1983-86, January-March 1986, and January-March 1987--Continued

Item	1983	1984	1985	1986	January-March 1986	January-March 1987
NSK:						
0-4 inches in outside diameter:						
Capacity.....1,000 units..	***	***	***	***	***	***
Production.....do....	***	***	***	***	***	***
Capacity utilization percent..	***	***	***	***	***	***
Inventories....1,000 units..	***	***	***	***	***	***
Home market shipments.do....	***	***	***	***	***	***
Shipments to the U.S..do....	***	***	***	***	***	***
All other shipments...do....	***	***	***	***	***	***
U.S. shipments as a ratio to total shipments percent..	***	***	***	***	***	***
Over 4 inches in outside diameter:						
Capacity.....1,000 units..	***	***	***	***	***	***
Production.....do....	***	***	***	***	***	***
Capacity utilization percent..	***	***	***	***	***	***
Inventories....1,000 units..	***	***	***	***	***	***
Home market shipments.do....	***	***	***	***	***	***
Shipments to the U.S. 2/ 1,000 units..	***	***	***	***	***	***
All other shipments...do....	***	***	***	***	***	***
U.S. shipments as a ratio to total shipments percent..	***	***	***	***	***	***
Subtotal:						
Capacity.....1,000 units..	***	***	***	***	***	***
Production.....do....	***	***	***	***	***	***
Capacity utilization percent..	***	***	***	***	***	***
Inventories....1,000 units..	***	***	***	***	***	***
Home market shipments.do....	***	***	***	***	***	***
Shipments to the U.S. 1,000 units..	***	***	***	***	***	***
All other shipments...do....	***	***	***	***	***	***
U.S. shipments as a ratio to total shipments percent..	***	***	***	***	***	***

See footnotes at end of table.

Table 1
Tapered roller bearings: Foreign producer data, 1983-86, January-March 1986, and January-March 1987--Continued

Item	1983	1984	1985	1986	January-March-- 1986	1987
NTN:						
0-4 inches in outside diameter:						
Capacity 4/....1,000 units..	***	***	***	***	***	***
Production.....do....	***	***	***	***	***	***
Capacity utilization percent..	***	***	***	***	***	***
Inventories....1,000 units..	***	***	***	***	***	***
Home market shipments.do....	***	***	***	***	***	***
Shipments to the U.S. 2/ 1,000 units..	***	***	***	***	***	***
All other shipments...do....	***	***	***	***	***	***
U.S. shipments as a ratio to total shipments percent..	***	***	***	***	***	***
Over 4 inches in outside diameter:						
Capacity 4/....1,000 units..	***	***	***	***	***	***
Production.....do....	***	***	***	***	***	***
Capacity utilization percent..	***	***	***	***	***	***
Inventories....1,000 units..	***	***	***	***	***	***
Home market shipments.do....	***	***	***	***	***	***
Shipments to the U.S. 2/ 1,000 units..	***	***	***	***	***	***
All other shipments...do....	***	***	***	***	***	***
U.S. shipments as a ratio to total shipments percent..	***	***	***	***	***	***
Subtotal:						
Capacity 4/....1,000 units..	***	***	***	***	***	***
Production.....do....	***	***	***	***	***	***
Capacity utilization percent..	***	***	***	***	***	***
Inventories....1,000 units..	***	***	***	***	***	***
Home market shipments.do....	***	***	***	***	***	***
Shipments to the U.S. 2/ 1,000 units..	***	***	***	***	***	***
All other shipments...do....	***	***	***	***	***	***
U.S. shipments as a ratio to total shipments percent..	***	***	***	***	***	***

See footnotes at end of table.

Table 1
Tapered roller bearings: Foreign producer data, 1983-86, January-March 1986, and January-March 1987--Continued

Item	1983	1984	1985	1986	January-March- 1986	1987
Total subject products: 5/						
Capacity.....1,000 units...	***	***	***	***	***	***
Production.....do.....	***	***	***	***	***	***
Capacity utilization.percent...	***	***	***	***	***	***
Inventories.....1,000 units...	***	***	***	***	***	***
Home market shipments...do.....	***	***	***	***	***	***
Shipments to the U.S. subject to investigation. 1,000 units...	***	***	***	***	***	***
All other shipments.....do.....	***	***	***	***	***	***
U.S. shipments subject to investigation as a ratio to subject shipments 5/ percent...	***	***	***	***	***	***
U.S. shipments subject to investigation as a ratio to total shipments 6/ percent...	***	***	***	***	***	***
Total: 6/						
Capacity.....1,000 units...	***	***	***	***	***	***
Production.....do.....	***	***	***	***	***	***
Capacity utilization.percent...	***	***	***	***	***	***
Inventories.....1,000 units...	***	***	***	***	***	***
Home market shipments...do.....	***	***	***	***	***	***
Shipments to the United States.....1,000 units...	***	***	***	***	***	***
All other shipments.....do.....	***	***	***	***	***	***
Total U.S. shipments as a ratio to total shipments 6/.. percent...	***	***	***	***	***	***

1/ Capacity is based on ***.
2/ Imports subject to investigation.
3/ ***.
4/ Capacity is based on ***. ***. January-March 1986 and January-March 1987 capacity figures represent 25 percent of annual capacity.
5/ "Subject" products or shipments refers to products from Koyo, NSK, and NTN which currently are subject to investigation, or would be subject to investigation if exported to the United States.
6/ "Total" products or shipments refers to all products from Koyo, NSK, and NTN, regardless of whether or not they are or would be subject to investigation if shipped to the United States.

Source: Counsel for the foreign producers.

Other Issues

Counsel for NTN has maintained that the Commission does not have legal authority to conduct an injury investigation concerning imports of tapered roller bearings 4 inches and less in outside diameter produced by NTN Toyo. According to NTN, such authority rests with the Department of Commerce, which in January of 1987 rescinded its partial revocation of the antidumping order regarding NTN. NTN subsequently challenged this decision in the Court of International Trade, and NTN contends that the antidumping finding of 1976 has "never been effectively revoked with regard to NTN since that agency action [Commerce's] has never become final" (NTN's supplemental brief, August 18, 1987, p. 5).

Counsel for NTN has consistently argued that tapered roller bearings and components are different "like products" and comprise separate domestic industries. In its prehearing brief (p. 21), counsel for NTN identified a small number of non-tapered roller bearing producers "which currently manufacture, offer to manufacture or have manufactured unfinished rings and finished parts in the past." Counsel for NTN believes these producers should either be included in the tapered roller bearing industry, or the Commission should narrow the "like product" scope of this investigation (field visits with NTN officials, June 30, 1987). However, in the U.S. producers' response to the Commission's questionnaire, producers generally did not report purchasing parts from any U.S. sources other than tapered roller bearing producers.

Finally, NTN maintains that the company has been attempting to raise its prices throughout 1986 and 1987. NTN's supplemental brief includes a memorandum to regional managers and a letter to customers from NTN Bearing Corporation of America officials informing them of price increases which the officials purportedly planned in light of the decline of the U.S. dollar.

Like NTN, Koyo argues that imported tapered roller bearing components and finished tapered roller bearings are separate "like products." Counsel projects that "any affirmative determination that includes components will cause greater harm to the TRB industry as a whole than any injury presently experienced by Timken" since five of the eight domestic producers rely on imported parts for use in the manufacture of tapered roller bearings (Koyo's supplemental brief, August 18, 1987). However, the remaining firms, Timken, Brenco, and Torrington, accounted for over *** of all domestic shipments during 1986.

Lost Sales and Lost Revenues

* * * * * * *

APPENDIX A

FEDERAL REGISTER NOTICES OF THE COMMISSION

[Investigations Nos. 731-TA-341, 342, 344, 345, and 346 (Final)]

Tapered Roller Bearings and Parts Thereof, and Certain Housings, Incorporating Tapered Rollers from Hungary, Italy, The People's Republic of China, Romania, and Yugoslavia

AGENCY: International Trade Commission.

ACTION: Institution of final antidumping investigations and scheduling of a hearing to be held in connection with the investigations.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigations Nos. 731-TA-341, 342, 344, 345, and 346 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Hungary (inv. No. 731-TA-341), Italy (inv. No. 731-TA-342), The People's Republic of China (inv. No. 731-TA-344), Romania (inv. No. 731-TA-345), and Yugoslavia (inv. No. 731-TA-346) of tapered roller bearings and parts therefor provided for in Tariff Schedules of the United States (TSUS) items 680.30 and 680.39; flange, take-up, cartridge, and hanger units incorporating tapered roller bearings, provided for in TSUS item 681.10; and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use, provided for in item 692.32 or elsewhere in the TSUS, which have been found by the Department of Commerce, in preliminary determinations, to be sold in the United States at less than fair value (LTFV). Unless there investigations are extended, Commerce will make its final LTFV determinations on or before April 18, 1987, and the Commission will make its final injury determinations by June 5, 1987 (see sections 735(a) and 735(b) of the Act (19 U.S.C. 1673d(a) and 1673d(b))).

For further information concerning the conduct of these investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: February 6, 1987.

FOR FURTHER INFORMATION CONTACT: Maria Papadakis (202-523-0439), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commissions's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted as a result of affirmative preliminary determinations by the Department of Commerce that imports of tapered roller bearings and parts thereof, and certain housings incorporating tapered rollers from Hungary, Italy, the People's Republic of China, Romania, and Yugoslavia are being sold in the United States at less than fair value within the meaning of section 731 of the act (19 U.S.C. 1673). The investigations were requested in a petition filed on August 25, 1986, by the Timken Company, Canton, OH. In response to that petition the Commission conducted preliminary antidumping investigations and, on the basis of information developed during the course of those investigations, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (51 FR 36874).[1]

Participation in the investigations.

Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in

[1] The petition and the Commission's preliminary affirmative determinations also covered imports of the subject products from Japan. However, the Department of Commerce has determined that the investigation involving Japan is "extraordinarily complicated" and, accordingly, extended the date for its preliminary less-than fair value determination to March 23, 1987. In the event that Commerce's preliminary determination concerning imports from Japan is affirmative, the Commission will institute an investigation at that time.

§ 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list.

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigations msut be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Staff report.

A public version of the prehearing staff report in these investigations will be placed in the public record on April 28, 1987, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.

The Commission will hold a hearing in connection with these investigations beginning at 9:30 a.m. on May 12, 1987, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on April 16, 1987. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on April 21, 1987 in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is May 8, 1987.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2))).

Written submissions.

All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on May 19, 1987. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subjct of the investigation on or before May 19, 1987.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary of the Commission.

Any business information for which confidential treatment is desired msst be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

Authority: These invetigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

Issued: February 17, 1987.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 87-3986 Filed 2-25-87; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-343 (Final)]

Tapered Roller Bearings and Parts Thereof, and Certain Housings Incorporating Tapered Rollers From Japan

AGENCY: International Trade Commission.

ACTION: Institution of final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission hearby gives notice of the institution of final antidumping investigation No. 731-TA-343 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of tapered roller bearings and parts thereof provided for in Tariff Schedules of the United States (TSUS) items 680.30 and 680.39; flange, take-up, cartridge, and hanger units incorporating tapered roller bearings, provided for in TSUS item 681.10; and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use, provided for in item 692.32 or elsewhere in the TSUS, which have been found by the Department of Commerce, in a preliminary determination, to be sold in the United States at less than fair value (LTFV). Unless the investigation is extended, Commerce will make its final LTFV determination on or before June 8, 1987, and the Commission will make its final injury determinations by July 22, 1987 (see sections 735(a) and 735(b) of the Act (19 U.S.C. 1673d(a) and 1673d(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207 (19 CFR Part 207), Subparts A and C, and Part 201 (19 CFR Part 201), Subparts A through C and Subpart E.

EFFECTIVE DATE: March 23, 1987.

FOR FURTHER INFORMATION CONTACT: Maria Papadakis (202-523-0439), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-523-0161.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of tapered roller bearings and parts thereof, and certain housings incorporating tapered rollers from Japan are being sold in the United States at less than fair value within the meaning of section 731 of the Act (19 U.S.C. 1673). This investigation was requested in a petition filed on August 25, 1986, by the Timken Company, Canton, OH, in which Timken alleged that imports of tapered roller bearings and parts thereof, and certain housings containing tapered rollers from Hungary, Italy, Japan, the People's Republic of China, Romania, and Yugoslavia were being sold in the United States at less than fair value.

In response to that petition, the Commission conducted preliminary antidumping investigations and, on the basis of information developed during the course of those investigations, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (51 FR 36874). On February 11, 1987, the Commission instituted final antidumping investigations on imports of the subject merchandise from Hungary (Inv. No. 731-TA-341), Italy (Inv. No. 731-TA-342), the People's Republic of China (Inv. No. 731-TA-344), Romania (Inv. No.

731-TA-345), and Yugoslavia (Inv. No. 731-TA-346) (52 FR 5841, Feb. 26, 1987).[1]

Participation in the investigations

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b) of the Commission's rules (19 CFR 201.11(b)), not later than twenty-one (21) days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Staff report

A public version of the prehearing staff report in this investigation will be placed in the public record on April 28, 1987, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation and investigations 731-TA-341, 342, 344, 345, and 346 (Final) beginning at 9:30 a.m. on May 12, 1987, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on April 16, 1987. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on April 21, 1987 in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is May 8, 1987.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2))).

Written submissions

All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on May 19, 1987. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before May 19, 1987.

A period for submitting supplemental briefs will be provided for Parties in conjunction with investigation No. 731-TA-343; details concerning the date and nature of the filing of such supplemental briefs will be provided at the Commission's hearing on May 12, 1987.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, Title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

Issued: April 2, 1987.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 87-7790 Filed 4-7-87; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-342 and 346 (Final)]

Tapered Roller Bearings and Parts Thereof, and Certain Housings Incorporating Tapered Rollers From Italy and Yugoslavia

AGENCY: International Trade Commission.

ACTION: Revised schedule for the subject investigations.

EFFECTIVE DATE: March 30, 1987.

FOR FURTHER INFORMATION CONTACT: Maria Papadakis (202-523-0439), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-523-0161.

SUPPLEMENTARY INFORMATION: On Feb. 11, 1987, the Commission instituted the subject investigations and established a schedule for their conduct (52 FR 5841, Feb. 26, 1987). Subsequently, the Department of Commerce extended the date for its final determinations in these investigations from April 20, 1987, to June 22, 1987 (52 FR 6361, 6366). The Commission, therefore, is revising its schedule in these investigations to conform with Commerce's new schedule.

The date of the Commission's public hearing on these investigations remains unchanged as scheduled in its notice of institution (52 FR 5841, February 26, 1987). This schedule is as follows: requests to appear at the hearing are to be filed with the Secretary to the Commission not later than the close of business April 16, 1987; the prehearing conference will be held in room 117 of the U.S. International Trade

[1] The date of Commerce's preliminary determinations for all of the countries subject to investigation, except Japan, was February 6, 1987. However, the Department of Commerce determined that the investigation involving Japan was "extraordinarily complicated" and, accordingly, extended the date for its preliminary less-than-fair-value determination to March 23, 1987.

Commission Building on April 21, 1987, at 9:30 a.m.; the public version of the prehearing staff report will be placed on the public record on April 28, 1987; the deadline for filing prehearing briefs is May 8, 1987; the hearing will be held in room 331 of the U.S. International Trade Commission Building on May 12, 1987, at 9:30 a.m.; and the deadline for filing posthearing briefs is the close of business on May 19, 1987.

A period for submitting additional briefs will be provided for parties in conjunction with investigations Nos. 731-TA-342 and 346; the deadline for filing supplemental briefs is July 29, 1987. Such supplemental briefs should be limited to information not available at the time the posthearing brief was submitted, and should be filed in accordance with the Commission's rules.

For further information concerning these investigations see the Commission's notice of investigation cited above and the Commission's Rules of Practice and Procedure, Part 207 (19 CFR Part 207), Subparts A and C, and Part 201 (19 CFR Part 201), Subparts A through C and Subpart E.

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, Title VII. This notice is published pursuant to § 201.10 of the Commission's rules (19 CFR 201.10).

Issued: April 2, 1987.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 87-7791 Filed 4-7-87; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-341, 344, 345 (Final)]

Tapered Roller Bearings and Parts Thereof, and Certain Housings Incorporating Tapered Rollers From Hungary, The People's Republic of China, and Romania

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines,[2] pursuant to section 735(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)(1)), that an industry in the United States is materially injured by reason of imports from Hungary, the People's Republic of China and Romania of tapered roller bearings and parts thereof, and certain housings incorporating tapered rollers, all the foregoing provided for in items 680.3040, 680.3932, 680.3934, 680.3938, 680.3940, 681.1010, or 692.3295 of the Tariff Schedules of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Further, pursuant to section 735(b)(4)(A) of the Act (19 U.S.C. 1673d(b)(4)(A)), the Commission determines that the material injury in the investigation involving imports from Romania is not by reason of massive imports over a relatively short period to an extent that, in order to prevent such material injury from recurring, it is necessary to impose the antidumping duty retroactively on these imports.

Background

The Commission instituted this investigation effective February 6, 1987, following preliminary determinations by the Department of Commerce that imports of the subject merchandise from Hungary, the People's Republic of China, and Romania are being sold at LTFV within the meaning of section 731 of the Act (19 U.S.C. 1673). Notice of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of February 26, 1987 (52 FR 5841). The hearing was held in Washington, DC, on May 12, 1987, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on June 5, 1987. The views of the Commission are contained in USITC Publication 1983 (June 1987), entitled "Tapered Roller Bearings and Parts Thereof, and Certain Housings Incorporating Tapered Rollers from Hungary, The People's Republic of China, and Romania: Determinations of the Commission in Investigations Nos. 731-TA-341, 344, and 345 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

Issued: June 5, 1987.

By Order of the Commission:

Kenneth R. Mason,

Secretary.

[FR Doc. 87-13272 Filed 6-10-87; 8:45 am]

BILLING CODE 7020-02-M

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Chairman Liebeler and Vice Chairman Brunsdale dissenting.

[Investigations Nos. 731-TA-342 and 346 (Final)]

Tapered Roller Bearings and Parts Thereof and Certain Housings Incorporating Tapered Rollers From Italy and Yugoslavia

Determination

On the basis of the record [1] developed in the subject investigations, the Commission determines, pursuant to section 735(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1673(b)(1)), that an industry in the United States is materially injured by reason of imports from Italy [2] and Yugoslavia [3] of tapered roller bearings and parts thereof, and certain housings incorporating tapered rollers, all the foregoing provided for in items 680.3040, 680.3932, 680.3934, 680.3938, 680.3940, 681.1010, or 692.3295 of the Tariff Schedules of the United States annotated, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Further, pursuant to section 735(b)(4)(A) of the Act (19 U.S.C. 1673(b)(4)(A)), the Commission determines that the material injury in the investigation by reason of imports from Italy is not by reason of massive imports over a relatively short period to an extent that, in order to prevent such material injury from recurring, it is necessary to impose antidumping duties retroactively on those imports. [4]

Background

The Commission instituted these investigations effective February 6, 1987, following preliminary determinations by the Department of Commerce that imports of the subject merchandise from Italy and Yugoslavia are being sold at LTFV within the meaning of section 731 of the Act (19 U.S.C. 1673). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of February 26, 1987 (52 FR 5841). The hearing was held in Washington, DC, on May 21, 1987, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in these investigations to the Secretary of Commerce on August 5, 1987. The views of the Commission are contained in USITC Publication 1999 (August 1987), entitled "Tapered Roller Bearings and Parts Thereof, and Certain Housing Incorporating Tapered Rollers from Italy and Yugoslavia: Determination of the Commission in Investigations Nos. 731-TA-342 and 346 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

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[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Chairman Liebeler dissenting.

[3] Chairman Liebeler and Vice-Chairman Brunsdale dissenting.

[4] Commissioner Eckes dissenting.

By order of the Commission.
Kenneth R. Mason,
Secretary.
Issued: August 6, 1987.
[FR Doc. 87-18418 Filed 8-11-87; 8:45 am]
BILLING CODE 7020-02-M

APPENDIX B

FEDERAL REGISTER NOTICES OF COMMERCE

[A-588-604]

Tapered Roller Bearings and Parts Thereof, Finished or Unfinished From Japan; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that tapered roller bearings and parts thereof, finished or unfinished (tapered roller bearings), from Japan are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination, and we have directed the U.S. Customs Service to suspend liquidation of all entries of the subject merchandise that are entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in

an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by June 8, 1987.

EFFECTIVE DATE: March 27, 1987.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp (202-377-1769) or Marie G. Kissel (202-377-3798), Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that tapered roller bearings and parts thereof, finished or unfinished, from Japan are being, or are likely to be, sold in the United States at less than fair value as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The margins of sales at less than fair value are shown in the "Suspension of Liquidation" section of this notice.

Case History

On August 25, 1986, we received a petition in proper form filed by the Timken Company, on behalf of the U.S. industry producing tapered roller bearings. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are causing material injury, or threaten material injury, to a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated the investigation on September 15, 1986 (51 FR 33286, September 19, 1986), and notified the ITC of our action.

On October 2, 1986, the ITC determined that their is a reasonable indication that imports of tapered roller bearings from Japan are materially injuring a U.S. industry (U.S. ITC Pub. No. 1899, October 1986).

On November 19, 1986, questionnaires were presented to NTN Toyo Bearing Co., Ltd. (NTN) and Koyo Seiko Co., Ltd. (Koyo), which account for approximately 90 percent of the exports to the United States during the period of investigation. To both companies we granted an extension of time in which to respond.

On January 5, 1987 we received questionnaire responses from both companies. Additions to the responses were received on January 21, 1987 and January 28, 1987, from Koyo Seiko, and from NTN on January 20, 1987 and January 28, 1987. We found that the questionnaire responses were insufficient. We sent deficiency letters to both companies on February 9, 1987. Deficiency letter responses were received from NTN on February 20, 1987 and February 23, 1987, and from Koyo Seiko on February 24, 1987 and February 27, 1987.

On January 12, 1987, we determined this case to be extraordinarily complicated and, in accordance with section 733(c)(B) of the Act, we postponed the preliminary determination to March 23, 1987 (52 FR 2125).

Scope of Investigation

The products covered by this investigation are tapered roller bearings and parts thereof, currently classified under the *Tariff Schedules of the United States* (TSUS) under items 680.30 and 680.39; flange, take-up cartridge, and hanger units incorporating tapered roller bearings currently classified under TSUS item 681.10; and tapered roller housings (except pillow blocks) incorporating tapered rollers; with or without spindles, whether or not for automotive use, and currently classified under TSUS item 692.32 or elsewhere in the TSUS. Products subject to the outstanding dumping finding covering certain tapered roller bearings from Japan (T.D. 76-227, 41 FR 34974) are not included within the scope of this investigation. This investigation includes all tapered roller bearings and parts thereof, as described above, that are manufactured by NTN.

If during the course of this investigation the Department rescinds its revocation with respect to NTN and that rescission is affirmed by final judicial order, this antidumping investigation would be terminated with regard to any bearings manufactured by NTN that would be covered by the outstanding dumping finding.

Fair Value Comparisions

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price to the foreign market value as specified below. Because information received from Koyo relating to merchandise which was processed prior to sale was received too late to allow us to consider it for this preliminary determination, we have based this determination on comparisons of products which were sold in the condition in which imported. If verified, we will use the information on the sales of processed merchandise in making our final decision.

We made comparisons on approximately 90 percent of the sales of the product during the period of investigation, March, 1, 1986 through August 31, 1986.

United States Price

For Koyo Seiko and certain sales by NTN, we based United States price on exporter's sales price (ESP) since those sales were made after importation, in accordance with section 772(c) of the Act. For those sales by NTN to the United States which were made prior to importation, we determined that the merchandise had been purchased from the manufacturer or producer and, therefore, based the United States price on purchase price in accordance with section 772(b) of the Act.

For sales which were made through a related sales agent in the United States to an unrelated purchaser prior to the date of importation, we used purchase price as the basis for determining United States price. For these sales, the Department determined that purchase price was the more appropriate indicator of United States price based on the following elements:

1. The merchandise in question was shipped directly from the manufacturer to the unrelated buyer, without being introduced into the inventory of the related selling agent;

2. This was the customary commercial channel for sales of this merchandise between the parties involved; and

3. The related selling agent located in the United States acted only as a processor of sales-related documentation and a communication link with the unrelated U.S. buyer.

Where all the above elements are met, we regard the routine selling functions of the exporter as having been merely relocated geographically from the country of exportation to the United States, where the sales agent performs them. Whether these functions are done in the United States or abroad does not change the substance of the transactions or the functions themselves.

In instances where merchandise is ordinarily diverted into the related U.S. selling agent's inventory, we regard this factor as an important distinction because it is associated with a materially different type of selling activity than the mere facilitation of a transaction such as occurs on a direct shipment to an unrelated U.S. purchaser. In situations where the related party

places the merchandise into inventory, he commonly incurs substantial storage and financial carrying costs and has added flexibility in his marketing. We also use the inventory test because it can be readily understood and applied by respondents who must respond to Department questionnaires in a short period of time. It is objective in nature, as the final destination of the goods can be established from normal commercial documents associated with the sale and verified with certainty.

We calculated purchase price and ESP based on the packed, duty paid, f.o.b. or c.i.f., delivered prices to unrelated purchasers in the United States. We made deductions for foreign inland freight, ocean freight, marine insurance, U.S. duty, and U.S. inland freight, as appropriate. For ESP sales, we also deducted other expenses normally incurred in selling the merchandise in the United States. Consistent with the Court of International Trade remand decision (*The Timken Co.* v. *United States*, Slip Op. 86-17) concerning NTN's sales of tapered roller bearings subject to a previous antidumping duty order on tapered roller bearings four inches and under in outside diameter, we treated certain U.S. credit and technical service expenses as directly related to the sales under consideration.

Foreign Market Value

As noted in the "Case History" section of this notice, petitioner alleged that home market sales were made at less than the cost of production and that constructed value should be used to compute foreign market value.

Using the respondents' submissions, we compared the home market prices to the cost of production reflecting selling expenses incurred on sales to the same level of trade. We used constructed value as the basis for calculating foreign market value where there were no, or insufficient, sales of such or similar merchandise at prices above the cost of production, as defined in § 773(b) of the Act. Koyo had sufficient sales at prices above cost to form the basis for all comparisons.

NTN's general expenses exceeded the statutory minimum of ten percent of materials and fabrication. Therefore, actual general expenses were used in calculating the constructed value. Koyo's general expenses were less than the statutory minimum, therefore, we used the 10 percent minimum. The statutory eight percent for profit was included in the constructed value for both respondents because home market profit was less than eight percent. We added U.S. packing charges.

We made a circumstance of sale adjustment for differences in credit expenses and for comparisons to ESP, for an offset to indirect selling expenses on the U.S. sales, in accordance with § 353.15(c) of Commerce's regulations, except as noted below.

Where we found sufficient sales in the home market to form the basis of comparison, we used delivered home market prices. We made deductions for foreign inland freight and discounts. We deducted home market packing costs and added U.S. packing costs. For comparison to ESP sales, we offset selling expenses incurred on home market sales up to the amount of the indirect selling expenses incurred for sales to the U.S. market, in accordance with § 353.15(c) of our regulations. We made an adjustment for differences in credit terms in accordance with § 353.15 of our regulations. NTN claimed adjustments for differences in technical service expenses, sales commissions, advertising and warehousing expenses. We denied these claims pending the outcome of verification.

NTN submitted information relative to possible comparison models which appears to be based on its catalogue of bearings rather than models actually sold in the home market during the period of investigation. Due to the number of models involved and the number of sales transactions, we were unable to refine the data and create alternative comparison groups based on sales. Accordingly, where we could not find an appropriate home market comparison, we developed constructed value on the basis of the direct manufacturing costs of the model sold to the United States. In addition, the problems relating to the establishment of comparison groups made it impossible to determine the level of home market selling expenses which would be used in the ESP offset. Therefore, for purposes of this preliminary determination we did not offset the ESP expenses in determining the foreign market value. We are requesting additional information for purposes of the final determination.

We established such or similar merchandise comparison groups on the basis of the inside and outside diameter of the bearings and, where available, the dynamic load rating. Petitioner contends that the system life of the bearings is a more accurate measure of similarity than the dynamic load rating. We received detailed information on the methodology for determining system life too late to consider it for this determination. We will consider petitioner's contention for purposes of the final determination. We will request additional information and comments on the proposed methodology as appropriate.

Currency Conversion

For ESP comparisons, we used the official exchange rate for the date of sale since the use of that exchange rate is consistent with section 615 of the Trade and Tariff Act of 1984 (1984 Act). We followed section 615 of the 1984 Act rather than § 353.56(a)(2) of our regulations because the later law supersedes that section of the regulations.

For purchase price comparisons, we used the exchange rate described in § 353.56(a)(1) of our regulations. All currency conversions were made at the rates certified by the Federal Reserve Bank.

Verification

As provided in section 776(a) of the Act, we will verify all information used in reaching the final determination in this investigation.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of tapered roller bearings and parts thereof, finished or unfinished, from Japan that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register.

The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated amount by which the foreign market value of the merchandise subject to this investigation exceeded the United States price. This suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Weighted average margin percentage
Koyo Seiko Co., Ltd.	38.91
NTN Toyo Bearing Co., Ltd.	17.65
All Others	18.0%

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports are materially injuring, or are threatening material injury to, a U.S. industry before the later of 120 days after the date of our preliminary affirmative determination or 45 days after we make our final affirmative determination.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 9:30 a.m. on May 19, 1987, at the U.S. Department of Commerce, Room 3708, 14th and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, at the above address within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by May 12, 1987. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, not less than 30 days before the final determination, or, if a hearing is held, within 7 days after the hearing transcript is available, at the above address in at least 10 copies.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

March 23, 1987.

[FR Doc. 87-6795 Filed 3-26-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-475-603; A-479-601]

Antidumping Duty Orders; Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From Italy and Yugoslavia

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: In separate investigations concerning tapered roller bearings and parts thereof, finished or unfinished (tapered roller bearings), from Italy and Yugoslavia, the United States Department of Commerce (the Department) and the United States International Trade Commission (the ITC) have determined that tapered roller bearings from Italy and Yugoslavia are being sold at less than fair value and that sales of tapered roller bearings from Italy and Yugoslavia are materially injuring a United States industry. The ITC ruled that critical circumstances do not exist with regard to tapered roller bearings from Italy.

Therefore, based on these findings, we will discontinue suspension of liquidation of all entries 90 days prior to our preliminary determination with respect to imports from Italy. Suspension of liquidation will begin for all unliquidated entries, or warehouse withdrawals, for consumption of tapered roller bearings from Italy made on or after February 6, 1987, the date on which the Department published its preliminary determination notices in the **Federal Register**. These entries will be liable for the possible assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries, and withdrawals from warehouse, for consumption on or after the date of publication of this antidumping duty order in the **Federal Register**.

EFFECTIVE DATE: August 14, 1987.

FOR FURTHER INFORMATION CONTACT: Charles Wilson (202) 377-5288 or Karen DiBenedetto (202) 377-1776 (Italy), Mary S. Clapp (202) 377-1769 or Judith Nehring (202) 377-0160 (Yugoslavia), Office of Investigations, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, 20230.

SUPPLEMENTARY INFORMATION: The products covered by this investigation are tapered roller bearings currently classified under *Tariff Schedules of the United States* (TSUS) item numbers 680.30 and 680.39; flange, take-up cartridge, and hanger units incorporating tapered roller bearings currently classified under TSUS item number 681.10; and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use, and currently classified under TSUS item number 692.32 or elsewhere in the TSUS.

In accordance with section 733 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b), on February 2, 1987, the Department made its preliminary determinations that there was reason to believe or suspect that tapered roller bearings from Italy and Yugoslavia were being sold at less than fair value (52 FR 3835, 3840, February 6, 1987). On June 22, 1987, the Department made its final determinations that these imports were being sold at less than fair value (52 FR 24198, 24200, June 29, 1987) and that critical circumstances did exist with respect to imports from Italy.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department directs United States Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of tapered roller bearings from Italy and Yugoslavia. These antidumping duties will be assessed on all unliquidated entries of tapered roller bearings entered, or withdrawn from warehouse, for consumption on or after February 6, 1987, the date on which the Department published its preliminary determinations.

On and after the date of publication of this notice, United States Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margin of 124.75 percent for Italy and 33.61 percent for Yugoslavia.

This determination constitutes an antidumping duty order with respect to tapered roller bearings from Italy and Yugoslavia, pursuant to section 736 of the Act (19 U.S.C. 1673e) and 19 CFR 353.48. We have deleted from the Commerce Regulations, Annex I of 19 CFR Part 353, which listed antidumping duty findings and orders currently in effect. Instead, interested parties may contact the Central Records Unit, Room B-099, Import Administration, for copies of the updated list of orders currently in effect.

This notice is published in accordance with section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48).

Joseph A. Spetrini,

Acting Deputy Assistant Secretary for Import Administration.

August 10, 1987.

[FR Doc. 87-18621 Filed 8-13-87; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-588-604]

Final Determination of Sales at Less Than Fair Value; Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: We have determined that tapered roller bearings and parts thereof, finished and unfinished (tapered roller bearings, also "TRBs"), from Japan are being, or are likely to be, sold in the United States at less than fair value. The U.S. International Trade Commission (ITC) will determine, within 45 days of publication of this notice, whether these imports are materially injuring, or are threatening material injury to, a United States industry.

EFFECTIVE DATE: August 17, 1987.

FOR FURTHER INFORMATION CONTACT: Marie G. Kissel (202/377-3798) or Mary S. Clapp (202/377-1769), Office of Investigations, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Final Determination

We have determined that tapered roller bearings from Japan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673(a)). The margins found for the companies investigated are listed in the "Suspension of Liquidation" section of this notice.

Case History

On March 23, 1987, we made an affirmative preliminary determination (52 FR 9905, March 27, 1987).

On March 31, 1987, we received a request from NTN Toyo Bearing Co., Ltd. ("NTN"), a respondent in the case, to postpone the final determination to no later than the 135th day after publication of our "Preliminary Determination" notice in the Federal Register. We granted this request and postponed the final determination until no later than August 10, 1987 (52 FR 11722, April 10, 1987).

On July 6, 1987, the Department held a public hearing. Interested parties submitted comments for the record in their pre-hearing briefs of July 2, 1987, and in their post-hearing briefs of July 14, 1987.

Scope of Investigation

The products covered by this investigation are tapered roller bearings and parts thereof, currently classified under *Tariff Schedules of the United States (TSUS)* item numbers 680.30 and 680.39; flange, take-up cartridge, and hanger units incorporating tapered roller bearings, currently classified under *TSUS* item number 681.10; and tapered roller housings (except pillow blocks) incorporation tapered rollers, with or without spindles, whether or not for automotive use, and currently classified under *TSUS* item 692.32 or elsewhere in the *TSUS*. Products subject to the outstanding antidumping duty order covering certain tapered roller bearings from Japan (T.D. 76-227, 41 FR 34974) are not included within the scope of this investigation. This investigation includes all tapered roller bearings and parts thereof, as described above, that are manufactured by NTN.

If the Department's recission of its revocation of the above cited antidumping duty order with respect to NTN is affirmed by final judicial order, this antidumping determination would not apply to any bearings manufactured by NTN that would be covered by the outstanding antidumping duty order. This issue is being litigated in the Court of International Trade in *The Timken Co. v. United States*, Court No. 82-6-00890.

Fair Value Comparisons

For NTN Toyo Bearing Co., Ltd., we compared the United States price to foreign market value, as described below.

The second company from which we requested a response, Koyo Seiko Co., Ltd. ("Koyo"), limited its reporting of home market sales to those products it considered identical or most similar to the TRBs it sold to the United States. Although requested to do so in the Department's questionnaire, Koyo did nor furnish descriptions of the other bearings it sold in the home market, which would permit us to select the most similar bearings based on the criteria described in the "Such or Similar Merchandise" section of this notice, for calculation of foreign market value based on sales in the home market.

For certain U.S. sales, based on our inability to determine whether Koyo had reported the appropriate similar merchandise home market sales, we based our determination on whether Koyo sold TRBs in the U.S. at less than fair value on the best information otherwise available, in accordance with section 776(b) of the Act. This treatment is in accordance with a ruling by the Court of International Trade in *The Timken Co. v. United States*, 10 C.I.T. _____, 630 F. Supp. 1327, 1338 (1986). The petition alleges price based dumping margins for the period of investigation for Koyo of between 4.5 and 78.4 percent, for an arithmetic average of quarterly rates of 23.7 percent. Since this rate is less than the rate we have calculated for the Koyo bearings for which we used sufficient information, we have adopted the calculated rate as best information available in this context.

We used the data submitted by Koyo on identical merchandise comparisons and the parts that were imported to the U.S. for further manufacturing in calculating foreign market value, because use of this data for these comparisions with U.S. prices did not require a determination of "most similar" bearings. For parts, foreign market value is based on constructed value, because parts are not sold in the home market.

A voluntary response was received from Nissan Motor Co., Ltd., but the Department found the response to be substantially incomplete and, therefore,

unusable for determining whether sales were being made at less than fair value.

The period of investigation is March 1, 1986, through August 31, 1986.

United States Price

For certain sales by NTN and Koyo, we based United States price on exporter's sales price (ESP), in accordance with section 772(c) of the Act, since the first sale to an unrelated party was made after importation. For those sales by NTN to the United States where we determined that the merchandise had been purchased by an unrelated party from the manufacturer or producer prior to importation, we based the United States price on purchase price in accordance with section 772(b) of the Act.

For NTN's sales which were made through a related sales agent in the United States to an unrelated purchaser prior to the date of importation, we used purchase price as the basis for determining United States price. For these sales, the Department determined that purchase price was the more appropriate indicator of United States price based on reasons detailed in the preliminary determination.

For NTN and for certain sales by Koyo, we calculated purchase price and ESP based on the packed, f.o.b. and c.i.f., duty paid, delivered prices to unrelated purchasers in the United States. We made deductions for foreign inland freight, ocean freight, marine insurance, U.S. duty, and U.S. inland freight, as appropriate. For ESP sales, we also deducted other expenses normally incurred in selling the merchandise in the United States. We also adjusted for processing performed in the United States.

Foreign Market Value

In accordance with section 773(a) of the Act, we determined that there were sufficient home market sales by NTN and for Koyo to form the basis for foreign market value.

Petitioner alleged that home market sales were made at less than the cost of production and that constructed value should be used to compute foreign market value.

We compared the home market prices to the cost of production, which included materials, fabrication costs, and selling, general, and administrative expenses (SG&A). We used the selling expenses incurred on sales to the level of trade of the sales being compared. When there were no, or insufficent, sales of such or similar merchandise at prices above the cost of production, as defined in section 773(b) of the Act, we used constructed value as the basis for calculating foreign market value. We disregarded all sales of a particular TRB model whenever below-cost sales for that model represented more than 90 percent of all sales for that model during the period of investigation. If below-cost sales of a particular model were not less than 10 percent and not more than 90 percent of total sales for that model during the period of investigation, only the below-cost sales were disregarded. If less than 10 percent of sales of a particular model were sold below-cost during the period of investigation, no sales were disregarded. For the remaining above-cost sales, we calculated foreign market value in accordance with section 773(a)(1)(A).

Where we used constructed value for our comparisons, we used materials and fabrication costs as reported. NTN's general expenses exceeded the statutory minimum of ten percent of materials and fabrication. Therefore, actual general expenses were used in calculating the constructed value. Koyo's general expenses were below the statutory minimum, therefore, we used the 10 percent statutory minimum in calculating Koyo's constructed value. The statutory eight percent for profit was included in the constructed value for both companies because home market profit was less than eight percent. We added U.S. packing costs.

We made circumstances of sale adjustments to constructed value for differences in credit expenses. In addition, where the U.S. sales prices were calculated based on ESP, we made an offset for indirect selling expenses on the U.S. sales against home market indirect selling expenses, in accordance with § 353.15(c) of Commerce's regulations.

For NTN and Koyo, where we found sufficient sales in the home market to form the basis of comparison, we used delivered home market prices. We made deductions for foreign inland freight and discounts, as appropriate. We also deducted home market packing costs and added U.S. packing costs. For comparison to ESP sales, we offset selling expenses incurred on home market sales up to the amount of the indirect selling expenses incurred for sales to the U.S. market, in accordance with § 353.15(c) of our regulations. We made an adjustment for differences in credit terms in accordance with § 353.15 of our regulations. NTN claimed adjustments for differences in technical service expenses, sales commissions, advertising and warehousing expenses. We denied these claims, since they were not directly related to the sales under consideration. These expenses were included in the selling expenses used for purposes of the ESP offset.

NTN claimed that automobile manufacturers and original equipment manufacturers (OEM) should be treated as separate levels of trade. We rejected this argument since automobiles are a type of original equipment and respondent did not demonstrate significant differences in the expenses incurred in selling to these two classes of customers.

Wherever possible, we selected for comparison to each model of tapered roller bearing exported to the United States the identical model sold in the home market. If sales of that model were made at the same commercial level of trade as that of the U.S. sale, then we used as the basis of foreign market value only sales at that level of trade. If no identical merchandise was sold at the same commercial level of trade, we used sales made at the other commercial level of trade. If there were no home market sales of identical merchandise, we attempted to repeat this process for most similar merchandise.

Where there were no sales of identical merchandise in the home market at the same level of trade, we made our comparisons at the other level of trade and adjusted for differences in level of trade, in accordance with § 353.19 of our regulations. The adjustment was based on the difference in selling expenses incurred in selling to OEMs and distributors in the home market.

Such or Similar Merchandise

The parties in this investigation submitted numerous comments on the factors that should be considered in determining which products sold in the home market should be compared to the TRBs sold in the United States. The factors which were suggested as forming appropriate measures of similarity of TRBs sold in the respective markets include outside diameter, inside diameter, width, type of bearing, dynamic load rating, the Y2 factor (Y factor), and the system life. Each of these factors is discussed below:

1. *Outside Diameter.* The outside diameter (OD) of a bearing is the physical measurement between two points of the outermost portion of bearing which are directly opposite each other.

2. *Inside Diameter.* The inside diameter (ID) of a bearing is the physical measurement between two points of the innermost portion of a bearing which are directly opposite each other.

3. *Width.* The width is the physical measurement of the radial portion of the bearing.

4. *Type of Bearing.* The type of bearing is defined in terms of various physical characteristics, including a number of rows of rollers, as well as whether or not the bearing has flanges, seals, various configurations of multiple rows of rollers, and whether the bearing is heat treated.

5. *Dynamic Load Rating.* The dynamic load rating is the constant stationary load which a bearing can endure for one million revolutions of the inner ring. Also, dynamic load rating is an accepted international standard.

6. *Y2 Factor (Y Factor).* The Y2 factor measures the effect of thrust loads on the expected life of a bearing and is calculated from the contact angle. It is an accepted international standard which, when combined with dynamic load rating, forms the major component of bearing life.

7. *System Life.* This is a calculation of the number of revolutions a bearing can be expected to perform in a given system or application (such as a gear of a specific model of truck) under specified operating conditions.

Petitioner states that three factors can be used n selecting similar merchandise with very reliable results. These are ID, OD, and system life. Petitioner contends that use of system life is preferable to the use of dynamic load rating because it incorporates radial load as well as thrust factors in the measurement of the characteristics of a bearing. Petitioner concedes that use of dynamic load rating in combination with the Y factor also would incorporate radial load and thrust factors. Petitioner states that the fact that the system life of a specific bearing varies widely depending on the system, or application, is irrelevant, since system life can be calculated using typical applications.

NTN argues that the use of system life as a basis for selecting similar merchandise is inappropriate because universal system life for an individual bearing does not exist. As the parameters of a system change, the life of that system will change since system life is based on the point at which a component of the system is expected to show signs of fatigue. NTN proposes that ID, OD, width, dynamic load rating, the Y factor and the type of bearing be considered. NTN bases its selection of the dynamic load rating and the Y factor on the fact that these measure the physical properties of the individual bearing.

Koyo opposes use of system life because it is not calculated in accordance with industry standards and is calculated differently by various manufacturers of TRBs. Koyo states that the physical measurements of TRBs (ID, OD, and width) are the best criteria for determining similarity because they relate most directly to the physical properties of the TRBs and their production costs.

Petitioner and NTN (but not Koyo) also addressed the issue of how the Department could measure approximate equality in the commercial value of the merchandise compared, as provided in section 771(16)(B)(iii) of the Act.

Petitioner would have the Department pick the most similar product by first considering the system life of a bearing, ranking each bearing in the home market universe from equal or most similar system life to least similar system life. Second, searching among the top 10 percent of the ranked bearings, petitioner would have the Department sift through that 10 percent for a "commercially interchangeable" and similar bearing under 19 U.S.C. 1766(16)(B). If there is no "commercially interchangeable" match within the top-ranked bearings, then the Department should continue down the list of potentially similar bearings to the first part number that is similar within the meaning of 19 U.S.C. 1766(16)(C).

NTN's reaction to the methodology proposed by petitioner is that there must be some factor to measure the outer limits of similar bearing selections. If no limits are set, as petitioner proposed, it is possible that the Department could be left with a situation in which a bearing with a 100 percent degree of deviation in physical factors, a bearing twice the size of the U.S. bearing, but with the same system life, could conceivably be used as the similar merchandise in the home market. NTN's proposed matching methodology is to determine the percentage of deviation for each proposed criterion (ID, OD, widith, dynamic load rating, and the Y2 factor) and then total those variations. The most similar home market bearings would be those in which the sum total of the degree of deviation of each criterion equals 10 percent or less. NTN believes this method of comparison results in realistic "commercially interchangeable" matches. Petitioner's response is that use of NTN's method severely reduces the universe of bearings available for comparison.

DOC Determination

After considering the comments by all parties, we determined that ID, OD, width, type of bearing, dynamic load rating, and the Y factor were appropriate factors for consideration.

The ID, OD and width were selected because they are specific measurements of the physical characteristics of the bearings under consideration.

In determining that the type of bearing was an appropriate criterion, we detemined that bearings containing the same number of rows of rollers could be reasonably compared with each other, whereas bearings with different numbers of rows of rollers could not, because of extreme differences in all relevant criteria for measuring similarity under section 771(16) of the Act. Where there was a home market bearing which contained the same number of rows and had the same special features, we attempted to find a similar bearing within that category before looking at other special features. If none existed, we compared bearings with different special features (other than double rows of bearings) and made adjustments for physical differences in merchandise.

We determined that dynamic load rating and the Y factor were more appropriate measures of similarity than system life, for the following reasons:

1. The dynamic load rating and Y factor are standards used in the industry to calculate the life expectancy of an individual bearing model. As such, they relate directly to the physical properties of the bearings under consideration.

2. Bearing life is a component of the system life calculation. However, bearing life is more closely related to the physical characteristics of a particular bearing model than other elements of the system life formula.

3. Dynamic load rating and the Y factors are included in bearing catalogues issued by producers and, therefore, available to purchasers of bearings who are making decisions regarding appropriate bearings to be used for intended purposes. A purchaser might use this information as the basis for calculating the system life of a specific application along with similar data on other components of the planned system.

4. System life varies widely according to the system parameters and a change of any component of a system can change the system life.

Given the fact that there is no single application for all TRBs and that many TRBs can be used in some, but not all applications, it is not possible to measure approximate equality in terms of commercial value. One must specify a particular commercial application, using the system life formula, in order to measure the commercial value of specific bearings. Therefore, we determined under section 771(16)(C) which home market products reasonably

could be compared to the TRBs sold to the United States.

In this investigation, the parties have not supported the various proposals for the parameters of deviation which would limit reasonable comparisons. The Department has determined that since we are using numerous criteria to make our comparisons, acceptance of wide deviations in individual factors, as proposed by the petitioner, would result in reasonable selections. The degree of physical similarity is significantly reduced under petitioner's method. As for NTN's proposal, limiting possible selections to models in which the sum total deviation was 10 percent or less would leave the Department with too narrow a listing of similar merchandise.

We therefore chose our selections by taking the U.S. bearing and comparing it to all bearings in the home market in which each individual criterion deviation is 10 percent or less. Out of that group of similar bearings, we then picked as most similar the home market bearing in which the criterion with the greatest degree of deviation was smaller than the criterion with the greatest degree of deviation in any of the other similar bearings. We normally limited individual deviations to 10 percent, although where only one factor deviated, we allowed bearings where that factor was slightly over 10 percent.

This methodology relies on the physical properties of the bearings and would give interested parties a predictable basis for determining possible product matches in annual reviews under section 751 of the Act, if such reviews are conducted in the future.

Where cup and cone components were sold in the United States and only sets composed of those identical or most similar were sold in the home market, we compared the U.S. sales of cups and cones to the home market sales of sets by determining the ratio of the direct manufacturing cost of the cup and cone to that of the complete set. This ratio was applied to the home market price of the set to calculate the price equivalent in the home market. NTN argues that this approach is improper because the set is not "such or similar", i.e., not approximately equal in commercial value to the cup or cone. As long as the component cup or cone is "most similar" to the merchandise exported to the United States, we conclude that it is appropriate to use it in the comparison.

Currency Conversion

For ESP comparisons, we used the official exchange rate in effect on the date of sale, in accordance with section 773(a)(1) of the Act, as amended by section 615 of the Trade and Tariff Act of 1984 (1984 Act). For purchase price comparisons, we used the exchange rate described in § 353.56(a)(1) of our regulations. All currency conversions were made at the rates certified by the Federal Reserve Bank.

Verification

As provided in section 776(a) of the Act, we verified all information relied upon in making this final determination. We used standard verification procedures, including examination of all relevant accounting records and original source documents provided by the respondents on sales and production costs.

Comments

Petitioner's Comments

Petitioner's Comment 1: Petitioner argues that absent a complete listing of U.S. and home market sales, and absent complete and verified cost data, the Department should base the LTFV determination with respect to Koyo on the information set forth in the petition. Koyo, since the beginning of this investigation, acknowledged that it did not submit a complete listing of home market sales, having itself selected those products that it deemed to be similar. Koyo also failed to submit sales information which the Dpeartment needs for determining the foreign market value of the unfinished parts and components used in the production of TRBs under four inches in diameter.

DOC Response: Koyo has reported its U.S. sales of all bearings manufactured in the United States from Japanese parts which are within the scope of this investigation. With regard to the unreported home market sales, we agree and have used the best information otherwise available as described in the "Fair Value Comparisons" section of this notice.

The Department's decision to use the best information for Koyo is consistent with the decision of the Court of International Trade in *The Timken Company v. United States, supra.* Under section 773(a) and section 771(16) of the Act, the Department, not Koyo, must select the "most similar" merchandise sold in the foreign market.

Petitioner's Comment 2: Petitioner argues that "such or similar" merchandise must be identified from the complete listing of home market sales. Koyo, by urging the Department to disregard distributor (aftermarket) sales in the home market, has claimed impermissibly a level of trade adjustment. The Department must decide whether sales should be excluded, since exclusion of any sales from the home market data base destroys the Department's ability to choose "such or similar" merchandise.

DOC Response: We agree. Where we found sales of identical merchandise at the OEM level of trade, we used these sales in our comparisons. We used the best information otherwise available for our comparisons where Koyo suggested comparisons to similar merchandise, and did not report aftermarket sales because we could not identify the most similar products sold in the home market at either level of trade.

Petitioner's Comment 3: Petitioner argues that for NTN, home market prices should be based on weighted-average prices for all sales, rather than limiting the selection of home market sales to those in "usual commercial quantities", as proposed by respondent. This limitation is contrary to the Act, to the regulations, and to Department precedent.

DOC Response: We agree. The definition of "usual commercial quantities" in section 771(17) provides that, if the merchandise is sold "at different prices for different quantities," then the Department must identify the price or prices identified with that quantity that accounts for the greatest aggregate volume sold (emphasis added). In other words, before resorting to the price or prices of a specific aggregate quantity for the purpose of calculating foreign market value, the Department must be satisfied that there is a positive correlation between different quantities and different prices. Absent such a correlation, the Department calculates foreign market value based on the weighted-average of all relevant sales prices, in accordance with section 773(a)(1)(A) of the Act.

The Department's longstanding practice has been to use weighted-average home market prices unless at least 80 percent of home market sales were made at the same price (19 CFR 353.20(b)). NTN has provided no evidence that it charged its home market customers different prices for different set quantities. Information submitted to the Department indicates no specific correlation between price and quantity. Therefore, section 771(17) is inapplicable. The Department has determined that it is appropriate to base foreign market value on the weighted-average of the sales prices of all such or similar merchandise sold in the home market at prices above cost during the period of investigation.

Petitioner's Comment 4: Petitioner argues that for both respondents, credit costs should be based on the discount

rate when adjusting for foreign market value. For NTN, the credit cost due to discounting of promissory notes should be based on the discount rate for promissory notes rather than NTN's corporate interest rate. Also, Koyo's home market credit costs should not be based on the prime short-term interest rate, but on the discount rate. For both respondents, ITA should use the figure for the average discount rate in Japan in the second and third quarter 1986 of 3.5%, as reported in the IMF, *International Financial Statistics*.

DOC Response: We disagree. Consistent with past Department practice, we based our calculations on the borrowing experience of the respondents and the interest rate actually paid.

Petitioner's Comment 5: Petitioner argues that in the home market, for NTN, interest expenses should not be offset by interest income, absent proof that interest income is related to the expense. Absent any confirmation that deposits NTN maintains with its banks are required by NTN's bank in respect to its outstanding loans, it is impossible from the evidence presented to confirm that NTN's deposit balance is in fact a compensating balance. Therefore, the interest rate used for purposes of calculating NTN's interest rate should not be adjusted to account for alleged "compensating balances".

As for Koyo, in reporting interest expenses of American Koyo Corporation (AKC), Koyo has offset interest earned against interest expenses without any demonstration that this practice is reasonable. Under Department practice the respondent must demonstrate that the interest earned is directly related to production and sales of the products under review. Koyo has made no showing that the interest income claimed as an "offset" to interest expenses is derived from deposits required for short-term loans, or from investment incidental to the ordinary course of business. Accordingly, interest expenses on sales in the U.S. market should not be reduced by the amount of interest allegedly earned by American Koyo.

DOC Response: We disagree. Respondent demonstrated that compensating deposits were made pursuant to the discounting of receivables. Under these circumstances, the adjustment is proper.

Petitioner's Comment 6: Petitioner contends that NTN has not demonstrated that its sales in small quantities and trial sales are at prices that are not representative of the price level for large quantity sales of similar bearings. Therefore, petitioner argues that all home market sales should be considered in the ordinary course of trade in making our comparisons, regardless of quantity.

DOC Response: The sales individually involved extremely small quantities of merchandise at prices substantially higher than the prices of the vast majority of sales reported. Most of these sales were later cancelled before the merchandise was invoiced to the purchaser. In the U.S. market, there were no comparable sales. Under the circumstances, we have determined that these sales were not made in the ordinary course of trade.

Petitioner's Comment 7: Petitioner argues that claimed advertising and technical service expenses should be denied as adjustments to foreign market value under 19 CFR 353.15(a). NTN has not established that the advertising was undertaken on behalf of its customers' customers. As for technical service expenses, NTN has not established that the services provided were called for as part of the purchase agreement or were other than good will or sales efforts; nor has it established that such services are directly related to the sales under consideration.

DOC Response: We agree. NTN did not establish that these expenses were directly related to the sales under consideration. Therefore, we have not made these adjustments in our fair value comparisons.

Petitoner's Comment 8: Warehousing expenses should be denied as an adjustment to foreign market value unless incurred as part of the respondents' sales obligation. Even if the warehousing expenses are incurred after the sale, respondents have not established that the bearings shipped to a particular warehouse are identified to a particular customer's contract while in the warehouse. Therefore, petitioner maintains there is no basis upon which the Department can specifically tie warehousing costs to the sales under consideration.

DOC Response: We agree. We determined that the date of sale is the date of delivery of the merchandise because that was the date on which all of the terms of sale were determined. Since these warehousing expenses were incurred prior to the date of sale, consistent with our long-standing practice, we treated those expenses as indirect selling expenses. Therefore, these expenses were used only in calculating the ESP offset.

Petitioner's Comment 9: Petitioner argues that adjustments to foreign market value for differences in merchandise should be limited to variable manufacturing costs. NTN submitted cost of production data for bearing models in two forms: "with and without factory overhead." In its redetermination on remand, the Department followed its consistent precedent and excluded fixed factory overhead from the adjustment amount, and should do the same for this determination.

DOC Response: We agree. We limited the adjustment to the difference in variable costs in accordance with the Department's longstanding practice. See, e.g., *Certain Electric Motors from Japan*, (49 FR 3267, 32629–30 (1984)).

Petitioner's Comment 10: Petitioner argues that there is no basis to adjust for currency conversions, under 19 CFR 353.56(b), given the steady and highly publicized change in the yen/dollar exchange rate. Koyo and NTN did not react to sustained changes in exchange rates that had been obvious for five months prior to the period of investigation by revising prices.

DOC Response: We agree. Although both respondents did submit evidence of price changes due to the rise of the yen, no evidence was submitted showing price adjustments for all customers, nor were the price changes submitted reflective of the 40 percent drop of the value of the dollar against the yen during the period of investigation. Therefore, we have used the official exchange rate as noted in the "Currency Conversion" section of this notice.

Petitioner's Comment 11: Petitioner asserts that the Department should reject NTN's suggestion that adjustments for certain U.S. selling expenses in ESP transactions be made to foreign market value rather than U.S. price. Section 772(e)(2) of the Act requires the deduction from United States price of "all selling expenses" generally incurred in selling the product to the United States. It does not distinguish between direct and indirect expenses or, as NTN would have the Department do, permit the Department to deduct only indirect selling expenses from the price in the United States.

DOC Response: We agree and have deducted both direct and indirect expenses from United States price.

Petitioner's Comment 12: Petitioner argues that it is the respondent's burden to establish that expenses incurred in the United States are "indirect" expenses that qualify as part of our ESP offset under § 353.15(c) of the regulations. Koyo would have the Department consider as indirect selling expenses all sales commissions not predicated on sales volume. Petitioner views Koyo's characterization as an attempt to inflate the amount of

expenses subject to the ESP offset by labeling commissions as 'indirect" selling expenses without demonstrating the basis for the claim. In the absence of proof, the Department should assume that all expenses incurred on U.S. sales are directly related to the sales under consideration.

DOC Response: We disagree. The commissions in question are commissions paid to company employees in lieu of salary, and as such were demonstrated to be indirect expenses.

Petitioner's Comment 13: Petitioner argues that certain corrections should be made to the production costs of American NTN Bearing Manufacturing Corporation (ANBMC), NTN's subsidiary in the United States. During verification the Department apparently discovered that depreciation was calculated for purposes of the response by a methodology different than that ordinarily utilized by ANBMC. The Department at verification also discovered that ANBMC used engineers from Japan. To the extent that NTN or another related party paid salaries of those engineers, those costs should be included in the labor costs allocated to the finishing and assembly of TRBs at ANBMC. Finally, verification disclosed that the president's salary was not included in the reported SG&A. This cost must be included in the calculation of finishing and assembly costs in the United States.

DOC Response: We agree. Depreciation and allocated expenses were recalculated on the basis of the allocation shown in ANBMC's internal financial report, since it provides a more accurate reflection of ANBMC's internal accounting system. Total labor costs include the labor costs of engineers from Japan and have been allocated to the TRB production in the United States. The Department has allocated the president's salary and benefits and included such expenses in the G&A expenses.

Petitioner's Comment 14: Petitioner asserts that NTN reported a commission paid on purchase price transactions. However, to the extent that NTN Bearing Corporation of America (NBCA), a related party acting as the selling agent of NTN in the United States, incurred expenses on purchase price sales that exceeded the commission paid by NTN for those services, such expenses must be deducted from purchase price.

DOC Response: We disagree. Consistent with our policy of not deducting commissions to related parties, we have not deducted commissions paid to NTN's related selling agent in the U.S. market. Nor have we deducted any of NBCA's indirect selling expenses. We only adjust foreign market value in purchase price comparison situations for direct selling expenses incurred in the United States.

Petitioner's Comment 15: Petitioner argues that Koyo's questionnaire response states that there are four categories of technical service expenses which are incurred on U.S. sales: applications engineering, bearing failure analysis, bearing certification, and quality control. Absent a convincing showing to the contrary, all of Koyo's U.S. technical services expenses should be considered to be direct expenses and shold be excluded from the ESP offset amount, consistent with the Department's methodology in the remand proceeding concerning NTN.

DOC Response: We disagree. The Department has determined that these expenses are not directly related to the sales under consideration, and therefore has treated them as indirect selling expenses.

Petitioner's Comment 16: Petitioner argues that Koyo's incomplete and untimely cost data should be rejected. For constructed value, the Department should base foreign market value on the best information otherwise available. As a result of deficiencies uncovered at verification, all information in the original cost of production response should be rejected for the purpose of the final determination, as it understates the cost of producing the merchandise.

DOC Response: We disagree. The Department has verified the revised submission during verification and also verified costs paid to and costs incurred by related subcontractors.

Petitioner's Comment 17: Petitioner argues that for computation of cost of production and constructed value, depreciation expense for both respondents should be recomputed based on petitioner's useful life data of 15–20 years. The result of the ten-year useful life utilized by NTN is to understate substantially NTN's costs.

As for Koyo, the company failed to supply a detailed list of equipment along with the depreciated amounts for each item as requested by the Department. The Department should thus utilize the information on the useful life of bearing equipment supplied by petitioner.

DOC Response: We disagree. The Department has no basis to believe that NTN's calculation of the useful life of its equipment used by NTN was inappropriate. During verification at Koyo, the Department verified the depreciation expenses and a detailed list of its equipment.

Petitioner's Comment 18: Petitioner argues that in computing the cost of production and constructed value for both respondents, interest income not directly related to the production of TRBs should not be offset against interest expense. In reporting interest expenses of AKC, Koyo has offset interest earned against overall corporate interest expenses without any demonstration that this practice is reasonable.

DOC Response: We agree. The net interest expense was modified by eliminating any other income or expense not incurred in the ordinary course of business for the production of TRBs.

Petitioner's Comment 19: Petitioner asserts that in the absence of product-specific cost variances for two of NTN's plants, the Department should apply the variances for TRB production at a third plant to the standard costs at those two plants, since variances at that plant are representative of the variance from TRB production.

DOC Response: We disagree. Although the cost variances for these two plants may not be representative of variances for TRBs, no adjustment was made since the cost incurred for subcontracting certain processes was an integral part of the accounting system.

Petitioner's Comment 20: Petitioner argues that for NTN, to the extent that labor and overhead costs at two plants were aggregate figures including a large number of products other than TRBs, production costs should be adjusted to reflect NTN's labor costs associated with the production of TRBs at a third plant.

DOC Response: We disagree. Since the costs incurred for subcontracted work are an integral part of the labor and factory overhead, the Department did not adjust these costs.

Petitioner's Comment 21: Petitioner argues that NTN claimed at verification that R&D projects at one of its laboratories during the period of investigation did not relate directly to TRB production. This claim was not supported by evidence verified. Accordingly, research and development costs should be included in corporate G&A.

DOC Response: We agree. The Department has included such expenses in the G&A.

Petitioner's Comment 22: Petitioner asserts that the Department may not apply an ESP offset to constructed value because such a deduction contravenes the statutory requirement that constructed value include an amount for general expenses. Also, section 772(e)(1)(B) requires that the amount of

general expenses included in constructed value be not less than ten percent of the cost of production. Thus, deduction of indirect homemarket selling expenses under section 773(c)(1)(B) is a nullity.

DOC Response: We disagree. The Department is required, by section 773(3) of the Act and § 353.10(e) of the Commerce regulations, to reduce to ESP by the amount of the selling expenses incurred by, or for the account of the exporter in the United States.

Section 773 of the Act requires us to make adjustments to foreign market value for differences in circumstances of sale, and § 353.15(c) of the Commerce Regulations specifies that, in making comparisons using exporter's sales price, we make a reasonable allowance for actual selling expenses incurred in the home market, up to the amount of the selling expenses incurred in the United States market. This adjustment is not limited to cases in which sales form the basis of foreign market value: § 353.15 applies to "sales, or other criteria applicable, on which a determination of foreign market value is to be based". In *Cellular Mobile Telephones and Subassemblies from Japan* (50 FR 45447, 10/31/85, we noted that:

> Section 773(a)(4)(B) of the Act provides that where it is established that the amount of any difference between the United States price and the foreign market value is due to differences in circumstances of sale, 'due allowance shall be made.' Section 773(a) of the Act does not distinguish constructed value from any other method of determining foreign market value. Thus, circumstances of sale adjustments [sic] are required where constructed value is used as the basis for foreign market value, just as they are required where home market [sic] or third country prices are used.

Similarly, in *Spun Acrylic Yarn from Italy* (50 FR 35849, 9/4/85), we stated that: "Even when constructed value is the basis for foreign market value, such constructed value is subject to circumstance-of-sale adjustments. . . . Adjustments for circumstances of sale are, by definition, limited to consideration of a seller's marketing practices. . . ."

Contrary to petitioner's assertion, the constructed value includes general expenses associated with the home market merchandise, not with the U.S. merchandise or with merchandise sold in all markets; thus, an adjustment to constructed value for U.S. selling expenses is appropriate. Absent such as adjustment, the Department would not be making a reasonable comparison of values in the two markets.

The adjustment for circumstances of sale described above does not nullify section 773(e)(1)(B) because the Department makes the appropriate calculation under that provision *before* making the adjustment under section 773(a)(4)(B).

Petitioner's Comment 23: Petitioner argues that the Department should exercise its discretion to deduct a reasonable resale profit for sales made through NBCA. The International Antidumping Code, implemented as part of U.S. law by the Trade Agreements Act of 1979, requires that the agency deduct a reasonable profit earned by the domestic subsidiary. In accordance with the Congress' intent, the Department should make such an adjustment.

DOC Response: In *The Timken Company* v. *United States, supra*, the Court of International Trade rejected plaintiff's argument that the word "commissions" in section 204 of the 1921 Act includes profits. The court pointed out that the relevant language of the 1967 International Antidumping Code, which is identical to that of the 1979 Code, "was never perceived as the equivalent of section 204 of the 1921 Act but, to the contrary, was regarded as 'consistent' with that section only because the [1967] Code provision was not viewed as mandatory." (*Id.* at 1347.) Nothing in the legislative history of the 1979 Act suggests that Congress intended to alter the meaning of the term "commissions" when it enacted section 772(e)(1). On the contrary, the legislative history of the Act states that section 772 "reenacts the provisions of the Antidumping Act [of 1921] with respect to ['purchase price' and 'exporter's sales price'] with one substantive change and one clarifying change." S. Rep. No. 96-249 at 93 (1979). Neither of these changes concerns the meaning of the word "commission". The Department interprets the word "commission" in section 772(e)(1) of the Act according to its common meaning and in a manner consistent with the legislative history of that section and its predecessor, section 204 of the 1921 Act, in which the word "commissions" first appeared. There is no other provision in the U.S. law under which the Department could deduct profit. The relevant language of the 1979 Code, like that of the 1967 Code, is not mandatory.

Petitioner's Comment 24: Petitioner argues that the Department should not establish separate duty rates for finished and unfinished products. The class of kind of merchandise that is subject of the investigation includes all tapered roller bearings, including unfinished tapered roller bearings. Thus, a single rate is appropriate.

DOC Response: We agree. See DOC response to Respondents' Comment 2.

Caterpillar's Comment: Caterpillar, Inc., an importer of TRB's from Japan, requests that the Department publish separate cash deposit rates for purchase price and exporter's sales transactions, or, in the alternative, a separate rate for sales to Caterpillar.

DOC Response: Based on our consistent past practice for fair value investigations of publishing only one margin rate for a company where both purchase price and ESP sales are involved in the analysis, we are publishing only one margin rate for NTN.

Nissan's Comment: Nissan argues that for the final determination, the Department must analyze its questionnaire response and issue a final determination that Nissan had no sales at less than fair value. Nissan submits that the reasons offered by the Department in its refusal to analyze further Nissan's questionnaire responses and requested supplemental responses are without merit. It is physically impossible for Nissan to retrieve individual invoices requested by the Department due to the small number of tapered roller bearings sales subject to review and the large volume of total parts sales. Nissan feels information already submitted complies substantially with the Department's original request for information.

DOC Response: We disagree. By letter dated May 4, 1987, and a phone conversation of May 21, 1987, we informed Nissan that its response was incomplete and unusable. The Department cannot accept Nissan's request that we use only a few sales and a "methodological" approach to verify adherence to a home market price list. To adequately verify adherence to a home market price list, the Department would need several complete months worth of individual sales date at a minimum. Furthermore, we would have to be able to verify actual sales from any of the six months within the period of investigation. Nissan indicated that this would not be possible unless Department officials looked through thousands of invoices at verification to find sales of the TRBs involved.

The Department views Nissan's request as tantamount to requiring the Department to compile a response for the company at the verification site. This is totally unacceptable. Therefore, we found Nissan's voluntary response unverifiable and unusable for determining sales at less than fair value.

Respondents' Comments:

Respondents' Comment 1: Respondents urged the Department to apply its special currency conversion provision because of the drastic appreciation of the yen between September 1985 and mid-1986. Specifically, NTN offers two suggestions:

1. Utilize the most recent quarterly exchange rate that existed prior to the governmental revaluation of the yen—the certified rate for the third quarter of 1985, or

2. Utilize the certified quarterly exchange rate for the calendar quarter preceding the date on which the products entered NBCA's inventory.

Koyo asks that the Department use the rate for the third quarter of 1985 or, alternatively, lag the exchange rate by 90 days. Because the yen/dollar exchange rate did not stabilize until July 1986, a reasonable time thereafter should be allowed for price revisions.

DOC Response: We disagree. See DOC response to Petitioner's Comment 10.

Respondents' Comment 2: Koyo argues that the Department should calculate separate margins for unfinished TRB components and finished TRBs. In support of this, Koyo points to an earlier Department determination that unfinished TRB components are not in the same "class or kind of merchandise" as finished TRBs.

DOC Response: We disagree. The petition in the earlier investigation was limited to finished TRBs and, therefore, parts were not considered part of the "class or kind of merchandise" in that investigation. The petition in this investigation covers both finished TRBs and parts. On the basis of the product coverage of the petition, we have determined that the finished TRBs and parts are one "class or kind of merchandise." For purposes of this investigation, we have published one rate for the "class or kind of merchandise" sold be each respondent in accordance with Department practice, except for the separate purchase price rate for NTN.

Respondents' Comment 3: Koyo requests the Department to exclude home market sales to Toyota from its calculation of foreign market value. Pursuant to § 353.22(b) of the Commerce regulations, the Department must exclude sales to related parties if these transactions are not made at arm's length prices. Transactions between Koyo and Toyota are, in fact, transfers between related parties and are not at arm's length.

DOC Response: We agree. We have reviewed the prices between Koyo and Toyota and found that they do not represent arm's length sales transactions because these transactions were made at substantially lower prices than those for sales to unrelated parties. We therefore excluded such sales from our analysis.

Respondents' Comment 4: Koyo argues that, contrary to petitioner's assertions, Koyo's exclusion of aftermarket sales from its U.S. sales listing was not done unilaterally. Koyo pointed out to the Department that it had not reported these sales early in the investigation, and the Department did not request further information. Koyo also argues that the Department should exclude home market sales in the aftermarket in calculating foreign market value.

DOC Response: See DOC response to Petitioner's Comment 2. The Department's questionnaire required respondent to report sales at all levels of trade.

Respondents' Comment 5: Koyo requests that the Department compare U.S. sales of journal roller bearings to third country sales. Because Japan's narrow-gauged railway system uses home sealed-type cylindrical roller bearings and not the tapered roller bearings used in the standard guage railway systems of the U.S., there are no home market sales of tapered journal roller bearings or "similar" merchandise. Pursuant to the criteria of § 353.5(c) of the Commerce regulations, the most appropriate third country market for comparison purposes is Canada. Price data submitted and verified for Koyo's Canadian sales should be used by the Department in calculating foreign market value for tapered journal roller bearings.

DOC Response: This point was not raised by Koyo until its pre-hearing brief filed with the Department on July 2, 1987. To quote from Koyo's January 5, 1987, response p. 15, "App. B-4 lists all sales from Koyo to KCU (Koyo Corporation of the United States of America)." Nothing in the response narrative indicated that third country sales data had been submitted, nor did any information contained on Koyo's computer printouts indicate submission of Canadian sales information. Because the Department was unaware of these sales, the Department did not verify the relevant data. Furthermore, Koyo did not furnish cost data on these bearings. However, since journal roller bearings constitute a very small portion of Koyo's U.S. sales, we did not include them in our analysis.

Respondents' Comment 6: Koyo argues that petitioner's allegation that certain equipment related to the heat treatment process could possibly have been acquired at less than market value, absent any credible evidence, is not only speculative but also untimely, coming as it does after verification. Koyo maintains that its depreciation expenses were satisfactorily verified, and there is no legal basis to use any information other than that submitted by Koyo to the Department.

DOC Response: We agree. The Department verified the method of depreciation and depreciation expenses. THERE WAS NO BASIS FOR THE Department to believe that certain equipment was acquired at less than market value.

Respondents' Comment 7: Koyo, in answering petitioner's assertion that the verification report fails to treat adequately the issue of scrap produced as a by-product of bearing manufacture, maintains that Koyo's scrap revenue is very small, that the amount was verified, and that no discrepancies were noted. In Koyo's view, this issue was covered adequately at verification.

DOC Response: We agree. The Department verified necessary supporting documentation, such as the company's journal of scrap revenue and invoices.

Respondents' Comment 8: Koyo maintains that its response to the Department on inventory and transportation costs related to subcontractor processing is sufficient, despite petitioner's allegation that this is not the case.

DOC Response: We agree. The Department has verified costs related to subcontractor processing.

Respondents' Comment 9: Koyo maintains that there is no reason to use information other than that submitted by Koyo and verified by the Department concerning labor cost. All labor costs were verified.

DOC Response: We agree. The Department has verified all labor costs, both direct and indirect.

Respondents' Comment 10: Koyo maintains that petitioner's assertion that Koyo "may" have obtained goods and/or services from either related or unrelated subcontractors at prices less than cost is completely unsupported. Koyo submits that the prices charged by all its subcontractors are at prices generally reflected in similar arm's length transactions and therefore are at market value. There being no credible evidence of record to the contrary, these prices must and should be accepted.

DOC Response: We agree. The Department has verified subcontracted costs to both the related and unrelated subcontrators. There was no basis for the Department to believe that Koyo may have obtained them at prices which were less than arm's length, or less than the related subcontractor's cost.

Respondents' Comment 11: Koyo maintains that documentation on depreciation expenses was comprehensively analyzed and reviewed at verification, contrary to petitioner's assertion this was not case. Koyo maintains that there is no reason for the Department to use any other source of information for depreciation expenses, since a detailed list of equipment, along with the depreciation expense in the current period of each item was made available at verification and was verified.

DOC Response: See DOC response to petitioner's Comment 17.

Respondents' Comment 12: Koyo finds petitioner's statements regarding the reporting of AKBMC-produced 0–4" TRB sales to be grossly misleading. Koyo asserts that Section E–5 of its response is a listing of all such sales to OEM customers, and believes petitioner's confusion arises from the fact that computer problems prohibited the Department from using these sales in its preliminary determination, a problem that has since been resolved.

DOC Response: Koyo submitted a corrected reporting of these sales in a revised tape dated July 8, 1987.

Respondents' Comment 13: NTN argues that the Department should use only those sales made in the usual commercial quantity when calculating foreign market value. NTN maintains that the law (19 U.S.C. 1677(17)) speaks in terms of identifying the usual "quantity," not the usual price, as has been suggested by petitioner. There is no basis for the Department to reject NTN's position with regard to usual commercial quantities.

DOC Response: See DOC response to "Petitioner's Comment 3."

Respondents' Comment 14: The Department should adjust the foreign market value for differences in circumstances of sale and ESP offset using credit expenses, technical service expenses, sales commissions, advertising, and warehouse expenses, for NTN.

NTN asserts that petitioner's allegation that NTN's claimed adjustments to foreign market value are not factually supported and that verification has raised doubts as to the factual basis on which to make these adjustments is unfounded. NTN answers each of petitioner's points as follows:

(1) NTN challenges petitioner's allegation that there is no evidence that the discounts claimed by NTN are not directly related to the sales in question. NTN maintains that the Department's verification report demonstrates petitioner's allegation to be factually incorrect, and that these same discounts were claimed by NTN in the remand case and granted by ITA. Thus, they should be granted here.

(2) Regarding credit expense, NTN maintains that this expense was fully verified. Moreover, the expense is based on NTN's actual experience and not "market research". NTN asserts that the ITA may not reject a company's actual experience on the basis of some hypothetical experience alleged by petitioner. There is no basis for rejecting NTN's claim since this claimed expense is supported by substantial evidence of record which has been verified.

(3) Regarding the ESP offset, NTN maintains that its claims for indirect selling expenses have been fully substantiated in the verification report. NTN further points out that they have not, as alleged by petitioner, sought to include general corporate expenses unrelated to selling. These same expenses have been previously allowed by the ITA in the remand case.

(4) As with FMV expenses, NTN maintains that petitioner's allegations with regard to ESP expenses are incorrect, and that NTN has fully reported all expenses requested by ITA. NTN asserts that all interest expenses have been fully accounted for as either direct or indirect selling expenses. NTN has reported inventory carrying expenses fully and finds no basis on which to impute any other interest expense in addition to that which has been reported.

(5) On its purchase price transactions, NTN points out that it paid a commission to a related party, and in keeping with longstanding practice, ITA should disregard this related company commission.

DOC Response: We agree and have treated the subject expenses accordingly.

Respondents' Comment 15: NTN contends that the calculation of the "cost of producing" the merchandise for purposes of determining whether sales were made below cost under section 773(b) of the Act was arbitrary and contrary to law because certain costs, in addition to those incurred in producing the merchandise, were included. The language of the Act (19 U.S.C. 1677b(b)) provides that it is the cost of producing the merchandise in question that is to be considered when determining whether sales were made below cost, not the cost of producing and selling the merchandise. The Department has misinterpreted Congressional intent by attempting to include sales and administrative expenses in such costs.

DOC Response: We disagree. Section 773(b)(2) provides that merchandise be sold "at prices which permit recovery of all cost . . . " This can only be determined if the costs and prices are compared on an equal basis. Therefore, in calculating cost of production it is appropriate to include selling, general and administrative expenses since these clearly are part of the cost of the merchandise in question.

Respondents' Comment 16: NTN asserts that the Department's use of an absolute percentage when determining whether to reject sales below cost of production is arbitrary and contrary to law. The 10/90 test as applied by the Department does not measure whether all costs are recovered over a reasonable period of time. The test does not consider profitability or the extent to which sales are made above the cost of production. The only factor used in the test is quantity and that does not provide the Department with data on which to judge whether all costs are recovered. The Department must reject its current 10/90 test and adopt one that is reasonable under the factual circumstances of this case and consistent with law. The Department must explain the basis for rejecting below-cost sales in this case. Only if it promulgated the 10/90 test as a rule in accordance with the Administrative Procedures Act (5 U.S.C. 353) could it apply the percentages without explaining its conclusions.

DOC Response: We disagree. Section 773(b) of the Act requires the Department to reject home market sales made at less than the cost of production if such sales (1) were "made over an extended period of time and in substantial quantities," and (2) do not permit the company to recover all costs "within a reasonable period of time in the normal course of trade."

The Department's 10/90 test is a reasonable guideline or interpretive rule, a statement of current policy, for determining whether sales have been made in substantial quantities. Above 10 percent, the Department reasonably may infer that below-cost sales are systematic and in substantial numbers unless there is evidence to the contrary. Wherever sufficient information to the contrary is presented, the Department does not apply the 10/90 test. *See, e.g., Fall-Harvested Round White Potatoes from Canada* (48 FR 51669, 1983) affirmed, *Southwest Florida Winter*

Vegetable Growers v. United States, 5 ITRD 2019, 2023 (CIT, 1984) (50 percent test applied). Similarly, unless the respondent demonstrates that we should examine a particular period, the Department considers the period of investigation "an extended period of time." In this investigation, NTN offered no evidence to suggest that 10 percent or more of total sales during the period of investigation constitutes less than "substantial quantities" over "an extended period of time." It provided no evidence based on its particular circumstances or the particular circumstances of the Japanese bearing industry.

NTN submitted no information indicating that costs or prices were changing to an extent that would permit the company to recover all costs within any reasonable period of time. Therefore, the Department concludes that NTN's substantial number of below-cost sales during the period of investigation will not permit the company to recover all costs "within a reasonable period of time in the normal course of trade."

Respondents' Comment 17: Respondents argue that the Department incorrectly considered technical service and advertising expenses in the U.S. as direct expenses.

DOC Response: We agree. The U.S. advertising reviewed at verification was general in nature and directed at purchasers of TRBs as opposed to the customers' customers. The technical service expenses were mainly salaries of technicians and the services performed were not based on contract requirements. Therefore, we determined that these are properly treated as indirect selling expenses.

Repondents' Comment 18: NTN alleges that the Department's deduction of "indirect" selling expenses from the U.S. price was contrary to law because differences in circumstance of sale adjustments are to be made to foreign market value. NTN submits that the Department's practice of deducting direct selling expenses from U.S. price as a means of making such an adjustment results in an upward distortion of the weighted average margin. The Department incorrectly deducted direct selling expenses (which are circumstance of sale adjustments) from the U.S. price instead of adjusting the foreign market value for the difference in the circumstances of sales as required by the Act (19 U.S.C. 1677b(a)(4)(B)).

DOC Response: We disagree. See DOC response to Petitioner's Comment 11.

Respondents' Comment 19: NTN maintains that accounting methods followed by NTN Toyo are in accord with generally accepted accounting principles in Japan, have been acceptable to the Japanese government in NTN Toyo's reporting to the Ministry of Finance, and found by the Department in the remand case to be reliable and accurate, going against petitioner's allegation that the system of accounting used is unacceptable.

For the same reasons, petitioner's allegations on reporting of depreciation, overhead, and R&D must also be rejected. In the case of R&D, NTN asserts that there is no basis on which to increase COP for the products under investigation for theoretical R&D that is totally unrelated to the subject products. There must be some reasonable and factual basis for such an allocation of cost. In the absence of such a basis, respondent asserts there should be no addition for R&D.

DOC Response: We disagree. See DOC response to Petitioner's Comment 21.

Respondents' Comment 20: Counsel for NTN rejects any inference made by petitioner that ANBMC did not disclose adjustments made to all factory costs incurred. NTN maintains that where adjustments were made, the adjustments were fully explained and supporting documentation was provided. ANBMC's costs as reported should be used to calculate ESP for the products involved.

DOC Response: The Department agrees in part. While the Department does not agree with respondents's allegation that the accounting system for two plants was found to be accurate for the products under investigation, no adjustment was made because the costs under consideration were an integral part of the system.

Continuation of Suspension of Liquidation

We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of tapered roller bearings from Japan that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register. The U.S. Customs Service shall continue to require a cash deposit or the posting of a bond on all entries equal to the estimated average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. The suspension of liquidation will remain in effect until further notice. The margins are as follows:

Manufacturers/producers/exporters	Average margin percentage
Koyo Seiko Co., Ltd	70.44
NTN Toyo Bearing Co., Ltd	47.05
All Others	47.57

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation wil be refunded or cancelled. However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs officers to assess an antidumping duty on tapered roller bearings from Japan entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the U.S. price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

August 10, 1987.

Lee W. Mercer,

Acting Assistant Secretary for Trade Administration.

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