

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

Investigation Nos. 731-TA-394-A & 399-A (Second Review) (Remand)

Ball Bearings from Japan and the United Kingdom

AGENCY: United States International Trade Commission.

ACTION: Notice of stay of remand proceedings.

SUMMARY: The U.S. International Trade Commission (“Commission”) hereby gives notice of the stay of its remand proceedings in the Commission’s five-year reviews of the antidumping duty orders on ball bearings from Japan and the United Kingdom.

EFFECTIVE DATE: November 24, 2008

FOR FURTHER INFORMATION CONTACT: Russell Duncan, Office of Investigations, telephone 202-708-4727, or David Goldfine, Office of General Counsel, telephone 202-708-5452, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission’s TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). The public record of investigation Nos. 731-TA-394-A & 399-A may be viewed on the Commission’s electronic docket (“EDIS”) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background. – In June 2006, the Commission determined that revocation of the antidumping duty orders on ball bearings from France, Germany, Italy, Japan, and the United Kingdom would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonable foreseeable time. The Commission’s determinations for Japan and the United Kingdom were appealed to the Court of International Trade. On September 9, 2008, the Court issued a decision remanding the matter to the Commission for further proceedings. NSK v. United States, Slip Op. 08-95 (Ct. Int’l Trade, Sept. 9, 2008). In its opinion, the Court issued an order instructing the Commission to (1) “conduct a Bratsk analysis of non-subject imports as outlined in this opinion;”(2) “reassess supply conditions within the domestic industry,” i.e., the industry’s restructuring efforts during the period of review, and (3) “reexamine its findings with regard to likely impact and its decision to cumulate imports from the United Kingdom in light of changes in its determinations that may result as a consequence of the foregoing remand instructions.” The Commission initiated its remand proceeding on October 8, 2008.

On September 18, 2008, the U.S. Court of Appeals for the Federal Circuit issued its opinion in Mittal Steel Point Lisas, Ltd. v. United States (Ct. No. 2007-1552), which clarified and limited its holding in Bratsk Aluminium Smelter v. United States, 444 F.3d 1369 (Fed. Cir. 2006). On October 9, 2008, the Commission filed a motion for reconsideration with the Court of International Trade (“CIT”), requesting that the CIT reconsider its decision in light of the Federal Circuit’s analysis in Mittal. As part of that motion, the Commission also requested the CIT to issue a stay of its remand proceeding pending the Court’s disposition of the motion for reconsideration. Defendant-Intervenor The Timken Company (“Timken”) filed a similar motion for reconsideration and a motion to stay the remand proceeding.

On October 29, 2008, the CIT granted the motions of the Commission and Timken and ordered a stay of the Commission’s remand proceeding. In that Order, the CIT also directed that the stay shall remain in effect until the Court has ruled on the pending motions for reconsideration.

Accordingly, the remand proceedings in this matter are hereby stayed pending further order.

By order of the Commission.

/s/
William R. Bishop
Acting Secretary to the Commission

Issued: November 24, 2008