

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-570-601]

Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Notice of Court Decision and Suspension of Liquidation

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

SUMMARY: On January 21, 2005, in *Luoyang Bearing Factory v. United States*, Slip Op. 05-3, the Court of International Trade ("CIT") affirmed the Department of Commerce's *Final Results of Redetermination Pursuant to Remand* ("Remand Results"), dated September 30, 2004. Consistent with the decision of the U.S. Court of Appeals for the Federal Circuit ("CAFC") in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) ("*Timken*"), the Department will continue to order the suspension of liquidation of the subject merchandise, where appropriate, until there is a "conclusive" decision in this case. If the case is not appealed, or if it is affirmed on appeal, the Department will instruct U.S. Customs and Border Protection ("Customs") to liquidate all relevant entries from Luoyang Bearing Factory ("Luoyang"), Zheijiang Machinery Import & Export Corporation ("ZMC"), China National Machinery Import & Export Corporation ("CMC"), and Wafangdian Bearing Company, Limited ("Wafangdian") and revise the cash deposit rates as appropriate.

EFFECTIVE DATE: February 16, 2005.

FOR FURTHER INFORMATION CONTACT: Andrew Smith, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-1276.

SUPPLEMENTARY INFORMATION:**Background**

Following publication of the *TRBs XII Final Results*, the Timken Company ("Timken"), the petitioner in this case, and the respondents, Luoyang Bearing, ZMC, CMC and Wafangdian ("respondents"), filed a lawsuit with the CIT challenging the Department's findings in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results of 1998-1999 Administrative Review, Partial Rescission of Review, and Determination Not to Revoke Order in*

Part, 66 FR 1953 (January 10, 2001) ("*TRBs XII Final Results*").¹ In *Luoyang Bearing Corp. (Group), Zhejiang Machinery Import & Export Corp., China National Machinery Import & Export Corporation, and Wafangdian Bearing Company, Ltd. v. United States*, Slip Op. 04-53 (CIT 2004) ("*Luoyang Bearing*"), the CIT instructed the Department to (1) further explain why the surrogate values it chose for wooden cases and the steel used to produce tapered roller bearings for Wafangdian constitute the "best available information," and address the aberrational data referenced by the respondents; and (2) conduct the separate rates analysis with respect to Premier Bearing & Equipment Limited ("Premier") and apply the PRC rate to all of Premier's United States sales if it is determined that Premier is not independent of government control.

The *Draft Final Results Pursuant to Remand* ("*Draft Results*") were released to parties on August 31, 2004. The Department received comments from interested parties on the *Draft Results* on September 8, 2004, and rebuttal comments on September 13, 2004. There were no substantive changes made to the *Remand Results* as a result of comments received on the *Draft Results*. On September 30, 2004, the Department responded to the CIT's Order of Remand by filing the *Remand Results*. In its *Remand Results*, the Department revised the surrogate value used to value steel inputs used in the production of rollers by excluding aberrational data as well as data that the Department had reason to believe or suspect were distorted. The Department also corrected a clerical error in the programming used to calculate the margin for ZMC.

As a result of the remand redetermination, the antidumping duty rate for Luoyang was decreased from 4.37 to 3.85 percent. The antidumping duty rate for ZMC was decreased from 7.37 to 0.00. The antidumping duty rate for CMC was decreased from 0.82 to 0.78 percent. The antidumping duty rate for Wafangdian and the PRC-wide rate were unchanged from the *TRBs XII Amended Final Results*. On October 20 and 27, 2004, the CIT received comments from Timken and the respondents, respectively. On November

12, 2004, Timken filed rebuttal comments to the respondents' comments. On December 6, 2004, the Department responded to these comments.

On January 21, 2005, the CIT affirmed the Department's findings in the *Remand Results*. Specifically, the CIT upheld the Department's explanation of what constitutes the "best available information" with regard to the surrogate values the Department chose for wooden cases and for the steel used to produce rollers; the Department's application of the Separate Rates test; the Department's decision to not revoke the antidumping order for ZMC; and, the Department's practice of using other producers' factors data to calculate Premier's normal value. See *Luoyang Bearing Factory v. United States*, Slip Op. 05-3 (CIT January 21, 2005).

The only revisions made to *TRBs XII Final Results* were revisions to the surrogate values and the programming language noted above. The revision of the surrogate values resulted in a change in both Luoyang's and CMC's margins. The correction of the programming error resulted in a change to ZMC's margin.

Suspension of Liquidation

The CAFC, in *Timken*, held that the Department must publish notice of a decision of the CIT or the CAFC which is not "in harmony" with the Department's final determination or results. Publication of this notice fulfills that obligation. The CAFC also held that the Department must suspend liquidation of the subject merchandise until there is a "conclusive" decision in the case. Therefore, pursuant to *Timken*, the Department must continue to suspend liquidation pending the expiration of the period to appeal the CIT's January 21, 2005, decision or, if that decision is appealed, pending a final decision by the CAFC. The Department will instruct Customs to revise cash deposit rates, as appropriate, and to liquidate relevant entries covering the subject merchandise effective February 16, 2005, in the event that the CIT's ruling is not appealed, or if appealed and upheld by the CAFC.

Dated: February 8, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

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¹ See also *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Amended Final Results of 1998-1999 Administrative Review and Determination To Revoke Order in Part*, 66 FR 11562 (February 26, 2004) ("*TRBs XII Amended Final Results*") (the Department amended *TRBs XII Final Results* to correct for certain ministerial errors made in the calculation of the company-specific margin).