

Dated: January 19, 2016.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

# **Appendix—List of Topics Discussed in the Issues and Decision Memorandum**

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## **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 Not in Harmony With Final Results of Antidumping Duty Administrative Review and Notice of Amended Final Results of Antidumping Duty Administrative Review; 2007–2008**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** On December 21, 2015, the United States Court of International Trade (“CIT” or “Court”) issued its final judgment<sup>1</sup> sustaining the Department of Commerce’s (the “Department”) final results of redetermination<sup>2</sup> issued pursuant to the CIT’s remand order in *Peer Bearing Company—Changshan v. United States*, 914 F. Supp. 2d 1343 (CIT 2013) (“*CPZ 07–08 I*”), with respect to the Department’s final results<sup>3</sup> of the 2007–2008 administrative review of the antidumping duty order on certain tapered roller bearings and parts thereof, finished and unfinished (“TRBs”), from

the People’s Republic of China (“PRC”). Consistent with the decision of the United States Court of Appeals for the Federal Circuit (“CAFC”) in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (“*Timken*”), as clarified by *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (“*Diamond Sawblades*”), the Department is notifying the public that the final judgment in this case is not in harmony with the Department’s *Final Results* and is amending the *Final Results* with respect to the dumping margin determined for the sole mandatory respondent in the underlying review, Peer Bearing Company—Changshan (“CPZ”).

**DATES:** *Effective Date:* December 31, 2015.

**FOR FURTHER INFORMATION CONTACT:** Alex Rosen, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–7814.

**SUPPLEMENTARY INFORMATION:** On November 21, 2011, the CIT issued its initial opinion on the underlying proceeding and remanded the *Final Results*, ordering that the Department: (1) Redetermine the surrogate value used to value bearing-quality steel bar inputs; (2) redetermine the surrogate value used to value bearing-quality steel wire rod inputs; and (3) reconsider, and modify as appropriate, its determination of the country of origin of merchandise finished and assembled into finished TRBs by a CPZ affiliate in Thailand from finished and unfinished TRB component parts manufactured in the PRC by CPZ.<sup>4</sup> Specifically, with respect to the latter issue of country of origin, the Court held that the Department’s findings that the “third-country processor’s costs as compared to each product’s COM {(Cost of Manufacture)} are not significant,” is “not supported by substantial evidence on the record, which contains evidence that the processing costs in Thailand accounted for 42 percent of the total cost of manufacturing.”<sup>5</sup> The Court held that the Department “may not disregard record evidence that detracts significantly from, and appears to refute, one of the findings on which the

Department relied.”<sup>6</sup> The Court instructed the Department “to ensure that its redetermination. . . is based on findings supported by substantial evidence on the record of this case.”<sup>7</sup>

On April 10, 2012, pursuant to the Court’s orders in *CPZ 07–08 I*, the Department: (1) Reconsidered the Indian data used to value bearing-quality steel bar inputs in the *Final Results* and instead valued CPZ’s steel bar inputs using Thai import data, and (2) revised the surrogate value used to value CPZ’s steel wire rod inputs using data corresponding to steel rod that is “of circular cross-section.”<sup>8</sup> With respect to the country of origin issue, the Department reconsidered its determination, applying its established criteria for determining whether merchandise is substantially transformed in another country. The Department expanded upon and further supported the existing findings as to the substantial transformation test employed in the *Final Results*.<sup>9</sup> The Department reconsidered one finding with respect to the significance of the quantitative value added by Thai processing (*i.e.*, one of six aspects of the underlying analysis in the First Remand Redetermination), finding that this prong of the analysis could support a determination that the Thai processing substantially transformed the merchandise in question.<sup>10</sup> However, because further analysis of the remaining substantial transformation criteria continued to support the initial finding from the *Final Results*, the Department ultimately determined that the totality of the circumstances indicated that the processing that took place in Thailand during the period of review (“POR”) did not constitute substantial transformation so as to confer a new country of origin of the merchandise in question for antidumping purposes.<sup>11</sup>

On June 6, 2013, the CIT issued *CPZ 07–08 II*, in which it sustained the Department’s redetermination of the surrogate values for CPZ’s steel bar and steel wire rod inputs,<sup>12</sup> but again remanded the Department’s country of origin determination. Specifically, citing

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> See Final Results of Redetermination Pursuant to Court Remand, *Peer Bearing Company—Changshan v. United States*, Court No. 10–00013, Slip Op. 11–143 (CIT 2011), dated April 10, 2012 (“First Remand Redetermination”), at 4–6 and 28.

<sup>9</sup> See First Remand Redetermination, at 8–17.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> See *CPZ 07–08 II*, 914 F. Supp. 2d at 1347.

<sup>1</sup> See *Peer Bearing Company (Changshan) v. United States*, Court No. 10–00013, Slip Op. 15–142 (CIT December 21, 2015) (“*CPZ 07–08 IIF*”), and accompanying judgment order.

<sup>2</sup> See Final Results of Redetermination Pursuant to Court Remand, *Peer Bearing Company—Changshan v. United States*, Court No. 10–00013, Slip Op. 13–72 (CIT 2013), dated April 30, 2014 (“Second Remand Redetermination”).

<sup>3</sup> See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People’s Republic of China: Final Results of the 2007–2008 Administrative Review of the Antidumping Duty Order*, 75 FR 844 (January 6, 2010) (“*Final Results*”) and accompanying Issues and Decision Memorandum (“IDM”).

<sup>4</sup> See *Peer Bearing Company—Changshan v. United States*, 804 F. Supp. 2d 1337 (CIT 2011) (“*CPZ 07–08 I*”). While the third country in which the further processing took place was treated as business proprietary information in the underlying administrative review, along with the percentage cost of manufacture (discussed below), CPZ made this information public during the litigation.

<sup>5</sup> See *CPZ 07–08 I*, 804 F. Supp. 2d at 1342.

“flaws in the Department’s analysis”<sup>13</sup> with respect to each of the six criteria comprising the Department’s substantial transformation test, the Court instructed the Department to “reach a new country of origin determination because the record lacked substantial evidence to support the Department’s determination that the TRBs which achieved final processing in Thailand were products of China for purposes of the antidumping duty order.”<sup>14</sup> Consistent with the CIT’s remand order, the Department under protest redetermined the country of origin for certain merchandise under review and revised the dumping margin calculations to exclude U.S. sales of TRBs further processed in Thailand.<sup>15</sup> In particular, the Department revised its findings with respect to five of the six criteria in its substantial transformation test, consistent with the Court’s order. Along with the surrogate value changes sustained in *CPZ 07–08 II*, the Department calculated a weighted-average dumping margin for CPZ of 6.24 percent.<sup>16</sup>

On December 21, 2015, the CIT issued its decision in *CPZ 07–08 III*, in which it sustained the Department’s Second Remand Redetermination. The Court concluded that though the Department made certain errors in construing the Court’s opinion, the Department reached an ultimate determination that is supported by substantial evidence on the record and that accords with a reasonable, rather than expansive, interpretation of the scope of the antidumping duty order.<sup>17</sup>

#### Timken Notice

In its decision in *Timken*, 893 F.2d at 341, as clarified by *Diamond Sawblades*, the CAFC held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (“the Act”), the Department must publish a notice of a court decision that is not “in harmony” with a Department determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s December 21, 2015, judgment in this case constitutes a final court decision

that is not in harmony with the Department’s *Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*.

#### Amended Final Results

Because there is now a final court decision with respect to this case, the Department is amending the *Final Results* with respect to CPZ in this case. The revised weighted-average dumping margin for the June 1, 2007, through May 31, 2008, period of review is as follows:

Exporter	Final percent margin
Peer Bearing Company— Changshan .....	6.24

The Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision. In the event the Court’s ruling is not appealed or, if appealed, upheld by the CAFC, the Department will instruct U.S. Customs and Border Protection to assess antidumping duties on unliquidated entries of subject merchandise exported by the above listed exporters at the rate listed above.

#### Cash Deposit Requirements

In September 2008, Peer Bearing Company—Changshan was acquired by AB SKF, and the Department determined via a successor-in-interest analysis that the post-acquisition entity was not its successor in interest to the pre-acquisition exporter. As a consequence, Peer Bearing Company—Changshan effectively no longer exists, and its cash deposit rate does not need to be updated as a result of these amended final results.

#### Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e), 751(a)(1), and 777(i)(1) of the Act.

Dated: January 13, 2016.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

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**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[Application No. 97–13A03]

#### Export Trade Certificate of Review

**ACTION:** Notice of Application for an Amended Export Trade Certificate of Review by Association for the Administration of Rice Quotas, Inc. (“AARQ”), Application No. 97–13A03.

**SUMMARY:** The Secretary of Commerce, through the International Trade Administration, Office of Trade and Economic Analysis (OTEA), has received an application for an amended Export Trade Certificate of Review (“Certificate”) from AARQ. This notice summarizes the proposed amendment and seeks public comments on whether the amended Certificate should be issued.

#### FOR FURTHER INFORMATION CONTACT:

Joseph E. Flynn, Director, Office of Trade and Economic Analysis, International Trade Administration, by telephone at (202) 482–5131 (this is not a toll-free number) or email at [etca@trade.gov](mailto:etca@trade.gov).

**SUPPLEMENTARY INFORMATION:** Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from State and Federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. The regulations implementing Title III are found at 15 CFR part 325 (2016). Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its application. Under 15 CFR 325.6 (a), interested parties may, within twenty days after the date of this notice, submit written comments to the Secretary through OTEA on the application.

#### Request For Public Comments:

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked as privileged or confidential business

<sup>13</sup> *Id.*, 914 F. Supp. 2d at 1351. The Government subsequently moved for clarification regarding whether the Court in *CPZ 07–08 II* required the Department to find that TRBs were substantially transformed in Thailand, or whether the Court permitted the Department to make new findings under each of the substantial transformation criteria. On February 13, 2014, the Court responded to the Government’s motion, though the Court did not modify its previous ruling or provide further clarification. See *Peer Bearing Company—Changshan v. United States*, Court No. 10–00013, Slip Op. 14–15 (CIT 2014).

<sup>14</sup> See *CPZ 07–08 II*, 914 F. Supp. 2d at 1356.

<sup>15</sup> See Second Remand Redetermination at 33.

<sup>16</sup> *Id.*

<sup>17</sup> See *CPZ 07–08 III*, at 30.