

corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, Room B-099 of the main Department building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the Decision Memorandum are identical in content.

Sales Below Cost in the Home Market

The Department conducted an investigation to determine whether RDM/CPFL made home-market sales at prices below the cost of production. See *Preliminary Results*, 70 FR at 53630. As a result of its investigation, the Department disregarded certain below-cost home-market sales for these final results.

Changes Since the Preliminary Results

Based on our analysis of the comments received, we have made a change in the margin calculation for the final results of this review and described the change in the accompanying Issues and Decision Memorandum dated January 9, 2006. See also Analysis Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order on Silicomanganese from Brazil: Rio Doce Manganês S.A. (RDM), Companhia Paulista de Ferro-Ligas (CPFL), and Urucum Mineração S.A. (Urucum) (collectively, RDM/CPFL), dated January 9, 2006.

Final Results of Review

As a result of our review, we determine that a margin of 0.00 percent exists for RDM/CPFL for the period December 1, 2003, through November 30, 2004.

Duty Assessment and Cash-Deposit Requirements

The Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated an importer-specific per-unit dollar amount for the subject merchandise. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of these final results of review.

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of silicomanganese entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results, as provided by

section 751(a)(2)(C) of the Act: (1) the cash-deposit rate for RDM/CPFL will be 0.00 percent; (2) for previously reviewed or investigated companies not mentioned above, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value (LTFV) investigation but the manufacturer is, then the cash-deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the producer is a firm covered in this review, a prior review, or the LTFV investigation, the cash-deposit rate shall be 17.60 percent, the all-others rate established in the LTFV investigation. See *Notice of Final Determination of Sales at Less Than Fair Value: Silicomanganese from Brazil*, 59 FR 55432 (November 7, 1994). These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a primary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding APOs

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO as explained in the APO itself. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are publishing these final results of administrative review and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: January 9, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

APPENDIX—Issues in the Decision Memorandum

Comment 1: Affiliation with Certain Home-Market Customers

Comment 2: U.S. Gross Unit Price

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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: Final Results of 2003-2004 Administrative Review and Partial Rescission of Review

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

SUMMARY: The Department of Commerce ("the Department") published its preliminary results of administrative review of the antidumping duty order on tapered roller bearings and parts thereof, finished and unfinished ("TRBs"), from the People's Republic of China ("PRC") on July 11, 2005. The period of review ("POR") is June 1, 2003, through May 31, 2004. We invited interested parties to comment on our preliminary results. Based on our analysis of the comments received, we have made changes to our margin calculations. Therefore, the final results differ from the preliminary results. The final dumping margins for this review are listed in the "Final Results of Review" section below.

EFFECTIVE DATE: January 17, 2006.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita, Eugene Degnan or Hua Lu, Office 8, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-4243, (202) 482-0414 or (202) 482-6478, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 11, 2005, the Department published its preliminary results. See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Preliminary Results of 2003-2004*

Antidumping Administrative Review, and Notice of Intent to Rescind in Part, 70 FR 39744 (July 11, 2005) (“*Preliminary Results*”). On July 27, 2005, Yantai Timken Company Limited (“Yantai Timken”) submitted additional surrogate value information. On July 29, 2005, The Timken Company (“Petitioner”) submitted comments on surrogate values. On August 2, 2005, Yantai Timken requested an extension of the briefing schedule. On August 4 and August 8, 2005, Yantai Timken requested to submit additional factual information. On August 10, 2005, Yantai Timken requested a hearing. On September 21, 2005, the Department determined that it was unable to grant Yantai Timken’s requests to supplement the record with new factual information. On October 5, 2005, we received case briefs from China National Machinery Import & Export Corporation (“CMC”), Luoyang Bearing Corporation (Group) (“LYC”) and Yantai Timken. On October 13, 2005, the Department rejected Yantai Timken’s case brief because it contained new factual information. On November 8, 2005, the Department published a notice extending the time limit for the final results of review until January 7, 2006. See *Notice of Extension of Final Results of the 2003–2004 Administrative Review of Tapered Roller Bearings and Parts Thereof, Finished or Unfinished from the People’s Republic of China*, 70 FR 67668 (November 8, 2005). On November 30, 2005, Yantai Timken resubmitted its case brief. On December 5, 2005, Peer Bearing Company (“Peer”) and Petitioner submitted rebuttal briefs. On December 9, 2005, the Department held a public hearing.

We have conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (“the Act”), and 19 CFR 351.213.

Scope of Order

Merchandise covered by this order is TRBs from the PRC; flange, take up cartridge, and hanger units incorporating tapered roller bearings; and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. This merchandise is currently classifiable under the *Harmonized Tariff Schedule of the United States* (“HTSUS”) item numbers 8482.20.00, 8482.91.00.50, 8482.99.30, 8483.20.40, 8483.20.80, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.80, 8708.99.80.15, and 8708.99.80.80. Although the HTSUS item numbers are provided for convenience and customs purposes, the

written description of the scope of the order is dispositive.

Rescission of Review

In our preliminary results, we stated we are rescinding the review with respect to Chin Jun Industrial Ltd. (“Chin Jun”), Weihai Machinery Holding (Group) Company, Ltd. (“Weihai Machinery”), and Zhejiang Machinery Import & Export Corp (“ZMC”) because we had no evidence that Chin Jun, Weihai Machinery or ZMC had any shipments to the United State. of subject merchandise during the POR. See *Preliminary Results*, 70 FR at 39746. Consequently, in accordance with 19 CFR 351.213(d)(1) and consistent with the Department’s practice, we preliminarily rescinded our review with respect to Chin Jun, Weihai Machinery and ZMC. Since we have received no new information since the preliminary results that contradicts the decision made in the preliminary results of review, we are rescinding the administrative review with respect to Chin Jun, Weihai Machinery and ZMC.

Analysis of Comments Received

All issues raised in the post-preliminary comments by parties in this review are addressed in the memorandum from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner Assistant Secretary, for Import Administration, “Issues and Decision Memorandum for the Final Results of the 17th Administrative Review of the Antidumping Duty Order on Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People’s Republic of China,” dated January 9, 2006 (“*Issues and Decision Memorandum*”), which is hereby adopted by this notice. A list of the issues which parties raised and to which we responded in the *Issues and Decision Memorandum* is attached to this notice as an appendix. The *Issues and Decision Memorandum* is a public document which is on file in the Central Records Unit (“CRU”) in room B–099 in the main Department building, and is accessible on the Web at <http://ia.ita.doc.gov/>. The paper copy and electronic version of the memorandum are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made changes in the margin calculations for CMC and LYC. See *Issues and Decision Memorandum* at Comments 1–6.

CMC

- In the preliminary results, we

inadvertently cited the variable name for skilled packing labor incorrectly in the margin calculation program. We have corrected the error for the final results. See *Issues and Decisions Memo* at Comment 1 for a thorough discussion of this issue and “Analysis Memorandum for the Final Determination of Administrative Review on Tapered Roller Bearings and Parts Thereof from the People’s Republic of China: National Machinery Import & Export Corp” from Hua Lu, Case Analyst, through Robert Bolling, Program Manager, to the File, dated January 9, 2006 (“*CMC Final Analysis Memorandum*.”)

- In the preliminary results we inadvertently used “0.0001” as the conversion factor from metric tons to kilograms for the freight surrogate values for steel consumption of cups, rollers and cages. No interested party commented on this error. We have corrected the conversion factor to “0.001” for these final results of review. See *CMC Final Analysis Memorandum*.
- For the preliminary results, when calculating ratios for factory overhead, selling, general, and administrative expenses, interest, depreciation, and profit from the surrogate companies’ financial statements, we inadvertently included excise duties in the sum of the cost of materials for one of the surrogate companies. For the final results, we have excluded excise duties from the cost of manufacturing when calculating the surrogate financial ratios. Further, we have applied the revised surrogate financial ratios to all respondents in this review for whom we are calculating a margin. See *Issues and Decisions Memorandum* at Comment 5 and Memorandum to the final regarding “Final Results of Review of Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People’s Republic of China: Surrogate Value Memorandum for the Final Results of Review” (“*Final Results Surrogate Value Memorandum*”), dated January 9, 2005.

LYC

- In the preliminary results, the Department applied partial adverse facts available (“AFA”) to LYC’s U.S. inventory carrying costs (“ICCs”) for certain constructed export price (“CEP”) sales. For

these final results, we have used LYCs ICCs as reported. *See Issues and Decisions Memorandum* at Comment 3 and “Final Results of Review of the Order on Tapered Roller Bearings and Parts Thereof from the People’s Republic of China, Program Analysis for the Final Results of Review: Luoyang Bearing Corporation (Group)” (“LYC Final Analysis Memorandum”), dated January 9, 2006.

- In the preliminary results we failed to convert the surrogate value for “cage” from Indian rupees to U.S. dollars in the margin calculation program. For the final results, we have made this conversion. *See Issues and Decisions Memorandum* at Comment 6.
- For the preliminary results, when calculating ratios for factory overhead, selling, general, and administrative expenses, interest, depreciation, and profit from the surrogate companies’ financial statements, we inadvertently included excise duties in the sum of the cost of materials for one of the surrogate companies. For a complete discussion on this issue, see CMC above and Comment 5 in the *Issues and Decisions Memorandum*.

Calculation of a Margin for Yantai Timken

In addition, based on further analysis of record evidence in this review, the Department is reversing its decision to apply total AFA to Yantai Timken’s margin for the final results. After examining the record of this review, including the verification reports and the documentation provided at verification, we have determined that Yantai Timken was able to substantiate one of its reported expenses, marine insurance. However, we continue to conclude that Yantai Timken was unable to substantiate two reported factors of production and several other expenses reported as adjustments to U.S. price. Thus, we have determined that the use of partial AFA is warranted. *See Issues and Decision Memorandum* at Comments 7–16. As a result, we have calculated a margin for Yantai Timken in this review. An explanation of our calculations follows.

Separate Rates

In proceedings involving non-market-economy (“NME”) countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a

single antidumping duty deposit rate. It is the Department’s policy to assign all exporters of merchandise subject to administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

In the *Preliminary Results*, we found that Yantai Timken did not demonstrate its eligibility for a separate rate as a consequence of our determination to base its margin on total AFA. Accordingly, we preliminarily determined that Yantai Timken was a part of the PRC-wide entity. For the final results of review, we have reconsidered our determination to apply total AFA to Yantai Timken’s margin and its eligibility for a separate rate.

The Department’s separate-rate test to determine whether the exporters are independent from government control does not consider, in general, macroeconomic/border-type controls, e.g., export licenses, quotas, and minimum export prices, particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 61276, 61279 (November 17, 1997), and *Notice of Final Determination of Sales at less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the People’s Republic of China*, 69 FR 71005 (December 8, 2004), and accompanying Issues and Decision Memorandum, at Comment II.

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People’s Republic of China*, 56 FR 20588, 20589 (May 6, 1991) (“Sparklers”), as modified by *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People’s Republic of China*, 59 FR 22585, 22586 (May 2, 1994) (“Silicon Carbide”). Under the separate rates criteria, the Department assigns separate rates in NME cases only if the respondent can demonstrate the absence of both *de jure* and *de facto* government control over its export activities. *See Silicon Carbide*, 59 FR at 22586, and *Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People’s Republic of China*, 60 FR

22544 (May 8, 1995) (“Furfuryl Alcohol”).

Yantai Timken provided company-specific separate-rates information and stated that it met the standards for the assignment of separate rates.

A. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter’s business and export licenses; (2) any legislative enactments decentralizing control of companies; or (3) any other formal measures by the government decentralizing control of companies. *See Sparklers*.

Yantai Timken placed on the record statements and documents to demonstrate absence of *de jure* control. In its questionnaire responses, Yantai Timken reported that it is a wholly foreign-owned enterprise, established in accordance with the “Law of the PRC on Foreign Capital Enterprise” *See Yantai Timken’s August 26, 2004, Section A response (“AQR”)* at A–2. Yantai Timken reported that it is 100-percent owned by The Timken Company. *See AQR* at A–2. Yantai Timken reported that it does not have any relationship with the central, provincial, or local governments with respect to ownership, internal management, and daily business operations. *See AQR* at A–3. Yantai Timken submitted a copy of its business license and stated it is renewed annually as long as the company submits its annual financial statements and profit/loss statement to the appropriate State Administration of Industry and Commerce office and no activities prohibited by Article 30 of the Administrative Regulations have occurred. *See AQR* at A–5 and at exhibit A–5. Yantai Timken reported that the subject merchandise did not appear on any government list regarding export provisions or export licensing, and the subject merchandise is not subject to export quotas or export control licenses imposed by the PRC government. *See AQR* at A–6. Yantai Timken reported that it may engage in business activities within the scope of its business license. *See AQR* at A–4. Furthermore, Yantai Timken stated that the China Chamber of Commerce is not involved in Yantai Timken’s export activities. *See AQR* at A–8. Yantai Timken submitted a copy of the “Regulations of the PRC for Controlling the Registration of Enterprises as Legal Persons” and the “Company Law of the PRC” to demonstrate that there is no centralized

control over its export activities. *See* AQR at exhibits A-3 and A-4. Through the questionnaire responses, we examined each of the related laws and Yantai Timken's business license and have determined that they demonstrate the absence of *de jure* control over the export activities and evidence in favor of the absence of government control associated with Yantai Timken's business license.

B. Absence of De Facto Control

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. *See Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255, 72257 (December 31, 1998). Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates. The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) whether the exporter sets its own export prices independent of the government and without the approval of a government authority; (2) whether the respondent has authority to negotiate and sign contracts, and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of its management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. *See Furfuryl Alcohol*.

In support of an absence of *de facto* control, Yantai Timken reported the following. During the POR, Yantai Timken explained that it sold the subject merchandise in the United States only to its affiliated party in the United States, The Timken Company. *See* AQR at A-7 and A-8. Therefore, Yantai Timken reported that the question of whether its prices are subject to government control is not applicable, since The Timken Company in the United States sets and negotiates the prices with its customers in the United States. *See* AQR at A-7. Yantai Timken explained that its Board of Directors appoints the general manager and all other senior management members are nominated by the general manager and approved by the board of

directors. *See* AQR at A-9. Yantai Timken explained that it is required to notify the Yantai Administration for Industry & Commerce of any senior management changes for informational purposes. *See* AQR at A-9. Yantai Timken explained that there are no restrictions on the use of its export revenues. *See* AQR at A10. Additionally, Yantai Timken stated that it is not required to sell any of its foreign currency earnings to the government and it is allowed to freely convert all foreign currency earnings on sales of the merchandise under review to the United States into renminbi for domestic use in China at the prevailing market rates of any bank. *See* AQR at A-11 and A-12. Yantai Timken explained that it can and does use foreign currency for operating expenses and capital equipment purchases. *See* AQR at A-11.

The evidence placed on the record of this administrative review by Yantai Timken, and verified by the Department, demonstrates an absence of government control, both in law and in fact, with respect to Yantai Timken's exports of the merchandise under review. *See* Memorandum to the File, from Laurel LaCivita, Senior Case Analyst and Eugene Degnan, Analyst, through Robert Bolling, Program Manager, and Wendy Frankel, Director, NME/China Unit, Office 8, "Verification of Sales and Factors of Production Reported by the Yantai Timken Company in the 2003/2004 Antidumping Duty Administrative Review of Tapered Roller Bearings and Parts, Thereof from the People's Republic of China," dated June 30, 2005 ("FOP Verification Report"). As a result, for these final results, the Department is granting a separate, company-specific rate to Yantai Timken, the exporter which shipped the subject merchandise to the United States during the POR.

Partial Adverse Facts Available

We have determined that the use of partial facts available with adverse inferences is warranted for Yantai Timken's consumption rate for electricity and natural gas in the determination of normal value. In addition, we have determined that the use of a partial facts available with adverse inferences is warranted with respect to Yantai Timken's adjustments to U.S. prices for indirect selling expenses ("ISEs"), warehousing, ocean freight, rebates, and commissions incurred in the United States.

During Yantai Timken's factors-of-production ("FOP") verification, we determined that Yantai Timken failed to account for its total consumption of electricity and to substantiate its

allocation of natural gas to the production of the subject merchandise. *See FOP Verification Report* at 2 and the *Preliminary Results*, 70 FR at 39749. Because Yantai Timken provided factor values for electricity and natural gas that could not be verified, pursuant to section 776(a)(1)(D) of the Act, we have resorted to the facts otherwise available to determine the consumption rates for these inputs. The Department also finds that Yantai Timken did not act to the best of its ability through its failure to accurately report its factor consumption rates for electricity and natural gas pursuant to section 776(b) of the Act. Thus, adverse inferences are warranted for electricity and natural gas. We used the total quantity of Yantai Timken's electricity consumption during the POR, as determined at verification, as AFA for electricity. *See* the memorandum to the file from Laurel LaCivita, Senior Case Analyst, through Robert Bolling, Program Manager, "Analysis for the Final Results of the 2003-2004 Administrative Review of Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the People's Republic of China: Yantai Timken Company, Ltd. and the Timken Company," dated January 9, 2006 ("Yantai Timken Final Analysis Memorandum"), at 8. In addition, Yantai Timken could not substantiate its allocation of natural gas between production- and non-production-related activities. *See Yantai Timken Final Analysis Memorandum* at 9. Therefore, as AFA, we have attributed 50 percent of Yantai Timken's total factory-wide consumption of natural gas (as determined at verification) to the production of the subject merchandise.

During Yantai Timken's constructed export sales ("CEP") verification, we determined that the Timken Company, Yantai Timken's parent, could not demonstrate that the expenses it reported in its Section C response for warehousing, ISEs, international freight, commissions, and rebates represent the total value of these expenses applicable to the subject merchandise during the POR. *See* the memorandum to the file from Laurel LaCivita, Senior Case Analyst and Hua Lu, Case Analyst, through Robert Bolling, Program Manager, and Wendy J. Frankel, Director, NME/China Unit, Office 8, "Verification of the Constructed Export Price Sales Reported by The Timken Company ("Timken") in the Antidumping Duty Administrative Review of Tapered Roller Bearings and Parts, Thereof from the People's Republic of China," dated June 30, 2005 ("Timken CEP Verification Report"), at

2, 14, 25, 20, and 22, and the *Preliminary Results*, 70 FR at 39749. In addition, we found at verification that Timken based its distributor warehousing expenses, U.S. inland freight, commissions, and rebates reported in the Section C response on either preliminary or hypothetical data. See *Timken CEP Verification Report* at 2, 3, 20, and 21, and the *Preliminary Results*, 70 FR at 39749. Because Timken reported values for warehousing, ISE, international freight, commissions and rebates that could not be verified, pursuant to section 776(a)(1)(D) of the Act, we must resort to the facts otherwise available to determine the values for these adjustments. Further, pursuant to section 776(b) of the Act, the Department also finds that Timken did not act to the best of its ability through its failure to accurately report its adjustment data for these items. Thus, adverse inferences are warranted for warehousing, ISE, international freight, commissions and rebates. We used the total verified value of Timken's warehousing expense, ISE expense, and international freight as the basis of AFA for these items. See *Yantai Timken Final Analysis Memorandum* at pages 3 and 4, and Attachments III, IV, and V. We could not tie Timken's reported commissions and rebates into its audited financial statements, and thus could not determine the completeness of its reporting methodology. Moreover, Timken could not demonstrate the full universe of commissions and rebates paid on sales of subject merchandise during the POR. Therefore, we applied, as total AFA, the highest contractual amount of commissions and rebates that its sales agents or customers could earn to all sales of subject merchandise in the United States during the POR. See *Yantai Timken Final Analysis Memorandum* at 4.

In our *Preliminary Results*, we stated that because we could not verify the total value of Timken's marine insurance expense, pursuant to section 776(a)(1)(D) of the Act, we must resort to the facts otherwise available. See *Preliminary Results*, 70 FR at 39749. However, further examination of the information on the record reveals that Yantai Timken appropriately reported and substantiated its marine insurance expense. Therefore, for the final results, we will not apply AFA or make adverse inferences with respect to Timken's marine insurance expense, but will use the amount as reported in its Section C questionnaire response. See *Yantai Timken Final Analysis Memorandum* at 4.

Date of Sale

Section 351.401(i) of the Department's regulation states that "in identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the normal course of business. However, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale." 19 CFR 351.401(i); See also *Allied Tube and Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090–1093 (CIT 2001).

After examining the sales documentation placed on the record by Yantai Timken, we determine that invoice date is the most appropriate date of sale for Yantai Timken's CEP sales. We made this determination based on statements on page C–9 of the October 4, 2004, Section C response that Yantai Timken's invoice date, which is generally the same as the shipment date from the U.S. warehouse, establishes the material terms of sale to the extent required by our regulations. See *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams From Germany*, 67 FR 35497 (May 20, 2002), and accompanying Issues and Decision Memorandum at *Comment 2*.

Normal Value Comparisons

To determine whether sales of TRBs to the United States by Yantai Timken were made at less than normal value ("NV"), we compared CEP to NV, as described in the "Constructed Export Price" and "Normal Value" sections of this notice.

Constructed Export Price

In accordance with section 772(b) of the Act, CEP is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under sections 772 (c) and (d). In accordance with section 772(b) of the Act, we used CEP for all of Yantai Timken's sales because it sold all of its subject merchandise to Timken, its affiliated party in the United States, which in turn sold subject merchandise to unaffiliated U.S. customers.

We compared NV to individual CEP transactions, in accordance with section 777A(d)(2) of the Act. For Timken's CEP

sales, we based the CEP on delivered prices to unaffiliated purchasers in the United States. In accordance with section 772(d)(1) of the Act, we made deductions from the starting price for billing adjustments, movement expenses, discounts, commissions, rebates and re-packing expenses. Movement expenses included expenses for foreign inland freight from the plant to the port of exportation, domestic brokerage and handling, international freight, marine insurance, U.S. brokerage and handling, U.S. duty, U.S. inland freight, U.S. warehousing expenses, distributor warehousing expenses, and inland freight from the warehouse to the unaffiliated U.S. customer. We made adjustments to Timken's reported ISEs, commissions, rebates, international movement expenses (ocean freight and U.S. brokerage) and U.S. warehouse expense to account for failures at verification. See the "Partial AFA" section of this notice. In addition, we adjusted Timken's reported distributor warehouse and inland freight from the warehouse to the unaffiliated U.S. customer to account for minor corrections presented at verification. See *CEP Verification Report* at 1 to 3 and *Yantai Timken Final Analysis Memorandum* at 4 and 5. In accordance with section 772(d)(1) of the Act, we additionally deducted credit expenses, iCCs and ISEs from the U.S. price, all of which relate to commercial activity in the United States. In accordance with section 772(d)(1) of the Act, we calculated Yantai Timken's credit expenses and ICCs based on the Federal Reserve short-term rate. Finally, we deducted CEP profit in accordance with sections 772(d)(3) and 772(f) of the Act. See *Yantai Timken Prelim Analysis Memorandum* at 2–5.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using an FOP methodology if: (A) the merchandise is exported from an NME country; and (B) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department will base NV on FOPs because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies.

FOPs include: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4)

representative capital costs. We based our determination of NV on Yantai Timken's reported FOPs for materials, energy (with the exceptions discussed above), labor, by-products, and packing.

In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to value FOPs, but when a producer sources an input from a market economy and pays for it in market-economy currency, the Department will normally value the factor using the actual price paid for the input. See 19 CFR 351.408(c)(1); See also *Lasko Metal Products v. United States*, 43 F. 3d 1442, 1445–1446 (Fed. Cir. 1994). Yantai Timken reported that a significant portion of at least one of its raw material inputs was sourced from a market-economy country and paid for in a market-economy currency. See Yantai Timken's October 4, 2004, Section D response at page D–16. Pursuant to 19 CFR 351.408(c)(1), we used Yantai Timken's verified actual price for inputs purchased from a market-economy supplier and paid for in a market-economy currency, except when prices may have been distorted by subsidies.

With regard to both the Indian import-based surrogate values and the market-economy input values, we have disregarded prices that we have reason to believe or suspect may be subsidized. We have reason to believe or suspect that prices of inputs from India, Indonesia, South Korea, and Thailand may have been subsidized. We have found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies and, therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized. See *Certain Helical Spring Lock Washers from the People's Republic of China; Final Results of Administrative Review*, 61 FR 66255 (December 17, 1996) and accompanying Issues and Decision Memorandum, at Comment 1; *Automotive Replacement Glass Windshields From the People's Republic of China: Final Results of Administrative Review*, 69 FR 61790 (October 21, 2004) and accompanying Issues and Decision Memorandum, at Comment 5; and, *China National Machinery Import & Export Corporation v. United States*, 293 F. Supp. 2d 1334 (CIT 2003), *aff'd*, 104 Fed. Appx. 183 (Fed. Cir. 2004). We are also guided by the legislative history not to conduct a formal investigation to ensure that such prices are not subsidized. See H.R. Rep. 100–576 at 590 (1988). Rather, the Department was instructed by Congress to base its decision on information that

is available to it at the time it is making its determination. Therefore, we have not used prices from these countries either in calculating the Indian import-based surrogate values or in calculating market-economy input values. In instances where a market-economy input was obtained solely from suppliers located in these countries, we used Indian import-based surrogate values to value the input.

Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on Yantai Timken's FOPs for the POR. To calculate NV, the per-unit factor quantities were multiplied by publicly available Indian surrogate values (except as noted below). In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data.

We valued packing material inputs using the weighted-average unit import values derived from the World Trade Atlas® online (“Indian Import Statistics”), which were published by the Directorate General of Commercial Intelligence and Statistics (“DGCI&S”), Ministry of Commerce of India, were reported in rupees and are contemporaneous with the POR. See memoranda to the file from Eugene Degan, Case Analyst, through Wendy Frankel and Robert Bolling, “Preliminary Results of Review of Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Factors of Production Valuation Memorandum for the Preliminary Results of Review,” dated June 30, 2005 (“Factor Valuation Memorandum”) and *Yantai Timken Final Analysis Memorandum*. Where we could not obtain publicly available information contemporaneous with the POR with which to value factors, we adjusted the surrogate values using the Indian Wholesale Price Index (“WPI”) as published in the *International Financial Statistics* of the International Monetary Fund. We adjusted Yantai Timken's reported factors for wooden pallets and packing labels to account for minor corrections to the response: See *FOP Verification Report* at 23–24 and *Yantai Timken Final Analysis Memorandum* at 7. We also revised the factor consumption rate of boxes, packing boards and packing buttons to account for findings at verification. See *FOP Verification Report* at 23–24 and *Yantai Timken Final Analysis Memorandum* at 8.

We adjusted the Indian surrogate values for packing materials to account for freight delivery charges. Specifically, we calculated the surrogate freight

charges based on the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory. See Yantai Timken's November 30, 2005, case brief at 12. We made no freight adjustments to raw material prices for those materials which Yantai Timken purchased from market-economy suppliers on a delivered basis. See Yantai Timken's October 4, 2004, Section D response (“DQR”) at D–10 to D–12 and exhibits D–5 and D–6. For raw materials purchased from a market-economy supplier on an FOB basis, we calculated a surrogate freight value using the distance from the port of import to the factory. See DQR at D–12 and exhibit D–7. This adjustment is in accordance with the decision of the Federal Circuit in *Sigma Corp. v. United States*, 117 F. 3d 1401 (Fed. Cir. 1997).

To value electricity, we used values from the International Energy Agency (“IEA”) to calculate a surrogate value in India for 2000, adjusted for inflation. The Petitioner was the only interested party to submit information or comments regarding surrogate values for electricity on the record. However, the submitted value was less contemporaneous than the 2000 value reported by the IEA, which has been used in previous cases. See *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China*, 70 FR 24502 (May 10, 2005) and accompanying Issues and Decision Memorandum, at Comment 5; and, *Amended Final Determination of Sales at Less Than Fair Value: Magnesium Metal from the People's Republic of China*, 70 FR 15838 (March 29, 2005). Further, the Department was unable to find a more contemporaneous surrogate value than the 2000 value reported by the IEA. Therefore, we used the International Energy Agency 2000 Indian price for electricity to the POR, as adjusted for inflation. We adjusted Yantai Timken's factor consumption rate for electricity to account for findings at verification. See *FOP Verification Report* at 16–19 and attachment IV. See also *Yantai Timken Final Analysis Memorandum* at 9.

To value natural gas, we used values obtained from <http://www.indiaonline.com> in June 2000, used in the *Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Structural Steel Beams From The People's Republic of China*, 66 FR 67197, 67202 (December 28, 2001), as unchanged in the *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams From*

Germany, 67 FR 35497 (May 20, 2002), and reported in Yantai Timken's November 17, 2004, surrogate value submission. See letter from Yantai Timken, "Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Administrative Review (6/1/03–5/31/04): Submission of Yantai Timken's Surrogate Country selection and Potential Surrogate Values," at page 3 and exhibit 3. Yantai Timken was the only interested party to submit information or comments regarding surrogate values for natural gas on the record. In addition, we were unable to find a more contemporaneous surrogate value. Therefore, we adjusted this value for inflation. We adjusted Yantai Timken's factor consumption rate for natural gas to account for minor corrections to the response and for other findings at verification. See *FOP Verification Report* at 3, 20–21 and verification exhibit 1B. See also *Yantai Timken Final Analysis Memorandum* at 9–10, and *Issues and Decisions Memorandum* at Comment 8.

For direct labor, indirect labor, SG&A labor and packing labor, consistent with 19 CFR 351.408(c)(3), we used the PRC regression-based wage rate as reported on Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in November 2004, <http://ia.ita.doc.gov/wages/02wages/02wages.html>. The source of these wage rate data on the Import Administration's web site is the Yearbook of Labour Statistics 2002, ILO, (Geneva: 2002), Chapter 5B: Wages in Manufacturing. The years of the reported wage rates range from 1996 to 2002. Because this regression-based wage rate does not separate the labor rates into different skill levels or types of labor, we have applied the same wage rate to all skill levels and types of labor reported by each respondent.

To value factory overhead, depreciation, selling, general and administrative expense, interest expenses and profit, we used the 2003 audited financial statements for two Indian producers of tapered roller bearings, SKF Bearings India Ltd., and Timken India Limited. See *Final Results Surrogate Value Memorandum* for a full discussion of the calculation of these ratios from the Indian companies' financial statements.

In order to demonstrate that prices paid to market-economy sellers for some portion of a given input are representative of prices paid overall for that input, the amounts purchased from the market-economy supplier must be meaningful. See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR

27296, 27366 (May 19, 1997). Where the quantity of the input purchased from market-economy suppliers is insignificant, the Department will not rely on the price paid by an NME producer to a market-economy supplier because it cannot have confidence that a company could fulfill all its needs at that price. Yantai Timken's reported information demonstrates that the quantity of steel purchased from a market economy source used to produce cups and cones is significant. See Yantai Timken's October 4, 2004 Section D response at page D–10. Therefore, we used the actual price Yantai Timken paid for this steel in our calculations.

Yantai Timken reported that it also recovered scrap steel from the production of cups, cones and rollers resale. We offset Yantai Timken's cost of production by the amount of scrap that Yantai Timken reported that it sold. See *Factor Valuation Memorandum* at 3–4 and attachment 3.

Finally, we used Indian Import Statistics for the POR to value material inputs for packing which, for Yantai Timken, are wooden pallets, plastic covers, cardboard boxes, packing labels, plastic strips and packing cardboard. We used Indian Import Statistics for the POR for wooden pallets, plastic covers, cardboard boxes and plastic strips, and packing cardboard. See *Factor Valuation Memorandum* at page 4 and attachment 3 for wooden pallets, plastic covers, cardboard boxes and plastic strips. See *Yantai Timken Final Analysis Memorandum* at Attachment VIII for packing labels and packing cardboard. We were unable to find contemporaneous information for packing labels. Therefore, we used the Indian Import Statistics for packing labels from a previous period adjusted for inflation in our calculations.

Final Results of Review

We determine that the following dumping margins exist for the period June 1, 2003, through May 31, 2004:

Exporter/manufacturer	Weighted-average margin percentage
China National Machinery Import & Export Corporation **	0.00
Luoyang Bearing Corporation (Group) **	0.18
Yantai Timken Company Limited	41.58

** These rates are *de minimis*.

Assessment Rates

The Department will issue appraisal instructions directly to U.S. Customs and Border Protection ("CBP") within 15 days of publication

of these final results of administrative review. In accordance with 19 CFR 351.212(b)(1), we have calculated importer-specific assessment rates for merchandise subject to this review. For LYC and CMC, we divided the total dumping margins of its reviewed sales by the total entered value of its reviewed sales for each applicable importer to calculate *ad-valorem* assessment rates. For Yantai Timken, we divided the total dumping margins of its reviewed sales by the total quantity of its reviewed sales for each applicable importer to calculate *per-unit* assessment rates. We will direct CBP to assess the resulting assessment rates against the entered customs values for the subject merchandise on each importer's entries under the relevant order during the POR.

To determine whether the duty assessment rates were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer-specific *ad valorem* rates. For CMC and LYC, we aggregated the dumping margins calculated for all U.S. sales to each importer and divided this amount by the entered value of the sales to each importer. For further details see *CMC Final Analysis Memo* and *LYC Final Analysis Memo*. Where an importer-specific *ad valorem* rate is *de minimis*, we will order CBP to liquidate appropriate entries without regard to antidumping duties.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of TRBs from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by Section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies will be the rates shown above, except that the Department shall require no deposit of estimated antidumping duties for firms whose weighted-average margins are less than 0.5 percent and therefore *de minimis*; (2) for previously reviewed or investigated companies not listed above that have a separate rate, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) the cash deposit rate for all other PRC exporters will be 60.95 percent, the current PRC-wide rate; and (4) the cash deposit rate for all non-PRC exporters will be the rate applicable to the PRC exporter that supplied that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the

final results of the next administrative review.

Notification of Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties. This notice also serves as a reminder to parties subject to administrative protective orders ("APOs") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: January 9, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

APPENDIX

List of Comments and Issues in the Decision Memorandum

CMC

Comment 1: Skilled Packing Labor Citing Error for CMC

LYC

Comment 2: Application of Adverse Facts Available to Value Certain Merchandise of LYC

Comment 3: Application of Adverse Facts Available to Value Inventory Carrying Costs ("ICC") for Certain Constructed Export Price ("CEP") Sales

Comment 4: Federal Reserve Board Prime Rate Used to Value ICC

Comment 5: Excise Duties on Closing Stock

Comment 6: Calculation of the Surrogate Value for the Raw Material Input "Cage"

YANTAI TIMKEN

Comment 7: The Department Should Find That Yantai Timken Was

Cooperative and Use Yantai Timken's Data as Modified by the Results of Verification.

Comment 8: Yantai Timken's Verification Results and Level of Cooperation: Natural Gas

Comment 9: Yantai Timken's Verification Results and Level of Cooperation: Electricity

Comment 10: Yantai Timken's Verification Results and Level of Cooperation: Supplier's Distances for Packing Materials

Comment 11: Yantai Timken's Verification Results and Level of Cooperation: Indirect Selling Expenses in the U.S. Market

Comment 12: Yantai Timken's Verification Results and Level of Cooperation: Warehouse Expense

Comment 13: Yantai Timken's Verification Results and Level of Cooperation: Marine Insurance

Comment 14: Yantai Timken's Verification Results and Level of Cooperation: International Freight

Comment 15: Yantai Timken's Verification Results and Level of Cooperation: Rebates and Commissions
Comment 16: Yantai Timken's Request to Supplement the Record

Comment 17: The Department Should Determine a Margin That Is Not Punitive
Comment 18: Continued Application of the Order to Yantai Timken Is Necessary to Offset Dumping

Comment 19: Separate Rate Status for Yantai Timken

[FR Doc. E6-411 Filed 1-16-06; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

National Voluntary Laboratory Accreditation Program Workshop for Laboratories Interested in Testing Radiation Detection Instruments for Homeland Security Applications

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: The National Voluntary Laboratory Accreditation Program (NVLAP) will hold a public workshop on Thursday, January 26, 2006, at the Doubletree Paradise Valley Resort in Scottsdale, Arizona. The purpose of the workshop is to exchange information among NVLAP, laboratories interested in testing radiation detection instruments for Department of Homeland Security applications, and other interested parties. The results of the workshop will be used in the

development of the Radiation Detection Instruments Laboratory Accreditation Program. There is no charge for the workshop.

DATES: The workshop is scheduled for Thursday, January 26, 2006.

ADDRESSES: National Voluntary Laboratory Accreditation Program, 100 Bureau Drive/MS 2140, Gaithersburg, MD 20899-2140.

FOR FURTHER INFORMATION CONTACT:

Betty Ann Torres, Senior Program Manager, NVLAP, 100 Bureau Drive/MS2140, Gaithersburg, MD 20899-2140, Phone: (301) 975-8446 or e-mail: betty.torres@nist.gov; Charlie Brannon, Physics Laboratory, Phone: (301) 975-3855 or e-mail: charlie.brannon@nist.gov.

Information regarding NVLAP and the accreditation process can be viewed at <http://www.nist.gov/nvlap>.

SUPPLEMENTARY INFORMATION:

Background

The United States Department of Homeland Security (DHS) has requested that a laboratory accreditation program be established for laboratories that test radiation detection instruments used in homeland security applications. The National Voluntary Laboratory Accreditation Program (NVLAP) is establishing an accreditation program to meet DHS requirements.

NVLAP accreditation criteria are established in accordance with the Code of Federal Regulations (CFR, title 15, Part 285), NVLAP Procedures and General Requirements. Laboratories conducting this testing will be required to meet ISO/IEC International Standard 17025, General Requirements for the Competence of Testing and Calibration Laboratories; the requirements of the ANSI/IEEE N42 series of standards and their corresponding Test and Evaluation Protocols; and any other criteria deemed necessary by the U.S. Department of Homeland Security.

For each new laboratory accreditation program (LAP), NVLAP works with the affected testing community to develop program-specific technical requirements. These requirements tailor the general accreditation criteria referenced in Sections 4 and 5 of NIST Handbook 150 to the tests and services in the new LAP. Program-specific requirements include the details of the Scope of Accreditation, test and measurement equipment, personnel requirements, validation of test methods, and reporting test results.