

Dated: July 11, 2008.

Kate Sigler,

Executive Secretary, The Manufacturing Council.

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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: Preliminary Results of Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce ("the Department") is conducting the twentieth 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"), covering the period June 1, 2006, through May 31, 2007. We have preliminarily determined that sales have been made below normal value. If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on entries of subject merchandise during the period of review ("POR") for which the importer-specific assessment rates are above *de minimis*.

Interested parties are invited to comment on these preliminary results. We intend to issue the final results no later than 120 days from the date of publication of this notice.

EFFECTIVE DATE: July 17, 2008.

FOR FURTHER INFORMATION CONTACT: Lori Apodaca or Paul Stolz, 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) 482-4551 and (202) 482-4474, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 26, 2007, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on TRBs from the PRC for the period June 1, 2006, through May 31, 2007. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation;*

Opportunity To Request Administrative Review, 72 FR 30542 (June 1, 2007). On June 29, 2007, Koyo Corporation of U.S.A. ("Koyo") requested that the Department conduct an administrative review of the duty order for entries of subject merchandise produced and/or exported by Yantai Timken Company Limited ("Yantai Timken"). Additionally, on June 29, 2007, Peer Bearing Company Changshan ("CPZ"), an exporter of TRBs, requested that the Department conduct an administrative review of its sales. On July 26, 2007, the Department published in the **Federal Register** a notice of the initiation of the antidumping duty administrative review of TRBs from the PRC for the period June 1, 2006, through May 31, 2007, for CPZ and Yantai Timken. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 72 FR 41057 (July 26, 2007). On September 4, 2007, the Department issued its antidumping duty questionnaire to CPZ and Yantai Timken.

On October 5, 2007, the Department requested interested parties to submit comments on surrogate values. On October 19, 2007, we received a surrogate country submission from the Timken Company ("Petitioner"). On November 1, 2007, the Department received a surrogate values submission from Petitioner. On April 14, 2008, we received corrected factor values from Petitioner. On June 3, 2008, the Department received additional surrogate values from CPZ. On June 13, 2008, Petitioner submitted comments to the Department in response to CPZ's surrogate value comments.

On March 4, 2008, the Department published a notice in the **Federal Register** extending the time limit for the preliminary results of review until June 30, 2008. *See Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the People's Republic of China: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 73 FR 11617 (March 4, 2008).

CPZ

CPZ submitted its Section A questionnaire response on October 3, 2007, its Section C response on October 31, 2007, and its Section D response on November 5, 2007. The Department issued a Sections A, C and D supplemental questionnaire to CPZ on April 2, 2008. CPZ submitted its Sections A, C and D supplemental questionnaire response on April 29, 2008.

Yantai Timken

Yantai Timken submitted a letter to the Department dated September 25, 2007, stating that it will not be filing a questionnaire response as it had only a few exports to the United States, which were for use by its parent company, the Timken Company. *See Letter from Yantai Timken to Department of Commerce*, dated September 25, 2007 ("Non-Participation Letter").

Period of Review

The POR is June 1, 2006, through May 31, 2007.

Scope of the Order

Imports covered by this order are shipments of tapered roller bearings and parts thereof, finished and unfinished, 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. These products are currently classifiable under Harmonized Tariff Schedule of the United States ("HTSUS") item numbers 8482.20.00, 8482.91.00.50, 8482.99.15, 8482.99.45, 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.

Non-Market Economy Country Status

In every case conducted by the Department involving the PRC, the PRC has been treated as a non-market economy ("NME") country. In accordance with section 771(18)(C)(i) of the Tariff Act of 1930, as amended ("the Act"), any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. *See 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*, 71 FR 2517 (January 17, 2006). No party to this proceeding has contested such treatment. Accordingly, we calculated normal value ("NV") in accordance with section 773(c) of the Act, which applies to NME countries.

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV on the NME producer's factors of production ("FOP") when available information does not permit NV to be

determined under section 773(a) of the Act. The Act further instructs the Department to value FOPs based on the best available information in a surrogate market economy country or countries considered to be appropriate by the Department. See Section 773(c)(1) of the Act.

When valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market economy countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise. See Section 773(c)(4) of the Act. Further, the Department normally values all FOPs in a single surrogate country. See 19 CFR 351.408(c)(2). The sources of the surrogate values (“SVs”) are discussed under the “Normal Value” section below and in the Memorandum to the File, “Factors Valuations for the Preliminary Results of the Administrative Review,” dated June 30, 2008 (“Factor Valuation Memorandum”), which is on file in the Central Records Unit, Room 1117 of the main Department building.

The Department has determined that India, Indonesia, the Philippines, Egypt and Sri Lanka are countries comparable to the PRC in terms of economic development. See Memorandum from Ron Lorentzen to Robert Bolling; Antidumping Administrative Review of Tapered Roller Bearings and Parts Thereof, Finished and Unfinished (“Bearings”), from the People’s Republic of China (PRC): Request for a List of Surrogate Countries, dated October 3, 2007. Once the economically comparable countries have been identified, we select an appropriate surrogate country by determining whether one of these countries is a significant producer of comparable merchandise and whether the data for valuing FOPs is both available and reliable.

On October 19, 2007, Petitioner submitted comments on the surrogate country selection. Petitioner stated that India is the appropriate surrogate country because India is at a comparable economic level with the PRC and is a significant producer of subject merchandise.

We have determined it appropriate to use India as a surrogate country pursuant to section 773(c)(4) of the Act based on the following: (A) India is at a level of economic development comparable to that of the PRC, and (B) India is a significant producer of comparable merchandise. Furthermore, we have reliable data from India that we can use to value the FOPs. See Factor

Valuation Memorandum. Thus, we have calculated NV using Indian prices when available and appropriate to value CPZ’s FOPs.

Separate Rates

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and thus should be assigned a single antidumping duty rate. It is the Department’s policy to assign all exporters of merchandise subject to investigation/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. Exporters can demonstrate this independence through the absence of both *de jure* and *de facto* government control over export activities. The Department analyzes each entity exporting the subject merchandise under a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People’s Republic of China*, 56 FR 20588 (May 6, 1991) (“Sparklers”), as further developed in the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People’s Republic of China*, 59 FR 22585 (May 2, 1994) (“*Silicon Carbide*”). However, if the Department determines that a company is wholly foreign-owned or located in a market economy, then a separate-rate analysis is not necessary to determine whether it is independent from government control.

The sole participating company in this review, CPZ, stated that it is a China-Foreign joint venture, owned by two shareholders: Changshan Jingmi Bearing Group Co., Ltd., a Chinese company, and Illinois Peer Bearing Company LLC, a U.S. company. Therefore, the Department must analyze whether CPZ has demonstrated the absence of both *de jure* and *de facto* government control over export activities, and is entitled to a separate rate.

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; and (3) other formal measures by the government decentralizing control of companies. See *Sparklers*, 56 FR at 20589.

The evidence provided by CPZ supports a preliminary finding of *de jure* absence of government control based on the following: (1) an absence of restrictive stipulations associated with the individual exporter’s business and export licenses; (2) there are applicable legislative enactments decentralizing control of the company; and (3) there are formal measures by the government decentralizing control of the company. See CPZ’s Section A Questionnaire Response, dated October 3, 2007.

b. Absence of De Facto Control

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a government agency; (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 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 *Silicon Carbide*, 59 FR at 22586–87; see also *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People’s Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

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 over export activities which would preclude the Department from assigning separate rates. We determine for CPZ that the evidence on the record supports a preliminary finding of *de facto* absence of government control based on record statements and supporting documentation showing the following: (1) CPZ sets its own export prices independent of the government and without the approval of a government authority; (2) CPZ retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses; (3) CPZ has the authority to negotiate and sign contracts and other agreements; and (4) CPZ has autonomy from the government regarding the selection of management. See CPZ’s Section A Questionnaire Response, dated October 3, 2007.

The evidence placed on the record of this review by CPZ demonstrates an absence of *de jure* and *de facto* government control with respect to its

exports of the merchandise under review, in accordance with the criteria identified in *Sparklers and Silicon Carbide*. Therefore, we are granting CPZ a separate rate.

Application of Facts Available

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply “facts otherwise available” if, *inter alia*, necessary information is not on the record or an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department “shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all applicable requirements established by the administering authority” if the information is timely, can be verified, is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information supplied if it can do so without undue difficulties.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Such an adverse inference may include reliance on information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on

information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as “[i]nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.” *See Statement of Administrative Action accompanying the Uruguay Round Agreements Act*, H.R. Rep. No. 103–316, Vol. 1, at 870 (1994) (“SAA”), reprinted in 1994 U.S.C.C.A.N. 4040, 4198–99. Corroborate means that the Department will satisfy itself that the secondary information to be used has probative value. *Id.* To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used.

Application of Total Adverse Facts Available

Yantai Timken

On September 4, 2007, the Department issued its original questionnaire to Yantai Timken. On September 25, 2007, Yantai Timken stated it will not be filing a questionnaire response in this administrative review because it had only a few exports, which were for use by its parent company, Timken, and therefore had no commercial exports during the year. *See Non-Participation Letter*. Furthermore, Yantai Timken reported that its U.S. sales of subject merchandise (from pre-existing U.S. inventory) were few in number and small in value. Moreover, Yantai Timken stated that given the small volume of exports and sales it made during the POR, it has determined to forgo the expense of preparing and filing a questionnaire response. Because Yantai Timken failed to submit a questionnaire response, the Department was unable to conduct a separate-rate analysis of Yantai Timken. Accordingly, the Department finds that Yantai Timken has not demonstrated its entitlement to a separate rate and is, therefore, subject to the PRC-wide rate.

The PRC-Wide Entity

Because Yantai Timken did not respond to the Department’s questionnaire, and therefore did not demonstrate its eligibility for separate-rate status, the Department is treating this PRC producer/exporter as part of the PRC-wide entity.

Additionally, because we have determined that Yantai Timken is part of the PRC-wide entity, the PRC-wide entity is now under review. Pursuant to section 776(a) of the Act, we further find that because the PRC-wide entity failed to respond to the Department’s questionnaires, withheld or failed to provide information in a timely manner or in the form or manner requested by the Department, or otherwise impeded the proceeding, it is appropriate to apply a dumping margin for the PRC-wide entity using facts otherwise available on the record. Additionally, we determine that the application of adverse facts available (“AFA”) is appropriate because the PRC-wide entity has failed to cooperate by not acting to the best of its ability to respond to the Department’s request for information.

Selection of the Adverse Facts Available Rate

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from (1) the petition, (2) a final determination in the investigation, (3) any previous review or determination, or (4) any information placed on the record. In administrative reviews, the Department normally selects, as AFA, the highest rate determined for any respondent in any segment of the proceeding. *See, e.g., Certain Frozen Warmwater Shrimp From the People’s Republic of China: Notice of Final Results and Rescission, in Part, of 2004/2006 Antidumping Duty Administrative and New Shipper Reviews*, 72 FR 52049, 52051 (September 12, 2007); *see also Freshwater Crawfish Tail Meat from the People’s Republic of China: Notice of Final Results of Antidumping Duty Administrative Review*, 68 FR 19504, 19506 (April 21, 2003).

The Court of International Trade (“CIT”) and the Court of Appeals for the Federal Circuit (“Federal Circuit”) have consistently upheld the Department’s practice. *See Rhone Poulenc, Inc. v. United States*, 899 F.2d 1185, 1190 (Fed. Circ. 1990) (“Rhone Poulenc”); *NSK Ltd. v. United States*, 346 F. Supp. 2d 1312, 1335 (CIT 2004) (upholding a 73.55 percent total AFA rate, the highest available dumping margin from a different respondent in a less-than-fair-value investigation); *see also Kompass Food Trading Int’l v. United States*, 24 CIT 678, 684 (2000) (upholding a 51.16 percent total AFA rate, the highest available dumping margin from a different, fully cooperative respondent); and *Shanghai Taoen International Trading Co., Ltd. v. United States*, 2005

Ct. Int'l. Trade 23 *23; Slip Op. 05–22 (February 17, 2005) (upholding a 223.01 percent total AFA rate, the highest available dumping margin from a different respondent in a previous administrative review).

The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse "as to effectuate the purpose of the facts available role to induce respondents to provide the Department with complete and accurate information in a timely manner." See *Notice of Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998). The Department's practice also ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." See SAA at 890; see also *Notice of Final Determination of Sales at Less than Fair Value: Certain Frozen and Canned Warmwater Shrimp From Brazil*, 69 FR 76910 (December 23, 2004); see also *D&L Supply Co. v. United States*, 113 F.3d 1220, 1223 (Fed. Cir. 1997). In choosing the appropriate balance between providing respondents with an incentive to respond accurately and imposing a rate that is reasonably related to the respondent's prior commercial activity, selecting the highest prior margin "reflects a common sense inference that the highest prior margin is the most probative evidence of current margins, because, if it were not so, the importer, knowing of the rule, would have produced current information showing the margin to be less." *Rhone Poulenc*, 899 F.2d at 1190.

Consistent with the Department's practice and the purposes of section 776(b) of the Act, as AFA, we are assigning the rate of 60.95 percent to the PRC-wide entity, which is the highest rate found in any segment of the proceeding. This rate was calculated for Premier Bearing and Equipment Ltd. ("Premier") in the final results of redetermination on remand from the CIT for the seventh administrative review of TRBs covering the POR of June 1, 1993, to May 31, 1994. *Peer Bearing Co. v. United States*, slip op. 02–53 (CIT 2002); as upheld by the Federal Circuit in 78 Fed. Appx. 718 (Fed. Cir. 2003); see also *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished From the People's Republic of China: Amended Final Results of Antidumping Duty Administrative Review*, 67 FR 79902 (December 31, 2002) ("TRBs Amended Final"), and *Tapered Roller Bearings and Parts Thereof, Finished and*

Unfinished, From the People's Republic of China: Amended Final Results of Antidumping Duty Administrative Review, 69 FR 10423 (March 5, 2004) ("TRBs Amended Final 2"). The Department preliminarily determines that this information is the most appropriate, from the available sources, to effectuate the purposes of AFA. The Department's reliance on secondary information to determine an AFA rate is subject to the requirement to corroborate. See section 776(c) of the Act and the "Corroboration of Secondary Information" section below.

Corroboration of Secondary Information

Section 776(c) of the Act provides that, where the Department selects from among the facts otherwise available and relies on "secondary information," the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. Secondary information is described in the SAA as "[i]nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise." See SAA at 870. The SAA states that "corroborate" means to determine that the information used has probative value. The Department has determined that to have probative value information must be reliable and relevant. See *Certain Tissue Paper Products from the People's Republic of China: Final Results and Final Rescission, In Part, of Antidumping Duty Administrative Review*, 72 FR 58642 (October 16, 2007). The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. See SAA at 870; see also *Notice of Final Determination of Sales at Less Than Fair Value: Live Swine From Canada*, 70 FR 12181 (March 11, 2005).

The reliability of the AFA rate was determined by the calculation of the margin for Premier, pursuant to the final results of redetermination on remand from the CIT, for the seventh administrative review of TRBs (covering the POR of June 1, 1993, to May 31, 1994). See *TRBs Amended Final* and *TRBs Amended Final 2*. The Department has received no information to date that warrants revisiting the issue of the reliability of the rate calculation itself. See e.g., *Certain Preserved Mushrooms*

From the People's Republic of China: Final Results and Partial Rescission of the New Shipper Review and Final Results and Partial Rescission of the Third Antidumping Duty Administrative Review, 68 FR 41304, 41307–41308 (July 11, 2003). No information has been presented in the current review that calls into question the reliability of this information. Thus, the Department finds that the information contained in the 1993–1994 review is reliable.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin and determine an appropriate margin. See *Fresh Cut Flowers From Mexico: Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996) (where the Department disregarded the highest margin in that case as adverse best information available (the predecessor to facts available) because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin). Similarly, the Department does not apply a margin that has been discredited. See *D&L Supply Co. v. United States*, 113 F.3d 1220, 1221 (Fed. Cir. 1997) (ruling that the Department will not use a margin that has been judicially invalidated). To assess the relevancy of the rate used, the Department compared the margin calculations of CPZ in this administrative review to the 60.95 percent rate. The Department found that the margin of 60.95 percent was within the range of the margins calculated on the record of this administrative review. See Margin Calculation Program, dated June 30, 2008. Because the record of this administrative review contains margins within the range of 60.95 percent, we determine that the 60.95 percent rate continues to be relevant for use in this administrative review.

As the adverse margin is both reliable and relevant, we determine that it has probative value. Accordingly, we determine that this rate meets the corroboration criterion established in section 776(c) of the Act that secondary information has probative value. As a result, the Department determines that the margin is corroborated for the purposes of this administrative review and may reasonably be applied to the PRC-wide entity as AFA.

Because these are preliminary results of review, the Department will consider all margins on the record at the time of

the final results of review for the purpose of determining the most appropriate final margin for the PRC-wide entity. See *Notice of Final Determination of Sales at Less Than Fair Value: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation*, 65 FR 42669 (July 11, 2000).

Fair Value Comparisons

To determine whether sales of TRBs to the United States by CPZ were made at LTFV, we compared constructed export price ("CEP") to NV, as described in the "Constructed Export Price" and "Normal Value" sections of this notice, below.

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) of the Act. In accordance with section 772(b) of the Act, we used CEP for CPZ's sales where CPZ sold subject merchandise to its affiliated company in the United States, which in turn sold subject merchandise to unaffiliated U.S. customers. We calculated CEP for CPZ based on delivered prices to unaffiliated purchasers in the United States. We made deductions from the U.S. sales price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These included foreign inland freight from the plant to the port of exportation, ocean freight, marine insurance, other U.S. transportation, U.S. customs duty, where applicable, U.S. inland freight from port to the warehouse, and U.S. inland freight from the warehouse to the customer. In accordance with section 772(d)(1) of the Act, the Department deducted credit expenses, inventory carrying costs and indirect selling expenses from the U.S. price, all of which relate to commercial activity in the United States. In accordance with section 772(d)(1)(D) of the Act, we calculated CPZ's credit expenses and inventory carrying costs based on the Federal Reserve prime short-term rate. Finally, we deducted CEP profit, in accordance with sections 772(d)(3) and 772(f) of the Act. See CPZ Preliminary Results of Administrative Review: Program Analysis Memorandum, dated June 30, 2008. In its first supplemental Section D questionnaire response, dated April 29, 2008, CPZ requested that the

Department compare NV to CEP on a Product Code ("PRODCOD") basis, claiming that calculating dumping margins using Control Number ("CONNUM") is distortive. We have determined not to use PRODCOD as a basis for comparing NV to CEP because CPZ has not provided an explanation or data to demonstrate why using CONNUM is distortive. Therefore, for the preliminary results, we have continued to use CONNUM to compare NV to CEP.

Normal Value

We compared NV to individual CEP transactions in accordance with section 777A(d)(2) of the Act. Section 773(c)(1) of the Act provides that the Department shall determine NV using an FOP methodology if: (1) the merchandise is exported from an NME country; and (2) 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. When determining NV in an NME context, 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. Under section 773(c)(3) of the Act, FOPs include but are not limited to: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. The Department used FOPs reported by the respondent for materials, energy, labor and packing.

In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to find an appropriate SV to value FOPs, but when a producer sources an input from a market economy and pays for it in market-economy currency, the Department may value the factor using the actual price paid for the input. See 19 CFR 351.408(c)(1); see also *Shakeproof Assembly Components Div of Ill v. United States*, 268 F.3d 1376, 1382–1383 (Fed. Cir. 2001) (affirming the Department's use of market-based prices to value certain FOPs).

With regard to both import-based SVs, and market-economy import values, it is the Department's consistent practice that, where the facts developed in the United States or third country countervailing duty findings include the existence of subsidies that appear to be used generally (in particular, broadly available, non-industry-specific export subsidies), it is reasonable for the

Department to find that it has particular and objective evidence to support a reason to believe or suspect that prices of the inputs from the country granting the subsidies may be subsidized. See *China National Machinery Imp. & Exp. Corp. v. United States*, 293 F. Supp. 2d 1334, 1338–39 (CIT 2003).

In avoiding the use of prices that may be subsidized, the Department does not conduct a formal investigation to ensure that such prices are not subsidized, but rather relies on information that is generally available at the time of its determination. See H.R. Rep. 100–576, at 590 (1988), reprinted in 1988 U.S.C.C.A.N. 1547, 1623–24. The Department has reason to believe or suspect that prices of inputs from Indonesia, South Korea, and Thailand may have been subsidized. Through other proceedings, the Department has learned that these countries maintain broadly available, non-industry-specific export subsidies and, therefore, preliminarily finds it reasonable to infer that all exports to all markets from these countries may be subsidized. See *Brake Rotors From the People's Republic of China: Final Results of Antidumping Duty Administrative and New Shipper Reviews and Partial Rescission of the 2005–2006 Administrative Review*, 72 FR 42386 (August 2, 2007), and accompanying Issues and Decision Memorandum at Comment 1. Accordingly, the Department has disregarded prices from Indonesia, South Korea and Thailand in calculating NV.

Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on FOPs reported by CPZ for the POR. To calculate NV, the reported per-unit factor quantities were multiplied by publicly available Indian SVs (except as noted below). Unless indicated otherwise, we valued direct materials and packing materials using publicly available import data reported in the World Trade Atlas, published by Global Trade Information Services, Inc. ("WTA"). In selecting the SVs, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to Indian import SVs a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory where appropriate (i.e., where the sales terms for the market-economy inputs were not delivered to the factory). This adjustment is in accordance with the

decision of the Circuit in *FederalSigma Corp. v. United States*, 117 F.3d 1401 (Fed. Cir. 1997). CPZ reported that it sourced the steel that it used to produce cages within the PRC. Therefore, the Department used contemporaneous Indian import data from WTA online, published by the Directorate General of Commercial Intelligence and Statistics, Ministry of Commerce of India, to calculate SVs for the reported FOPs purchased from NME sources. Among the FOPs for which the Department calculated SVs using Indian import statistics are steel, steel scrap, and anti-rust oil. For a detailed description of all SVs used for respondents, see Factor Valuation Memorandum.

On June 3, 2008, CPZ submitted comments regarding SV selection for roller quality steel. CPZ argued that the SV data submitted by Petitioner is aberrational because the proposed HTS category does not specifically include bearing quality steel and the data is not contemporaneous with the POR. For the preliminary results, we have determined to use contemporaneous Indian import data from HTS category 7228.3029, as proposed by Petitioner, to calculate an SV for roller quality steel. We have preliminarily determined that, while the HTS category proposed by CPZ may have represented "other" types of bearing quality steel in the past, because the Indian HTS categories were revised in 2003, the HTS category proposed by Petitioner now represents "other" types of bearing quality steel. See Factor Valuation Memorandum.

The Department has instituted a rebuttable presumption that market economy input prices are the best available information for valuing an input when the total volume of the input purchased from all market economy sources during the POR exceeds 33 percent of the total volume of the input purchased from all sources during the same period. In these cases, unless case-specific facts provide adequate grounds to rebut the Department's presumption, the Department will use the weighted-average market economy purchase price to value the input. Alternatively, when the volume of an NME firm's purchases of an input from market economy suppliers during the period is equal to or below 33 percent of its total volume of purchases of the input during the period, but where these purchases are otherwise valid and there is no reason to disregard the prices, the Department will weight average the weighted-average market economy purchase price with an appropriate SV according to their respective shares of the total volume of purchases, unless case-

specific facts provide adequate grounds to rebut the presumption. When a firm has made market economy input purchases that may have been dumped or subsidized, are not bona fide, or are otherwise not acceptable for use in a dumping calculation, the Department will exclude them from the numerator of the ratio to ensure a fair determination of whether valid market economy purchases meet the 33-percent threshold. See *Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments*, 71 FR 61716, 61717-19 (October 19, 2006). Also, 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. *Id.* During the POR, CPZ did not purchase any inputs from a market economy supplier.

Where the Department could not obtain information contemporaneous with the POR with which to value FOPs, the Department adjusted the SVs using, where appropriate, the Indian Wholesale Price Index available at the website of the Office of the Economic Adviser, Ministry of Commerce and Industry, Government of India, <http://eaindustry.nic.in/>. See Factor Valuation Memorandum.

To value electricity, the Department used data from the International Energy Agency *Key World Energy Statistics* (2003 edition). See Factor Valuation Memorandum. Because the value was not contemporaneous with the POR, the Department adjusted the rate for inflation. For direct labor, indirect labor, and packing labor, consistent with 19 CFR 351.408(c)(3), the Department used the PRC regression-based wage rate as reported on Import Administration's website, Import Library, *Expected Wages of Selected NME Countries*, revised in May 2008, using 2005 data, <http://ia.ita.doc.gov/wages/05wages/05wages-051608.html#table1>. The source of these wage-rate data is the International Labour Organization, Geneva, Labour Statistics Database, Copyright International Labour Organization, 1998-2007 Yearbook, Selection: years: 2004-2005, Chapter 5B: Wages in Manufacturing. Because this regression-based wage rate does not separate the labor rates into different skill levels or types of labor, the Department has applied the same wage rate to all skill levels and types of labor reported by CPZ. See Factor Valuation Memorandum. The Department used

Indian transport information to value the freight-in cost of the raw materials. The Department determined the best available information for valuing truck and rail freight to be from the website www.infreight.com. This source provides daily rates from six major points of origin to five destinations in India during the POR. The Department obtained a price quote on the first day of each month of the POR from each point of origin to each destination and averaged the data accordingly. See Factor Valuation Memorandum.

To value factory overhead, depreciation, selling, general and administrative expenses and profit, the Department used an audited financial statement for the year ended December 31, 2006, for an Indian producer of bearings, SKF India Limited ("SKF"). We did not rely upon one company's financial statement that was placed on the record, namely the financial statement of Timken India Ltd., because Timken India Ltd.'s financial statements identify the receipt of "export incentives" (*i.e.*, DEPB Premium) in "Other Income." India's DEPB Schemes have been found by the Department to provide a countervailable subsidy. See, *e.g.*, *Certain Iron-Metal Castings From India: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review*, 64 FR 61592, 61597 (November 12, 1999) (unchanged in *Certain Iron-Metal Castings from India: Final Results of Countervailing Duty Administrative Review*, 65 FR 31515 (May 18, 2000)); see also <http://ia.ita.doc.gov/esel/eselframes.html> and *Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Lined Paper Products from India*, 71 FR 45034 (August 8, 2006), and accompanying Issues and Decision Memorandum at Comments 4 and 8. In *Crawfish from the PRC*, the Department noted that where it has reason to believe or suspect that a company may have received subsidies previously found by the Department to provide a countervailable subsidy, financial ratios derived from that company's financial statements do not constitute the best available information. See *Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results And Rescission, In Part, of 2004/2005 Antidumping Duty Administrative and New Shipper Reviews*, 72 FR 19174 (April 17, 2007) ("*Crawfish from the PRC*"), and accompanying Issues and Decision Memorandum at Comment 1. Given the record information regarding Timken India Ltd.'s use of the DEPB

program, and the fact that we have another acceptable financial statement to use as a surrogate, consistent with the Department's decision in *Crawfish from the PRC*, we have not used Timken India Ltd.'s financial data in our surrogate ratio calculations. See Factor Valuation Memorandum for a full discussion of the calculation of SKF's ratios.

The Department used three sources to calculate an SV for domestic brokerage expenses: (1) data from the January 9, 2006, public version of the Section C questionnaire response from Kejriwal Paper Ltd. ("Kejriwal") in the investigation of certain lined paper products from India; (2) data from Agro Dutch Industries Ltd. in the administrative review of certain preserved mushrooms from India; and (3) data from the February 28, 2005, public version of the Section C questionnaire response from Essar Steel in the administrative review of hot-rolled carbon steel flat products from India. Because these values were not concurrent with the POR of this review, we adjusted these rates for inflation using the WPI, and then calculated a simple average of the three companies' brokerage expense data. See, e.g., *Helical Spring Lock Washers From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 73 FR 4175 (January 24, 2008); see also Factor Valuation Memorandum.

CPZ reported it recovered steel scrap from the production of cups, cones, rollers and cages for resale. However, CPZ did not claim an offset and its response is not clear regarding quantities generated and quantities sold. Therefore, for the preliminary results, we are not including a scrap offset in our margin calculation. We will issue a supplemental questionnaire regarding this issue and consider CPZ's response for the final results.

Finally, we used POR Indian import statistics to value material inputs for packing which, for CPZ, are plastic film, plastic bags, plastic strip, plastic pad, paper box, carton, iron knot, iron sheet, iron strip, and pallet cover. See Factor Valuation Memorandum.

Currency Conversion

We made currency conversions into U.S. dollars, in accordance with section 773(A)(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Preliminary Results of Review

We preliminarily determine that the following weighted-average dumping

margins exist for the period June 1, 2006, through May 31, 2007:

TRBS FROM THE PRC

Producer/Exporter	Weighted-Average Margin (Percent)
Peer Bearing Company Changshan	59.41
PRC-wide entity*	60.95

*including Yantai Timken

Disclosure and Public Comment

The Department will disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties may submit written comments no later than 30 days after the date of publication of these preliminary results of review. See 19 CFR 351.309(c). Rebuttals to written comments may be filed no later than five days after the written comments are filed. See 19 CFR 351.309(d). Further, parties submitting written comments and rebuttal comments are requested to provide the Department with an additional copy of those comments on diskette. Any interested party may request a hearing within 30 days of publication of these preliminary results. See 19 CFR 351.310(c). If requested, a hearing normally will be held seven days after the scheduled date for submission of rebuttal comments. See 19 CFR 351.310(d).

The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Deadline for Submission of Publicly Available Surrogate Value Information

In accordance with 19 CFR 351.301(c)(3), the deadline for submission of publicly available information to value FOPs under 19 CFR 351.408(c) is 20 days after the date of publication of the preliminary results. In accordance with 19 CFR 351.301(c)(1), if an interested party submits factual information less than ten days before, on, or after (if the Department has extended the deadline) the applicable deadline for submission of such factual information, an interested party may submit factual information to rebut, clarify, or correct the factual information no later than ten days after such factual information is served on the interested party. However, pursuant to 19 CFR 351.301(c)(1), the

Department generally will not accept in the rebuttal submission additional, alternative SV information not previously on the record if the deadline for submission of such information has passed. See *Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part*, 72 FR 58809 (October 17, 2007), and accompanying Issues and Decision Memorandum at Comment 2. Furthermore, the Department generally will not accept business proprietary information in either the SV submissions or the rebuttals thereto, as the regulation regarding the submission of SVs allows only for the submission of publicly available information.

Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer- or customer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. To determine whether the duty assessment rates are *de minimis* (i.e., less than 0.50 percent), in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we will calculate customer-specific *ad valorem* ratios based on export prices.

We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer- or customer-specific assessment rate calculated in the final results of this review is above *de minimis*.

For entries of the subject merchandise during the POR from companies not subject to this review, we will instruct CBP to liquidate them at the cash deposit rate in effect at the time of entry. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

Additionally, the Department will instruct CBP to assess antidumping duties for the PRC-wide entity (including Yantai Timken) at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i).

Cash-Deposit Requirements

The following cash-deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) for CPZ, the cash deposit rate will be that established in the final results of this review, except if the rate is zero or de minimis no cash deposit will be required; (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 60.95 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary 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.

We are issuing and publishing these preliminary results of review in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act, and 19 CFR 351.221(b).

Dated: June 30, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8-16376 Filed 7-16-08; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Scientific Research, Exempted Fishing, and Exempted Activity Submissions

AGENCY: National Oceanic and Atmospheric Administration (NOAA).
ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before September 15, 2008.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Jason Blackburn, (301) 713-2341 or Jason.Blackburn@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

Fishery regulations do not generally affect scientific research activities conducted by a scientific research vessel. Any persons planning to conduct research must submit a scientific research plan to ensure that the activities are considered research and not fishing. The researchers are required to submit reports of their scientific research activity after its completion. The National Marine Fisheries Service (NMFS) may also grant exemptions from fishery regulations for educational or other activities (e.g., the testing of fishing gear). The applications for these exemptions must be submitted, as well as reports on activities.

II. Method of Collection

Information may be submitted on paper or via e-mail, and in some cases by telephone.

III. Data

OMB Control Number: 0648-0309.
Form Number: None.
Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations; individuals or households; not-for-profit institutions; state, local or tribal government.

Estimated Number of Respondents: 91.

Estimated Time per Response: Scientific research plans, 113 hours; scientific research reports, 3 hours; exempted fishing permit requests, 95 hours; exempted fishing permit reports, 47 hours; exempted educational requests, 3 hours; and exempted educational reports, 2 hours.

Estimated Total Annual Burden Hours: 11,003.

Estimated Total Annual Cost to Public: \$232.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: July 14, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8-16310 Filed 7-16-08; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Southeast Region Bottlenose Dolphin Conservation Outreach Survey

AGENCY: National Oceanic and Atmospheric Administration (NOAA).
ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general